

shall be maintained in accordance with § 1304.04(h).

(e) A prescription prepared in accordance with § 1306.05 written for a Schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion may be transmitted by the practitioner or the practitioner's agent to the home infusion pharmacy by facsimile. The facsimile serves as the original written prescription for purposes of this paragraph (e) and it shall be maintained in accordance with § 1304.04(h).

(f) A prescription prepared in accordance with § 1304.05 written for Schedule II substance for a resident of a Long Term Care Facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile serves as the original written prescription for purposes of this paragraph (f) and it shall be maintained in accordance with § 1304.04(h).

4. Section 1306.21 is amended by revising paragraphs (a) and (c) as follows:

Controlled Substances Listed in Schedules III and IV

§ 1306.21 Requirement of prescription.

(a) A pharmacist may dispense directly a controlled substance listed in Schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, only pursuant to either a written prescription signed by a practitioner or a facsimile of a written, signed prescription transmitted by the practitioner or the practitioner's agent to the pharmacy or pursuant to an oral prescription made by an individual practitioner and promptly reduced to writing by the pharmacist containing all information required in § 1306.05, except for the signature of the practitioner.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedules III or IV only pursuant to written prescription signed by an individual practitioner, or pursuant to a facsimile of a written prescription or order for medication transmitted by the practitioner or the practitioner's agent to the institutional practitioner-pharmacist, or pursuant to an oral prescription made by an individual practitioner and promptly reduced to writing by the pharmacist (containing

all information required in § 1306.05 except for the signature of the individual practitioner), or pursuant to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user, subject to § 1306.07.

5. Section 1306.31 is amended by revising paragraph (c) as follows:

Controlled Substances Listed in Schedule V

§ 1306.31 Requirement of prescription.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedule V only pursuant to a written prescription signed by an individual practitioner, or pursuant to a facsimile of a written prescription transmitted by the practitioner or the practitioner's agent to the institutional practitioner—pharmacist, or pursuant to an oral prescription made by an individual practitioner and promptly reduced to writing by the pharmacist (containing all information required in § 1306.05 except for the signature of the practitioner), or pursuant to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user, subject to § 1306.07.

Dated: May 10, 1994.

Gene R. Haislip,
Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.
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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-357, Re: Notice No. 787]

RIN 1512-AA07

Seiad Valley Viticultural Area (93F-022P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF); Treasury.
ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Siskiyou County, California, named "Seiad Valley." The petition was filed by Brian J. Helsaple of Seiad Valley Vineyards. The establishment of viticultural areas and the subsequent use of viticultural area

names as appellations of origin in wine labeling and advertising allows winemakers to distinguish their products from wines made in other areas and enables consumers to better identify the wines they may purchase.

EFFECTIVE DATE: June 20, 1994.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226. (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF received a petition from Brian J. Helsaple of Seiad Valley Vineyards to establish a viticultural area in Siskiyou County, California, to be known as "Seiad Valley." The viticultural area is located in northwestern California, about 15 miles south of the Oregon border. It contains approximately 2,160 acres, of which approximately 2.5 acres are planted to vineyards. Seiad Valley Vineyards is the only commercial grower and the only wine producer currently active within the viticultural area.

Notice of Proposed Rulemaking

In response to Mr. Helsaple's petition, ATF published a notice of proposed rulemaking, Notice No. 787, in the *Federal Register* on January 11, 1994 (59 FR 1510), proposing the establishment of the Seiad Valley viticultural area. The notice requested comments from all interested persons by March 14, 1994.

Comments on Notice of Proposed Rulemaking

Nine comments were received concerning the proposal to establish the Seiad Valley viticultural area. All nine commenters stated that they fully support the proposed area as delineated in Notice 787. United States Senator Barbara Boxer noted in her comment that "[d]esignating this distinct region as a viticultural area will help to spark economic growth in a community that has been hard-hit by the disappearance of timber and mining-based industries." One commenter, Barbara Holder, Forest Supervisor, Klamath National Forest, United States Department of Agriculture Forest Service, addressed a question asked in the notice of proposed rulemaking. ATF had asked for comments concerning the extension of the area to the south of the Klamath River. She stated "[t]he area proposed, including lands south of the Klamath River along Grider Creek, does comprise a distinctive zone with regard to geographical features, topography, soil and climate."

Evidence of Name

Evidence that the name of the area is locally and/or nationally known as referring to the area specified includes:

(a) The U.S.G.S. map used to show the boundaries of the area (the Seiad Valley Quadrangle 7.5 minute series map) uses the name "Seiad Valley" to describe the area immediately surrounding Seiad Creek, corresponding to the portion of the area which is north of the Klamath River. The map also shows the town of Seiad Valley within this area. The map

shows no separate designation for the portion of the area south of the Klamath River, which is drained by Grider Creek.

(b) Excerpts from the 1957 issue of *Siskiyou Pioneer*, an annual publication of the Siskiyou County Historical Society, discuss the history of the name Seiad Valley, and local understanding of the extent of the area known as Seiad, or Seiad Valley. "Sciad," by Betty Livingston and Hazel Davis, states the name Seiad was originally spelled Sciad, and the creek and valley were called that by the trappers "before the prospectors came in 1850." Sometime after 1871, the spelling of the name changed to Seiad. In "Gold Mining from Scott Bar to Happy Camp," by J.B. Grider, the following description appears:

Seiad is a small valley two miles long and one mile wide * * *. There are two large creeks in Seiad, Grider Creek and Seiad Creek. Grider Creek flows north into the Klamath from the Marble Mountain territory. Seiad creek flows south into the Klamath from the Siskiyou and Red Mountain."

(c) The petitioner also provided a copy of a claim document dated August 26, 1942, which states the Grider Creek mining claim is "situate in the Seiad Mining District."

Evidence of Boundaries

The area is defined primarily by its elevation, using the 1,600 and 1,800 foot contour lines. The petitioner states that the vegetation within and outside the area provides a dramatic contrast. Within the area, cottonwood, oak and willow trees and wild blackberries and grapes grow in addition to the cultivated crops. Outside the area, on the higher slopes of the surrounding mountains, conifers such as cedar, Douglas fir and Ponderosa pine predominate in the thin, eroded soils with scant summer moisture.

Geographical Features

The viticultural area consists of the valleys drained by Seiad Creek and Grider Creek, which both flow into the Klamath River in northwestern California. These valleys and an expanse of land along the Klamath River which connects them share characteristics of topography, soil composition and climate which distinguish the viticultural area from the surrounding areas.

Topography

The U.S.G.S. topographic map of the Seiad Valley Quadrangle shows the area is a relatively flat area varying in elevation from 1,400 to 1,600 feet, with a small portion as high as 1,800 feet, surrounded by steeply rising terrain.

Outside the area, the elevation ranges from 2,000 to 2,800 feet, with peaks exceeding 3,000 feet on all sides, and some peaks as high as 3,900 feet. Snow melt, runoff, and erosion from these higher areas into the valley create a contrast in both the quality of soils and the availability of water within and outside the area. The lower elevation within the area also contributes to more moderate temperatures there.

Soil

The petitioner describes the valley floor as "composed of deep fertile soil mixtures of loam, sand, clay and rocks eroded from the surrounding mountain slopes." According to a draft environmental impact report prepared in 1975 by the California Department of Transportation, the valley floor is "mostly alluvium deposits which were widely dredged and hydraulically mined for gold. Chromite was also mined within the Seiad Valley area." Dredging left "tailings," or piles of rounded rocks, wherever the dredge operated. The petitioner states that these granite-dominated rock tailings store heat during the day and provide protection against frost in spring and fall.

Climate

An article in the *Pioneer Press* of September 16, 1992, titled "Rock-pile grapevines surprising all experts," contrasted Siskiyou County growing conditions with those in Seiad Valley vineyard: "What's stopped the area from becoming a wine-producing area are the erratic late spring freezes in the zone where elevations are low enough to even make it possible. And in some of the county's lowest elevation areas, the precipitation levels are too high." The article stated the rock tailings in the vineyard "may give Helsaple just the edge he needs to be the county's first successful longterm wine grape grower."

Boundary

The boundary of the Seiad Valley viticultural area may be found on one United States Geological Survey (U.S.G.S.) map with a scale of 1:24000. The boundary is described in § 9.148.

Miscellaneous

ATF does not wish to give the impression by approving the Seiad Valley viticultural area that it is approving or endorsing the quality of wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving this area, ATF will allow wine producers to claim a

distinction on labels and advertisements as to origin of the grapes.

Any commercial advantage gained can only come from consumer acceptance of wines from Seiad Valley.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because:

(1) It will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.148 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.148 Seiad Valley.

(a) *Name.* The name of the viticultural area described in this section is "Seiad Valley."

(b) *Approved map.* The appropriate map for determining the boundary of the Seiad Valley viticultural area is a U.S.G.S. 7.5 minute series topographical map of the 1:24000 scale, titled "Seiad Valley, Calif.," 1980.

(c) *Boundary.* The Seiad Valley viticultural area is located in Siskiyou County, California. The boundary is as follows:

(1) The beginning point is the intersection of the 1600 foot contour line with the power transmission line north of the Klamath River, near Mile 130;

(2) From the beginning point, the boundary follows the 1600' contour line in a generally northeasterly direction until it reaches the intersection of an unnamed light duty road and an unimproved road just west of Canyon Creek;

(3) The boundary then follows the unimproved road north to its end, then goes east in a straight line until it reaches the 1800' contour line;

(4) The boundary then follows the 1800' contour line in a northeasterly direction to the point, near Sawmill Gulch, where the contour line crosses Seiad Creek and turns south and west;

(5) The boundary continues to follow the 1800' contour line as it proceeds southwest for approximately 4.5 miles, then turns sharply south-southeast for approximately 0.3 miles, until the contour line turns sharply east at a point just north of the Klamath River;

(6) The boundary then diverges from the 1800' contour line and proceeds south-southeast in a straight line, across the Klamath River and State Route 96, until it intersects with the 1600' contour line;

(7) The boundary then follows the 1600' contour line south and west, then north and west, roughly following the course of the Klamath River, until it reaches an unnamed peak 1744 feet high;

(8) The boundary continues along the 1600' contour line as it diverges from

the Klamath River and proceeds south, just to the east of an unnamed light duty road, to the point where that road crosses Grider Creek;

(9) The boundary diverges from the contour line and proceeds west in a straight line across the road and Grider Creek until it intersects with the 1600' contour line on the west side of Grider Creek;

(10) The boundary then follows the 1600' contour line north, west and north again until it reaches a point where the contour line turns west, just south of the Klamath River;

(11) The boundary diverges from the 1600' contour line and proceeds in a straight line in a northeasterly direction, back to the point of beginning.

Dated: April 19, 1994.

Daniel R. Black,
Acting Director.

Approved: May 2, 1994.

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 94-12201 Filed 5-18-94; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218-AA51

Permit-Required Confined Spaces

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; technical amendment.

SUMMARY: On January 14, 1993 at 58 FR 4462, the Occupational Safety and Health Administration (OSHA) published a final rule on Permit-Required Confined Spaces, 29 CFR 1910.146 in the Federal Register. On June 29, 1993 at 58 FR 34844, OSHA published a corrections document for that final rule which contained corrections to the regulatory text and to several appendices of the final rule. This document adds a metric equivalent in paragraph (k)(3)(ii) and further revises the "Atmospheric monitoring" section of appendix E, "Sewer System Entry", of the final rule.

EFFECTIVE DATE: May 19, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, Office of Information and Public Affairs, room N-3647, U.S. Department of Labor, 200