

Signed this 1st day of December 2009, in Washington, DC.

Dave White,

Vice President, Commodity Credit Corporation and Chief, Natural Resources Conservation Service.

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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 101

[CBP Dec. 09-45]

Technical Amendments to List of CBP Preclearance Offices in Foreign Countries: Addition of Halifax, Canada and Shannon, Ireland

AGENCY: Customs and Border Protection, DHS.

ACTION: Final rule; technical amendments.

SUMMARY: This document amends title 19 of the Code of Federal Regulations (CFR) to reflect that U.S. Customs and Border Protection (CBP) has added preclearance stations in Halifax, Canada and Shannon, Ireland. CBP officers at preclearance stations conduct inspections and examinations to ensure compliance with U.S. customs, immigration, and agriculture laws, as well as other laws enforced by CBP at the U.S. border. Such inspections and examinations prior to arrival in the United States generally enable passengers to exit the domestic terminal or connect directly to a U.S. domestic flight without undergoing further CBP processing.

DATES: *Effective Date:* December 8, 2009.

FOR FURTHER INFORMATION CONTACT: Kathleen Conway, Office of Field Operations, Preclearance Operations, (202) 344-1759.

SUPPLEMENTARY INFORMATION:

Background

CBP preclearance operations have been in existence since 1952. Preclearance facilities are established through the cooperative efforts of CBP, foreign government representatives, and the local airport authorities and are evidenced with signed preclearance agreements. Each facility is staffed with CBP officers responsible for conducting inspections and examinations in connection with preclearing passengers bound for the United States. Generally, passengers who are inspected at a

preclearance facility are permitted to arrive at a U.S. domestic facility and exit the U.S. domestic terminal upon arrival or connect directly to a U.S. domestic flight without further CBP processing. Preclearance facilities primarily serve to facilitate low risk passengers, relieve passenger congestion at Federal inspection facilities in the United States, and enhance security in the air environment through the screening and inspection of passengers prior to their arrival in the United States. In Fiscal Year 2008, over 14.9 million passengers were processed at preclearance locations. This figure represents more than 15 percent of all commercial air passengers cleared by CBP in 2008.

The Agreement on Air Transport Preclearance Between the Government of the United States of America and the Government of Canada was signed on January 18, 2001. Preclearance operations began in Halifax, Canada on October 4, 2006. The Halifax preclearance station is open for use by commercial flights.

The Agreement Between the Government of the United States of America and the Government of Ireland on Air Transport Preclearance was signed on November 17, 2008. Preclearance operations began in Shannon, Ireland on August 5, 2009. The Shannon preclearance station is open for use by commercial flights.

Section 101.5 of the CBP regulations (19 CFR 101.5) sets forth a list of CBP preclearance offices in foreign countries. This document amends this section to add Halifax, Canada and Shannon, Ireland to the list of preclearance offices, and to reflect the nomenclature changes made necessary by the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) and DHS' subsequent renaming of the agency as U.S. Customs and Border Protection (CBP) on March 31, 2007 (*see* 72 FR 20131, dated April 23, 2007).

Inapplicability of Public Notice and Delayed Effective Date Requirements

This amendment reflects the addition of two new CBP preclearance offices that were established through signed agreements between the United States and the respective host nation. Accordingly, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedure are unnecessary. For the same reason, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

The Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This amendment does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Signing Authority

This document is being issued in accordance with 19 CFR 0.2(a).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Foreign trade statistics, Imports, Organization and functions (Government agencies), Shipments, Vessels.

Amendments to Regulations

■ For the reasons set forth above, Part 101 of the Code of Federal Regulations (19 CFR part 101) is amended as set forth below.

PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and the specific authority citation for section 101.5 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

* * * * *
Section 101.5 also issued under 19 U.S.C. 1629.

* * * * *
■ 2. Revise § 101.5 to read as follows:

§ 101.5 CBP preclearance offices in foreign countries.

Listed below are the preclearance offices in foreign countries where CBP officers are located. A Director, Preclearance, located in the Office of Field Operations at CBP Headquarters, is the responsible CBP officer exercising supervisory control over all preclearance offices.

Country	CBP office
Aruba	Orangestad. Freeport.
The Bahamas	Nassau.
Bermuda	Kindley Field.
Canada	Calgary, Alberta. Edmonton, Alberta. Halifax, Nova Scotia. Montreal, Quebec. Ottawa, Ontario. Toronto, Ontario. Vancouver, British Columbia. Winnipeg, Manitoba.
Ireland	Shannon.

Dated: December 3, 2009.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2007-0067; T.D. TTB-83; Ref: Notice Nos. 36 and 77]

RIN 1513-AA92

Establishment of the Calistoga Viticultural Area (2003R-496P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the Calistoga viticultural area in Napa County, California. The viticultural area is entirely within the existing Napa Valley viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: *Effective Date:* January 7, 2010.

FOR FURTHER INFORMATION CONTACT: Amy R. Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220; telephone 202-453-2265.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act requires that these regulations, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. Section 105(e) of the FAA Act also requires that a person obtain a certificate of label approval (COLA) or a certificate of exemption, as appropriate, covering wine, distilled spirits, and malt beverages before bottling the product or removing the product from customs custody, in accordance with regulations

prescribed by the Secretary. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements.

Viticultural Areas Designation

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations (27 CFR part 9). The establishment of viticultural areas allows vintners to describe more specifically the origin of their wines to consumers and allows consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Use of Viticultural Area Names on Wine Labels

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). Under the provisions of 27 CFR 4.39(i), a wine may not be labeled with a brand name that contains a geographic name having viticultural significance unless the wine meets the appellation of origin requirements for the geographic area named. There is an exception for brand names used in existing certificates of label approval issued prior to July 7, 1986, which meet certain criteria set forth in that paragraph (see 27 CFR 4.39(i)(2)). Under 27 CFR 4.39(i)(3), a name has viticultural significance when it is the name of a state or county (or the foreign equivalents), when approved as a viticultural area in part 9 of the TTB regulations or by a foreign government, or when found to have viticultural significance by the appropriate TTB officer.

If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that

name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name (and have an approved COLA for that brand name). Similarly, if the viticultural area name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to relabel the product in order to market it.

Viticultural Area Petitions

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area boundary prominently marked.

I. Calistoga Petition

On behalf of interested parties in the Calistoga viticultural community, James P. “Bo” Barrett of Chateau Montelena, a Calistoga, California, winery and vineyard, petitioned TTB to establish “Calistoga” as an American viticultural area. Located in northwestern Napa County, California, the proposed area surrounds the town of Calistoga and is entirely within the existing Napa Valley viticultural area described in 27 CFR 9.23. Below, we summarize the evidence presented in the petition.

Name Evidence

The petitioner submitted the following as evidence that the proposed viticultural area described in the petition is locally and nationally known as Calistoga:

- Excerpts from Charles L. Sullivan’s book, “Napa Wine: A History from Mission Days to Present,” explaining that Sam Brannan founded the town of Calistoga in 1857 and established