

Signed at Washington, DC, on July 14, 1989.

Keith D. Bjerke,
Executive Vice President, Commodity Credit
Corporation.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 687]

RIN 1512-AA07

Arroyo Grande Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco
and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to establish in San Luis Obispo County, California, an American viticultural area to be known by the appellation "Arroyo Grande Valley." The proposal is the result of a petition filed by the proprietors of two wineries in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

DATE: Written comments must be received by September 5, 1989.

ADDRESS: Send written comments to the Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Ref: Notice No. 687). Copies of this proposal, the petition, the appropriate maps, and the written comments are available for public inspection during normal business hours at the ATF Reading Room, Ariel Rios Federal Building, Room 4412, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Coordinator, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, Room 6237, Washington, DC 20226, telephone (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in Title 27, Code of Federal Regulations, 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 to Title 27 a new Part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1) defines an American viticultural area as a delimited grape growing region distinguishable by geographical features. 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 boundary of the proposed 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 (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundary prominently marked.

Petition

By letter dated July 8, 1987, Don Talley of Talley Vineyards and William S. Greenough of Saucelito Canyon Vineyard filed a petition for the establishment of an "Arroyo Grande Valley" viticultural area in San Luis Obispo County, California.

The Arroyo Grande Valley is approximately 12 miles southeast of the Town of San Luis Obispo. The western leg of the boundary of the proposed viticultural area is about three miles directly east of the Pacific Ocean at Grover City. The proposed area covers approximately 67 square miles. The principal stream in the area is the Arroyo Grande Creek which meanders approximately 12 miles in a southwesterly direction from the spillway of Lopez Lake to the Pacific Ocean. The proposed viticultural area includes substantially all the drainage of the Arroyo Grande Creek including the

(upper) Arroyo Grande Creek. Feeding waters into the Arroyo Grande Creek are Tar Spring Creek, Los Berros Creek and Lopez Lake into which flow the (upper) Arroyo Grande Creek, Wittenberg Creek and the creek in Lopez Canyon. Tributaries to the (upper) Arroyo Grande Creek are Phoenix Creek and Saucelito Creek. Within the proposed area are four vineyards totaling 350 acres planted in wine grapes and three bonded wineries. The Edna Valley viticultural area lies immediately to the northwest, the boundary of Los Padres National Forest straddles the north leg of the proposed boundary, the Santa Maria viticultural area lies to the southeast of Arroyo Grande Valley, and the Pacific Ocean communities of Oceano, Grover City and Arroyo Grande abut the southwestern leg of the proposed boundary.

Name and History

The mission at San Luis Obispo farmed the bottomlands in the valley from 1780 until 1842 when the Mexican governor granted "Rancho Arroyo Grande" to Zefarino Carlon. Today, the names "Arroyo Grande" and "Arroyo Grande Valley" can be found on many maps of the area. Commercial vineyards were first planted in 1880 in Saucelito Canyon. The oldest winery in San Luis Obispo County, St. Remy, was also established in Saucelito Canyon in 1880 and produced wines until National Prohibition. The petitioner states that the St. Remy Winery identified itself as being from Arroyo Grande.

Climate

According to the petitioner, the primary characteristic distinguishing Arroyo Grande Valley from neighboring areas is climate. The climate ranges from high Region I to Region II as classified by the University of California system of heat summation.

The climate during the growing season is influenced by the proximity of the Arroyo Grande Valley to the Pacific Ocean. The marine air produces frequent morning and evening fog. This distinguishes the area from inland areas of San Luis Obispo County which are not open to the ocean and have much higher summer temperatures and colder winter temperatures.

The climate during the months of March, April, and May is dominated by a strong onshore air flow bringing cold winds which delay early season growing and fruit set of the grapevines. Because the Arroyo Grande Valley is shielded by the mountain range of the northwest side, the effects of the onshore air flow are moderated.

The valley experiences a long dry moderate summer season and a mild winter season. The average rainfall is 20 inches with about 80 percent of the rain falling between December and March.

The valley floor ranges from sea level to 400 feet above sea level. The proposed viticultural area takes in higher elevations from 300 to 1000 feet in elevation. Present grape plantings are low on hills near the valley floor. During the summer growing season, the sun shines more than 90 percent of the day. Temperatures of 100 degrees F occur nearly every year. Average maximum readings for July are in the 90's and range from about 92 degrees F at higher elevations to 98 degrees F at lower elevations with occasional highs ranging from 110 degrees F to 115 degrees F.

The climate of the area is characterized by cool summer night temperatures, often dropping to 30 degrees below daytime highs.

The Arroyo Grande Valley, as a whole, is slightly warmer than the Santa Maria Valley viticultural area to the south, and somewhat cooler than the Edna Valley and Paso Robles viticultural areas to the north, as determined by the average total number of degree days during the growing season.

The Arroyo Grande Valley usually gets more precipitation each year than the Santa Maria Valley to the south or the Paso Robles area to the north. Edna Valley, to the immediate northwest, usually gets just slightly less precipitation than Arroyo Grande Valley.

The Arroyo Grande Valley is oriented on a northeast-southwest axis whereas both Edna Valley and Santa Maria Valley are oriented on a northwest-southeast axis. This northeast-southwest orientation for Arroyo Grande Valley results in prevailing southwesterly winds in the valley.

Farm Advisor Statement

Mr. John H. Foott, Farm Advisor, Cooperative Extension, University of California, San Luis Obispo County, states that Arroyo Grande Valley is definitely a valley with a climate and terrain different from the Paso Robles and Edna Valley appellations. Arroyo Grande Valley has a southwest orientation to the coast, which gives it some protection from northwest winds. Fog in the summer keeps the valley cool and would designate it as a Region I, according to Mr. Foott. The fog usually burns back in the late morning hours, which gives a gentle warming in the afternoon—ideal for good wine grape quality. Mr. Foott feels that these are the items that distinguish the Arroyo

Grande Valley from the other areas of the county.

Statement from Professor Fountain

Mr. H. Paul Fountain, Professor of Viticulture, Crop Science Department, California Polytechnic State University, states that Arroyo Grande Valley has many climatic characteristics similar to the Edna Valley. The area is much different from most of the grape growing areas of San Luis Obispo County, particularly the northern parts of the county including Paso Robles and Shandon. The greatest difference between Arroyo Grande and the Paso Robles/Shandon area is temperature. Paso Robles is much warmer in the summer and colder in the winter. The difference is not only the high and low temperatures during the growing season, but the length of time each day that the maximum temperatures occur.

Mr. Fountain goes on to state that the Arroyo Grande area is west of the Santa Lucia Mountain range and experiences the moderating coastal influences. Early morning fogs (many times up until 9:00 to 10:00 AM) and afternoon coastal onshore breezes during the growing season keep this area much cooler and the maximum temperatures of shorter duration than the grape growing areas east of the Santa Lucia Mountain range. Mr. Fountain believes that the Arroyo Grande Valley should have its own viticultural area because its climate is sufficiently different from the other grape growing areas of San Luis Obispo County.

Soils

Soils within the proposed Arroyo Grande Valley viticultural area are shallow and moderately deep, moderately sloping to extremely steep, and well drained. Some soils on the valley floor are very deep, nearly level to moderately sloping, somewhat poorly drained and well drained silty clay loam and sandy clay loam soils.

Proposed Boundary

The boundary of the proposed Arroyo Grande Valley viticultural area may be found on four United States Geological Survey maps with a scale of 1:24,000. The boundary is described in proposed § 9.129.

Executive Order 12291

It has been determined that this proposed regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual

industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. § 604(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested parties. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However,

the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Robert L. White, 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, and Wine.

Issuance

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

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Par. 2. The Table of Sections in Subpart C is amended to add the title of § 9.129 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *
§ 9.129—Arroyo Grande Valley.

Par. 3. Subpart C is amended by adding § 9.129 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.129 Arroyo Grande Valley.

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

(b) *Approved maps.* The appropriate maps for determining the boundary of Arroyo Grande Valley viticultural area are four U.S.G.S. topographical maps of the 1:24,000 scale:

(1) "Arroyo Grande, NE, California", edition of 1965, photorevised 1978.

(2) "Tar Spring Ridge, California", edition of 1967.

(3) "Nipomo, California", edition of 1965.

(4) "Oceano, California", edition of 1965, photorevised 1979.

(c) *Boundary.* The Arroyo Grande Valley viticultural area is located in San Luis Obispo County in the State of California. The boundary is as follows:

(1) Beginning on the "Arroyo Grande" map at the point of intersection of State Route 227 and Corbit Canyon Road in Arroyo Grande Township, the boundary

proceeds approximately 0.1 mile, in a northwesterly direction, along the roadway of State Route 227 to the point where State Route 227 intersects with Printz Road in Poorman Canyon in the Santa Manuela land grant;

(2) Then northwesterly, approximately 1.5 miles, along Printz Road to its intersection with Noyes Road in the Santa Manuela land grant;

(3) Then northerly, approximately 1.5 miles, along Noyes road to its intersection with State Route 227 (at vertical control station "BM 452") in the Santa Manuela land grant;

(4) Then in a northeasterly direction in a straight line approximately 1.4 miles to the intersection of Corbit Canyon Road with an unnamed, unimproved road at Verde in the Santa Manuela land grant;

(5) Then approximately 1.9 miles in a generally northeasterly direction, along the meanders of said unimproved road to its easternmost point, prior to the road turning back in a northwesterly direction to its eventual intersection with Biddle Ranch Road;

(6) Then in a northwesterly direction approximately 1.13 miles in a straight line to the summit of an unnamed peak identified as having an elevation of 626 feet in the Santa Manuela land grant;

(7) Then easterly, approximately 0.46 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 635 feet, in the Santa Manuela land grant;

(8) Then east northeasterly, approximately 0.27 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 799 feet, in the Santa Manuela land grant;

(9) Then easterly, approximately 0.78 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 952 feet, in the Santa Manuela land grant;

(10) Then easterly, approximately 0.7 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,188 feet, in the southwest corner of section 29, T. 31 S., R. 14 E.;

(11) Then east southeasterly, approximately 0.9 mile in a straight line, to the point at which Upper Arroyo Grande Road crosses the spillway of Lopez Dam in section 32, T. 31 S., R. 14 E. (see "Tar Spring Ridge" map);

(12) Then, in a generally easterly direction, approximately 3.64 miles along Upper Arroyo Grande Road (under construction) to the point where the broken red line for the proposed location of said road diverges in a northerly direction from the light duty

roadbed of said road in the Arroyo Grande land grant (north of section 35, T. 31 S., R. 14 E.);

(13) Then, in a generally northerly direction, approximately 2.5 miles, along the broken red line for the proposed location of Upper Arroyo Grande Road to its point of intersection with an unnamed unimproved road (this intersection being 1.2 miles northwest of Ranchita Ranch) in the Arroyo Grande land grant;

(14) From the point of intersection of the proposed location of Upper Arroyo Grande Road and the unnamed unimproved road, the boundary proceeds in a straight line, east northeasterly, approximately 1.8 miles, to the summit of an unnamed peak identified as having an elevation of 1,182 feet, in the northwest corner of section 19, T. 31 S., R. 15 E.;

(15) Then southeasterly, approximately 1.8 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,022 feet, in the northeast corner of section 29, T. 31 S., R. 15 E.;

(16) Then west southwesterly, approximately 0.84 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,310 feet, in the northeast corner of section 30, T. 31 S., R. 15 E.;

(17) Then south southeasterly, approximately 1.46 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,261 feet, in section 32, T. 31 S., R. 15 E.;

(18) Then southeasterly, approximately 0.7 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,436 feet, in the northwest corner of section 4, T. 32 S., R. 15 E.;

(19) Then southwesterly, approximately 1.07 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,308 feet, in the Huasna land grant;

(20) Then west northwesterly, approximately 1.50 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,070 feet, along the east border of section 1, T. 32 S., R. 14 E.;

(21) Then south southeasterly, approximately 1.38 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,251 feet, in the Huasna land grant;

(22) Then southwesterly, approximately 0.95 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,458 feet, in the Santa Manuela land grant;

(23) Then southeasterly, approximately 0.8 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,377 feet, in the Huasna land grant;

(24) Then southwesterly, approximately 1.4 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,593 feet, in the Santa Manuela land grant (See "Nipomo" map);

(25) Then southwesterly, approximately 1.1 miles in a straight line, to the jeep trail immediately north of the summit of an unnamed peak identified as having an elevation of 1,549 feet, just north of section 35, T. 32 S., R. 14 E.;

(26) Then northwesterly, approximately 2.73 miles along the jeep trail on Newsom Ridge to the point of intersection of said jeep trail and an unnamed unimproved road (immediately north of section 28, T. 32 S., R. 14 E.);

(27) Then southerly, approximately 1.63 miles along said unimproved road to its intersection with Upper Los Berros No. 2 Road in section 33, T. 32 S., R. 14 E.;

(28) Then southwesterly, approximately 3.27 miles along the stream in Los Berros Canyon (of which approximately 2.0 miles are along Upper Los Berros No. 2 Road) to the point at which U.S. Highway 101 crosses said stream in section 35, T. 12 N., R. 35 W. (See "Oceano" map);

(29) Then across U.S. Highway 101 and continuing in a southwesterly direction approximately .1 mile to Los Berros Arroyo Grande Road;

(30) Then following Los Berros Arroyo Grande Road in generally a northwesterly direction approximately 4 miles until it intersects with Valley Road;

(31) Then following Valley Road in generally a northerly direction approximately 1.2 miles until it intersects with U.S. Highway 101;

(32) Then in a northwesterly direction along U.S. Highway 101 approximately .35 mile until it intersects with State Highway 227;

(33) Then in a northeasterly and then a northerly direction along State Highway 227 approximately 1.4 miles to the point of beginning.

Approved: July 13, 1989.

Stephen E. Higgins,

Director.

[FR Doc. 89-17034 Filed 7-19-89; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket S-015]

RIN 1218-AA59

Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment

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

ACTION: Notice of hearing; extension of written comment period.

SUMMARY: This notice schedules an informal public hearing on the proposed standards on electric power generation, transmission, and distribution and on electrical protective equipment, which were published on January 31, 1989 (54 FR 4974). It also extends the period for submission of written comments on the proposed rule.

DATES: The hearing will begin in Washington, DC, on November 28, 1989, at 9:30 a.m., and may continue for more than one day based on the number of notices of intention to appear. Once all parties who wish to do so have testified in Washington, DC, the hearing will be recessed and reconvened in Los Angeles, CA, on December 12, 1989, for the receipt of testimony of parties who prefer to testify at that location. Written comments on the proposed standards and notices of intention to appear must be postmarked by September 30, 1989. Testimony and evidence to be introduced into the record at the hearing must be postmarked by October 30, 1989.

ADDRESSES: The informal public hearing will begin in the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The hearing will be reconvened at the Sheraton Plaza La Reina Hotel, 6101 West Century Boulevard, Los Angeles, CA, 90045. (Telephone: 213-642-4867.)

Four copies of written comments must be sent to the Docket Office, Docket No. S-015, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2634, 200 Constitution Avenue, NW., Washington, DC 20210. (Telephone: 202-523-7894.)

Four copies of each notice of intention to appear and testimony and evidence that will be introduced into the hearing record must be sent to: Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647, 200 Constitution Avenue,

NW., Washington, DC 20210. (Telephone: 202-523-8615.)

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647, 200 Constitution Avenue, NW., Washington, DC 20210. (Telephone: 202-523-8615.)

For information on how to submit notices of intention to appear, see the section of this notice entitled "Public Participation."

Proposal: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647, 200 Constitution Avenue, NW., Washington, DC 20210 (Telephone: 202-523-8148.).

SUPPLEMENTARY INFORMATION: On January 31, 1989, OSHA published a proposed new standard on electric power generation, transmission, and distribution and a proposed revision of the existing regulations on electrical protective equipment for general industry (54 FR 4974). Interested parties were given until May 1, 1989, to submit written comments and to file objections to the proposal and request hearing. The deadline for submitting written comments was subsequently extended to June 1, 1989 (54 FR 18546).

Issues

OSHA received 77 comments, including one hearing request that was received by the May 1 deadline. After this date, five additional requests for a hearing were received. Therefore, OSHA has scheduled a public hearing to begin on November 28, 1989. The hearing is being held to examine all issues raised by the proposal, including the following issues, which were gleaned from the comments:

1. *Grandfathering.* Many commenters requested some form of "grandfathering" (or exemption) for existing electrical protective equipment from the requirements proposed in § 1910.137 and for existing power generation, transmission, and distribution installations from § 1910.269. In their objections, § 1910.269(h)(4) on step bolts and manhole steps, (u)(1) and (v)(3) on access and working space about electric equipment, and (u)(4) and (v)(4) on guarding of live parts were specifically mentioned as requirements that would force extensive modification of existing installations. Public comment is requested on the issue of which requirements cannot be met by existing equipment and installations. Specific instances of non-compliance and alternatives that provide safety