

ADDRESSES: Interested persons are invited to submit written comments in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Christian Nissen, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 447-5127.

SUPPLEMENTARY INFORMATION: This action is issued under Marketing Order No. 985 (7 CFR part 985) regulating the handling of spearmint oil produced in the Far East. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

The proposed rule was issued on May 28, 1991, and published in the May 31, 1991, issue of the **Federal Register** (56 FR 24742). It proposed that § 985.153 of the administrative rules and regulations of the spearmint oil marketing order be amended by dividing the production area into four regions for the purpose of distributing additional allotment base to new producers. The production area, which includes the States of Washington, Idaho, and Oregon and portions of the States of California, Nevada, Montana, and Utah, would be divided as follows: Region 1 would consist of those portions of Montana and Utah included in the production area; Region 2 would consist of Oregon and those portions of Nevada and California included in the production area; Region 3 would consist of Idaho; and Region 4 would consist of Washington.

The proposed amendment would make an equal portion of the additional allotment base available to each of the four regions for each class of spearmint oil during a marketing year. It would provide a greater opportunity to new producers in some regions of the production area, such as portions of Montana, Utah, Nevada, Central Oregon, and California, to receive allotment base and undertake the production of spearmint oil.

The U.S. Department of Agriculture has received a request to reopen and extend the deadline to provide more time for interested persons to analyze the proposed rule and prepare comments. Reopening and extending the

comment period will provide such interested persons more time to review the proposed rule and submit written views and information pertinent to the proposed change. Accordingly, the comment period is reopened and extended to August 10, 1991.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, and Spearmint oil.

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Dated: August 2, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91-18739 Filed 8-6-91; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 721]

RIN 1512-AA07

Atlas Peak Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to establish a viticultural area located in Napa County, California, to be known by the appellation "Atlas Peak." The proposal is the result of a petition filed by Mr. Richard Mendelson on behalf of Atlas Peak Vineyards. The proposed area is located entirely within the approved "Napa Valley" viticultural area, which is in turn located within the approved "North Coast" area. ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify the wines they purchase. The establishment of viticultural areas also allows wineries to specify further the origin of wines they offer for sale to the public.

DATES: Written comments must be received by September 23, 1991.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221. Ref: Notice No. 721.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT:

Marjorie Dundas, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202) 566-7626.

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), title 27 CFR 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 characteristics (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 or copies of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF received a petition proposing a viticultural area in Napa County, California, to be known as Atlas Peak. The proposal was submitted by Mr. Richard Mendelson, on behalf of Atlas Peak Vineyards, the first established winery in the proposed viticultural area. The proposed viticultural area is located six to ten miles north-northeast of Napa, California on the western slope of the Vaca Range (which separates Napa Valley and Sacramento Valley). As proposed, the "Atlas Peak" viticultural area includes the mountain of that name as well as the Foss Valley and portions of the Rector and Milliken Canyons. The proposed viticultural area has a land area of approximately 11,400 acres, with approximately 565 acres planted to vineyards. In addition to Atlas Peak Vineyards, one more winery is under construction. There are 14 commercial vineyards in the proposed area.

If the name Atlas Peak is adopted, then the use of Atlas Peak as a brand name is governed by 27 CFR 4.39(i), which means that (unless it is used in an existing certificate of label approval issued prior to July 7, 1986) the brand name may not be used unless the wine meets the appellation of origin requirements for the viticultural area (not less than 85% of the wine is derived from grapes grown within the boundaries of the viticultural area and the wine has been fully finished in the State in which the viticultural area is located).

Evidence of Name

Atlas Peak is the most prominent feature of the proposed area at an elevation of 2663 feet. The petition states that the original derivation of the name "Atlas Peak" for the mountain and the surrounding Foss Valley remains unclear but that the name has been applied since at least 1875.

As evidence of the name, the petitioner provided copies of newspaper articles from the 1870s discussing the merits of Atlas Peak as a resort area. The first, from the July 10, 1875, Napa County Recorder, describes Atlas Peak as the "divide between Foss and Capelle Valleys" and lists the fine scenery, the pure water, the moderate temperature and the dry air as its advantages over nearby areas for camping. The second article, in the November 18, 1876, Napa County Recorder, described the health benefits of a visit to Atlas Peak. The petitioner also provided a copy of the Report of the Committee on the Establishment of a State Hospital for Consumptives to the California State Legislature in 1880. Atlas Peak was

considered as a site for such a hospital on the basis of its "equability of temperature, freedom from fogs, or from harsh winds, the dryness of the atmosphere," and "abundant supply of pure water." The petitioner also states that "Atlas Peak" is the recognized name for the Foss Valley since the name is used for the valley's main road and only school.

Viticultural History

According to the petition, the first vineyard, of 1000 vines, was planted in 1870 by James Reed Harris. By 1881, Harris' vineyard had grown to 5 acres, and by 1893, to 47 acres. The petitioner provided an 1895 assessor's map marked with the locations of six vineyards shown by the assessor's records to be located within the proposed area. According to the petitioner, the vineyards in the Atlas Peak area survived the Phylloxera epidemic of the 1890s, but were abandoned after the enactment of Prohibition in 1920, and no new vines were planted until 1940. In that year, the first new vineyard was planted on Mead Ranch, in the southwest portion of the proposed area. Between the publication in 1951 and photorevision in 1968 of the two U.S.G.S. maps which contain the proposed area, six new vineyards were added. Beginning in 1981, "several new vineyard plantings have been developed in the proposed viticultural area, often utilizing sites previously planted to vines in the 19th century."

The petitioner states that Zinfandel is presently the grape variety most recognized for its regional character, but he anticipates that as "young vineyards in the region reach maturity, other grapes varieties—including Cabernet Sauvignon and Chardonnay—may well receive individual recognition for their special character." The petitioner submitted samples of Zinfandel labels utilized by one California winery which identifies the grapes in the wine as being from the Atlas Peak area, as well as copies of the lists of offerings at the annual Napa Valley Wine Auctions of 1981, 1982 and 1988, which show the source of grapes used in some of the Rutherford Hill wines as "Vines at the Giles Mead Ranch atop Atlas Peak."

Proposed Boundary

As indicated above, the petitioner requests designation of the mountain known as Atlas Peak and the surrounding Foss Valley as the Atlas Peak viticultural area. As evidence for the proposed boundary, the petitioner points out that the name "Atlas Peak" is used to designate the region's oldest access road with a route that traverses

Milliken Canyon and Foss Valley as well as Atlas Peak. The boundaries of the proposed area consist mainly of ridge lines which separate Atlas Peak and the Foss Valley from the surrounding valleys and canyons, such as Soda Canyon to the west; Wooden Valley and Capelle Valley to the east; and Sage Canyon and Pritchard Hill to the north. The petitioner describes these canyons and valleys as different in history, climate and geology. The boundaries of the proposed "Atlas Peak" viticultural area may be found on two United States Geological Survey maps of the 7.5 minute series. The boundary is described in proposed § 9.140.

Distinguishing Features

The petitioner provided the following evidence relating to features which distinguish the proposed viticultural area from the surrounding areas:

Topography

The proposed area's highest elevation is 2663 feet above sea level at the summit of Atlas Peak. The lowest points are 760 feet above sea level at the bottom of Rector Canyon, in the northwest corner of the proposed area, and 924 feet above sea level at the bottom of Milliken Canyon, in the southeastern portion of the area. Most of the proposed area, even the Foss Valley, which is described by the petitioner as an "elevated hanging valley," is more than 1400 feet above sea level. According to the petitioner, the topography, "an elevated valley surrounded by volcanic mountains of relatively shallow relief," is unusual for the area.

Soils

According to a report prepared by Eugene L. Begg, Soils Consultant, and submitted by the petitioner, the soils of the proposed Atlas Peak area are predominantly volcanic in origin. The soil series reported within the area by the "Soil Survey of Napa County, California" (updated 1978), are Aiken, Boomer, Felta, Guenoc, and Hambright soils from andesite and basalt; the Forward soils from rhyolite; the Bale, Perkins, and Maxwell soils from valley fill alluvium; and the Henneke and Montara soils from serpentine. According to Mr. Begg's report, only the Henneke and Montara soils, which represent a small percentage of the soils within the proposed area, are from a non-volcanic source. By way of contrast, the soils in surrounding areas such as Soda Canyon, Capelle Valley, Wooden Valley and Stags Leap are diverse since

they are derived from both volcanic and sedimentary rock sources.

Climate

The petitioner included a separate report on the climate of the proposed area prepared by Michael Pechner, a consulting meteorologist, which describes the proposed area as "very distinctive, and perhaps unique in Northern California." In support of this claim, the report describes the effect of the location and topography of the proposed area on the growing conditions. Although the area is only 40 miles from the Pacific ocean and subject to the afternoon and evening cooling which are characteristic of maritime influence, the area is free from the fogs which are drawn up into the rest of the Napa Valley. Mr. Pechner attributes the lack of fog to the fact that the proposed area is east of Napa, has a high elevation, and is connected to Napa Valley by narrow canyons. The report also indicates that cooling in the proposed area is influenced by the fact that the area is characterized by shallow volcanic soils and large areas of volcanic rock.

This contributes to radiant cooling, resulting in late afternoon temperatures which can drop as much as 30 degrees in two hours, and in daily minimum temperatures which are usually lower than those in nearby Stags Leap, Yountville, or Napa. Finally, Mr. Pechner's report indicates that the annual rainfall in the Atlas Peak area is greater than in surrounding areas, "due to the terrain forcing the moist air masses of winter storms upward as they move inland along a southeasterly path from the coast, causing condensation." The report contrasts average rainfall within the Atlas Peak area of 37.5 inches per year with averages of 25 to 35 inches of rain per year in other parts of Napa Valley. According to the petition, only Howell Mountain, "well to the north, has higher rainfall totals."

Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 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 the United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities, or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

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 notice because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested persons concerning this proposed viticultural area. 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 material in comments as confidential. Comments may be disclosed to the public.

Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure. Any interested person who desires an opportunity to comment orally at a public hearing on the proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The Director, however, 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 Marjorie Dundas, 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.

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. The table of sections in subpart C is amended to add the title of § 9.140 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.140 Atlas Peak.

Par. 3. Subpart C is amended by adding 9.140 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.140 Atlas Peak.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the "Atlas Peak" viticultural area are 2 U.S.G.S. (7.5 minute series) maps. They are titled:

(1) Yountville, Calif., 1951 (photorevised 1968);

(2) Capell Valley, Calif., 1951 (photorevised 1968).

(c) *Boundary.* The Atlas Peak viticultural area is located in portions of Napa County, in the State of California. The boundary is as follows:

(1) The beginning point is Haystack (peak) in section 21, T. 7 N., R. 4 W. on the Yountville, California, U.S.G.S. map;

(2) From the beginning point, the boundary follows a straight line in a southeasterly direction, until it reaches the highest point of the unnamed peak (1443 feet elevation) on the boundary of sections 21 and 28 of T. 7 N., R. 4 W. on the Yountville map;

(3) The boundary then proceeds southeast in a straight line to an unnamed pass with an elevation of 1485 feet, located on Soda Canyon Road;

(4) The boundary then turns east and proceeds in a straight line

approximately 0.5 miles until it reaches an unnamed peak with an elevation of 2135 feet;

(5) The boundary then turns southeast and proceeds in a straight line approximately 0.4 miles to an unnamed pass, elevation 1778 feet;

(6) The boundary continues in a generally southeasterly direction, following a series of straight lines connecting the highest points of unnamed peaks with elevations of 2102, 1942, 1871 and 1840 feet, ending in section 2, T. 6 N., R. 4 W. on the Yountville map;

(7) The boundary then proceeds southeast in a straight line approximately 1.8 miles, onto the Capell Valley, Calif., U.S.G.S. map, continuing until it reaches the highest point of an unnamed peak, elevation 1268 feet in section 12, T. 6 N., R. 4 W.;

(8) The boundary proceeds east-southeast in a straight line approximately 1.1 miles until it reaches the point where an unnamed tributary stream enters the Milliken Creek, just south of the Milliken Reservoir in T. 6 N., R. 3 W. on the Capell Valley map;

(9) The boundary follows the unnamed stream east-northeast to its source and then continues east in a straight line approximately 0.5 miles, through the highest point of an unnamed peak, elevation 1848 feet, and to the 1600 foot contour line;

(10) The boundary follows the 1600 foot contour line generally north and west for approximately 10 miles, crosses on to the Yountville, Calif., U.S.G.S. map to the point where it intersects the section boundary line between sections 12 and 13 of T. 7 N. R. 4 W.;

(11) The boundary then follows the section boundary line west approximately 0.8 miles until it reaches an unnamed pass, elevation 2055 feet;

(12) The boundary proceeds west-northwest in a straight line to the highest point of an unnamed peak, elevation 2114 feet, then to the highest point of an unnamed peak, elevation 2023 feet;

(13) From that peak, the boundary goes southwest in a straight line approximately 2.2 miles to Haystack, the beginning point on the Yountville, Calif., U.S.G.S. map.

Approved: July 30, 1991.

Stephen E. Higgins,
Director.

[FR Doc. 91-18647 Filed 8-6-91; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 91-016]

RIN 2115-AD77

Drawbridge Operation Regulations, Waterborne Emergency

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the regulations which govern the nation's drawbridges by requiring that emergency vessels and vessels in an emergency situation, that have given the proper emergency signal, be passed through an attended draw at any time. This proposal is being made because there is provision for the passage of emergency land vehicles, but nothing similar has been done to make allowance for the passage of emergency vessels or vessels in an emergency situation. This action should not seriously interfere with the needs of vehicular traffic, yet still provides for the reasonable needs of navigation in an emergency.

DATES: Comments must be received on or before September 23, 1991.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3406) (CGD 91-016) U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, or may be delivered to Room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Larry R. Tyssens, Alterations, Regulations and Systems Branch (G-NBR-1), at (202) 267-0376.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 91-016) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting

acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "ADDRESSES." If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are Mr. Larry R. Tyssens, Project Manager, and Lieutenant Ralph L. Hetzel, Project Counsel, Office of Chief Counsel.

Background and Purpose

An issue has been raised regarding the need for a regulation requiring emergency vessels and vessels in distress—where a delay would endanger life or property—to be passed through drawbridges during scheduled closure periods. Presently, drawtenders are required to close the draw when emergency vehicles wish to cross. However, there is no general requirement to open drawbridges during scheduled closure periods for vessels that should be passed without delay.

Discussion of Proposed Amendment

The proposed amendment will allow immediate passage for emergency vessels or vessels in distress, commercial vessels engaged in rescue or emergency salvage operations, and vessels seeking shelter from severe weather equivalent to Force 7 or greater on the Beaufort Wind Scale.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. There will be no cost to the general public other than that associated with the inconvenience to vehicular traffic occasioned by an opening of the draw for an emergency.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard