

(f) \* \* \*

(1) \* \* \* Average daily production does not include production resulting from secondary or tertiary process to which gross income from the property is attributable before January 1, 1984.

(h) *Depletable oil quantity.* The taxpayer's depletable oil quantity, within the meaning of section 613A(c)(1)(A), shall be equal to the tentative quantity determined under the table contained in section 613A(c)(3)(B) and paragraph (b) of § 1.613A-3 (except that, in the case of determinations with respect to days prior to January 1, 1984, such quantity shall be reduced (but not below zero) by the taxpayer's average daily secondary or tertiary production for the taxable year).

(n) \* \* \* For taxable years beginning after 1982, the term "transfer" includes an election by a C corporation to be an S corporation (properties deemed transferred by the C corporation on the day the election first becomes effective) and a termination of an S election (each shareholder's pro rata share of assets of S corporation deemed transferred to C corporation on the day that the termination first becomes effective). \* \* \*

(o) \* \* \* The term "transferee", as used in section 613A(c)(9), paragraph (i)(1) of § 1.613A-3, and this section includes the original transferee of proven property and his or her successors in interest (excluding successors in interest of proven property transferred after October 11, 1990). \* \* \*

(r) \* \* \*

(l) \* \* \*

\* \* \* Bulk sales made after September 13, 1982, of aviation fuels to the Department of Defense shall be also disregarded. \* \* \*

Par. 6. Section 1.705-1 is amended by revising paragraph (a)(2)(iii), redesignating paragraph (a)(4) as paragraph (a)(6), and inserting new paragraphs (a)(4) and (a)(5), to read as follows:

**§ 1.705-1 Determination of basis of partner's interest.**

(a) \* \* \*

(2) \* \* \*

(iii) The excess of the deductions for depletion over the basis of the depletable property, unless the property is an oil or gas property the basis of

which has been allocated to partners under section 613A(c)(7)(D).

(4) The basis shall be decreased (but not below zero) by the amount of the partner's deduction for depletion allowable under section 611 for any partnership oil and gas property.

(5) The basis shall be adjusted (but not below zero) to reflect any gain or loss to the partner resulting from a disposition by the partnership of a domestic oil or gas property after December 31, 1974.

Michael J. Murphy,  
Acting Commissioner of Internal Revenue.  
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BILLING CODE 4830-01-M

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

[Notice No. 717]

RIN 1512-AA07

**Benmore Valley Viticultural Area (91F-002P)**

**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 is considering the establishment of an American viticultural area in the southwestern corner of Lake County, California to be known as "Benmore Valley." Benmore Valley, at an elevation of 2,400 feet, is nestled in the Mayacmas Mountains, and is surrounded by peaks of up to 2,900 feet in height. It is located entirely within the North Coast viticultural area and does not overlap any other approved or proposed viticultural areas.

This proposal is the result of a petition submitted by Compliance Specialists, Santa Rosa, CA, on behalf of Vimark Inc. which owns vineyards in Benmore Valley. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific grape-growing areas where their wines come from, and better enables consumers to identify the wine they purchase.

**DATES:** Written comments must be received by June 27, 1991.

**ADDRESSES:** Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O.

Box 385, Washington, DC 20044-0385 (Notice No. 717).

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 Disclosure Branch, 650 Massachusetts Avenue, Washington, DC 20226.

**FOR FURTHER INFORMATION CONTACT:** Charles N. Bacon, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, Washington, DC 20226; telephone (202) 566-7626.

**SUPPLEMENTARY INFORMATION:**

**Background**

ATF regulations in 27 CFR part 4 allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Section 9.11, title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which are delimited 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 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 of the appropriate (U.S.G.S. map(s) with the proposed boundaries prominently marked.

**Petition**

ATF has received a petition proposing a viticultural area located in the southwestern corner of Lake County, California to be known as Benmore Valley. At an elevation of 2,400 feet, Benmore Valley is nestled in the Mayacmas Mountains, and is surrounded by peaks of up to 2,900 feet

in height. This proposal is the result of a petition submitted by Compliance Specialists, Santa Rosa, California, on behalf of Vimark, Inc., a Benmore Valley vineyard owner. There are 125 acres of vineyards and no bonded wine cellars within the proposed area.

### 1. Evidence of Name.

#### Name derivation

Benmore Valley, at the 2,400' elevation, is identified by name on U.S.G.S. maps. The petition states the first use of the name Benmore can be traced back to the nineteenth century cattle rustler, Benjamin Logan Moore, or Ben Moore. His practice was to steal cattle in the adjacent Mendocino County, and then drive them to Lake County into the hidden valley that now bears his name, Benmore. He continued this practice for years until emigrating to South America to escape the law.

#### Local/national renown

The 1988 Lake County Historical Society publication, Pomo Bulletin, detailed the historical aspects of Ben Moore, and his life in Benmore Valley. The Benmore name has been incorporated into a number of local geographical areas including Benmore Creek, Benmore Trail, Benmore Ridge and Benmore Valley. The Benmore name is found on the Hopland, Purdys Gardens, and Lakeport U.S.G.S. maps. The name Benmore Valley is directly associated with the history of Lake County.

### 2. Evidence of Boundaries

The petitioner submitted a 1:24,000 scale U.S.G.S. map which is the largest scale map that describes the area. The boundaries of the proposed Benmore Valley viticultural area coincide in a general manner with those of the region known as Benmore Valley, which is so labeled on the Purdys Gardens and Hopland U.S.G.S. maps. The boundaries of the proposed viticultural area encompass the valley floor of Benmore Valley and a portion of the watershed surrounding it. A specific description of the boundaries appears in the proposed regulation of the boundaries appears in the proposed regulation at § 9.138.

### 3. Evidence Distinguishing the Geographic Features.

#### Climate

The petition demonstrates that Benmore Valley is characterized by a cooler climate than surrounding areas. Analysis of data from the University of California Hopland Field Station shows Benmore Valley to be a region I classification with fewer than 2,000

annual heat units. Adjacent areas in Mendocino County are warmer. McDowell Valley two miles distant is classified as a region II area with 2,500 to 3,000 annual heat units, while the City of Hopland three miles distant is classified as having a region III climate with 3,000 to 3,500 annual heat units. Kelseyville and Middletown in Lake County are classified as region III or region IV climates and are much warmer. In addition, ten-year statistical data from the University of California Hopland Field Station shows that the growing season begins later in the year in Benmore Valley than adjacent areas. The date of the last frost in Benmore Valley occurs as much as one month later than in surrounding areas, including both higher mountain elevations, and lower valley areas. Although Benmore Valley does not experience high temperatures, the valley tends to warm up earlier and cool later than other coastal areas, and thus stay warm for a longer percentage of the day. This fact, together with the relative lack of fog in the valley, provides a suitable climate for grape-growing.

#### Soils

Soil types found within Benmore Valley differ from soils in the mountains surrounding the valley. The three soil types on the valley floor are Manzanita loam, which predominates, Still loam and Wolfcreek loam. These are deep, well-drained soils of slow to moderately slow permeability found on alluvial plains. These soils contrast sharply with those in the surrounding mountains. Soil types of the bordering mountains are complexes made of varying mixtures of Maymen, Etsel, Mayacama and Snook soils, all shallow, excessively drained soils derived from weather shale and sandstone.

#### Elevation

Benmore Valley can be described as a slight depression in the surrounding mountains. The valley itself is a high elevation upland valley, higher than most nearby areas, but isolated from other areas by even higher mountains immediately surrounding the valley. The valley floor elevation is 2,400 feet with the surrounding mountains averaging 2,800 feet, and rising to the north to just over 3000 feet in elevation.

#### Water

The petition states that three man-made lakes and a natural creek provide adequate natural water supply for vineyard production. There is a high water table, which contrasts with the surrounding mountain area with little water capacity. Due to its high

elevation, there are no watercourses which flow into the valley. This natural watershed boundary provides definition between the valley and its surrounding areas. The proposed boundaries closely follow the peaks that enfold the valley into seclusion from the surrounding world.

### 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 reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

### Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291, and a regulatory impact analysis is not required 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 geographical 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.

### 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—Written Comments

ATF requests comments from all interested persons concerning the 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 a respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any 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 viticultural area 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 Nancy Sutton, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

#### Authority and Issuance

Accordingly, the Director proposes the amendment of 27 CFR part 9 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 part 9 is amended by adding the title of § 9.138 to read as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.

9.138 Benmore Valley.

**Par. 3.** Subpart C is amended by adding § 9.138 to read as follows:

#### § 9.138 Benmore Valley.

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

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Benmore Valley viticultural area are two U.S.G.S. maps. They are entitled:

(1) "Hopland, CA," 7.5 Minute Series, edition of 1960, (photinspected 1975); and

(2) "Purdys Gardens, CA," 7.5 Minute Series, edition of 1958, (photinspected 1975).

(c) *Location.* The Benmore Valley viticultural area is located in the southwest corner of Lake County, California. It lies entirely within the North Coast viticultural area.

(d) *Boundaries.* The beginning point is an unnamed peak of 2783 feet elevation found in the southeast portion of Section 35, R. 11 W., T. 14 N., on the "Purdys Gardens" U.S.G.S. map:

(1) Then southwest in a straight line to the point where an unnamed unimproved road crosses the south section line of section 35, R. 11 W., T. 14 N., west of Benmore Creek;

(2) Then following the unnamed unimproved road south to the intersection with the boundary between Lake and Mendocino Counties;

(3) Then following the county boundary between Lake and Mendocino Counties east and south to the intersection with the 2800 foot contour line;

(4) Then following the 2800 foot contour line in a northerly and then southerly direction to its intersection with the boundary between Lake and Mendocino Counties on the southern edge of Section 2, R. 11 W., T. 13 N.;

(5) Then following the boundary between Lake and Mendocino Counties east to the point of intersection of Sections 1, 2, 11, and 12, R. 11 W., T. 13 N.;

(6) Then southeasterly in a straight line to an unnamed peak of 2769 feet elevation in the center of Section 12, R. 11 W., T. 13 N.;

(7) Then south in a straight line to the point where the boundary between Lake and Mendocino Counties changes from an east-west direction to a north-south direction;

(8) Then in a straight line in an easterly direction to an unnamed peak of 2883 feet elevation in the southeastern portion of Section 5, R. 10 W., T. 13 N.;

(9) Then northeast in a straight line to the easternmost peak of an unnamed ridge with four peaks in the center of Section 5, R. 10 W., T. 13 N.;

(10) Then northerly in a straight line to an unnamed peak of 2647 feet elevation near the north section line of Section 5, R. 10 W., T. 13 N.;

(11) Then westerly in a straight line to the point of intersection between Section 5, R. 10 W., T. 13 N., Section 31, R. 10 W., T. 14 N., and Section 1, R. 11 W., T. 13 N.;

(12) Then northwest in a straight line to an unnamed peak of 2904 feet elevation in the north portion of Section 1, R. 11 W., T. 13 N.;

(13) Then northwest in a straight line to an unnamed peak of 2788 feet elevation, the point beginning.

Signed: May 3, 1991.

Stephen E. Higgins,

Director.

[FR Doc. 91-11269 Filed 5-10-91; 8:45 am]

BILLING CODE 4810-31-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CCGD13 91-02]

#### Regatta; 1991 Bill Muncey Memorial Regatta, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

**SUMMARY:** The Coast Guard is considering a proposal to establish two areas of controlled navigation upon the waters of Lake Washington, Seattle, Washington, during the 1991 Bill Muncey Memorial Regatta. This event will be held on Sunday, 23 June 1991, from 8 a.m. PDT until 6 p.m. PDT. The Coast Guard, through this action, intends to promote the safety of spectators and participants in this event by establishing exclusionary zones to keep spectator vessels from interfering with the high speed boat races.

**DATES:** Comments must be received on or before June 27, 1991.

**ADDRESSES:** Comments should be mailed to LTJG D. A. Kearns, USCG Group Seattle, 1519 Alaskan Way S., Seattle, WA 98134-1192. The comments and other material referenced in this notice will be available for inspection and copying at USCG Group Seattle, 1519 Alaskan Way S., Seattle, WA 98134-1192. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** LTJG D. A. Kearns, Assistant Operations Officer, USCG Group Seattle, pH (206) 286-5412.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CCGD13 91-02) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the