

County, California. The boundaries are as follows:

(1) From the beginning point at the southeast corner of quadrant 36 and southwest corner of quadrant 32 (a point where Mendocino and Lake Counties border on the T. 17 N.—T. 18 N. township line), the boundary runs northwest to the northeastern corner of quadrant 4, on the T. 18 N.—T. 17 N. township line;

(2) Then west to the northwest corner of quadrant 1;

(3) Then south to the southwest corner of quadrant 36;

(4) Then east to R. 12 W.—R. 11 W. range line at the southeast corner of quadrant 36;

(5) Then south to Highway 20;

(6) Then southeast on Highway 20 to where Highway 20 passes from quadrant 20 to quadrant 21; and

(7) Thence northeast, returning to the point of beginning.

Signed: September 13, 1983.

W. T. Drake,

Acting Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27877 Filed 10-12-83; 8:46 am]

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## 27 CFR Part 9

[T.D. ATF-154; Ref: Notice No. 455]

### Catoctin Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This final rule establishes a viticultural area in parts of Frederick and Washington Counties in western Maryland to be known as "Catoctin." This final rule is the result of a petition submitted by Mr. W. Bret Byrd, proprietor of a bonded winery (Byrd Vineyards) in the viticultural area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of this viticultural area and the subsequent use of the name Catoctin as an appellation of origin on labels and in advertisements will allow wineries to better designate the derivation of their wines and will enable consumers to better identify and differentiate the wines they may purchase.

**EFFECTIVE DATE:** November 14, 1983.

**FOR FURTHER INFORMATION CONTACT:**

James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue,

NW, Washington, DC 20226 (202-566-7626).

### SUPPLEMENTARY INFORMATION:

#### Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37872, 54824) revising regulations in Part 4, Title 27, CFR. These regulations provide for the establishment of definite viticultural areas. They also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all American viticultural areas approved for use as appellations of origin.

An American viticultural area is defined in §§ 4.25a(e)(1) and 9.11 as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as an American viticultural area. Under the procedures for proposing a viticultural area outlined in §§ 4.25a(e)(2) and 9.3(b), a petition must contain evidence, historical or current, that the proposed area is—

(a) Locally and/or nationally known by the name specified;

(b) Encompassed by appropriate boundaries; and,

(c) Possesses geographical features (climate, soil, elevation, physical features, etc.) which distinguish its viticultural features from surrounding areas.

ATF was petitioned by Mr. W. Bret Byrd, proprietor of a bonded winery known as Byrd Vineyards, to establish a viticultural area in western Maryland to be known as "Catoctin." In response to the petition, ATF published in the *Federal Register* on February 9, 1983, a notice of proposed rulemaking (Notice No. 455, 48 FR 5958) concerning the establishment of the Catoctin viticultural area and solicited written comments from the public.

#### General Description

The viticultural area lies west of the town of Frederick in western Maryland. It encompasses an area of 265 square miles (170,000 acres), in parts of Frederick and Washington Counties. The area consists of a large intermountain valley and upland areas immediately surrounding the valley. The eastern and western boundaries are distinguished by Catoctin Mountain and South Mountain, respectively. The northern and southern boundaries are

the Maryland-Pennsylvania State line and the Potomac River, respectively.

There are approximately 84.5 acres planted to grapes for commercial purposes. The acreage devoted to grape-growing is widely dispersed. In 1980, approximately 31.5% of the total commercial grape acreage in Maryland was planted in the viticultural area. In addition, scattered throughout, are many small vineyards, generally under an acre, which are used by the owners for private purposes. There is one bonded winery, operated by the petitioner, with a 30 acre vineyard and six (6) commercial vineyard operations.

#### Evidence of the Name

The name of the viticultural area was documented by the petitioner. The name "Catoctin" is derived from a word in the Algonquin Indian language and means "speckled rock." This type of rock abounds in the area. Since the 1700's, the name has been applied to many natural and man-made features in the area, such as Catoctin National Park, Catoctin Creek, Catoctin Mountain, and Catoctin Valley (a.k.a. Middletown Valley). After evaluating the petition, ATF believes "Catoctin" is the most appropriate name for the viticultural area.

#### Boundaries and Geographical Features

The boundaries of the Catoctin viticultural area roughly approximate the boundaries of that portion of Land Resource Area No. 130 which is in Maryland. Land Resource Areas are geographic areas of land determined by the U.S. Soil Conservation Service to be associated on the basis of particular patterns of soil, climate, water resources, land use, elevation, and topography.

Average annual rainfall for the Catoctin viticultural area is 36-42 inches; to the north and east, average yearly rainfall is 40-42 inches; south of the Catoctin viticultural area average annual rainfall is 38-40 inches, and to the west of the viticultural area average annual rainfall is 38-46 inches.

Soils in the Catoctin viticultural area are characteristic of those found on mountains, elevated intermountain areas, or in intermountain valleys. The soil in the intermountain valley area is almost entirely of the Myersville-Fauquier-Catoctin association. The surrounding uplands are primarily composed of the Dekalb, Clymer, Edgemont, Chandler, Talladega, Highfield, and Fauquier soil series in various associations. Soils outside the viticultural area to the east are mostly shallow soils of red shale sandstone and

limestone. West of the viticultural area the soils are well drained, medium textured soils.

#### Comments

No comments were received during the comment period. Having analyzed and evaluated the evidence contained in the petition, ATF is adopting the Catoctin viticultural area as proposed.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule 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. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of 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, Pub. L. 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.

#### Disclosure

A copy of the petition and appropriate maps are available for public inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200

Pennsylvania Avenue NW., Washington, D.C.

#### Drafting Information

The author of this document is Jim Whitley, Specialist, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

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

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

#### Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)) 27 CFR Part 9 is amended as follows:

#### PART 9—AMERICAN VITICULTURAL AREAS

**Paragraph 1.** The table of sections in 27 CFR Part 9, Subpart C, is amended by adding the title of § 9.67, reading as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.

\* \* \* \* \*

9.67 Catoctin.

**Par. 2.** Subpart C is amended by adding § 9.67, reading as follows:

#### Subpart C—Approved American Viticultural Areas

\* \* \* \* \*

#### § 9.67 Catoctin.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Catoctin viticultural area are 12 U.S.G.S. maps in the scale 1:24,000. They are—

- (1) "Point of Rocks Quadrangle, Maryland—Virginia," 7.5 minute series, 1970;
- (2) "Buckeystown Quadrangle, Maryland," 7.5 minute series, 1952 (Photorevised 1971);
- (3) "Frederick Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1980);
- (4) "Catoctin Furnace Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1979);
- (5) "Blue Ridge Summit Quadrangle, Maryland—Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);
- (6) "Emmitsburg Quadrangle, Maryland—Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(7) "Smithsburg Quadrangle, Maryland—Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(8) "Myersville Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1971);

(9) "Funkstown Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1971);

(10) "Keedysville Quadrangle, Maryland—West Virginia," 7.5 minute series, 1978;

(11) "Harpers Ferry Quadrangle, Virginia—Maryland—West Virginia," 7.5 minute series, 1969; and

(12) "Charles Town Quadrangle, West Virginia—Virginia—Maryland," 7.5 minute series, 1978;

(c) *Boundaries.* The Catoctin viticultural area is located in western Maryland and encompasses parts of Frederick and Washington Counties. From the beginning point at the point where U.S. Highway 15 crosses the Potomac River and enters the land mass of Maryland on the "Point of Rocks Quadrangle" map, the boundary runs—

(1) Northerly 1,100 feet in a straight line to the point of intersection with a 500-foot contour line;

(2) Then northeasterly along the meanders of the 500-foot contour line on the "Point of Rocks Quadrangle," "Buckeystown Quadrangle," "Frederick Quadrangle," "Catoctin Furnace Quadrangle," "Blue Ridge Summit Quadrangle," and "Emmitsburg Quadrangle" maps to the point of intersection with the Maryland—Pennsylvania State line on the "Emmitsburg Quadrangle" map;

(3) Then west along the Maryland—Pennsylvania State line on the "Emmitsburg Quadrangle," "Blue Ridge Summit Quadrangle," and "Smithsburg Quadrangle" maps to the point of intersection with the first 800-foot contour line lying west of South Mountain on the "Smithsburg Quadrangle" map;

(4) Then southwesterly along the meanders of the 800-foot contour line on the "Smithsburg Quadrangle,"

"Myersville Quadrangle," "Funkstown Quadrangle," and "Keedysville Quadrangle" maps to the point of intersection with an unnamed light duty road (known locally as Clevelandville Road) north of the town of Clevelandville on the "Keedysville Quadrangle" map;

(5) Then southerly along the unnamed light duty road to the point of intersection with Reno Monument Road;

(6) Then southwesterly 13,500 feet in a straight line to the point lying at the intersection of Highway 67 and Millbrook Road;

(7) Then westerly along Millbrook Road to the point of intersection with Mount Briar Road;

(8) Then northerly along Mount Briar Road to the point of intersection with a 500-foot contour line;

(9) Then northerly along the 500-foot contour line to the point of intersection with Red Hill Road;

(10) Then southerly along the 500-foot contour line to the point of intersection with Porterstown Road;

(11) Then south-southwesterly 29,000 feet in a straight line to the most eastern point on the boundary line of the Chesapeake and Ohio Canal National Historical Park lying north of the town of Dargan;

(12) Then southwesterly 7,500 feet in a straight line to the point of the "Harpers Ferry Quadrangle" map lying approximately 600 feet northwest of Manidokan Camp at the confluence of an unnamed stream and the Potomac River; and

(13) Then easterly along the meanders of the Potomac River on the "Harpers Ferry Quadrangle," "Charles Town Quadrangle," and "Point of Rocks Quadrangle" maps to the point of beginning.

Signed: September 9, 1983.

Stephen E. Higgins,

Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27888 Filed 10-12-83; 8:45 am]

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## 27 CFR Part 9

[T.D. ATF-153; Ref: Notice No. 441]

### The Lake Michigan Shore Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This final rule establishes a viticultural area in the southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Lake Michigan Shore as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate where their wines come from and will enable consumers to better identify the wines from this area.

**EFFECTIVE DATE:** November 14, 1983.

#### FOR FURTHER INFORMATION CONTACT:

Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7531).

#### 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 viticultural areas. The 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.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, 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. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. Charles W. Catherman, Jr., of St. Julian Wine Company, Inc., and Mr. Michael E. Byrne, of Warner Vineyards, Inc., petitioned ATF to establish a viticultural area in the southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." The area consists of about 1,280,000 acres and totally encompasses the Counties of Berrien and Van Buren in addition to portions of Allegan, Kalamazoo and Cass Counties. In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 441, in the *Federal Register* on December 14, 1982 (47 FR 55959), proposing the establishment of the Lake Michigan Shore viticultural area.

##### Comments

Five comments were received during the comment period. Four were from wineries located within the proposed viticultural area and one was from the Van Buren County Extension Office, Cooperative Extension Service, Michigan State University and the U.S. Department of Agriculture. Three of the four wineries fully support the proposed Lake Michigan Shore viticultural area. In addition, the Cooperative Extension Service (Van Buren County Extension Office) also fully supports the proposal.

One of the wineries located within the proposed area stated in their comment that they oppose the establishment of the Lake Michigan Shore viticultural area for the following reasons:

1. The name gives the consumer the impression that the land in question is near the shore or close to Lake Michigan when in fact some of the area is located 30 to 60 miles away from the actual shoreline.

2. The statement in Notice No. 441 that the entire area receives the tempering "lake effect" of Lake Michigan is of doubtful validity in that certain vinifera species cannot be successfully or commercially grown in this region.

3. The argument for this proposed viticultural area is predicated on grape quantities grown rather than varieties. This commenter states that he feels the use of appellations was to help consumers compare fine wines from different regions. He feels that the use of the Concord variety as a basis for a regional designation would only serve to confuse consumers when they compare wines of the Napa Valley to those of Lake Michigan Shore.

4. Geographically, this area should probably use the Valporaiso Moraine as a potential boundary due to its close lakeshore proximity. Also, parts of northern Indiana should be included in the area.

ATF does not agree with the four reasons given by this commenter for not establishing a Lake Michigan Shore viticultural area. In the first place, we do not feel that the name "Lake Michigan Shore" is misleading. The western boundary of this area is the shoreline of Lake Michigan. The "lake effect" is felt a good distance inland from the shoreline which is why grapes can be grown throughout the Lake Michigan Shore area. This proximity to Lake Michigan and the influence that Lake Michigan exerts on the local climate is the fundamental factor that permits commercially successful viticulture in this area. Consequently, even though the eastern boundary of this area extends in some places up to approximately 45 miles away from the Lake Michigan shoreline, we do not feel that naming this entire area "Lake Michigan Shore" would be misleading to the consumer.

Secondly, the fact that certain vinifera species cannot be successfully or commercially grown in the "Lake Michigan Shore" viticultural area does not mean that the area does not receive the tempering "lake effect" of Lake Michigan. Viticultural areas are not based only on vinifera grapes but on all grape species capable of producing wine. Currently, the "lake effect" helps make it possible to grow about 17 varieties of American, French hybrid, and vinifera grapes in the "Lake Michigan Shore" area.