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Margaret Milner Richardson,
Commissioner of Internal Revenue.

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 802]

RIN 1512-AA07

Cucamonga Valley Viticultural Area (94F-011P)

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 (ATF) is considering the establishment of a viticultural area located in San Bernardino and Riverside Counties, California, to be known as "Cucamonga Valley." This proposal is the result of a petition filed by Gino L. Filippi of J. Filippi Vintage Co. on behalf of himself and other growers and wineries in the 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 allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

DATES: Written comments must be received by January 31, 1995.

ADDRESSES: Send written comments to: Chief, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221, Attn: Notice No. 802. Copies of written comments received in response to this notice of proposed rulemaking will be available for public inspection during normal business hours at: ATF Reference Library Room 6480, 650 Massachusetts Avenue, NW Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW Washington, DC 20226 (202-927-8230).

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) 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 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 boundaries prominently marked.

Petition

ATF has received a petition from Gino L. Filippi of J. Filippi Vintage Co. proposing to establish a viticultural area in San Bernardino County California, to be known as "Cucamonga Valley." The proposed viticultural area is located in southern California, about 45 miles east of the city of Los Angeles. It contains approximately 109,400 acres. The petitioner states that wine grapes, probably the mission variety were first planted in the Cucamonga Valley in 1839 or 1840, "undoubtedly one of the first large plantings of grapes in California. According to the petitioner

the wine industry in the Cucamonga Valley grew during the late nineteenth and early twentieth centuries, reaching "its peak in the 1940's and 1950's with over 60 wineries producing from approximately 35,000 acres." Today there are five bonded wineries within the proposed area, and approximately 2,000 acres are planted to wine grapes. The petitioner notes "the area's great history and heritage of wine growing and winemaking is truly more impressive than the number of acres currently farmed."

The petition was also signed by Philo Biane of Rancho de Philo Winery, Rene Biane of Guasti Plaza, Don Galleano of Galleano Winery Paul Hofer III of Hofer Ranch, LeAnn Smothers of the City of Rancho Cucamonga, and Jeff Wilson, of Inland Empire West Resource Conservation District.

Evidence of Name

Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition includes:

(a) Leon D. Adams, in *The Wines of America*, describes the Cucamonga Valley as follows:

The Cucamonga Valley, forty-five miles east of Los Angeles, has grown the bulk of Southern California wine during the present century. The vineyard area extends from Ontario east to Fontana and from the base of the San Gabriel Mountains southward to the Jurupa Hills in Riverside County. The climate, though tempered by winds from the ocean, is as warm as the northern San Joaquin Valley and is classed as Region IV

(b) The petitioner provided a copy of an article published in *The Sun*, a San Bernardino, California, newspaper, on March 30, 1994. The article, titled "Fontana winery soaks up more awards," described awards won by two wines from J. Filippi Vintage Co. at a recent competition and stated that the "Ruby Port is produced from Cucamonga Valley grapes, renowned for sherry and port wines."

(c) The petitioner also provided an excerpt of a letter dated August 20, 1991, from the San Bernardino County Archives to the Riverside County Historical Commission discussing designation of the Galleano Winery as a landmark. The excerpt makes several references to the Cucamonga Valley mentioning locations within the proposed area such as Rancho Cucamonga, Fontana, Ontario and Mira Loma.

Evidence of Boundaries

As evidence that the proposed boundaries for the area are as specified in the petition, the previously cited

excerpt from *The Wines of America*, by Leon D. Adams, states that the vineyard area of the Cucamonga Valley "extends from Ontario east to Fontana and from the base of the San Gabriel Mountains southward to the Jurupa Hills in Riverside County." The San Gabriel Mountains form the northern boundary of the proposed area, and the Jurupa Hills form the eastern part of the southern boundary. The towns of Fontana and Ontario are both within the proposed area.

The petitioner proposes using the 560' elevation line as the western portion of the southern boundary. He states the area south of that elevation has poor drainage and is mainly used for dairy farming.

In support of Euclid Avenue as the western boundary for the proposed viticultural area, the petitioner gave historical information. He stated that the area west of Euclid Avenue "was subjected to flooding from the San Antonio Canyon. In the 1940's several flood control construction projects began to solve the problem. Historically, agriculture in this area (Upland, CA) was citrus (lemons and oranges)." He stated that citrus trees were grown there because there was a good water source and better drainage than within the proposed viticultural area to the east of Euclid Avenue.

The eastern boundary, made up of Lytle Creek Wash, Warm River, and the Santa Ana River, marks a shift in the type of soil and the ability of the soils to drain. These characteristics will be discussed in detail in the section of the background material on soils.

Geographical Features

The petitioner describes the proposed viticultural area as follows:

Cucamonga Valley is an east-west oriented valley. The San Gabriel mountains form the valley's northern boundary. The San Antonio Creek, Cucamonga Creek, Deer Creek, Day Creek, San Sevaime Creeks, from west to east respectively, spread out to form alluvial fans as they descend the foothills and emerge in the Cucamonga Plain. These fans contain sand and silt deposits that create a rich mixture of fertile soil.

The petitioner seeks viticultural area designation for the area described above and the valley drained by the Cucamonga Creek to the south of this alluvial fan. According to the petitioner, these areas share characteristics of topography soil composition and climate which distinguish the proposed viticultural area from the surrounding areas. The petitioner provided the following evidence to support his claims:

Topography

The U.S.G.S. topographic maps submitted by the petitioner show the proposed area slopes gradually from 2,000 feet at the northern boundary to 560 feet at the southern boundary. The petitioner describes the San Gabriel mountains to the north of the proposed area as "a great wall, from 8,000 to 10,000 feet high." The Jurupa Mountains to the southeast of the proposed area offer another contrast as they rise steeply from the valley floor to form part of the southern boundary. The balance of the southern boundary the 560 foot contour line, was chosen because the area at lower elevations was poorly drained and was traditionally used for dairy farming; furthermore, the nearby Prado Dam is scheduled to be raised, so the area to the south of the 560 foot contour line will be flooded.

Soil

The petitioner describes the soil in the proposed area as "alluvial valley floors, fans and terraces derived from granitic rock from the San Gabriel formation in the north." He further states that the wine grape vineyards in the region are "found to be located on Delhi, Hanford, Tujunga, Gorgonio and Hilmar soil series" and "most vineyards are nearly level to moderately sloping (0-15°)."

The General Soil Map for southwestern San Bernardino County describes these associations as very deep, "dominantly brownish soils that are coarse textured throughout" and "somewhat excessively drained to excessively drained." On this map, the proposed eastern boundary in particular is distinguished by a change in the soil composition to the Hanford-Greenfield-San Emigdio association, finer textured and less well drained than the soils within the proposed area. The mountainous areas to the north and southeast of the proposed area have shallower soils over granite, schist and sandstone.

Climate

The petitioner states that the climate in the proposed area is "well-suited for viticulture. There are relatively few nights below freezing in the winter and summer days can be very hot, reaching temperatures over 100 degrees Fahrenheit. According to the petitioner, the climate is classed as Region IV with a heat summation in the 3,501 to 4,000 degree F range. He states this corresponds to the Ukiah, Davis and Lodi areas of California, and is warmer than the Santa Barbara, Santa Rosa and Santa Maria areas to the north and the

Temecula and Rancho California areas to the south.

Proposed Boundary

The boundary of the proposed Cucamonga Valley viticultural area may be found on ten United States Geological Survey (U.S.G.S.) maps with a scale of 1:24000. The boundary is described in § 9.150.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this Executive Order.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new recordkeeping or reporting requirements are proposed. Accordingly a regulatory flexibility analysis is not required.

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 of proposed rulemaking because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested parties. We are particularly interested in comments concerning the proposed western boundary, Euclid Avenue. 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 Marjorie D. Ruhf, Wine, Beer and Spirits Regulations 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.

Authority and Issuance

Title 27 Code of Federal Regulations, part 9, American Viticultural Areas, is proposed to be 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. Subpart C is amended by adding § 9.150 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.150 Cucamonga Valley.

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

(b) *Approved maps.* The appropriate maps for determining the boundary of the Cucamonga Valley viticultural area are the following ten U.S.G.S. topographical maps (7.5 minute series 1:24000 scale):

(1) "Mt. Baldy, Calif.," 1967 photorevised 1988.

(2) "Cucamonga Peak, Calif.," 1966, photorevised 1988.

(3) "Devore, Calif.," 1966, photorevised 1988.

(4) "San Bernardino North, Calif.," 1967 photorevised 1988.

(5) "Ontano, Calif.," 1967 photorevised 1981.

(6) "Guasti, Calif.," 1966, photorevised 1981.

(7) "Fontana, Calif.," 1967 photorevised 1980.

(8) "San Bernardino South, Calif.," 1967 photorevised 1980.

(9) "Prado Dam, Calif.," 1967 photorevised 1981.

(10) "Corona North, Calif.," 1967 photorevised 1981.

(c) *Boundary.* The Cucamonga Valley viticultural area is located in San Bernardino and Riverside Counties, California. The boundary is as follows:

(1) The beginning point is the intersection of Euclid Avenue and 24th

Street on the Mt. Baldy, Calif. U.S.G.S. map;

(2) From the beginning point, the boundary follows 24th Street east for approximately 0.3 mile, until it reaches the intersection of 24th Street with two unnamed light-duty streets to the north;

(3) The boundary then diverges from 24th Street and goes straight north for approximately 0.3 mile, until it reaches the 2,000 foot contour line;

(4) The boundary then follows the 2,000 foot contour line in a generally easterly direction across the Cucamonga Peak, Calif., U.S.G.S. map and onto the Devore, Calif., U.S.G.S. map until it reaches Lytle Creek Wash;

(5) The boundary follows the intermittent stream in Lytle Creek Wash in a southeasterly direction to the end of the intermittent stream on the Devore, Calif., U.S.G.S. map;

(6) The boundary then continues through Lytle Creek Wash, proceeding southeast in a straight line from the end of the intermittent stream, across the southwest corner of the San Bernardino North, Calif., U.S.G.S. map and onto the San Bernardino, South, Calif., U.S.G.S. map, to the northernmost point of the flood control basin at the end of the Lytle Creek Wash, a distance of approximately 4.3 miles;

(7) The boundary then proceeds in a straight line south-southeast across the flood control basin to the point where Lytle Creek Channel exits the basin;

(8) The boundary continues along Lytle Creek Channel until it empties into Warm Creek;

(9) The boundary then follows Warm Creek until it meets the Santa Ana River;

(10) The boundary then follows the western edge of the Santa Ana River in a generally southwesterly direction until it meets the San Bernardino—Riverside County line;

(11) The boundary follows the county line west, crossing onto the Guasti, Calif., U.S.G.S. map, until it reaches the unnamed channel between Etiwanda and Mulberry Avenues (identified by the petitioner as Etiwanda Creek Channel);

(12) The boundary then follows Etiwanda Creek Channel in a southerly direction until it parallels Bain Street;

(13) The boundary then diverges from Etiwanda Creek Channel and follows Bain Street south until it ends at Lemonite Avenue in the northeast corner of the Corona North, Calif., U.S.G.S. map;

(14) The boundary then continues south in a straight line until it reaches the northern shore of the Santa Ana River

(15) The boundary then follows the north shore of the Santa Ana River until it intersects the 560 foot contour line in Section 1 T3S/R7W;

(16) The boundary then follows the 560' contour line to the north of the Santa Ana River in a generally westerly direction until it reaches Euclid Avenue on the Prado Dam, Calif., U.S.G.S. map;

(17) The boundary then follows Euclid Avenue north to the point of beginning.

Approved: November 8, 1994.

Daniel R. Black,
Acting Director.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining, Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining, Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing the receipt of revisions pertaining to a previously proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Utah's proposed rules pertain to general backfilling and grading requirements; previously and continuously mined areas; and approximate original contour (AOC). The amendment is intended to revise the Utah program to be consistent with the corresponding Federal regulations, clarify ambiguities, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.s.t. December 19, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.