

§ 177.23 Who may request country of origin determinations.

Any foreign manufacturer, producer, or exporter, or a United States importer of merchandise, may request a country of origin determination.

§ 177.24 By whom request is filed.

A request may be filed by a foreign manufacturer, producer, or exporter, or a United States importer of merchandise, or by a duly authorized attorney or agent on their behalf. A request filed by a corporation shall be signed by a corporate officer, and a request filed by a partnership shall be signed by a partner.

§ 177.25 Form and content of request.

The request shall be in writing and shall contain the following information:

(a) The name of the requester, the requester's principal place of business, and a statement that the requester is either a foreign manufacturer, producer, or exporter, or a United States importer, or a duly authorized attorney or agent;

(b) A description of the article for which a country of origin determination is requested;

(c) The country or instrumentality an article is claimed to be the product of; and,

(d) Such information as will enable Customs to determine if an article is a product of a specific country or instrumentality.

§ 177.26 Where request filed.

The request shall be filed with the Director, Entry Procedures and Penalties Division, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229.

§ 177.27 Notification of receipt.

Upon receipt of the request by the Office of the Director, Entry Procedures and Penalties Division, it shall be date stamped. The requester shall be promptly advised in writing of the date the request was received.

§ 177.28 Advisory ruling.

Within 25 days of receipt of the request, the Director, Entry Procedures and Penalties Division, shall issue an advisory ruling as to whether an article is or would be a product of the claimed foreign country or instrumentality within the meaning of this section. Failure to issue a ruling within 25 days of receipt of the request shall be construed as an advisory ruling that an article is not or would not be a product of the foreign country or instrumentality claimed in the request. Any advisory ruling which is not appealed under § 177.29 shall become a final determination 30 days from the date of the decision.

§ 177.29 Appeal of advisory ruling.

An advisory ruling which is adverse to the requester may be appealed to the Director, Office of Regulations and Rulings, within 30 days of the date of the adverse advisory ruling. The appeal shall contain the same information required by § 177.25. In addition, the appeal shall identify the adverse advisory ruling from which the appeal is taken and the reasons why the party appealing the ruling believes it is in error. The appeal shall be filed with the Director, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Upon receipt of the appeal by the Office of the Director, Office of Regulations and Rulings, it shall be date stamped. The party appealing shall be promptly advised in writing of the date the appeal was received. The Director, Office of Regulations and Rulings, shall, within 30 days of receipt of the appeal, issue a final determination on the appeal. No further administrative appeal may be taken from the final determination of the Director, Office of Regulation and Rulings. Failure to issue a decision within 30 days of receipt of the appeal shall be construed as a final determination that the article is not or would not be a product of the foreign country or instrumentality claimed in the appeal.

§ 177.30 Publication of notice of final determinations.

Notice of all final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued or occurs because of failure to issue a decision within the time limits established by this subpart.

William T. Archey,
Acting Commissioner of Customs.

Approved:
John P. Simpson,
Acting Assistant Secretary of the Treasury.
March 25, 1981.
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Bureau of Alcohol, Tobacco and Firearms**27 CFR Part 9****[Notice No. 369]****Edna Valley Viticultural Area**

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in San Luis Obispo County, California, to be known as "Edna Valley." This proposal is the result of a petition from industry members in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labelling and advertising will help consumers better identify the wines they purchase.

DATE: Written comments must be received by June 8, 1981.

ADDRESSES: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044.

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 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 viticultural areas. The regulations also allow the name of an approval 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, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

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 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 the 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 with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area in San Luis Obispo County, California, as a viticultural area to be known as "Edna Valley." The proposed area is a natural valley consisting of approximately 35 square miles.

The petitioner claims that the proposed viticultural area is distinguished from surrounding areas by climatic variances, particularly temperature, and by unique geophysical characteristics and is historically and currently known by the name "Edna Valley." The petitioner bases these claims on the following:

(a) A San Luis Obispo County Planning Study published in 1969 describes Edna Valley as an elongated valley oriented along a northwest-southeast axis. The valley is well defined by the Santa Lucia Mountains on the northeast side; by a low, hilly complex on the southeast; and by the San Luis Range on the southwest. The upper end or northwest border merges into the Los Osos Valley just beyond the city of San Luis Obispo.

(b) The boundaries for Edna Valley are essentially the same as those proposed for the viticultural area, except that the viticultural area boundaries omit the hilly and mountainous areas (above the 400 foot contour line on the southwest side of the valley and above the 600 foot contour line on the northeast side) where slopes are too steep and soil capabilities are not suitable for grape growing.

(c) The climate within Edna Valley is predominantly Region II as classified by the University of California at Davis system of heat summation by degree days. There are a few localized micro-climates in the valley which classify as Region I. The inland areas of San Luis Obispo County generally experience substantially higher summer

temperatures and substantially lower winter temperatures than Edna Valley. This is because of the mountain barrier which runs along the San Luis Obispo County coast line, shielding the inland areas from the moderating ocean influences.

(d) There is a gap in this mountain barrier where the Los Osos Valley meets the ocean in the Morro Bay area, 15 miles to the northwest of Edna Valley. Los Osos Valley serves as a wide mouthed funnel, providing an unobstructed sweep from the ocean into Edna Valley, bringing frequent morning fog during the summer months and winds in the afternoon.

(e) The pocket of hills and mountains surrounding Edna Valley captures the marine air, tempered by distance from the coast line, flowing in from Morro Bay through the Los Osos Valley, creating climatic conditions which differentiate Edna Valley from the surrounding areas.

(f) Although Los Osos Valley to the northwest is also a distinguishable valley, because of its proximity to the ocean its climate is colder and it experiences more fog cover and more wind than Edna Valley. Consequently, Los Osos Valley climate is too cold to mature wine grapes and none are planted there.

(g) The floor of Edna Valley is approximately 120 to 300 feet above sea level. The proposed viticultural area projects into the surrounding uplands to the 600 foot contour line of the Santa Lucia Mountains and to the 400 foot contour line of the San Luis Range on the west. The elevations of the surrounding mountainous areas generally range between 1000 to 2400 feet to the northwest, 600 to 1600 feet to the southeast and 400 to 900 feet to the south and west.

(h) The northern end of Edna Valley drains into San Luis Obispo Creek and Davenport Creek, which is a tributary of San Luis Obispo Creek. The southern end of the valley drains into Pismo Creek and into the east and west branches of Corral De Piedra Creek, tributaries of Pismo Creek. San Luis Obispo Creek flows southwesterly into the Pacific Ocean at Avila Bay. Pismo Creek flows southwesterly into the ocean at Pismo Beach.

(i) Major soils within the Edna Valley viticultural area are generally sandy clay loam, clay loam or clay. They are mostly hard, firm, sticky and plastic. They are also generally neutral to moderately alkaline. Most soils are calcareous at some level of the surface soil or subsoil.

(j) Soils in the surrounding mountainous areas above the 400 to 600

foot contour levels are shallower than in the valley and are of poor soil capability. Soils in Los Osos Valley are similar to those in Edna Valley but are generally heavier and of better capability.

(k) Climatic conditions in Edna Valley are favorable for growing wine grapes. The valley experiences a long, dry moderate summer season followed by a shorter, wet winter period and cool temperatures. The average rainfall is about 20 inches, more than 80 percent occurring from December through March. Killing frosts are rare, which is not the case in other inland areas of the county that are denied the benefits of the ocean influence by the mountain barrier.

(l) Historical and current usage of the name "Edna Valley" is supported by the following:

(1) Edna Valley derives its name from the small community of Edna, founded about 1883. The first official record of the use of the name "Edna" appears in a lease document recorded December 6, 1899. Over the ensuing years, the valley in which Edna is located came to be known locally as Edna Valley.

(2) A collection of excerpts from local publications concerning Edna Valley provides evidence that the area is locally known by that name.

(3) A study published by the San Luis Obispo County Planning Department in December 1969 entitled "San Luis Obispo County Agricultural Preserves—Edna Valley Area" provides evidence that the area is officially known locally by the name Edna Valley.

(4) A collection of clippings from regional and national wine-oriented articles and publications provides evidence that Edna Valley has become widely known as a viticultural area.

(5) A collection of wine labels which refer to Edna Valley as the source of the grapes in which the wines were made provides further evidence that Edna Valley is widely recognized as a viticultural area.

(6) Wine grapes were first planted in the proposed viticultural area at Mission San Luis Obispo about 1772. Other small plantings were made in Edna Valley in the early 1900's. In 1968 the County Farm Advisor planted a plot of premium varietal wine grapes on the Righetti Ranch in Edna Valley. In 1973, substantial acreage of wine grape vineyards was planted in the area, followed by other smaller plantings over the next few years. At the present time there are five vineyards in Edna Valley totaling approximately 650 acres in vines.

The boundaries of the proposed Edna Valley viticultural area may be found on four U.S.G.S. 7.5 minute quadrangle maps ("San Luis Obispo Quadrangle, California", "Lopez Mtn. Quadrangle, California", "Arroyo Grande NE Quadrangle, California" and "Pismo Beach Quadrangle, California").

The boundaries are as follows:

(1) The beginning point is Cuesta Canyon County Park, located on U.S.G.S. map "San Luis Obispo Quadrangle" at the north end of Section 25, Township 30 South, Range 12 East. From the beginning point, the boundary runs southwesterly along San Luis Obispo Creek to a point .7 mile southerly of the confluence with Davenport Creek;

(2) Southeasterly from San Luis Obispo Creek along the 400-foot contour line of the northeastern flank of the San Luis Range, which forms the southwestern rim of Edna Valley, to the township line identified as "T31S/T32S" on the U.S.G.S. map;

(3) East along township line "T31S/T32S", across Price Canyon to Tiber;

(4) Easterly along the 400-foot contour line of Tiber Canyon and the southern rim of Canada Verde, crossing Corbett Canyon Road and continuing along the 400-foot contour line to longitude line 120° 32' 30";

(5) North along longitude line 120° 32' 30" to the 600-foot contour line of the southwestern flank of the Santa Lucia Mountain Range;

(6) Northwesterly along the 600 foot contour line of the southwestern flank of the Santa Lucia Range to Cuesta Canyon County Park, the beginning point.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the Edna Valley viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or 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 comment. 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 these proposed regulations should submit his or her request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.35 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

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§ 9.35 Edna Valley.

Paragraph 2. Subpart C is amended by adding § 9.35 to read as follows:

Subpart C—Approved American Viticultural Areas

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§ 9.35 Edna Valley.

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

(b) **Approved maps.** The appropriate maps for determining the boundaries of the Edna Valley viticultural area are four U.S.G.S. maps. They are titled:

(1) "San Luis Obispo Quadrangle, California-San Luis Obispo Co." 7.5 minute series;

(2) "Lopez Mtn. Quadrangle, California-San Luis Obispo Co." 7.5 minute series;

(3) "Pismo Beach Quadrangle, California-San Luis Obispo Co." 7.5 minute series; and

(4) "Arroyo Grande NE Quadrangle, California-San Luis Obispo Co." 7.5 minute series.

(c) **Boundaries.** The Edna Valley viticultural area is located in San Luis Obispo County, California. The beginning point is Cuesta Canyon

County Park, located on U.S.G.S. map "San Luis Obispo Quadrangle" at the north end of Section 25, Township 30 South, Range 12 East.

(1) From the beginning point, the boundary runs southwesterly along San Luis Obispo Creek to a point .7 mile southerly of the confluence with Davenport Creek;

(2) Southeasterly from San Luis Obispo Creek along the 400-foot contour line of the northeastern flank of the San Luis Range, which forms the southwestern rim of Edna Valley, to the township line identified as "T31S/T32S" on the U.S.G.S. map;

(3) East along township line "T31S/T32S", across Price Canyon to Tiber;

(4) Easterly along the 400-foot contour line of Tiber Canyon and the southern rim of Canada Verde, crossing Corbett Canyon Road and continuing along the 400-foot contour line to longitude line 120° 32' 30";

(5) North along longitude line 120° 32' 30" to the 600-foot contour line of the southwestern flank of the Santa Lucia Mountain Range;

(6) Northwesterly along the 600-foot contour line of the southwestern flank of the Santa Lucia Range to Cuesta Canyon County Park, the beginning point.

Signed: January 8, 1981.

G. R. Dickerson,

Director.

Approved: March 30, 1981.

John P. Simpson,
Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 81-10720 Filed 4-8-81; 8:45 am]

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27 CFR Part 9

[Notice No. 368]

McDowell Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Mendocino County, California, to be known as "McDowell Valley." This proposal is the result of a petition submitted by members of the grape-growing and wine-producing industries. ATF feels 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 identify the wines they may purchase.