

**Drafting Information**

The principal author of this document is Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

**List of Subjects in 27 CFR Part 4**

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

**Authority and Issuance**

Accordingly, 27 CFR part 4, Labeling and Advertising of Wine, is amended as follows:

**PART 4—LABELING AND ADVERTISING OF WINE**

**Paragraph 1.** The authority citation for part 4 continues to read as follows:

**Authority:** 27 U.S.C. 205.

**Par. 2.** Section 4.91 is amended by adding the name “Tannat”, in alphabetical order, to the list of prime grape names, to read as follows:

**§ 4.91 List of approved prime names.**

\* \* \* \* \*  
Tannat  
\* \* \* \* \*

Signed: July 12, 2002.

**Bradley A. Buckles,**  
*Director.*

Approved: August 9, 2002.

**Timothy E. Skud,**  
*Deputy Assistant Secretary, (Regulatory, Tariff, and Trade Enforcement).*  
[FR Doc. 02–22382 Filed 9–3–02; 8:45 am]

**BILLING CODE 4810–13–P**

**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

**RIN 1512–AC92**

**[T.D. ATF–482; Re: Notice No. 891]**

**Expansion of Lodi Viticultural Area (2000R–436P)**

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

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

**SUMMARY:** This Treasury decision expands the existing Lodi viticultural area located in Sacramento and San Joaquin counties in California. This decision changes the southern and western boundaries of the Lodi viticultural area, expanding it 17

percent in size. The Bureau of Alcohol, Tobacco and Firearms believes the use of viticultural area names as appellations of origin in wine labeling and advertising helps consumers identify the wines they may purchase. It also allows wineries to better designate the specific grape-growing area in which their wine grapes were grown.

**EFFECTIVE DATE:** Effective November 4, 2002.

**FOR FURTHER INFORMATION CONTACT:** Nancy Sutton, Specialist, Regulations Division (San Francisco, CA), Bureau of Alcohol, Tobacco and Firearms, 221 Main Street, 11th Floor, San Francisco, CA 94105; telephone (415) 947–5192.

**SUPPLEMENTARY INFORMATION:**

**Background on Viticultural Areas**

*What is ATF’s Authority to Establish a Viticultural Area?*

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product’s identity and prohibits the use of deceptive information on such labels. The FAA Act also authorizes the Bureau of Alcohol, Tobacco and Firearms (ATF) to issue regulations to carry out the Act’s provisions.

Regulations in 27 CFR part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. A list of approved viticultural areas is contained in 27 CFR part 9, American Viticultural Areas.

*What is the Definition of an American Viticultural Area?*

An American viticultural area is a delimited grape-growing region distinguishable by geographic features such as soil, climate, elevation, topography, etc., which distinguish it from surrounding areas.

*What is Required to Establish a Viticultural Area?*

Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition must include:

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;
- Evidence relating to the geographical characteristics (climate,

soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

- 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

- A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

**Lodi Expansion Petition**

ATF received a petition in 1998 from Christopher Lee, an attorney representing nine San Joaquin County grape growers, proposing to expand the Lodi viticultural area, 27 CFR 9.107. ATF published a Notice of Proposed Rulemaking on February 7, 2000, describing the petition and requesting comments (Notice No. 891; 65 FR 5828). Evaluation of the comments, consideration of alternate boundaries, and the need for additional documentation delayed our publication of this final rule.

The Lodi viticultural area is located approximately 70 miles inland from the Pacific coast between Sacramento and Stockton in northern California. The originally approved Lodi viticultural area encompasses approximately 458,000 acres. The expansion areas are to the south and west of the original viticultural area. The expansion areas include 93,500 acres with approximately 10,840 acres of planted wine grapes. The southern addition totals 66,000 acres, with 5,600 vineyard acres. The Calaveras River, the San Joaquin-Stanislaus County line, State Route 4, and Interstate 5 form the southern expansion’s boundaries. The western addition includes 27,500 acres, with 5,240 acres planted to vines. Eightmile Road west of Interstate 5, Bishop Cut, a line drawn through a series of landmarks through the sloughs and islands, and the meandering Mokelumne River to its intersection with the original western boundary at the Sacramento County line form the western expansion area’s boundaries.

The Clarksburg viticultural area borders the expanded Lodi viticultural area on the northwest, while the large Sierra Foothills viticultural area lies to east of the Lodi viticultural area. The Lodi expansion neither creates overlaps with other viticultural areas nor encompasses any smaller viticultural area.

**Notice of Proposed Rulemaking***Comments*

The Notice of Proposed Rulemaking, Notice No. 891, requested comments from all interested persons concerning the expansion of the Lodi viticultural area by April 7, 2000. ATF received twenty-three comments from individuals and groups, including industry members, the Lodi Appellation Winery Association, the Lodi-Woodbridge Winegrape Commission, and the West Lodi Growers group.

ATF received five favorable comments from four industry members and one Lodi resident. These comments indicated the expansion area is recognized by the Lodi name, and that its climate and soil are similar to the original area. An industry member with 40 years viticulture experience, who has farmed grapes in the original and expanded western Lodi viticultural area, noted that he uses similar farming and irrigation practices for all his vineyards and sells the grapes on the same contracts for the same prices.

The Lodi-Woodbridge Winegrape Commission, which has concurrent boundaries with California's Crush District 11, took a neutral position on the area's expansion. The Commission's boundaries encompass the original and expanded Lodi viticultural area.

The Lodi Appellation Winery Association comment letter, containing eight signatures, opposed the viticultural area's expansion. In 1982, the Association actively worked to define the original Lodi viticultural area. The Association continues to believe the viticultural area's original boundaries are correct, based on their collective experience and knowledge. Three individual industry members sent comments similar to the Association's opposing comments.

The Lodi Appellation Winery Association contends the expansion is an attempt at economic gain that could create consumer confusion and hurt the Lodi viticultural area name. The letter noted that the expansion petitioner's information on climate, soil, and other elements was based on evidence from paid soil scientists and meteorologists, not from experienced winegrowers of the area. The Association's letter also states that, while the original 1982 Lodi petitioners didn't consider the Linden area (a part of the southern expansion), they did include all existing, significant wine grape plantings to the west.

**ATF Response**

The Lodi Appellation Winery Association letter did not provide evidence substantiating their claims of

consumer confusion and faulty climate and soil data. As noted above, ATF did receive a favorable comment from an industry member with extensive viticultural experience on both sides of the original western boundary and the expansion petition group is composed of area vineyard owners who are familiar with local conditions.

*West Lodi Growers Group Comments*

ATF received six comments from the West Lodi Growers group requesting inclusion of their lands, which are located adjacent to the petitioned western expansion area. The West Lodi Growers group did not object to the expansions, but wished to be included in the expanded Lodi viticultural area. The petitioned western expansion line used mean sea level, or the zero-foot elevation, to realign the boundary from one to two miles west of the original line. The expansion petition stated that the land below mean sea level further to the west had different soils and drainage than the petitioned expansion area.

The West Lodi Growers group asked that the proposed western expansion boundary be moved about two miles further west, encompassing an additional 13,000 acres of agricultural land, much of which is below mean sea level. The West Lodi Growers group provided substantive documentation of this land's soil and drainage conditions in support of their request for inclusion in the expanded Lodi viticultural area.

Terry Prichard, an Extension Soil and Water Specialist for the University of California at Davis, collected and analyzed independent soil samples from the western Lodi area below mean sea level. The West Lodi Growers group included Mr. Prichard's findings in their comments. His study indicates that these soils have neutral pH, mineral soil classifications, and viticulture production capabilities identical to the western expansion area adjacent to the original boundary line. Mr. Prichard states the only distinguishing factor between the two western expansion areas is the difference in elevation, above or below mean sea level.

The drainage management system for the western Lodi area below mean sea level includes a system of levees, allowing for successful viticulture. The latest soil survey, completed in 1977, does not account for changes in the last 25 years. Since 1977, the soil has been altered from an organic to a mineral soils classification through drainage management, the physical mixing of soils, and natural oxidation. To the west of the expanded boundary line, the soils gradually revert to an organic classification. The soil pH level in the

western expansion area is now typically above 7, or neutral. The organic matter content of the surface soils (0–24 inch depth) has fallen to an average of 1.2%, with the deeper soils (24–28 inch depth) averaging 0.2%. Thus, the soil in the area below sea level now resembles that of the original Lodi viticultural area.

Soil scientist, horticulturist, and vineyard consultant Stanley Grant also evaluated the West Lodi Growers' lands below mean sea level by taking and evaluating field soil samples and by using federal Soil Conservation Service information. The tested soils correlated well with the USDA Soil Survey of San Joaquin County, California, for mineral soils, and clay and silt clay loams, but had little correlation to the County's organic mucks and mucky silt loams. Laboratory testing of field samples indicated the surface organic matter ranged between 4.1% and 8.4%, within the range for mineral soils and below the range for organic soils. The surface pH ranged between 6.7 and 7.9, being neutral to slightly alkaline, also indicative of mineral soils.

Mr. Grant notes that the continuous cultivation of the West Lodi Growers' lands has changed their soil character from organic to mineral and extended the mineral soils further west, below sea level, than indicated on the 1975–1977 soil survey maps. The differences between the soils to the immediate east and west of the original Lodi west boundary at Interstate 5 are negligible, reflecting strong soil similarities between Lodi's original and expanded western area. In contrast, the area outside and to the west of the expanded Lodi viticultural area boundary line maintains its organic soil character.

Irrigation advisor Todd Otto stated the water table in the West Lodi Growers area, above or below mean sea level, plays no major role in wine grape production. He stated that the water table in west Lodi can be successfully regulated through irrigation drainage management. With their drainage infrastructure, he added, the west Lodi area growers have an advantage over the central Lodi growers in removing excess water.

**ATF Determination**

After evaluating all comments, ATF asked for additional information and documentation from the expansion petitioner. The expansion petitioner provided further evidence, including updates in 2001, on the soil, climate, and name recognition for their proposed southern and western expansion areas showing their similarity to the original Lodi viticultural area.

ATF also sought further documentation and evidence from the West Lodi Growers group, which sought to further enlarge the proposed western Lodi expansion. In response, the group provided further evidence in support of the additional western expansion. The group's documentation of soil, drainage, and climate conditions in the enlarged expansion area provided substantive and convincing evidence of the similarities between the western Lodi area and the original viticultural area.

Subsequent to reviewing the additional evidence from both sources, ATF asked the expansion petitioner to comment on the West Lodi Growers' request for a larger western expansion. On behalf of the petitioners, attorney Christopher Lee stated that his group supported the larger western expansion requested by the West Lodi Growers group.

In light of the evidence provided, ATF has determined to expand the Lodi viticultural area to encompass the southern expansion area and the entire western expansion area, including the area requested for inclusion by the West Lodi Growers group. This decision is based on: (1) The expansion of wine grape growing to areas adjacent to the original Lodi viticultural area since the original 1982 petition, (2) the significant, substantive, and convincing evidence provided regarding the similarities between the original Lodi area and the expansion areas, and (3) the support of the expansion petitioners for the addition of the West Lodi Grape Growers group's lands to the Lodi viticultural area. ATF also notes that the expanded Lodi area is still within the boundaries of the Lodi-Woodbridge Winegrape Commission and California Crush District 11.

This final rule modifies paragraphs (b) and (c) of section 9.107 of 27 CFR part 9, American Viticultural Areas. The list of maps required to define the Lodi viticultural area is revised, as is the language describing the area's southern and western boundaries. While the northern and eastern boundaries are not changed, ATF has modified the language used in their description to meet plain language requirements. This final rule also corrects a minor error found in the current section 9.107(c)(10). This paragraph's last line, which reads "ending in the 'Folsom SE' map);" should read "ending in the Sloughhouse, Calif. map);".

### **The Expanded Lodi Viticultural Area**

#### *Evidence That the Name of the Area is Locally or Nationally Known*

The Lodi viticultural area expansion petition used the borders of the Lodi-Woodbridge Wine Commission, which is concurrent with California Crush District 11, and a Lodi Chamber of Commerce map, as evidence that the "Lodi" name is recognized for the original and expanded Lodi viticultural areas. In addition, the expansion petition noted that the city of Lodi's Pacific Bell telephone directory service area includes the western expansion area, while Electoral District Four, commonly referred to as the Lodi/North County/East County District, encompasses the southern expansion area.

#### *Historical or Current Evidence That the Boundaries of the Viticultural Area are as Specified in the Petition*

The expanded Lodi viticultural area is within the boundaries of the Lodi-Woodbridge Wine Commission, a group established in 1991 within California Crush District 11 for regional viticultural promotion, research, and education. The "Soil Survey of the Lodi Area," California, 1937, "California Wine Country," 1968; and "The Grape Districts of California," undated, include generally all boundary descriptions that encompass the Lodi viticultural area's expanded boundaries.

#### *Evidence Relating to the Geographical Features (Climate, Soil, Elevation, Physical Features, Etc.) Which Distinguish Viticultural Features of the Proposed Area From Surrounding Areas*

The original Lodi viticultural area final ruling of February 13, 1986, (T.D.—223, 51 FR 5324) provides details on the area's geography, soils, and climate. Included within the viticultural area's original boundaries were alluvial fans, flood plains, and lower and higher terraced areas. The climatically moderating effect of the wind gap from San Francisco Bay, as well as the area's soils, provided distinctive grape growing conditions for the Lodi area.

#### **Soil**

The original petition soil information, taken from 1952 and 1954 publications, listed Hanford, Delhi, or Dinuba soils on the alluvial fans and San Joaquin, Madera, Ramona, and Redding soils in the terrace areas. The region west of the original boundary line was described as flood-prone, poorly drained Delta land, with Ryde soils and peat.

The expansion petition, however, provides evidence that the soils within

the original and expansion areas are, in fact, alike. The twenty-two soils in the original viticultural area are also in the expansion areas. These soils are generally coarse to moderately fine in texture, moderately well to well drained, and have great depth.

The Lodi viticultural area is a low, relatively flat area located along the western slope of the Sierra Nevada Mountains. This mountain range influences the soils of the viticultural area through the weathering, erosion, and soil deposits along its western slope. Historic climatic fluctuations, including glacial and warm periods, have created the major estuaries that deposit soils within the Lodi area. The western-most expansion portion had organic soils until technology, cultivation, and natural oxidation transformed them into mineral soils.

The soils of the south expansion area are similar to those to its north within the original Lodi viticultural area's boundary lines. The original area and the southern expansion area have predominantly older terrace soils and low Sierra foothill residue soils. The soil associations include Archerdale-Cogna-Finrod, Tokay-Acampo, Madera-San Joaquin-Burella, Cometa San Joaquin-Rocklin, Pentz-Pardee-Keyes-Hadsleville-Mokelumne, Redding-Redbluff-Yellowlark, and Auburn-Whiterock-Argonaut.

The western expansion area soils are a continuation of those found immediately within the original western boundary line. The soil associations include Peliter-Egbert-Sailboat, Merritt-Grangeville-Columbia-Vina-Coyotecreek, Jacktone-Hollenbeck-Stockton, Devries-Rioblancho-Guard, Archerdale-Cogna-Finrod, and Tokay-Acampo. The western-most part of this expansion area, located at or slightly below mean sea level, has a system of man-made levees constructed along sloughs and channels. Between these levees are "islands" equipped with drainage pipes, pumps, and ditches that reduce the water content of the land and facilitate agriculture. Since the soil survey of 1975 to 1977, the soil's natural oxidation, a factor of the drainage system and the atmosphere, in conjunction with cultivation of the land, has changed the character of the soil from organic to mineral. This area now has the same mineral soil classifications as the rest of the western expansion and as the area inside the original west boundary. These soils now bear little correlation to the area's 1975 to 1977 soil survey.

## Geography

The original Lodi viticultural area is described as an inland area of alluvial fans, flood plains, and lower and higher terrace lands. The southern expansion of 66,000 acres has similar topography to the area directly north within the original viticultural area's boundaries. The western expansion of 27,500 acres, with elevations varying between ten feet above to ten feet below sea level, is lower than the average elevation of ten feet above sea level at the original west boundary line. However, the flat, low terrain of the original west boundary area and the western expansion area are similar.

## Climate

The climatically moderating effect of the San Francisco Bay wind gap, originating at the Pacific Ocean and the Golden Gate, along with the Sacramento Delta winds, make the Lodi viticultural area a distinctive grape-growing region. The San Francisco Bay winds travel east, cross the lower elevations, and cool the inland Lodi area. Immediately outside the viticultural area, the climate is naturally warmer to the north and south. However, with the prevailing wind gap effect, it is cooler to the west; it is also cooler to the east due to the cold air drainage from the Sierra Nevada.

The temperatures and rainfall of the expansion areas are similar to the original Lodi viticultural area. A three-year comparison of degree-day readings and rainfall was made between Linden in the southern expansion and Lockeford, close to the center of the original viticultural area. A similar three-year comparison was made between Canal Ranch in the western expansion area and the city of Lodi in the original viticultural area. The temperature variation was minor, less than 0.5 degree per day over the course of a 210-day growing season for the expansion areas. The rainfall totals, with the exception of an atypically large 1998–1999 Linden total, are similar in amount and variation from year-to-year.

## Regulatory Analyses and Notices

### *Does the Paperwork Reduction Act Apply to this Final Rule?*

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because we impose no requirement to collect information.

### *How Does the Regulatory Flexibility Act Apply to this Final Rule?*

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities or otherwise cause a significant increase in reporting, record keeping, or other compliance burdens on a substantial number of small entities. No new requirements are imposed. ATF approval of a viticultural area is not an endorsement of the wine produced in the area. The approval of this viticultural area petition merely allows the wineries in the area to more accurately describe the origin of their wines to consumers and helps consumers identify the wines they purchase. Thus, any benefit derived from the use and reputation of a viticultural area name is the result of a proprietor's own efforts and consumer acceptance of wines from that area. Accordingly, a regulatory flexibility analysis is not required.

### *Is this a Significant Regulatory Action as Defined by Executive Order 12866?*

We have determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. A regulatory assessment is not required.

## Drafting Information

The principal author of this document is Nancy Sutton, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

## List of Subjects in 27 CFR Part 9

Wine.

## Authority and Issuance

For the reasons set forth in the preamble, 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.

## Subpart C—Approved American Viticultural Areas

**Par. 2.** Section 9.107 is amended by revising paragraphs (b) and (c) to read as follows:

### **§ 9.107 Lodi.**

(a) \* \* \*

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Lodi viticultural area are 18 U.S.G.S.

7.5 minute series maps and are titled as follows:

- (1) Valley Springs SW, Calif. 1962;
- (2) Farmington, Calif. 1968 (Photorevised 1987);
- (3) Peters, CA 1952, (Photorevised 1968);
- (4) Stockton East, Calif. 1968, (Photorevised 1987);
- (5) Waterloo, Calif. 1968, (Photoinspected 1978);
- (6) Lodi South, Calif. 1968, (Photorevised 1976);
- (7) Terminus, Calif. 1978; (Minor Revision 1993);
- (8) Thornton, Calif. 1978;
- (9) Bruceville, Calif. 1968, (Photorevised 1980);
- (10) Florin, Calif. 1968 (Photorevised 1980);
- (11) Elk Grove, Calif. 1968 (Photorevised 1979);
- (12) Sloughhouse, Calif. 1968 (Photorevised 1980, Minor Revision 1993);
- (13) Buffalo Creek, Calif. 1967 (Photorevised 1980);
- (14) Folsom SE, Calif. 1954 (Photorevised 1980);
- (15) Carbondale, Calif. 1968 (Photorevised 1980, Minor Revision 1993);
- (16) Goose Creek, Calif. 1968 (Photorevised 1980, Minor Revision 1993);
- (17) Clements, Calif. 1968 (Minor Revision 1993); and
- (18) Wallace, Calif. 1962.

(c) *Boundaries.* The Lodi viticultural area is located in California in the counties of Sacramento and San Joaquin. The beginning point is located at the intersection of the Calaveras River and the San Joaquin-Stanislaus County line (Valley Springs SW, Calif. map).

(1) From the beginning point, proceed south along the San Joaquin-Stanislaus County line to its intersection with State Route 4, also known as Funck Road, T1N, R9E (Farmington, Calif. map);

(2) Then proceed west on State Route 4 (west on Funck Road, then south on Waverly Road, then west through the village of Farmington on Farmington Road) to State Route 4's intersection with Jack Tone Road, T1N, R7E (beginning on the Farmington, Calif. map, passing through the Peters, CA map, and ending on the Stockton East, Calif. map);

(3) Then proceed north along Jack Tone Road to its intersection with Eightmile Road, T3N, R7E (ending on the Waterloo, Calif. map);

(4) Then proceed west along Eightmile Road to its intersection with Bishop Cut, T3N, R5E (beginning on the Waterloo, Calif. map, passing through the Lodi South, Calif. map, and ending on the Terminus, Calif. map);

(5) Then proceed north along Bishop Cut to White Slough, T3N, R5E (Terminus, Calif. map);

(6) Then proceed west along White Slough to an unnamed drainage canal on Terminus Tract, across the slough from a marked pumping station on King Island, T3N, R5E (Terminus, Calif. map);

(7) Then proceed straight northwest on the Terminus Tract to the south end of Peatland Road and follow it north to its intersection with State Route 12, T3N, R5E (Terminus, Calif. map);

(8) Then proceed west 0.2 mile on State Route 12 to its intersection with an unnamed unimproved road at BM-8, and continue straight northwest on the Terminus Tract to the marked siphon on the south side of Sycamore Slough, T3N, R5E (ending on the Thornton, Calif. map);

(9) Then proceed in a straight line north-to-northeast across Brack Tract, Hog Slough and Canal Ranch to the line's intersection with Beaver Slough near the 90-degree east turn of an unnamed light duty road, west of a small cluster of buildings, T4N, R5E (Thornton, Calif. map);

(10) Then proceed west along Beaver Slough to its intersection with the South Mokelumne River, following the river north and east to its intersection with Interstate 5 (marked as under construction), T5N, R5E (ending on the Bruceville, Calif. map);

(11) Then proceed northwest along Interstate 5 to its intersection with an unnamed road, locally known as Hood-Franklin Road.

(12) From Interstate 5, proceed east on Hood-Franklin Road to its intersection with Franklin Boulevard, Section 17, T6N, R5E (ending on the Florin, Calif. map);

(13) Proceed generally north along Franklin Boulevard to its intersection with Sims Road and a section line running due east marking the northern boundary of Section 28, T7N, R5E (Florin, Calif. map).

(14) Follow this section line due east to its junction with Sheldon Road and then proceed east along Sheldon Road to its intersection with the Central California Traction Co. Railroad (beginning on the Florin, Calif. map and ending on the Elk Grove, Calif. map);

(15) Proceed southeast along the Central California Traction Co. Railroad to its intersection with Grant Line Road (Elk Grove, Calif. map);

(16) Then northeast along Grant Line Road to its intersection with State Highway 16 (beginning on the Elk Grove, Calif. map, passing through the Sloughhouse, Calif. map, and ending on the Buffalo Creek, Calif. map);

(17) Proceed southeast along State Highway 16 to its intersection with Deer Creek (ending on the Sloughhouse, Calif. map);

(18) Then proceed generally northeast along Deer Creek to its intersection with the eastern boundary of Sacramento County (beginning on the Sloughhouse, Calif. map, passing through the Buffalo Creek, Calif. map, and ending on the Folsom SE, Calif. map); and

(19) Proceed generally south along the eastern boundary of Sacramento County to the meeting point of Sacramento, Amador, and San Joaquin Counties (beginning on the Folsom SE, Calif. map, passing through the Carbondale, Calif. map, and ending on the Goose Creek, Calif. map); and

(20) Then proceed generally south-southeast along the eastern boundary of San Joaquin County to the point of beginning (beginning on the Goose Creek, Calif. map, passing through the Clements, Calif. and Wallace, Calif. maps, and ending on the Valley Springs SW, Calif. map).

Signed: July 17, 2002.

**Bradley A. Buckles,**  
*Director.*

Approved: August 8, 2002.

**Timothy E. Skud,**  
*Deputy Assistant Secretary (Regulatory,  
Tariff, and Trade Enforcement).*  
[FR Doc. 02-22383 Filed 9-3-02; 8:45 am]  
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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-02-045]

RIN 2115-AA97

#### Safety and Security Zones; Portsmouth Harbor, Portsmouth, NH

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing safety and security zones 1 mile ahead, ½ mile astern, and 1000-yards on either side of any vessel capable of carrying Liquefied Petroleum Gas (LPG) while within, or transiting, the Portland, Maine, Captain of the Port zone. This rule also establishes safety and security zones of 500 yards around any LPG vessel while it is moored at the LPG receiving facility located on the Piscataqua River in Newington, New Hampshire. Entry into or movement within these zones, without the express permission of the Captain of the Port,

Portland, Maine or his authorized patrol representative, is strictly prohibited.

**DATES:** This rule is effective October 4, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01-02-045 and are available for inspection or copying at Marine Safety Office Portland, 103 Commercial Street, Portland, Maine 04101 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) R.F. Pigeon, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780-3251.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On May 23, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Safety and Security Zones; Portsmouth Harbor, Portsmouth, New Hampshire" in the **Federal Register** (67 FR 36122). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

This final rule will make permanent a temporary final rule (TFR) entitled "Safety and Security Zones; LPG Transits, Portland, Maine Marine Inspection Zone and Captain of the Port Zone" published on November 20, 2001 in the **Federal Register** (66 FR 58064). That TFR had an effective period from November 9, 2001 through June 21, 2002. On May 8, 2002, we published an extension to that TFR entitled "Safety and Security Zones; Portsmouth Harbor, Portsmouth, New Hampshire" in the **Federal Register** (67 FR 30809). This extension extended the effective period until August 15, 2002.

##### Background and Purpose

The September 11, 2001 terrorist attacks on New York and Washington, DC inflicted catastrophic human casualties and property damage. National security and intelligence officials continue to warn that future terrorist attacks are possible. Due to these heightened security concerns, safety and security zones are prudent for Liquefied Petroleum Gas (LPG) tank vessels, which may be likely targets of terrorist attacks due to the flammable nature of LPG and the serious impact on the Port of Portsmouth, New Hampshire and surrounding areas that may be incurred if an LPG vessel was subjected to a terrorist attack.

This final rule will revise a current safety zone for transits of tank vessels