

the dollar amount described in paragraph (c)(2)(iii) of this section or a dollar amount which equals the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA (determined on the date the plan terminates or on the date benefits commence, whichever is earlier) without regard to any other limitations in section 4022 of ERISA.

(iv) A plan provision satisfying this paragraph (c)(7) may be adopted by amendment or by incorporation at the time of establishment. Any allocation of assets attributable to employer contributions to an employee which exceeds the dollar limitation in this paragraph (c)(7) may be reallocated to prevent prohibited discrimination.

(v) The early termination rules in the preceding subparagraphs (1) through (6) apply to a qualified Title IV plan except where such rules are determined by the Commissioner to be inconsistent with the rules of this paragraph (c)(7), § 1.411(d)-2, and section 4044(b)(4) of ERISA. The early termination rules of this paragraph (c)(7) contain some of the rules under section 401(a)(4) and (a)(7), as in effect on September 2, 1974, and section 411(d)(2) and (3). Section 1.411(d)-2 also contains certain discrimination and vesting rules which are applicable to plan terminations.

(vi) Paragraph (c)(7) of this section shall apply to a qualified Title IV plan which is considered terminated within the meaning of § 1.411(d)-2 (c)(2) on or after (60 days after the date final regulations are published in the **Federal Register**).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 405]

Madera Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (AFT) is considering the establishment of a viticultural area in the state of California to be known as "Madera." This proposal is the result of a petition submitted by Mr. David B. Ficklin, president, Ficklin Vineyards. ATF feels

that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will help wineries better designate the specific grape-growing area where their wines come from and will help wine consumers better identify the wine they purchase.

DATE: Written comments must be received by March 12, 1982.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn.: Notice No. 405.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (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 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 AFT-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, 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. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Proposed Regulations

This notice of proposed rulemaking is intended to solicit comments from interested parties concerning establishment of the Madera viticultural area. While ATF feels that the evidence submitted in the petition may warrant the designation of a viticultural area, it is not convinced that the petitioned area is geographically or viticulturally distinct from surrounding areas, or that the name "Madera" is historically associated with the entire area. Therefore, ATF is not proposing any specific regulatory language. However, on the basis of written comments received in response to this notice, testimony received at possible future public hearings, and its own research, ATF may issue a final rule establishing "Madera" as a viticultural area without further notice.

Madera Viticultural Area-Petition

The proposed Madera viticultural area is located in portions of Madera and Fresno Counties within the eastern section of the Central San Joaquin Valley. This area consists of approximately 230,000 acres between the natural boundaries of the Chowchilla River on the north and the San Joaquin river on the south.

The petitioner states that the proposed area has a history relating to wine grapes and wine dating back to the 1870's. Presently there are six wineries within the proposed area. Two of these wineries label their wines utilizing "Madera" as an appellation of origin. Within the last six years, wines bearing the appellation "Madera" have received numerous national and international awards. Over the last 15 years, wine grape acreage has increased from 6,500 to over 30,000 acres.

The California Crop and Livestock Reporting Service, in its publication *1980 California Grape Acreage*, lists 33 separate varieties of wine grapes grown in Madera County. The grape growing area of Madera County is located within the proposed boundaries. Within California Madera County ranks fifth in acres of wine grapes, and third in total acres of grapes with over 68,000 acres. Due to the characteristics hot and dry climate of this area, grape growers rely

solely on irrigation water from the Sierra Nevada Mountains to the east. Because of the climate, and the availability of irrigation water, grape yield per acre in the proposed area is much larger than in the coastal regions of California. Fourteen of the 33 varieties of wine grapes grown in this area rank third or higher in acreage within the State. Some of these varieties include; *Grenache*, *Muscat Hamburg*, *Royalty* and *Tinta*, *Mederia* which all rank first in acreage within California. The area also includes significant plantings of *Barbera*, *Carignane*, *Chenin Blanc*, *French Colombard*, *Rubired* and *Ruby Cabernet* wine grapes.

The petitioner states that the soils are comprised of three major alluvial soil associations; San Joaquin-Madera, Cometa-Whitney and Hanford-Tujunga. These soil associations are all derived primarily from granitic sediments and are moderate to well-drained.

The elevation of the proposed area ranges from 190 feet above sea level on the western edge, in Madera County, and, after gently sloping for 30 miles, to 390 feet above sea level in the extreme eastern section located in Fresno County.

The six U.S.G.S. quadrangle maps, 15 minutes series, which show the boundaries of the proposed area are: "Clovis"; "Herndon"; "Madera"; "Firebaugh"; "Le Grand"; and "Chowchilla."

The boundaries of the petitioned area are as follows:

Beginning at the most northwestern point, located on the Madera-Merced County line, the intersection of Road (RD) 15 and the Chowchilla River; south along RD 15 for 11 miles to the intersection of Avenue (AVE) 17; east along AVE 17 for four miles to RD 19; south along RD 19 for five miles to AVE 12 (Firebaugh Road); east on AVE 12 (Firebaugh Road) for three miles to RD 22; south along RD 22 and a line extending RD 22 for a total of eight and one-half miles to the San Joaquin River. The boundary then runs easterly to northeasterly along the course of the San Joaquin River (Madera-Fresno County line) for approximately 23 miles to the point where a line extending Shepherd Avenue intersects; east, in Fresno County, along the line extending Shepherd Avenue and along Shepherd Avenue for a total of six miles to Sunnyside Avenue; north on Sunnyside Avenue and a line extending Sunnyside Avenue for a total of seven miles to a point where a line extending AVE 15 intersects; west along the line extending

AVE 15, crossing the San Joaquin River into Madera County, and along Avenue 15 for approximately 17.5 miles to the Atchison, Topeka and Santa Fe (A.T.&S.F.) railroad tracks; northwest along the A.T.&S.F. railroad tracks approximately five miles to the intersection of RD 26; north along RD 26 for 11 miles to the Chowchilla River; west along the course of the Chowchilla River (Madera/Merced County line) for approximately 12 miles to the beginning point.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in—

(a) An annual effect on the economy of \$100 million or more;

(b) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets.

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 expected to apply to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, would not have a significant economic impact on a substantial number of small entities. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

ATF has previously approved the use of "Madera County (Madera)" as a county appellation of origin. This proposed viticultural area is smaller than the county appellation and the boundaries extend into the northeast portion of Fresno County. However, available information indicates that the wineries and vineyards which currently benefit from the use of the county appellation are located within the proposed viticultural area.

Therefore, ATF believes that this notice of proposed rulemaking, if promulgated as a final rule, would not

have a significant economic impact on a substantial number of small entities.

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. ATF particularly requests comments and information concerning: Possible alternative boundaries; viticultural and geographical evidence which may distinguish the proposed area from surrounding areas; and historical and current evidence that the name "Madera" is known as referring to or associated with the entire area specified in the petition.

All 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 and 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 any person submitting a comment is not exempt from disclosure.

Any interested person who desired an opportunity to comment orally at a public hearing on this proposed regulation should submit a request, in writing, to the Director within the 45-day comment period (March 12, 1982). 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 Norman P. Blake, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This viticultural area is proposed under the authority of 27 U.S.C. 205.

Signed: December 9, 1981.

G. R. Dickerson,
Director.

Approved: January 8, 1982.

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

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