

disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure. Written communications will be available for public inspection at the ATF Reading Room, Room 4407, 12th and Pennsylvania Avenue, NW, Washington, DC from 8:30 a.m. to 5:00 p.m.

Drafting Information

The principal author of this document is Joan Deerwester, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This advance notice of proposed rulemaking is issued under the authority of section 5 of the Federal Alcohol Administration Act (49 Stat. 391) (as amended in 27 U.S.C. 205).

Signed: November 13, 1981.

G. R. Dickerson,
Director.

Approved: December 8, 1981.

John M. Walker, Jr.,
Assistant Secretary.
(Enforcement and Operations).

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27 CFR Part 9

[Notice No. 402]

Establishment of Green Valley Viticultural Area, Calif.

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 Solano County, California, to be known as "Green Valley." This proposal is the result of a petition from Mr. Ben A. Volkhardt, president of the West Solano County Grape Growers Association. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines 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. 402).

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 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7828).

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 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 from Mr. Ben A. Volkhardt, president of the West

Solano County Grape Growers Association, proposing an area in Solano County, California, as a viticultural area to be known as "Green Valley." The proposed area is located in the southwestern portion of the county adjacent to the Napa County line and west of Suisun Valley. Green Valley lies within the southern end of two ranges of the Coast Range, the Vaca Mountains on the east and the Mount George Range on the west. The valley terminates in the south at the marshlands of Suisun Bay.

Geographical/Viticultural Features

The petitioner claims that the proposed viticultural area is distinguished from surrounding areas by climatic variances and by the soil. The petitioner bases these claims on the following:

(a) The Green Valley grape area lies within the Coastal area climate and is characterized by cool, moist winds blowing inland from the ocean and bay almost continuously from May through early Fall.

(b) The climate in Green Valley is mid-region III as classified by the University of California at Davis system of heat summation by degree-days.

(c) The season totals for degree-days above 50 degrees Fahrenheit for Green Valley were 3,683.9 in 1973 and 3,498.2 in 1974. In comparison, the season totals for upper Suisun Valley were 3,768.4 in 1973 and 3,700.5 in 1974. In mid-Suisun Valley the season totals were 3,460.4 in 1973 and 3,256.3 in 1974. Suisun Valley lies directly east of Green Valley.

(d) Due to Green Valley's proximity to the Pacific Ocean, fog is very prevalent in the valley during the months of May, June, July and August. In contrast, fog hardly ever penetrates into the nearby Suisun Valley or into the Vacaville-Dixon area which lies to the east of Suisun Valley.

(e) The soil in Green Valley consists of Conejo clay loam.

(f) The watershed in Green Valley drains southward into the Suisun Bay. In the Vacaville-Dixon area, the watershed drains eastward into the Sacramento River.

Historical Background

According to information provided by the petitioner, Green Valley is a small valley approximately one mile wide and four miles long. Grapes have been grown commercially in the valley since the late 1800's. As early as 1909, over 2,000 acres were recorded by the Bureau of the Census. Since that time, a small but stable wine grape acreage has been continuously maintained. Currently, about 400 acres of grapes are under

cultivation within the proposed area. Also, a winery is scheduled to begin operations within the area in the near future.

The principal varieties of grapes grown in Solano County in decreasing order of acreage are: Gamay, Petite Sirah, Cabernet Sauvignon, Carignane, Zinfandel, French Colombard, Chenin Blanc, Early Burgundy, Gamay Beaujolais, and Gray Riesling. The petition claims that grapes from western Solano County have been well received by Napa-Solano vintners, and growers have experienced no difficulty in meeting the minimum acid and sugar requirements for north-coast grapes.

Proposed Boundaries

The boundaries of the proposed Green Valley viticultural area may be found on two U.S.G.S. 7.5 minute quadrangle maps ("Mt. George Quadrangle, California", and "Cordelia Quadrangle, California"). The specific description of the boundaries of the proposed viticultural area is found in the proposed regulations.

Executive Order 12291

It has been determined that this proposal is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises 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 proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. ATF has come to this tentative conclusion based on the fact that we do not have a way to assign a monetary value on the use of the name "Green Valley" as a viticultural area appellation of origin on wine labels and in wine advertisements. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in

the area. However, from the information we currently have available on the proposed Green Valley viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

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 Green Valley viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

A notice of proposed rulemaking requesting public comment on a proposed Suisun Valley viticultural area, adjacent to the proposed Green Valley viticultural area, is being published in today's *Federal Register*. ATF requests public comment regarding the geographic and climatic features, if any, which distinguish the two areas in order for ATF to decide whether there should be two separate areas or a single viticultural area established in these valleys.

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 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 request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, 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 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 § 9.44 to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.44 Green Valley.

Paragraph 2. Subpart C is amended by adding § 9.44 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.44 Green Valley.

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

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

- (1) "Mt. George Quadrangle, California," 7.5 minutes series; and
- (2) "Cordelia Quadrangle, California," 7.5 minute series.

(c) *Boundaries*. The Green Valley viticultural area is located in Solano County, California. The beginning point is the intersection of the township line identified as T6N/T5N with the westernmost point of the Solano County/Napa County line on the north border of Section 4, located on U.S.G.S. map "Mt. George Quadrangle."

(1) From the beginning point, the boundary runs in a southerly direction along the Napa/Solano County border to State Road 12;

(2) Thence east along State Road 12 to where it intersects with Interstate 80;

(3) Thence southwest on Interstate 80 to where it intersects with the Southern Pacific railroad track;

(4) Thence in an easterly direction along the Southern Pacific railroad track to where it intersects with range line "R3W/R2W";

(5) Thence north on range line "R3W/R2W" to where it intersects with the Solano County/Napa County line;

(6) Thence due west along the Solano County/Napa County line to the point of beginning.

Signed November 3, 1981.

G. R. Dickerson,

Director.

Approved: December 8, 1981.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

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27 CFR Part 9

[Notice No. 404; Re: Notice No. 360]

North Coast Viticultural Area, Calif.; Amendment of Proposed Boundary

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice amends the proposed boundary of the proposed North Coast Viticultural Area. Evidence received in response to Notice No. 360 published in the *Federal Register* on December 15, 1980 (45 FR 82470) and at a public hearing indicates that the originally proposed area does not meet the requirements of 27 CFR 4.25a(e). Therefore, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing new boundaries delineating an area which it feels does meet the viticultural area requirements.

DATE: Comments must be received by February 25, 1982.

ADDRESSES: Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 404).

Copies of comments will be available for public inspection during normal business hours at the—ATF Reading Room, Federal Building, Room 4405, 1200 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Ference, Research and Regulations Branch (202-566-7626).

SUPPLEMENTARY INFORMATION:

Original Proposal

On December 15, 1980, ATF published a notice of proposed rulemaking, Notice No. 360, in the *Federal Register* proposing the establishment of the "North Coast" viticultural area in Napa, Sonoma, and Mendocino Counties. A public hearing concerning this proposal was held in Santa Rosa, California, on January 12, 1981. ATF accepted written comments on this proposal until February 13, 1981.

Geographical Features. The original North Coast proposal was based on a petition submitted by the California

North Coast Grape Growers, a trade association. Under this proposal, the viticultural area would be comprised of Napa, Sonoma, and Mendocino Counties, California in their entirety.

Section 4.25(e)(2) (iii) requires a viticultural area to possess geographical features which distinguish the viticultural features of the area from the surrounding areas. The petitioners stated that the viticultural features of these three counties were geographically distinguishable from the surrounding areas by soil type and climate. The Lake County Wine Producers, the West Solano County Grape Growers Association, and others took exception to that position. The petitioner submitted comments rebutting the comments and testimony in opposition to the original petition. After consideration of all of the matter presented, ATF has concluded that the evidence received in written comments and hearing testimony indicates that the originally proposed area is not viticulturally distinguishable from nearby grape-growing areas in the adjacent Lake and Solano Counties.

ATF believes that the original petitioners failed to show that the soil composition of the three-county area differs significantly from that of surrounding areas. Furthermore, ATF feels that the soil types found in Napa, Sonoma, and Mendocino Counties are so diverse that a meaningful viticultural area cannot be formed on the basis of soil composition.

The petitioners also argued that the grape-growing areas in Lake County and Southwestern Solano County have a much hotter climate during the growing season than the originally proposed area. In general, the temperatures north of San Francisco Bay become increasingly warmer moving east from the Pacific Ocean. However, the grape-growing areas in portions of Lake and Solano Counties are not markedly warmer than some grape-growing areas in portions of Mendocino and Napa Counties. These areas generally fall into the Region III category as based on the heat summation scale established by viticulturalists at the University of California, at Davis. ATF also feels that other factors such as fog and rainfall are not consistent enough throughout the originally proposed area to form a basis for approving the three counties as a viticultural area. Finally, ATF feels that the petitioners failed to show how the county boundaries which they used as viticultural area boundaries had any bearing on their claim to the geographical distinctions of the proposed area.

On the other hand, the climatic evidence presented at the hearing suggests that an area other than the original three-county proposal does possess a climate somewhat influenced by intrusions of cooler, damper, coastal marine air. While this coastal influence progressively diminishes moving east from the Pacific Ocean, the area north of San Francisco Bay and including portions of Solano and Lake Counties is generally distinguishable by climate from the hotter regions of California's Central Valley.

Proposed Name. Section 4.25a(e)(2)(i) requires a proposed viticultural area to be known by the proposed name. Historical evidence indicates that the name "North Coast" has been applied at one time or another to various areas throughout northern California. In 1974, ATF administratively limited the use of the name "North Coast" to wines produced from grapes grown in Napa, Sonoma, and Mendocino Counties. At the time, there were no provisions for an appellation area based on geographical or viticultural characteristics. In the absence of a procedure to establish a viticultural area based on geographical or viticultural characteristics, ATF attempted to limit appellation areas to political subdivisions as much as possible. This was done for the sake of simplicity, since county boundaries were already well established and usually well marked.

However, with the new viticultural area procedure (including provisions for public and industry comment) all appellations other than the actual names of counties or States must be based on geographical and viticultural characteristics. Furthermore, ATF made it clear with the promulgation in 1978 of the new rules concerning viticultural area appellations, that old policies no longer applied. Each viticultural area must stand on its own inherent merits and must meet the criteria in 27 CFR 4.25a. The original petitioner's historical claim to the name "North Coast" is essentially based on ATF's 1974 action. Prior to this action, grapes from portions of Lake County were bought and used as "North Coast" grapes by wineries located in the three-county area. Also, 80 percent of the grapes grown in the southwest portion of Solano County are used in wines currently eligible for a North Coast appellation. Based on the record, ATF feels that the three counties originally proposed as the North Coast viticultural area have no greater historical claim to the name than the adjacent areas in Lake and Solano Counties.