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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 9

[Notice No. 473]

#### Willamette 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 the State of Oregon to be known as "Willamette Valley." This proposal is the result of a petition submitted by Mr. David B. Adelsheim, Chairman, Appellation Committee, Oregon Winegrowers Association, and owner of Adelsheim Vineyards. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will enable industry to label wines more precisely, and will help consumers better identify wines they purchase.

**DATE:** Written comments must be received by August 15, 1983.

**ADDRESS:** Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn: Notice No. 473.

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 & Pennsylvania Avenue, NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** James P. Ficaretta, FAA, Wine and Beer 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 for 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 listing of approved viticultural areas.

Sections 4.25a(e)(1) and 9.11, Title 27, CFR define 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.

##### Petition

ATF has received a petition to establish a viticultural area in northwest Oregon to be known as "Willamette Valley." The petition was submitted by Mr. David B. Adelsheim on behalf of the Oregon Winegrowers Association. The proposed area is enclosed by natural boundaries—the Columbia River to the north, the Coast Range Mountains on the west, the Calapooya Mountains on the south, and the Cascade Mountains to the east. This proposed area is located on the valley floor of the Willamette Valley and generally extends no higher than the 1,000 foot level of the surrounding mountain ranges, the limit of viticulture stated in the petition. The petitioned area consists of approximately 5,200 square miles, (3.3 million acres). Scattered throughout the area are 2,000 acres of grapes, and 27 wineries.

Evidence that the proposed viticultural area is locally, and/or nationally known is supported by the following:

(a) In a 1969 book, "Le Grand Livre du Vin," Edita Lausanne makes reference to certain vinifera grapes being grown in the Willamette Valley south of Portland.

(b) Willamette Valley is named as one of ten climatic regions in the State.

(c) The petitioner claims it is the standard name used in all historical, geographical, geological, climatological and agricultural texts to refer to this plain and adjacent foothills.

Historical and current evidence that the boundaries of the "Willamette Valley" are as specified in the petition:

(a) Throughout this 1841 report, *U.S. Exploring Expedition*, Charles Wilkes makes reference to "Willamette," and his usage, the petitioner claims, became the standard.

(b) Free land given to settlers by the Oregon Provisional and the U.S. Government up to 1855 resulted in most of the valuable (cultivable) land being claimed. A map of these claims in the "Atlas of Oregon" is remarkably close to the boundaries of the proposed viticultural area.

(c) The "Atlas of Oregon" mentions Willamette Valley as one of nine physiographic regions in the State and describes it as a "broad alluvial plain, 160 miles long and up to 65 miles broad," which approximates the size of the proposed area.

The petitioner claims that the proposed viticultural area has geographical characteristics which distinguish it from the surrounding areas. The petitioner bases this claim on the following:

(a) The mountains surrounding the Willamette Valley on three sides provide it with a unique and homogeneous climate. The valley has temperatures that are mild, averaging 40°F in the winter, 68°F in summer. Eastern Oregon temperatures range from 28°F in winter to 75°F in summer. In the Umpqua Valley, south of the Calapooya Mountains, the winters are colder, and the summers are warmer, than in the Willamette Valley.

(b) Willamette Valley has an average rainfall of 40 inches. Annual rainfall to the west, on the other side of the Coast Range Mountains, is 100 inches. To the east, on the other side of the Cascade Mountains, annual rainfall is less than 10 inches.

(c) There are two basic types of soil in the Willamette Valley, silty loam and clay loam, unlike the mountain soils to the south, east, and west which result from steeper slopes, dense coniferous vegetation and heavier winter precipitation.

The boundaries of the proposed Willamette Valley viticultural area may be found on three U.S.G.S. maps (Vancouver, Salem, and Roseburg).

The boundaries, as proposed by the petitioner, are described in proposed § 9.90.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to initial and final regulatory flexibility analyses (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking because the proposal is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; nor (2) to impose, nor otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact nor compliance burden on a substantial number of small entities.

#### Compliance with Executive Order 12291

It has been determined that this notice of proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (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.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

#### Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. This document proposes possible boundaries for the Willamette Valley viticultural area. However, 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 in 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 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

#### List of Subjects in 27 CFR Part 9

Administrative practices and procedure, Viticultural areas, Consumer protection, and Wine.

#### Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

#### 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 § 9.90 to read as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.

\* \* \* \* \*  
9.90 Willamette Valley.

**Par. 2.** Subpart C is amended by adding § 9.90 to read as follows:

#### Subpart C—Approved American Viticultural Areas

\* \* \* \* \*  
**§ 9.90 Willamette Valley.**

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Willamette Valley viticultural area are three U.S.G.S. maps scaled 1:250,000. They are entitled:

(1) "Vancouver," Location Diagram NL 10-8, 1958 (revised 1974).

(2) "Salem," Location Diagram NL 10-11, 1960 (revised 1977).

(3) "Roseburg," Location Diagram NL 10-2, 1958 (revised 1970).

(c) *Boundaries.* The proposed Willamette Valley viticultural area is located in the northwestern part of Oregon, and is bordered on the north by the Columbia River, on the west by the Coast Range Mountains, on the south by the Calapooya Mountains, and on the east by the Cascade Mountains, encompassing approximately 5,200 square miles (3.3 million acres). The exact boundaries of the proposed area, based on landmarks and points of reference found on the approved maps, are as follows: from the beginning point at the intersection of the Columbia/Multnomah County line and the Oregon/Washington State line;

(1) West along the Columbia/Multnomah County line 8.5 miles to its intersection with the Washington/Multnomah County line;

(2) South along the Washington County line 5 miles to its intersection with the 1,000 foot contour line;

(3) Northwest (15 miles due northwest) along the 1,000 foot contour line to its intersection with State Highway 47, .5 mile north of "Tophill";

(4) Then, due west from State Highway 47 one-quarter mile to the 1,000 foot contour line, continuing south and then southwest along the 1,000 foot contour line to its intersection with the Siuslaw National Forest (a point approximately 43 miles south and 26 miles west of "Tophill"), one mile north of State Highway 22;

(5) Due south 6.5 miles to the 1,000 foot contour line on the Lincoln/Polk County line;

(6) Continue along the 1,000 foot contour line (approximately 23 miles) east, south, and then west, to a point where the Polk County line is intersected by the Lincoln/Benton County line;

(7) South along the Lincoln-Benton County line, 11 miles to its intersection with the Siuslaw National Forest line;

(8) East along the Siuslaw National Forest line six miles, and then south along the Siuslaw National Forest line six miles to State Highway 34 and the 1,000 foot contour line;

(9) South along the 1,000 foot contour line to its intersection with Township line T17S/T18S (31 miles southwest, and one mile west of State Highway 126);

(10) East along T17S/T18S 4.5 miles to Range line R6W/R7W, south along this range line 2.5 miles to the 1,000 foot contour line;

(11) Southeast along the 1,000 foot contour line to R5W/R6W

(approximately six miles); southeast from this point eight miles to the intersection of R4W/R5W and T19S/T20S;

(12) East along T19S/T20S 1.5 miles to the 1,000 foot contour line;

(13) Following the 1,000 foot contour line north around Spencer Butte, and then south to a point along the Lane/Douglas County line one-half mile north of Interstate Highway 99;

(14) South along the Lane/Douglas County line 1.25 miles to the 1,000 foot contour line;

(15) Following the 1,000 foot contour line around the valleys of Little River, Mosby Creek, Sharps Creek and Lost Creek to the intersection of R1W/R1E and State Highway 58;

(16) North along R1W/R1E, six miles, until it intersects the 1,000 foot contour line just north of Little Fall Creek;

(17) Continuing along the 1,000 foot contour line around Hills Creek, up the southern slope of McKenzie River Valley to Ben and Kay Dorris State Park, crossing over and down the northern slope around Camp Creek, Mohawk River and its tributaries, Calapooia River (three miles southeast of the town of Dollar) to a point where Wiley Creek intersects R1E/R1W approximately one mile south of T14S/T13S;

(18) North along R1E/R1W 7.5 miles to T12S/T13S at Cedar Creek;

(19) West along T12S/T13S four miles to the 1,000 foot contour line;

(20) Continuing in a general northerly direction along the 1,000 foot contour line around Crabtree Creek, Thomas Creek, North Santiam River (to its intersection with Sevenmile Creek), and Little North Santiam River to the intersection of the 1,000 foot contour line with R1E/R2E (approximately one mile north of State Highway 22);

(21) North along R1E/R2E (through a small portion of Silver Falls State Park) 14 miles to T6S/T7S;

(22) East along T6S/T7S six miles to R2E/R3E;

(23) North along R2E/R3E six miles to the intersection of T5S/T6S;

(24) Due northeast 8.5 miles to the intersection of T4S/T5S and R4E/R3E;

(25) East along T4S/T5S six miles to R4E/R5E;

(26) North along R4E/R5E six miles to T3S/T4S;

(27) East along T3S/T4S six miles to R5E/R6E;

(28) North along R5E/R6E 10.5 miles to a point where it intersects the Mount Hood National Forest boundary (approximately three miles north of Interstate Highway 26);

(29) West four miles and north one mile along the forest boundary to the

1,000 foot contour line (just north of Bull Run River);

(30) North along the 1,000 foot contour line, into Multnomah County, to its intersection with R4E/R5E;

(31) Due north approximately three miles to the Oregon/Washington State line; and

(32) West and then north, 34 miles, along the Oregon/Washington State line to the beginning point.

Approved June 23, 1983.

Stephen E. Higgins,

Director.

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## DEPARTMENT OF DEFENSE

### Corps of Engineers; Department of the Army

#### 33 CFR Parts 204 and 207

#### Danger Zone and Navigation Regulations; Chesapeake Bay, Potomac and Patuxent Rivers

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking

**SUMMARY:** The Corps of Engineers proposes to amend the Navigation Regulations in Title 33 by amending certain sections where identified as obsolete or unnecessary and are editorial in nature.

This is part of the Corps' ongoing program to improve its regulations.

**DATE:** Comments must be received on or before July 29, 1983.

**ADDRESS:** HQDA, DAEN-CWO-N, Washington, D.C. 20314.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ralph T. Eppard at (202) 272-0199.

**SUPPLEMENTARY INFORMATION:** The Corps of Engineers has reviewed the regulations in 33 CFR Parts 204 and 207 affecting the Chesapeake Bay, Potomac and Patuxent Rivers with a view toward amending obsolete or unnecessary sections. The following is a list of regulations affected by this proposal and a description of the proposed changes.

1. *Part 204 Danger Zone Regulations.* The following regulations in Part 204 are amended to update requirements and remove obsolete and unnecessary requirements.

*Section 204.30 Chesapeake Bay; United States Army Proving Ground Reservation, Aberdeen, Maryland.*

Add a new subparagraph (d)(4) to read as follows and renumber the existing subparagraph (d)(4) to become

(d)(5). "A fleet of patrol boats will be positioned at the perimeter of the restricted water zone boundaries (except in extreme weather conditions such as gales or ice) during periods of testing to prevent unauthorized entry. If necessary to attract attention of another vessel about to penetrate the restricted area, the patrol boat may signal by a distinctive rotating blue and red light, public address system, siren, or by radio contact on shipshore FM channel 16 and citizen band channel 12. Buoys will mark the restricted waters along the Chesapeake Bay perimeter during the period, normally 4 June through 1 October annually."

Change sub-paragraph (j) to: "Aberdeen Proving Ground Regulation (APGR) 210-10 will govern commercial fishing and crabbing and APGR 210-26 will govern recreational (non-commercial) fishing and crabbing."

Add new sub-paragraph after subparagraph (k) as: "This section shall be enforced by the Commander, Aberdeen Proving Ground, and such agencies as he/she may designate."

*Section 204.32 Chesapeake Bay, in the vicinity of Chesapeake Beach, Maryland; firing range, Naval Research Laboratory.*

Delete the following in paragraph (a)(2): "Bloody Bar Light".

Add in its place: "Bloody Point Bar Light".

Delete the following in paragraph (a)(2): Buoy N 16 FF"

Add in its place: "Choptank River Approach Buoy 2".

Delete the following in paragraph (a)(4): "Buoy C 1"

Add in its place: "Chesapeake Beach Light 2".

Delete the following in paragraph (a)(4): "Buoy C 23".

Add in its place: "Plum Point Shoal Buoy 1".

Delete the following in paragraph (b)(3): "Director, Naval Research Laboratory"

Add in its place: "Commanding Officer, Naval Research Laboratory".

Delete the following in paragraph (b)(6): "The Commandant, Fifth Naval District".

Add in its place: "Commander, Naval Base, Norfolk, Virginia."

*Section 204.36 Chesapeake Bay, in vicinity of Bloodsworth Island, Maryland; shore bombardment, air bombing, air strafing, and rocket firing area, U.S. Navy.*

Delete the following in paragraph (b)(3): " \* \* and sunset, except that