

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular hours in the Office of the Rules Docket Clerk at the address set forth above.

The following number identifies the program as listed in the Catalog of Federal Domestic Assistance, affected by this regulation change.

Section 234(c)—14.133 Mortgage Insurance—Purchase of Units in Condominiums (F)

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Accordingly, Chapter II of 24 CFR is amended as follows:

1. Section 234.26 is revised to read as follows:

§ 234.26

Project requirements.

No mortgage shall be eligible for insurance unless the following requirements are met:

(a) *Location of family unit.* The family unit shall be located in a project which the Commissioner determines to be acceptable, and which:

(1) Is or has been covered by a project mortgage insured under an FHA multi-family housing program; or

(2) Contains less than 12 units; or

(3) Contains 12 or more units and construction of the project was completed more than one year prior to the application for mortgage insurance. For purposes of this paragraph, the date on which construction was completed shall be the latest of the dates on which:

(i) All units have been substantially completed as evidenced by certificates of occupancy from a governmental entity or recorded certificates of completion executed by a registered or licensed architect or engineer; or

(ii) The declarant has completed all common elements and improvements which the declarant is obligated to complete by virtue of state condominium law or the condominium documents; or

(4) Has been approved by the Veterans Administration for its guaranty, insurance or direct loan programs.

(b) *Plan of condominium ownership.* The project shall have been committed

to a plan of condominium ownership by a deed, or other recorded instrument, which is acceptable to the Commissioner.

(c) *Releases.* The family unit shall have been released from any mortgage covering the project or any part of the project.

(d) *Certificate by mortgagee.* The mortgagee shall certify that:

(1) The deed of the family unit and the deed or other recorded instrument committing the project to a plan of condominium ownership comply with all legal requirements of the jurisdiction.

(2) The mortgagor has good marketable title to the family unit subject only to the mortgage which is a valid first lien on the same.

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(e) *Conditions and provisions.* The Commissioner may require such conditions and provisions as he/she deems necessary for the protection of the consumer and public interest including, but not limited to, the execution of an agreement between the owners and the Commissioner which shall be made applicable to the Association and to any owner of a family unit.

(f) *Projects covered by an insured or Secretary-held mortgage.* Projects which are covered by an insured project mortgage, or mortgage held by the Secretary, must be in compliance with a conversion plan approved by the Commissioner. The conversion plan shall provide for:

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any HUD/FHA-insured or Secretary-held mortgage on the project, unless the Commissioner determines that his/her interests and those of the individuals purchasing the family units are best served by not requiring the termination of the insurance or payment in full of the mortgage.

(2) On release of a family unit from the project mortgage, payment shall be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by HUD to be attributable to the family unit.

(3) The conveyance of family units, equal in value to at least 70 percent (or such lesser percentage as the Secretary may prescribe) of the total value of all units to owners approved by the FHA.

(4) The project mortgagee shall certify notwithstanding any provisions of the mortgage covering prepayment, that no charge is contemplated or has been

collected for prepayment in full of the project mortgage.

(g) *Projects not covered by an insured or Secretary-held mortgage.* Projects which are not covered by an insured project or Secretary-held mortgage and which have not been approved by the Veterans Administration for its guaranty, insurance or direct loan programs shall meet the following additional requirements:

(1) Except with the approval of the Commissioner for the purpose of constructing or converting the project in phases or stages, any special right of the declarant (as declarant and not as a unit owner) to do any and all of the following has expired or has been waived in a recorded instrument:

(i) Add land or units to the condominium;

(ii) Convert common elements into additional units or limited common elements;

(iii) Withdraw land from the condominium;

(iv) Use easements through the common elements for the purpose of making improvements within the condominium or within any adjacent land; or

(v) Convert a unit into two or more units, common elements, or into two or more units and common elements.

(2) At least 70 percent (or such lesser percentage as the Commissioner may prescribe) of the family units shall be occupied by the owners or shall have been sold to owners who intend to occupy the units.

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715))

Issued at Washington, D.C., September 4, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81-27179 Filed 9-17-81; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-91; Ref: Notice No. 353]

Fennville Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in southwestern Michigan to be known as "Fennville."

This viticultural area is located in Allegan and Van Buren Counties. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Fennville as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will help consumers better identify the wines from this distinctive grape-growing area. **EFFECTIVE DATE:** October 19, 1981.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37671, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

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 viticultural areas.

Section 9.11, Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic 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 Fenn Valley Winery of Fennville, Michigan, petitioned ATF to establish a viticultural area to be named "Fennville."

In response to this petition, ATF published a Notice of Proposed Rulemaking, No. 353, in the Federal Register on October 27, 1980 (45 FR 70910), proposing the establishment of the "Fennville" viticultural area.

Five comments were submitted in response to the notice. The comments were received from a State Senator, two State Representatives, a chairman of a county board of commissioners, and a representative of the State wine institute. All of the commenters supported the petition for the proposed viticultural designation.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of 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

This final rule relates to a notice of proposed rulemaking published prior to January 1, 1981 and, therefore, is not subject to the authority of the Regulatory Flexibility Act.

Public Hearing

A public hearing was held on this issue on February 3, 1981, in Douglas, Michigan, to gather evidence concerning the proposed area. The hearing included six scheduled speakers with an additional five persons giving testimony. The testimony given by these eleven persons and the information furnished with the petition is the criteria on which ATF bases this Treasury decision.

Historical and Current Evidence of the Name

The name of this area, Fennville, was well documented at the hearing as a fruit growing region within the State of Michigan. One of the witnesses testified that the area was initially named after his great-grandmother whose name was Fenn. This same individual stated that his great-grandfather operated a woodmill under the name "Fennmill." Another witness gave testimony that the current name "Fennville" came about as a mistake in printing of the schedule by a railroad company who refused to correct the mistake.

Witnesses also presented testimony that the area has a history dating back over 100 years for growing various fruits, including grapes for the production of wine. One witness stated that 100 years ago, his family grew grapes and sold them to wine merchants in Chicago. Another person verified that he personally knew of 27 different farms in the area that commercially grew grapes for either juice, jelly or wine. Currently, there are seven of these original 27 farms growing grapes commercially. Proprietors of two wineries, one located in the proposed area and one located 50 miles south, gave testimony as to the differences in character and taste of the same type of grapes grown in the two areas.

After evaluating the testimony presented and the written comments, ATF believes the historical and current

evidence supports the name of the viticultural area as being a distinct grape-growing region.

Geographic Evidence

Testimony was given by representatives from the U.S. Department of Agriculture, Soil Conservation Service and Michigan State University's Cooperative Extension Service as to the geographical uniqueness of the proposed area. This testimony brought out the differences between the proposed area and the surrounding areas in regards to temperature, growing conditions, rainfall and soil. In addition, evidence was presented regarding the moderating effect of Lake Michigan on this area versus areas within a 30 mile radius. The Fennville area has average winter temperatures that are two degrees warmer and average summer temperatures two degrees cooler. Further, the proposed area averages only four days per year of above 90° Fahrenheit, while an area 30 miles northeast averages 15 such days. The lake effect of Lake Michigan has a moisture robbing effect which accounts for a decrease in rainfall from areas further inland. One witness testified that, individually, the geographical features which make the Fennville area unique can be found throughout Michigan or the country. However, it is the combination of these features (soil, soil drainage, moderating temperature, and growing season) which distinguishes Fennville from surrounding areas.

Based on this testimony and other general comparisons as to temperature and growing conditions of the Fennville area, ATF has determined that this area is distinguishable from the surrounding area.

Boundaries

The boundaries, as proposed, were established by the use of natural features on three sides and a longitudinal meridian on the fourth side.

Testimony was given which supported and verified that the proposed boundaries depict an area which is viticulturally distinctive from the surrounding area. The western boundary is the eastern shore of Lake Michigan. The north and south boundaries are the Kalamazoo River and the Middle Fork of the Black River, respectively. Testimony established the north and south boundaries as being boundaries of a glacial moraine and outwash plain which depicts the desirable soil characteristic for grape growing in this area. This glacial moraine and outwash

plain meet at the intersection of the northern and eastern boundaries. The eastern boundary is the 86° 5' west longitude meridian which separates the viticultural area from a 42,000 acre State game area. The proposed area comprises approximately 75,000 acres.

Based on this testimony and evidence submitted with the petition, ATF has determined that the proposed boundaries sufficiently delineate the viticultural area from the surrounding areas and, therefore, the boundaries are being adopted as proposed. Furthermore, while ATF believes that viticultural area boundaries based on man-made features are inappropriate, where man-made features, such as the eastern boundary, closely approximate natural features, or where they provide a demarcation line from grape-growing areas as opposed to areas unsuitable for grape-growing, it is acceptable to use man-made features in describing the boundaries.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of 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 cost 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.

Miscellaneous

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of Fennville wines.

ATF believes that substantial viticultural knowledge exists indicating that differences in climate, soil, and other physical characteristics do affect growing conditions found within a particular region. Although distinction and growing conditions may be mitigated by viticultural practices, these distinctions may also create differences in the grape growing.

Disclosure

A copy of the hearing proceeding is available for inspection during business

hours at the following two locations: ATF Reading Room 4405, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC; and at the ATF Area Supervisors Office, Federal Building, 231 West Lafayette Street, Detroit, Michigan.

Drafting Information

The principal author is Norman P Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel in other offices of the Bureau participated in the preparation of this document, both in matters of substance and style.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.33. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.	*	*	*	*	*
9.33					Fennville.

Par. 2. Subpart C is amended by adding § 9.33. As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

*	*	*	*	*
§ 9.33				Fennville.

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

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Fennville Viticultural Area are three U.S.G.S. maps. They are entitled:

- (1) "Fennville Quadrangle, Michigan-Allegan County," 15 minute series;
- (2) "Bangor Quadrangle, Michigan," 15 minute series; and
- (3) "South Haven Quadrangle, Michigan," 15 minute series.

(c) *Boundaries.* The Fennville viticultural area is primarily located in the southwestern portion of Allegan County, Michigan, with a small-finger extending into the northwest corner of Van Buren County, Michigan.

(1) The western boundary is the eastern shore of Lake Michigan, extending from the Black River, at the City of South Haven, north to the Kalamazoo River.

(2) The northern boundary is the Kalamazoo River, extending easterly from Lake Michigan to 86°5' west longitude.

(3) The eastern boundary is the 86°5' west longitude meridian, extending from the Kalamazoo River to the intersection of the Middle Fork of the Black River.

(4) The southern boundary is the Middle Fork of the Black River extending westerly from 86°5' west longitude until it joins the Black River, continuing west along the Black River to the eastern shore of Lake Michigan.

Signed: August 3, 1981.

G. R. Dickerson,
Director.

Approved: August 31, 1981.

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

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Certification of Completion of Developmental Steps for Arizona State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: Arizona on or before November 1, 1977, submitted documentation attesting to the completion of all structural, developmental aspects of its approved State occupational safety and health plan. After extensive review and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the 18(e) evaluation phase of State plan development. This certification attests only to the fact that Arizona now has in place those structural components necessary for an effective program. It does not render judgment, either positively or negatively, on the adequacy of the State's actual performance. In addition, although State plan commitments on staffing and resources have been met, these initial commitments may not be interpreted as meeting the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as redefined by the U.S. Court of Appeals decision in