

**27 CFR Part 9****[Notice No. 356]****The Finger Lakes Viticultural Area****AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of the first viticultural area in the State of New York; the area would be known as "Finger Lakes." This proposal is the result of a petition submitted by a wine growers association.

**DATES:** Written comments must be received on or before January 5, 1981.

**ADDRESS:** Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

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 4407, 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 ATF-60 (44 FR 56692) entitled American Viticultural Areas, which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27, CFR, defines a viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9. 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 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. map with the boundaries prominently marked.

**Petition**

ATF has received the first petition to establish a viticultural area within the State of New York; the petition seeks the approval of the "Finger Lakes" viticultural area. The proposed area is located in the west central part of New York and encompasses the 14 adjoining counties of Monroe, Wayne, Livingston, Ontario, Yates, Seneca, Cayuga, Onondaga, Steuben, Schuyler, Chemung, Tompkins, Tioga, and Cortland. This portion of New York has long been known for its wine industry, the focal point of which is the long narrow finger-like lakes located in the center of the proposed area. The proposed area consists of over 9,000 square miles and contains 18 bonded wineries permitted to operate. The proposed area is the second largest grape-growing area in New York State and consists of over 14,000 acres of labrusca, French hybrids and vinifera grapes.

The petition states that the proposed name is historically and internationally known as referring to the area specified. It is further claimed that the climate of the area is distinguished from the surrounding area due to the influence of and proximity to the "finger lakes." These claims are based on the following:

(a) The same 14 counties as those named in the petition were officially designated by the State of New York in 1967 as the "Finger Lakes Region."

(b) The primary grape-growing area in and around the Finger Lakes has an average 143-day growing season. In excess of 14,000 acres of grapes are grown in this area.

(c) The soils of the proposed area vary widely, as is always the case when land is formed by glacial action and deposits. Within a relatively small area clay, sandy loam, churned rocks and even bedrock can be found. Primarily, the soil

consists of a combination of limestone, shale, and sandstone, which form the mantle covering.

(d) The boundaries of the proposed area are based on political boundaries on three sides and Lakes Ontario on the fourth side. The petitioner points out that prominent geological features so closely approximate these political boundaries that these boundaries better define the area to the public.

The boundaries of the proposed viticultural area encompass, in their entirety, the 14 adjoining counties of Monroe, Wayne, Livingston, Ontario, Yates, Seneca, Cayuga, Onondaga, Steuben, Schuyler, Chemung, Tompkins, Tioga and Cortland.

**Public Participation**

ATF requests comments from all interested persons concerning this proposed viticultural area. While ATF is proposing possible boundaries for the Finger Lakes viticultural areas, comments concerning other alternative boundaries are invited based on:

(a) The 143-day average grape-growing season around the Finger Lakes, in contrast to the 110-day season along the New York-Pennsylvania border and the 183-day season along Lake Ontario;

(b) Physical and geographic features or characteristics which more definitively identify the actual grape-growing region; and

(c) Other issues which may aid ATF in defining an appropriate viticultural area.

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.

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 60-day comment period. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

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 comments is not exempt from disclosure.

**Drafting Information**

The principal author of this document is Norman P. Blake, Specialist, Research

and Regulations 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**

Par. 1. The table of sections in 27 CFR part 9, Subpart C, is amended to add the title of § 9.34. As amended, the table of sections reads as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.  
\* \* \* \* \*

9.34 Finger Lakes.

Par. 2. Subpart C is amended by adding § 9.34. As amended, Subpart C reads as follows:

**Subpart C—Approved American Viticultural Areas**

\* \* \* \* \*

§ 9.34 Finger Lakes.

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

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

- (1) "ROCHESTER", Location Diagram NK 18-1;
- (2) "UTICA", Location Diagram NK 18-2;
- (3) "ELMIRA", Location Diagram NK 18-4;
- (4) "BINGHAMTON", Location Diagram NK 18-5; and
- (5) "BUFFALO", Location Diagram NK 17-6 (30-L).

(c) *Boundaries.* The Finger Lakes viticultural area is located in the west central part of New York State and encompasses, in their entirety, the 14 adjoining counties of Monroe, Wayne, Livingston, Ontario, Yates, Seneca, Cayuga, Onondaga, Steuben, Schuyler, Chemung, Tompkins, Tioga, and Cortland.

Signed: October 15, 1980.

G. R. Dickerson,  
Director.

Approved: October 30, 1980.

Richard J. Davis,  
Assistant Secretary (Enforcement and Operations).

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 66**

[CGD 80-132]

**Designation of Navigable Waters as State Waters for Private Aids to Navigation**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard is proposing to revise 33 CFR 66.06-100(g-1), which lists the waters of South Carolina that are designated as State waters for private aids to navigation. The revision will add the waters of Lakes Marion, Moultrie, and Murray to this list, at the request of the South Carolina Wildlife and Marine Resources Department. Designation of these navigable waters of the United States as State waters for private aids to navigation will enable the State government to regulate marine aids to navigation owned by state or local governments or private parties in such waters.

**DATES:** Comments must be received on or before December 22, 1980.

**ADDRESSES:** Comments may be submitted to Commandant (G-CMC/24), U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/24), (CGD 80-132), Room 2418, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593, between 7 AM and 5 PM Monday through Thursday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Walter L. JOHNSON, Office of Navigation, Short Range Aids to Navigation Division (G-NSR/14), Room 1422, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593, (202) 426-1974, between 7 AM and 5 PM Monday through Thursday, except holidays.

**SUPPLEMENTARY INFORMATION:** The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person submitting them, identify this notice (CGD 80-132) and the specific section of the proposal to which the comment applies, and give the reasons for the comments. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the Federal

Register if it is requested in writing by an interested person who is raising a genuine issue and desiring to comment orally at a public hearing.

**Drafting Information**

The principal persons involved in drafting this proposal are LT Walter L. JOHNSON, Project Manager, Office of Navigation, and LT Kenneth E. JOHNSON, Project Attorney, Office of the Chief Counsel.

**Background**

Under the provisions of 33 CFR 66.05, State Aids to Navigation, a state desiring to regulate marine aids to navigation in areas of the navigable waters of the United States not marked by the Federal Government, may request the Commandant of the Coast Guard to designate specific bodies of water as State waters for private aids to navigation. The effect of such a designation is to empower the State to regulate all private marine aids to navigation, whether owned by the state, political subdivisions thereof, or by private parties, in those waters. No person, public body or other instrumentality not under the control of the Commandant or the designated State Administrator may establish, erect, or maintain in such designated waters any aid to navigation without first obtaining permission to do so from the State Administrator. The Armed Forces of the United States are excluded from this prohibition.

A request for designation of specific bodies of water as State waters for private aids to navigation is evaluated to determine if the conditions set out in Subpart 66.05 are met and if the designation is in the public interest. A designation may be revoked or revised upon request or on the initiative of the Coast Guard.

**Discussion**

On 19 March 1980 the South Carolina Wildlife and Marine Resources Department (SCWMRD) requested that we designate the waters of Lakes Marion, Moultrie, and Murray as State waters for private aids to navigation. The marine traffic on these Lakes is primarily pleasure craft with little, if any, commercial traffic. The Coast Guard does not maintain any aids to navigation on these Lakes. Designating these waters as State waters for private aids to navigation delegates the authority to regulate the establishment, operation, and maintenance of marine aids to navigation to the SCWMRD, who is most familiar with these inland waters and needs of the user. In addition, this gives the State greater