

line on the "Mark West Springs Quadrangle," "Detert Reservoir Quadrangle," and "Mount St. Helena Quadrangle" maps to the point of intersection with the Lake County line on the "Mount St. Helena Quadrangle" map;

(11) Then northerly along the meanders of the Sonoma/Lake County line on the "Mount St. Helena Quadrangle" and "Detert Reservoir Quadrangle" maps to the point of beginning.

Signed: October 3, 1983.

W. T. Drake,
Acting Director.

Approved: October 13, 1983.

David Q. Bates,
Deputy Assistant Secretary (Operations).

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27 CFR Part 9

[T.D. ATF-156; Ref: Notice No. 460]

Lake Erie Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in the States of New York, Pennsylvania, and Ohio to be known as "Lake Erie." The Bureau of Alcohol, Tobacco and Firearms, (ATF) believes the establishment of Lake Erie as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate where their wines come from and will enable consumers to better identify the wines from this area.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7531).

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.

Mr. William A. Gulvin, Secretary of the Ad Hoc Committee for the Lake Erie viticultural area, petitioned ATF to establish a viticultural area in the States of New York, Pennsylvania, and Ohio to be known as "Lake Erie." In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 460, in the Federal Register on April 4, 1983 (48 FR 14390), proposing the establishment of the Lake Erie viticultural area.

Comments

Three comments were received during the comment period. One was from the Governor of the State of Ohio. The other two comments were from the Director of the Ohio Department of Natural Resources and the Director of the Ohio Department of Development. All three commenters stated that they fully support the Lake Erie viticultural area petition. ATF has received no information from any source indicating opposition to the petition.

General Information

The Lake Erie viticultural area has a 150 year history of grape growing and winemaking according to Leon D. Adams in his book *The Wines of America* (1978). Trial and error over the years has proven viticulture, in areas bordering the Lake Erie area, to be generally uneconomical.

The petition and attached documents show that the Lake Erie area is a distinct and contiguous viticultural district. Current orchard and vineyard surveys conducted by the States of New York (1976), Pennsylvania (1978), and Ohio (1976) report that, except where interrupted by urban development, there are approximately 40,000 acres of commercial vineyards scattered throughout the Lake Erie area. Very little or no commercial viticulture is indicated in surrounding inland counties.

Likewise, there are more than 30 commercial wineries, some dating from well before the turn of the century, distributed rather evenly throughout the Lake Erie area. None of these wineries are located more than ten miles inland from the Lake.

The petition and attached documents also show that the boundaries of the Lake Erie area reflect the extent of the area that contains sites which can

justifiably be said to be suitable for viticulture within the beneficial climatic influence of Lake Erie.

Evidence of the Name

The name of the area, Lake Erie, was well documented by the petitioner. Lake Erie is the geographical feature that defines this viticultural area. Its name dates from the earliest written history of this continent, and Lake Erie is universally known as such. After evaluating the petition and the comments received, ATF believes that the Lake Erie viticultural area has a unique historical identity and that the name "Lake Erie" is the most appropriate name for the area.

Geographical Features

In accordance with 27 CFR 4.25a(e)(2), a viticultural area should possess geographical features which distinguish the viticultural features of the area from surrounding areas. The petition and attached documents show that the Lake Erie viticultural area is distinguished from surrounding areas by its proximity to Lake Erie which exerts a moderating influence on the area. This proximity to Lake Erie and the influence that Lake Erie exerts on the local climate is the fundamental factor that permits viticulture in this area. Soils, elevations, and other physiographic features within the area are diverse and, through most of the area, do not directly form the basis of the Lake Erie area's viticultural distinction.

Authorities agree that temperature, in terms of length of frost-free growing season, freeze hazard at a given site (F. G. Haskins, "A Study of Fruit Sites in Northeastern Ohio from Standpoint of Frost Damage," 1950), and especially winter minimums, is the determining consideration with regard to the viability of a vineyard in the northeast. T. D. Jordan et al. in their bulletin on "Cultural Practices for Commercial Vineyards" (1981) state that:

"Temperature is the first consideration in selecting the location of a vineyard. It involves length of growing season, as well as magnitude and frequency of winter minimums. Temperature requirements must be satisfied for a site to be considered." They go on to note that for commercial viticulture in this region a growing season of 165 days is considered minimal and 180 plus days is preferable, and that winter minimum temperature should infrequently fall below minus 10 degrees Fahrenheit and almost never below minus 15 degrees Fahrenheit.

Stephen S. Visher, in his book *Climatic Atlas of the United States*

(1954), well summarizes the general climatic effect of the Great Lakes on their surroundings.

Although the effect of a lake is chiefly to the leeward, in the Great lakes region winds are so varied in direction that effects are evident on all sides. On the average, the (Great) Lakes raise the January average temperature of their surroundings about 5 degrees, the absolute minimum temperatures about 10 degrees, and the annual minima about 15 degrees. . . . They increase the average length of the frost-free season about 30 to 40 days on their eastern and southern sides. They have a slight negative total influence upon precipitation, decreasing it appreciably in summer, largely by reducing convectional thunderstorms. * * * The Lakes produce an average decrease of about five thunderstorms per year, and decrease the violence of many of those which do occur * * * The south shore of Lake Erie, with only five dense-fog days a year, has less fog than any other coastal area except southern Florida.

Visher's comments concerning Lake Erie's effect on the summer moisture regime are very significant. The area surrounding Lake Erie usually gets significantly greater isolation in the summer months than areas further away from the Lake. The reduced summer rainfall and few fog days (which typically occur only in late winter and early spring), combined with almost continuous lake breezes, distinguish the Lake Erie area from surrounding areas. Also, the Lake Erie area is sheltered to some degree from the potential devastation of hail due to the inhibiting influence that Lake Erie has on thunderstorm vigor and activity.

Most important, though are the temperature effects of Lake Erie. The Lake Erie area enjoys what has been termed a "lacustrine climate" lacking the temperature extremes otherwise inherent in a continental location according to Richard E. Dahlberg in an article in *Economic Geography* (1961) entitled "The Concord Grape Industry of the Chautauqua-Erie Area." The region benefits generally by being lower in latitude than and downwind from the other Great Lakes. The great stretches of Lakes Superior and Huron to the northwest considerably moderate arctic air masses moving across these lakes to the Lake Erie area. This effect is then locally enhanced by Lake Erie, thereby producing a climate adjacent to the Lake that has a lower mean daily range of temperatures. This results both in less growth-stimulating high temperatures and tissue-freezing low temperatures. These temperature effects are then diluted and gradually diminish as one proceeds inland from the Lake.

Lake Erie has by far the largest surface to volume ratio of any of the

Great Lakes, with an average depth of only 58 feet and one-thirtieth of the volume of Lake Superior against a surface area of nearly 10,000 square miles. As a result, Lake Erie experiences by far the greatest annual temperature variation of any of the Great Lakes. It ranges from an average surface temperature of 72 degrees Fahrenheit in the late summer to 90 percent or more ice cover in the late winter—far more ice than typically develops on any other of the Great Lakes.

This wide and rapid seasonal fluctuation of the lake water temperature, and this fluctuation's lag with respect to seasonal air temperature variation, serves a very beneficial climatologic effect throughout the year. In the early spring, the accumulated ice and the very cold water of the Lake serve to cool the climate of the adjacent land against early spring warm spells. In mid to late April, the Lake commences to warm rapidly and then buffers the area against late spring frost. In the summer, the water temperature is warmer than in any other of the Great Lakes. The summer's high temperature is then carried over into fall, warming the air adjacent to the Lake and keeping fall frosts at bay within the Lake Erie viticultural area for a month or more longer than surrounding areas. This results in an average frost-free period of approximately 170 to 175 days with a 200 day frost-free period to be found in some portions of the Lake Erie area, the longest frost-free period in the Great Lakes region. Likewise, proximity to the Lake in winter affords considerable protection against extreme minimum temperatures, with winter minimum temperatures of less than minus ten degrees Fahrenheit being uncommon across most of the Lake Erie viticultural area while inland areas often experience temperatures 10 to 15 degrees lower.

In many portions of the Lake Erie viticultural area, the air drainage of a given site greatly affects its microclimate with respect to freeze and low temperature damage. In this regard, the sloping areas found further inland within the Lake Erie viticultural area have rather an advantage over the more level areas often found closer to the Lake, and Lake Erie, by being at the lowest elevation, serves as a vast sink for cold air to drain into.

The only portion of the Lake Erie viticultural area in which elevation and physical features play an important role in distinguishing this area from surrounding areas is in Chautauqua County, New York, and Erie County, Pennsylvania. In these areas, the high-elevation Allegheny Plateau with its too

short frost-free period and too long winter temperatures clearly limits the "lake effect" to a width of as little as three miles inland.

Evidence of the Boundaries

The following outlines the considerations employed in selecting the specific boundaries for the Lake Erie area:

(1) Cazenovia Creek has been chosen as the northeastern boundary of the viticultural area. The area beyond the northeastern boundary is generally flat and consequently has poor drainage of air.

(2) A line 12 miles inland from Lake Erie running from Cazenovia Creek near Colden, New York, to the 1,300-foot contour line near Dayton, New York, marks the general limit of the "lake effect" in Erie County, New York. The "lake effect" does not extend further inland because of the highlands of the "Boston Hills."

(3) From near Dayton, New York, to Godard, Pennsylvania, the 1300-foot contour line has been chosen as the boundary. This contour is the highest contiguous line that follows the crest of the escarpment of the Allegheny Plateau in this section. The area above this elevation is generally cooler.

(4) From Godard, Pennsylvania, west to the intersection of Ohio Route 45 and Interstate 90, a line six miles inland from Lake Erie is used as the boundary. Areas further inland in this section are generally too high and too level to enjoy good air or water drainage.

(5) The boundary then proceeds south along Ohio Route 45 to a point about a mile north of Rock Creek, Ohio, 14 miles inland from Lake Erie, and then west along a line 14 miles inland from the Lake to the Ohio-Michigan border. In this area, the "lake effect" extends further inland first, in northeastern Ohio through Cleveland, due to the broken topography. Then from Cleveland to the west, the climatic moderation of Lake Erie extends further inland across the flat lowlands of north central and northwestern Ohio.

(6) The boundary of the viticultural area then follows the Ohio-Michigan border to the shoreline of Lake Erie. Thence in a generally southeasterly direction along the shoreline of Lake Erie to Port Clinton. Then due north in a straight line to the United States-Canada border. Then in a southeasterly and then an easterly direction along the United States-Canada border until a point is reached which is due north of the easternmost point of Kelleys Island. The boundary then proceeds due south until it reaches the shoreline of Lake

Erie. The boundary was drawn in this way to encompass several islands in Lake Erie, including the Lake Erie (or Bass) Islands, upon which the climatic influence of Lake Erie is self-evident.

(7) The boundary of the viticultural area then follows the lakeshore in a generally northeasterly direction back to the starting point.

Boundaries

The boundaries of the Lake Erie viticultural area as proposed in Notice No. 460 are adopted with some minor modifications. The Lake Erie viticultural area as described in the notice included approximately 775 square miles of water (Lake Erie). In this final rule, the boundaries have been changed to eliminate approximately 580 square miles of water. Consequently, the Lake Erie viticultural area, as delineated in this final rule, consists of approximately 3,300 square miles of land area and approximately 195 square miles (statute) of Lake Erie for a total of 3,495 square miles. ATF believes that these boundaries delineate an area with distinguishable physical and climatic features.

Currently, there is one approved viticultural area located within the boundaries of the Lake Erie viticultural area. This viticultural area is named the Isle St. George (North Bass Island) viticultural area and is located in Ottawa County, Ohio, about 16 nautical miles north-northwest of Sandusky.

Miscellaneous

ATF does not wish to give the impression by approving the Lake Erie viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Lake Erie wines.

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 applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant

secondary or incidental effects 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 this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final regulation 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 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 final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

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

Disclosure

A copy of the petition and comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

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

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to

add the title of § 9.83. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *
9.83 Lake Erie.

Par. 2. Subpart C is amended by adding § 9.83. As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

§ 9.83 Lake Erie.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Erie viticultural area are four U.S.C.S. maps. They are titled:

(1) "Toledo," scale 1:250,000 (1956, revised 1978);

(2) "Cleveland," scale 1:250,000 (1956, revised 1972);

(3) "Erie," scale 1:250,000 (1959, revised 1972); and

(4) "Buffalo," scale 1:250,000 (1962).

(c) *Boundaries.* The Lake Erie viticultural area is located along the shore and on the islands of Lake Erie across the States of New York, Pennsylvania, and Ohio. The beginning point is where Buffalo Creek empties into Lake Erie at Buffalo Harbor.

(1) From the beginning point the boundary proceeds up Buffalo Creek to the confluence of Cazenovia Creek.

(2) The boundary proceeds up Cazenovia Creek and thence up the west branch of Cazenovia Creek to a point approximately one mile north of Colden, New York, exactly 12 statute miles inland from any point on the shore of Lake Erie.

(3) The boundary proceeds southwestward and along a line exactly 12 statute miles inland from any point on the shore of Lake Erie to a point approximately one mile north of Dayton, New York, where it intersects the 1,300-foot contour line.

(4) The boundary proceeds generally southwestward along the 1,300-foot contour line to a point almost two miles north-northwest of Godard, Pennsylvania, exactly six statute miles inland from any point on the shore of Lake Erie.

(5) The boundary proceeds southwestward along a line exactly six statute miles inland from any point on the shore of Lake Erie to the point where it intersects Ohio Route 45 near the intersection with Interstate 90.

(6) The boundary proceeds southward along Ohio Route 45 to a point exactly 14 statute miles inland from any point on the shore of Lake Erie approximately one mile north of Rock Creek, Ohio.

(7) The boundary proceeds southwestward, then westward, then northwestward along a line 14 statute miles inland from any point on the shore of Lake Erie to the point where it intersects the Ohio-Michigan boundary just north of Centennial, Ohio.

(8) The boundary then follows the Ohio-Michigan border in an easterly direction to the shoreline of Lake Erie. Thence in a generally southeasterly direction along the shoreline of Lake Erie to the mouth of the Portage River just north of Port Clinton. Thence due north in a straight line to the United States-Canada border. Thence in a southeasterly and then an easterly direction along the United States-Canada border until a point is reached which is due north of the easternmost point of Kelleys Island.

(9) The boundary then proceeds due south until it reaches the shoreline of Lake Erie. Thence the boundary follows the lakeshore in a generally northeasterly direction to the beginning point at the mouth of Buffalo Creek.

Signed: October 1, 1983.

W. T. Drake,
Acting Director.

Approved: October 13, 1983.

David Q. Bates,
Deputy Assistant Secretary (Operations).

[FR Doc. 83-28787 Filed 10-20-83; 8:45 am]

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27 CFR Part 9

[T.D. ATF-157; Re: Notice No. 462]

Establishment of the Grand River Valley Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Ohio known as "Grand River Valley." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT:

John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7602).

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, providing for the listing of approved American viticultural areas, the name of which may be used as appellations of origin.

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.

Mr. Anthony P. Debevec, President of Chalet Debonne Vineyards, Inc., a winery located in Madison, Ohio, petitioned ATF for the establishment of a viticultural area in northeastern Ohio to be known as "Grand River Valley." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 462) in the *Federal Register* on April 4, 1983 (48 FR 14396) proposing the establishment of the Grand River Valley viticultural area.

Notice of Proposed Rulemaking

Notice No. 462 proposed two alternative boundaries for the Grand River Valley viticultural area. The petitioner's boundary encompassed an area of approximately 125,000 acres and consisted of all of the land within 2 statute miles, in any direction, of the Grand River from its origin to the point at which it flows into Lake Erie.

Based on data contained in the petition for the establishment of the Lake Erie viticultural area, ATF proposed an alternative to the petitioner's boundary. About one-third of the entire valley of the Grand River is inside the Lake Erie viticultural area, established in a final rule published in today's *Federal Register*. ATF believes that the lake's effect on climate is the overriding geographical feature affecting

viticulture in northeastern Ohio. Therefore, ATF proposed, as an alternative to the petitioner's boundary, that the Grand River Valley viticultural area be confined to that portion of the valley located within the Lake Erie viticultural area.

Evidence of Name

The name "Grand River" was assigned by early explorers and settlers to the river called "Sheauga" or "Geauga" by the natives. This Indian word actually means "raccoon" but was so widely misinterpreted that the name "Grand River" has applied to the river since the early nineteenth century.

Evidence of Geographical Features Which Affect Viticultural Features

The petition states, "With Lake Erie helping to provide an overall longer growing season (circa 175 days) the Grand River Valley itself contributes in fulfilling the air drainage requirements for prime viticultural lands." ATF agrees that the moderating effect of Lake Erie distinguishes part of the proposed area from its surroundings. Further, the air drainage provided by the Grand River Valley distinguishes the area from the Lake Erie viticultural area which surrounds it. However, the natural boundary of the lake's effect on climate divides the Grand River Valley into a climate area which is strongly influenced by the lake and a climate area which is weakly influenced or not influenced by the lake.

Lake Erie's moderating influence on the climate affects viticulture within a short distance inland from the shore. The lake freezes in the winter and the late spring thaw prevents unseasonal warm spells in late winter and early spring. Otherwise, premature bud development during these unseasonal warm spells would leave the grapevines vulnerable to damage during a freeze in late spring. In autumn, the warm water of the lake delays the first freeze a month or longer in comparison to areas farther inland from the lake shore. The lake's protection against spring frost damage and the delay of the first autumn frost result in a growing season between 170 and 185 days, depending on the distance inland from the lake shore.

In *Cultural Practices for Commercial Vineyards*, Miscellaneous Bulletin 111, published by the New York State College of Agriculture and Life Sciences, in January 1980, the authors state: "Temperature is the first consideration in selecting the location of a vineyard. It involves length of growing season, as well as magnitude and frequency of winter minimums. Temperature