

entity involved in the manufacture of KDs or burial caskets without prior Commission approval for ten years.

Paragraphs VII and VIII of the proposed Order require that G&W submit periodic reports to the Commission on its compliance with the Order and also notify the Commission of any changes in its corporate structure which would affect its obligations under the Order.

The purpose of the proposed Order, when viewed in conjunction with the unsupervised sale of burial casket assets to AMEDCO, is to reduce G&W's power in the KD and burial casket markets and restore an independent competitor to the KD market, thereby resulting in a more competitive market structure than existed prior to the issuance of the complaint.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Carol M. Thomas,  
Secretary.

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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco, and Firearms

#### 27 CFR Part 9

#### Notice No. 448]

#### Paso Robles Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes the establishment of a viticultural area in San Luis Obispo County, California, to be known as "Paso Robles." The petition was submitted by Martin Brothers Winery.

ATF believes the establishment of American viticultural areas and their subsequent use as appellations of origin in wine labeling and advertising allows wineries to better designate the specific grape-growing area where their wines come from and allows consumers to better identify the wines they purchase.

**DATE:** Comments must be received on or before February 16, 1983.

**ADDRESS:** Comments must be addressed to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 448).

**FOR FURTHER INFORMATION CONTACT:** Roger Bowling, 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 37672, 54624) revising the wine labeling regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas, and allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) adding a new Part 9 to 27 CFR for the listing of approved American viticultural areas.

27 CFR 9.11 defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. 27 CFR 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 must include:

- (a) Evidence that the name of the proposed 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 proposed area are as delineated 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 the surrounding areas.
- (d) A description of the proposed boundaries of the proposed viticultural area, based on features found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale.
- (e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

##### Petition for Paso Robles

The petition for the establishment of the "Paso Robles" viticultural area was filed by Martin Brothers winery and was accompanied by signatures of the grape-growers and wineries of the proposed area. ATF believes the petition contained the necessary elements with sufficient evidence to warrant a notice of proposed rulemaking to establish the area as a viticultural area. The following discussion of the evidence is taken from the petition.

##### Evidence Relating to the Name

The name of the proposed area dates from the late 18th Century, the missionary period of the area. The full Spanish name is "El Paso de Robles" or "the Pass of the Oaks." This name was given by travelers between the mission of San Miguel, located within the proposed viticultural area, and Mission San Luis Obispo. A land grant, in this name, was conveyed by Governor Micheltoarena to Pedro Narvaez on May 12, 1844. This land grant includes the present areas of Paso Robles, Templeton, and Adelaida. The land grant was patented on July 20, 1866, to Petronillo Rios.

In 1857 the Paso Robles land grant was purchased by three men. These men, capitalizing on the hot springs and mud baths of the area, set out to make the Paso Robles Hot Springs one of the finest resort spas in the Country and built the first of the famous hotels. The community serving the hotel and resort visitors was incorporated as the City of El Paso de Robles on February 25, 1889. Since that time, the entire area of the proposed viticultural area has been referred to as the Paso Robles area.

There are numerous streams, hills, and small rural areas within this general area known by other names, however, the one unifying name of the entire area is "Paso Robles."

ATF believes this evidence supports "Paso Robles" as the name of the proposed viticultural area.

##### Historical and Current Evidence

Wine grapes have been grown in the Paso Robles area since the founding of the California missions. Mission San Miguel, founded in 1797, produced wine and it is assumed that the grapes were harvested in nearby areas. The records of the San Luis Obispo County assessor's office show grape plantings of the county and presumably most of the planting were within the boundaries of the proposed viticultural area. The earliest date was 1873 showing that approximately 40 acres were in vineyards.

Two wineries established in the last century are still involved in wine production: York Mountain Winery (1882), and Rotta Winery, now Las Tablas Winery (1890). In addition to these two wineries, there are twelve others and one under construction. Total vineyard plantings in the area today comprise approximately 4,000 acres. The proposed area comprises approximately 637,000 acres.

In 1914, Ignace Paderewski, the famous Polish pianist, conductor, and

statesman, established a vineyard on his ranch. The Zinfandel grape was introduced to the area in this vineyard. Wine produced by York Mountain Winery from this vineyard was awarded a gold medal at the California State Fair.

ATF believes this evidence supports the contention of the proposed viticultural area as being a well-known grape-growing area, both historically and currently.

#### Geographical Characteristic

The proposed Paso Robles viticultural area is generally characterized by rolling hills and valleys with an average elevation between 600 and 1,000 feet. The soils of the area are generally alluvial and terrace deposits, usually fertile and well-drained.

The proposed area is bounded on the west and south by the Santa Lucia Mountain range whose crest averages between 2,300 and 2,850 feet. The Cholame Hills to the east crest at about the 3,000-foot elevation. The Salinas River has its headwaters at Santa Margarita Lake just south of the proposed boundary and flows northward through the proposed area into the Salinas valley located in Kings and Monterey Counties. The Salinas River is the major drainage of the proposed area, although the area is also characterized by numerous creeks and streams.

The proposed area is protected from marine air intrusion and coastal fogs by the Santa Lucia Mountains on the west and south. This is a marked contrast to the area to the west and south where such coastal fogs are common with cooler temperatures in the summer months.

The Paso Robles area is classified as Regin III, with 3,001 to 3,500 degree days of heat. This characterizes the proposed area with a warmer climate by 500 to 1,000 degree days than the area to the west and south, and a cooler climate by 500 or more degree days than the area lying to the west.

Rainfall within the proposed area averages between 10 and 25 inches annually. Rainfall within the area is highest on the crest of the Santa Lucia Mountain range and decreases regularly to the east. Growers generally augment the rainfall by irrigation from well and reservoirs. Most of the rainfall in the area occurs during the vines dormant period.

The proposed area has a diurnal (beginning and ending of the day) temperature change of 40 to 50 degrees. This results from low to moderate humidity which is conducive to radiant cooling of the land surface. Regular afternoon winds disturb the local

inversions, thereby promoting radiative cooling. The warm to hot day temperatures with cool nights promote good sugar-acid balance of the grapes cultivated within the proposed area.

The area to the west and south of the proposed area has a diurnal fluctuation of between 20 and 30 degrees caused by the flow of cool, moist marine air accompanied by fog intrusions. The area east of the proposed area has a climate associated with the San Joaquin Valley; that is, less radiative cooling, more stable inversions, and higher evening temperatures.

#### Proposed Boundaries

The proposed boundaries of the Paso Robles area are characterized by township and range lines, the county line, and straight lines from points of reference. Although the petition proposed the ridge-line of the Santa Lucia Mountains as the western boundary, ATF has amended this to reference points. Ridge-lines are difficult to follow and the amended line very closely approximates the ridge line, but is less difficult to identify on the U.S.G.S. map.

Although the proposed boundaries are based on man-made features, the petitioner states the boundaries, as proposed, delineate the area historically and currently known as "Paso Robles," and further delineate an area as being distinguishable from the surrounding areas based on geographical characteristics.

The northern boundary begins at the common point between Kings and San Luis Obispo Counties, and Monterey and San Luis Obispo Counties, and runs westward approximately 42 miles to the range line between R.9E./R.10E.; then southward along this range line to the township line of T.26S./T.27S.; then in a straight southeasterly line to a point of intersection of the township line of T.29S./T.30S. and the range line of R.12E./R.13E., just east of the town of Cuesta on Highway 101; then eastward along the township line to where it intersects the range line of R.13E./R.14E.; then northward along this range line to where it intersects the township line of T.28S./T.29S.; then eastward along the township line to where it intersects the range line of R.16E./R.17E.; then northward along the range line to the point of beginning.

The points of reference for the boundaries of the proposed Paso Robles viticultural area are found on one U.S.G.S. map entitled; "San Luis Obispo," scale 1: 250,000.

#### Public Participation

ATF requests comments from all interested persons. Comments are specifically requested on, but not limited to, the following areas:

(a) Is the proposed area logically and reasonably delineated, or are there alternative boundaries that would more closely define the grape-growing of Paso Robles?

(b) Do the boundaries as proposed include an area having common geophysical characteristics even though the boundaries are based on man-made features? If alternative boundaries were proposed, for example, along the 1,000-foot contour line, would the area lose its distinguishing characteristics? Would such an alternative delineate an area with more specific geophysical characteristics?

ATF welcomes any additional data and information concerning the proposed area, particularly geographic evidence that distinguishes the proposed area from the surrounding 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 action.

ATF will not recognize any material as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

#### Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this notice of proposed rulemaking, if promulgated as a final rule, will not be a "major rule" since it will not result in:

(a) An annual effect on the economy of 100 million dollars or more;

(b) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investments, productivity, innovation, or on the ability of 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 applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is certified under the provisions of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

**Disclosure**

Copies of the petition, the map, this notice, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, 12th & Pennsylvania Avenue, NW, Washington, DC.

**Drafting Information**

The principal author of this document is Roger Bowling, Research and Regulations Branch.

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

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

**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 proposed to be amended as follows:

**PART 9—AMERICAN VITICULTURAL AREAS**

**Paragraph 1.** The table of sections in Subpart C is amended to add § 9.84 to read as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.

\* \* \* \* \*

9.84 Paso Robles.

**Par. 2.** Subpart C is amended to add a new § 9.84, to read as follows:

**Subpart C—Approved American Viticultural Areas**

\* \* \* \* \*

**§ 9.84 Paso Robles.**

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

(b) *Approved map.* The map showing the boundaries of the Paso Robles viticultural area is: "San Luis Obispo", NI 10-3, scale 1:250,000 (1956, revised 1969).

(c) *Boundaries.* The Paso Robles viticultural area is located within San Luis Obispo County, California. From the point of beginning where the county lines of San Luis Obispo, Kings and Kern Counties converge, the county line also being the township line between T.24S. and T.25S., in R.16E.;

(1) Then in a westerly direction along this county line for approximately 68 kilometers (42 miles) to the range line between R.9E. and R.10E.;

(2) Then in a southerly direction along this range line for approximately 19.5 kilometers (12 miles) to the township line between T.26S. and T.27S.;

(3) Then in a southeasterly line for approximately 42 kilometers (26 miles) to the point of intersection of the township line between T.29S. and T.30S. and the range line between R.12E. and R.13E.;

(4) Then in an easterly direction for approximately 9.6 kilometers (6 miles) to the range line between R.13E. and R.14E.;

(5) Then in a northerly direction for approximately 9.6 kilometers (6 miles) to the township line between T.28S. and T.29S.;

(6) Then in an easterly direction for approximately 30 kilometers (18 miles) to the township line between T.16E. and T.17E.;

(7) Then in a northerly direction for approximately 38.4 kilometers (24 miles) to the point of beginning.

Signed: December 27, 1982.

Stephen E. Higgins,  
Acting Director.

Approved: January 4, 1983.

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

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**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 917****Consideration of Amendments to the Kentucky Permanent Program Under the Surface Mining Control and Reclamation Act of 1977**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Reopening of public comment period.

**SUMMARY:** OSM is reopening the period for review and comment on certain amendments submitted by the Commonwealth of Kentucky to its program for the regulation of surface coal mining and reclamation in the State. OSM is reopening the comment period to allow the public sufficient time to consider and comment on additional materials submitted by Kentucky subsequent to the close of the initial public comment period. Comments on program portions not affected by the additional documents will not be considered.

**DATES:** Written comments, data or other relevant information must be received on or before 4:00 p.m. February 16, 1983 to be considered.

**ADDRESSES:** Comments on the supplemental material to the program submission should be sent or hand-delivered to: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

**FOR FURTHER INFORMATION CONTACT:** W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233-7320.

**SUPPLEMENTARY INFORMATION:** On July 23, 1982, OSM published a notice in the *Federal Register* announcing receipt of certain amendments to the Kentucky program and inviting public comment thereon (47 FR 31890-31896). The public comment period ended August 23, 1982. A public hearing was held August 12, 1982. OSM published a second notice in the *Federal Register* on September 8, 1982, announcing receipt of provisions to satisfy conditions (k) and (l), and inviting public comment on whether the proposed amendments corrected these deficiencies (47 FR 39536-39537). The public comment period ended October 8, 1982. A public hearing scheduled September 22, 1982, was not held.