

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 652]

Realignment of the Boundary Common to the Alexander Valley and Chalk Hill Viticultural Areas

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

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF has received a petition for realignment of the boundary common to the Alexander Valley and Chalk Hill viticultural areas so that vineyards immediately within the north-central leg of the boundary of the Chalk Hill viticultural area would be relocated to the southeastern corner of the Alexander Valley viticultural area.

DATE: Written comments must be received by February 19, 1988.

ADDRESS: Send written comments to Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, REF: Notice No. 652, P.O. Box 385, Washington, DC 20044-0385.

Copies of this proposal, the petition, the appropriate maps, and the written comments are available for public inspection during normal business hours at the ATF Reading Room, Ariel Rios Federal Building, Room 4412, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, Specialist, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, Room 6237, Washington, DC 20226, Telephone (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in Title 27,

Code of Federal Regulations, Part 4.

These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added to Title 27 a new Part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1) of Title 27, Code of Federal Regulations, Part 4, 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. The petition shall 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 features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundary of the proposed 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 (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundary prominently marked.

Establishment of the Viticultural Areas

With the issuance of T.D. ATF-155 on October 21, 1983 and T.D. ATF-187 on October 24, 1984, ATF established, respectively, the Chalk Hill and the Alexander Valley viticultural areas in Sonoma County, California. On August 26, 1986, ATF issued T.D. ATF-233 which made several revisions to the boundary of the Alexander Valley viticultural area including the extension of the southern leg of the boundary to include the Digger Bend area east of Healdsburg.

Petition

By letter dated August 20, 1987, Ms. Willi Martin-Hilliard and Mr. Richard Godwin, owners and operators of separate vineyards sited on the south-facing slopes of Bell Mountain, filed a petition to extend the boundary of the Alexander Valley viticultural area approximately one mile south in order to include land on which is sited 76 acres of vineyards in the watershed of Martin Creek which flows into Barnes Creek to Brooks Creek and the Russian River.

The petition, researched and prepared by William K. Crowley, a professor of geography at Sonoma State University in Santa Rosa, California, documents the name recognition, history and physical features of this area and includes declarations of support from neighbors, grape growers and local winemakers.

The petition includes evidence that the land in the area enjoys name recognition and shares similar geological history, topographical features, soils, and climatic conditions as adjoining land within the boundary of the Alexander Valley viticultural area.

Name

The Alexander Valley viticultural area was established 30 days after the issuance of T.D. ATF-187 which was published in the *Federal Register* on October 24, 1984.

In early 1981, the Hilliards subdivided their property and sold the more northerly portion to Mr. Godwin. Also in 1981, the Hilliards planted 55 acres of wine grape vines on their portion of the subdivided property. In 1983, Mr. Godwin established a 21-acre vineyard on his property. The Hilliards and Mr. Godwin state that these vineyards are in closer proximity to vineyards planted in the Alexander Valley viticultural area than vineyards planted in either the Chalk Hill viticultural area or in the Russian River viticultural area. In fact, a part of Mr. Godwin's property, on which no grapes are presently planted, lies within the existing boundary of the Alexander Valley viticultural area.

The Hilliards have advised ATF that they were unaware until the Spring of 1986 that their vineyards had been excluded from the boundary established in November 1984 for the Alexander Valley viticultural area. Although the Hilliards planted their vineyards in 1981, they did not establish permanent

residence on their property until November 1983. Consequently, when ATF held a public hearing in Sonoma County in February 1983 to air the petition filed by the Alexander Valley Appellation Committee in 1981 and a second group's petition to include land north of Geyserville to the Mendocino County line, the Hilliards saw no need to give testimony at the hearing or to file a written comment.

The petition includes a declaration of support from Mr. Frederick P. Furth, the petitioner for the Chalk Hill viticultural area. Included in Mr. Furth's letter is the statement "I have no objection to this (petition) and frankly have always considered your vineyards were in the Alexander Valley Appellation originally."

The petition also includes letters of support from Messrs. Hank Wetzel, Russell H. Green, Jr., and Robert A. Young, wine grape growers in the Alexander Valley viticultural area, and wine producer Michael G. Dacres Dixon, all of whom were members of the Appellation Committee which filed the June 18, 1981, petition to establish the Alexander Valley viticultural area. All have demonstrated great concern that the Alexander Valley viticultural area be carefully defined and all maintain that these properties should have been included in the originally petitioned area.

The declarations support the petitioners' statement that the vineyards planted in 1981 on the Hilliard property and in 1983 on the Godwin property "are most closely associated with the Alexander Valley, both by people living in the area and by their proximity to other Alexander Valley vineyards."

Climate

Thermograph readings for the petitioned area were taken in 1981 on the Hilliard property. These readings suggest that the vineyards lie on the boundary between Region I and Region II. The petition states that the reading of 2,475 heat summation units "is similar to locations in the southern end of Alexander Valley, though obviously cooler than the central and northern portions." The petition notes that "because the property is in the boundary area of regular summer fog intrusions, readings could vary considerably from one year to the next, with the best guess that the (1981) reading is a relatively cool year."

Soils

The petition states that the principal soils of the Martin Creek area, namely, Felta very gravelly loams, Spreckels loam, and Yolo silt loam, "represent soil

series and associations common to the existing Alexander Valley (viticultural area)."

Topography

The southeastern leg of the boundary of the Alexander Valley viticultural area extends in an easterly direction from the summit of Chalk Hill to just south of the summit of Bell Mountain. The Martin Creek area lies on the south-facing slopes of Bell Mountain. The vineyards are planted on low hills ranging from 300 to 400 feet above sea level. Part of the petitioned area is within the Franz Creek drainage and part is within the Brooks Creek drainage. The points of confluence where the waters in these streams flow into the Russian River are within the boundary of the Alexander Valley viticultural area.

The terrain of the Chalk Hill viticultural area to the south and west of the petitioned area is higher in elevation and more rugged than that of the petitioned area.

Chalk Hill Viticultural Area

ATF's proposal to revise the boundary of the Alexander Valley viticultural area affects a portion of the boundary common to the Chalk Hill viticultural area.

The petitioners request that the common boundary between the two viticultural areas be realigned so as to extend the southern leg of the boundary for the Alexander Valley viticultural area and to curtail the north-central leg of the boundary for Chalk Hill viticultural area.

The statement from the petitioner for the Chalk Hill viticultural area, the letters of support from the original petitioners for the Alexander Valley appellation, and the physical proximity of the vineyards in the petitioned area to vineyards within the present boundary of the Alexander Valley viticultural area support the criteria for history and recognition of name. The limited climatic data suggests that the petitioned area lies in a transitional space between the inland "coastal warm" Alexander Valley viticultural area and the Chalk Hill viticultural area. The latter encompasses the higher elevation "coastal warm" areas near Mark West Springs as well as the "coastal cool" basin of the Russian River south of Fitch Mountain.

Proposed Realignment of Common Boundary

The description of the boundary of the established Alexander Valley viticultural, as found in 27 CFR 9.53, would be amended to include all of section 28 and portions of section 27, 29,

33 and 34 in Township 9 N., Range 8 W. The description of the boundary of the established Chalk Hill viticultural area, as found in 27 CFR 9.52, would be amended to exclude all of section 28 and portions of section 27, 29, 33 and 34 in Township 9 N., Range 8 W.

Public Participation

ATF requests comments from all interested parties. 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 comment as confidential. Comments may be disclosed to the public. Any material which a 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.

The Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

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 will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens 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.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) 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.

Executive Order 12291

In compliance with Executive Order 12291, issued February 17, 1981, ATF has determined that this proposed regulation is not a "major rule" since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase 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, 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 notice because no requirement to collect information is proposed.

Drafting Information

The author of this document is Michael J. Breen, Coordinator, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

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

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. ATF is amending § 9.53 of Subpart C of Title 27, Code of Federal Regulations, Part 9, by removing existing paragraphs (c)(27) and (c)(28), redesignating paragraphs (c)(29) through (c)(40) as paragraphs (c)(35) through (c)(46), and adding new paragraphs (c)(27) through (c)(34) to read as follows:

§ 9.53 Alexander Valley.

* * * * *

(c) Boundary. * * *

(27) Then south from said peak, in a straight line, approximately 0.2 mile to the point where Chalk Hill Road crosses Brooks Creek (on the Healdsburg Quadrangle map);

(28) Then southeasterly, approximately 1.3 miles, along the roadbed of Chalk Hill Road to the point near the confluence of Brooks Creek and Barnes Creek where Chalk Hill Road intersects an unnamed unimproved road (known locally as Spurgeon Road) that parallels Barnes Creek in section 32, T. 9 N., R. 8 W.;

(29) Then easterly, approximately 0.45 mile, along said road (known locally as Spurgeon Road) to the point where the road is intersected by an unnamed

unimproved road (known locally as the access to the Shurtleff Ranch) in section 33, T. 9 N., R. 8 W.;

(30) Then continuing along the unnamed unimproved road (known locally as the access to the Shurtleff Ranch), approximately 1.33 miles, in a generally easterly direction, to the eastern terminus of said road at a small dwelling along the north fork of Barnes Creek in section 34, T. 9 N., R. 8 W. on the Mark West Springs, California, Quadrangle map;

(31) Then easterly along the north fork of Barnes Creek, approximately 0.5 mile, to the point in the northeast corner of section 34, T. 9 N., R. 8 W. where the north fork of Barnes Creek intersects the east line of section 34, T. 9 N., R. 8 W.;

(32) Then north, approximately 0.65 mile, along the east lines of sections 34 and 27, T. 9 N., R. 8 W., to the point at which an unnamed unimproved road which parallels the south bank of Martin Creek intersects the eastern border of section 27, T. 9 N., R. 8 W.

(33) Then in a generally northwesterly direction, approximately 1.07 miles, along said road to the point at which the road is crossed by the west line of section 27, T. 9 N., R. 8 W.;

(34) Then north, approximately 0.08 mile, along the west line of section 27, T. 9 N., R. 8 W., to the southeast corner of section 21, T. 9 N., R. 8 W.;

* * * * *

Par. 3. ATF is amending § 9.52 of Subpart C of Title 27, Code of Federal Regulations, Part 9, by removing existing paragraphs (c)(13) and (c)(14), redesignating paragraphs (c)(15) through (c)(24) as paragraphs (c)(21) through (c)(30), and adding new paragraphs (c)(13) through (c)(20) to read as follows:

§ 9.52 Chalk Hill.

* * * * *

(c) Boundary. * * *

(13) Then southerly, approximately 0.08 mile, along the west line of section 27, T. 9 N., R. 8 W., to the point at which an unnamed unimproved road which parallels the south bank of Martin Creek intersects the west line of section 27, T. 9 N., R. 8 W.;

(14) Then southeasterly, approximately 1.07 miles, along said road to the point at which the road is crossed by the east line of section 27, T. 9 N., R. 8 W.;

(15) Then southerly, approximately 0.65 mile, along the east lines of sections 27 and 34, T. 9 N., R. 8 W., to the point in the northeast corner of section 34, T. 9 N., R. 8 W. where the north fork of Barnes Creek intersects such line in section 34, T. 9 N., R. 8 W.;

(16) Then continuing along the north fork of Barnes Creek, approximately 0.5 mile, in a generally westerly direction to a small dwelling at the eastern terminus of an unnamed unimproved road (known locally as the access to the Shurtleff Ranch) in section 34, T. 9 N., R. 8 W.;

(17) Then continuing in a generally westerly direction, approximately 1.4 miles, along the unnamed unimproved road (known locally as the access to the Shurtleff Ranch) to its intersection with an unnamed unimproved road (known locally as Spurgeon Road) in section 33, T. 9 N., R. 8 W. on the Healdsburg, California, Quadrangle Map;

(18) Then westerly, approximately 0.45 mile, along the unnamed unimproved road (known locally as Spurgeon Road) to the point where the road intersects Chalk Hill Road in section 32, T. 9 N., R. 8 W.;

(19) Then in a generally northwesterly direction, approximately 1.3 miles, along Chalk Hill Road to the point where Chalk Hill Road crosses Brooks Creek in section 29, T. 9 N., R. 8 W.;

(20) Then north in a straight line, approximately 0.2 mile, to the top of a peak identified as Chalk Hill;

* * * * *

Approved: January 11, 1988.

Stephen E. Higgins,

Director.

[FR Doc. 88-991 Filed 1-19-88; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 156 and 170

[OPP-300164A; FRL-33174]

Worker Protection Standards for Agricultural Pesticides; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Related notice.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation on worker protection standards for agricultural pesticides (40 CFR Parts 156 and 170). This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Dr. Patricia Breslin, Director, Pesticide Farm Safety Staff, Office of Pesticide Programs, Environmental Protection Agency, Rm. 1009, CM No. 2, 1921