concerning the amount of rainfall within the proposed boundaries.

The petitioner stated that the variation in the rainfall would affect the grapes grown in the mountainous area differently than the grapes grown on the valley floor. After evaluating the entire record concerning the climate of the area, ATF believes the boundaries of the proposed Lime Kiln Valley should be amended to exclude the mountainous areas. This change would limit the proposed viticultural area to one which exhibits uniform climatic characteristics. To accomplish this, ATF is proposing an amended boundary based primarily on the 1,400-foot contour line and Cienega Road. With the amended boundary, Lime Kiln Valley appears to qualify as a distinct grape-growing region.

Since the amended boundary significantly reduces the area from the 9,500 acres originally proposed, ATF believes comments should be solicited on the amended boundary.

Public Participation

ATF requests comments from all interested persons concerning the amended boundaries. Furthermore, while this notice proposes possible boundary amendments for the Lime Kiln Valley viticultural area, suggestions for other possible boundaries will be given consideration before a final decision is made.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too later for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or 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.

Since this notice pertains only to amending the area's boundaries, no further hearings are now scheduled nor are any expected to be scheduled concerning this viticultural area.

Executive Order 12291

It has been determined that this proposed 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

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

Drafting Information

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

Authority

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

(1) The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.27 As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.27 Lime Kiln Valley.

(2) Subpart C is amended by adding § 9.27

As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.27 Lime Kiln Valley.

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

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Lime Kiln Valley viticultural area are two U.S.G.S. maps entitled:

(1) "Mount Harlan Quadrangle, California," 7.5 minute series; and

(2) "Paicines Quadrangle, California," 7.5 minute series.

(c) *Boundaries.* The Lime Kiln Valley viticultural area is located in San Benito County, California. From the beginning point at the intersection of Thompson Creek and Cienega Road, the boundary proceeds, in a straight line to the summit of an unnamed peak (1,288 feet) in the northwest quarter of Section 28, T.14S./R.6E.;

(1) Thence in a straight line from the summit of the unnamed peak (1,288 feet) to a point where it intersects the 1,400-foot contour line, by the elevation marker, in the southwest quarter of T.14 S./R.6 E., Section 28;

(2) Thence following the 1,400-foot contour line through the following sections; Sections 28, 29, and 30, T.14 S./R.6 E.; Section 25, T.14 S./R.5 E.; Sections 30, 19, 20, and returning to 19, T.14 S./R.6 E., to a point where the 1,400-foot contour line intersects with the section line between Sections 19 and 18, T.14 S./R.6 E.;

(3) Thence in a straight line to the Cienega School Building along Cienega Road;

(4) Thence along Cienega Road to the point of beginning.

Signed: August 24, 1981.

G. R. Dickerson,
Director.

Approved: September 15, 1981.

John M. Walker, Jr.,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 81-29091 Filed 10-6-81; 8:45 am]
BILLING CODE 4810-31-M

---

27 CFR Part 9

[Notice No. 386; Re: Notice No. 338]

Pinnacles Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice reopens the record for Notice No. 338 which

proposed The Pinnacles viticultural area located in Monterey and San Benito Counties, California. Based on evidence received in response to Notice No. 338, ATF feels that the name "The Pinnacles" would be inappropriate if used to designate the proposed viticultural area. For this reason, ATF is soliciting additional comments concerning alternatives to the name "The Pinnacles."

DATE: Comments must be received by November 23, 1981.

ADDRESSES: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044 (Notice No. 386).

Copies of comments will be available for public inspection during normal business hours at the: ATF Reading Room, Federal Building, Room 4407, 12th and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Norman Blake, Research and Regulations Branch (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On March 17, 1980, ATF published a notice of proposed rulemaking, Notice No. 338, in the Federal Register (45 FR 17027) proposing the establishment of a viticultural area in Monterey and San Benito Counties, California. ATF proposed the name "The Pinnacles" for the area. A public hearing concerning the proposal was held in Salinas, California, on May 2, 1980. Five persons testified at the hearing. ATF accepted written comments on the proposal until May 16, 1980. Two written comments were submitted.

Proposed Name—"The Pinnacles"

Representatives of Paul Masson Vineyards, Inc., and Joseph E. Seagram & Sons, Inc., objected to the use of the name "The Pinnacles" through both hearing testimony and written comment. They presented evidence that the terms "Pinnacle" and "Pinnacles" and the phrase "A Pinnacles Selection" have been used on labels for Paul Masson wines which are not derived from grapes grown in the proposed viticultural area. They contended that the use of the name "The Pinnacles" for the proposed viticultural area would violate Paul Masson's previously established "common law and statutory" rights to the use of the name. They further argued that naming the viticultural area "The Pinnacles" and thus allowing other wineries to use the name would confuse and mislead consumers who had come to recognize references to "A Pinnacles Selection" and "Pinnacles" as designations used on Paul Masson wines.

The petitioner, Chalone Vineyard, stated that the proposed viticultural area was closer in proximity and more similar in geographical factors than Paul Masson's vineyard to The Pinnacles National Monument, from which the proposed viticultural area name and Paul Masson's vineyard and label references are derived. The petitioner also pointed out that the term "The Pinnacles" is used, without objection by Paul Masson, in the address statement on the labels for wine produced by Chalone Vineyard. The petitioner, therefore, claimed that the proposed name for the viticultural area was appropriate and not misleading.

After carefully considering the evidence, ATF has decided not to allow the use of the name "The Pinnacles" for the proposed viticultural area. While ATF does not fully agree with either party, ATF does feel that the name "The Pinnacles" would not be appropriate for the proposed viticultural area because of Paul Masson's trademark claims and the possible consumer confusion that would result if "The Pinnacles" were approved for the proposed viticultural area. In addition, there has not been a sufficient showing that the name "The Pinnacles" is locally and/or nationally known as referring to the area specified by the proposed boundaries. Therefore, the proposed name does not meet the requirement of 27 CFR 4.25a(e)(2)(i). Accordingly, before deciding on a name for the proposed area, ATF is soliciting further comment from the public and the industry concerning the name of the proposed area.

Public Comment on New Name

ATF is soliciting suggestions and comments from all interested persons concerning additional names for the proposed viticultural area. ATF is particularly interested in receiving comments concerning the names "Chalone," "Gavilan," or derivations of those names. ATF will only accept comments regarding alternative names for the proposed area. ATF will not accept any new comments concerning the geographical or viticultural characteristics of the area or new comments regarding the boundaries of the area.

All comments received before the closing date will be carefully considered. All comments previously submitted concerning the proposed viticultural area will remain a part of the record, and resubmission of comments will not be necessary unless the commenter wishes to furnish additional information.

ATF will not recognize any material in the 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 comments. The name of any person submitting comments is not exempt from disclosure.

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 expected to apply to this proposal because this proposal, if promulgated as a final rule, would not have a significant economic impact on a substantial number of small entities. This proposal is not expected to have any other significant effect on a substantial number of small entities, or cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Available information indicates that this proposal, if promulgated as a final rule, would affect only one small entity.

Compliance With E.O. 12291

In compliance with Executive Order 12291, ATF has determined that this proposal 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 cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Thomas Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This notice is issued under the authority in 27 U.S.C. 205.

Signed: September 2, 1981.
G. R. Dickerson,
Director.

Approved: September 15, 1981.
John M. Walker, Jr.,
Assistant Secretary (Enforcement and Operations),

[FR Doc. 81-29033 Filed 10-6-81; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

Trademark Applications; Filing Dates

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Patent and Trademark Office proposes amendments of the rules of practice in trademark cases to revise the filing date requirements for an application for registration of a mark and to allow the Office to return applications which fail to meet these requirements. The amendments also define with additional specificity the nature of the drawing and specimens which must accompany an application in order for it to be entitled to a filing date. The proposed amendments are needed to reduce the special handling required to process and control applications not entitled to a filing date and the impact of such special handling on delaying other applications. Delays in application processing also occur when drawings fail to include a complete heading and Office personnel must enter the necessary data on a large volume of drawings. The proposed amendments are designed to speed the initial processing of applications and the filing of copies of drawings in the Trademark Search Room. An additional effect of the amendments would be a significantly earlier notification to an applicant of the status of papers filed as an application for registration of a trademark.

DATE: Written comments by January 5, 1982.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. Written comments will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Paula Hairston by telephone at (703) 557-7464 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is considering amendments to the rules of practice in trademark cases to amend the requirements for receiving a filing date for an application for registration of a mark, to revise the procedures for returning papers which are not entitled to receive a filing date, to amend the requirements for a drawing submitted as part of an application, to delete the provisions for the Patent and Trademark Office to make or correct drawings for applications to register marks and to specify that a copy of a drawing is not acceptable as a facsimile showing how a mark is actually used in commerce.

The specific rules for which amendments are proposed are §§ 2.21, 2.52, 2.54, and 2.57. In addition, it is proposed to remove § 2.55.

Section 2.21 is proposed to be amended by revising paragraphs (a) and (c). The effect of revising paragraph (a) will be to make the heading a mandatory portion of the drawing of the mark. The result will be the denial of a filing date for an application when the drawing submitted as part of the application lacks the information required to be in the heading, namely, the applicant's full name and postal address, the date of first use of the mark, the date of first use of the mark in commerce (except for an application filed under § 44 of the Trademark Act), and the goods or services identified in the application, or a typical item of goods or services if a number of items are recited in the application. At present, if a drawing is submitted without a heading, or with an incomplete heading, an employee of the Service Division of the Trademark Examining Operation must type the information on the drawing before copies can be reproduced for filing in the Search Room for use by examiners and the general public. Because the applications are batched in numerical order for processing purposes, this added typing delays the processing, not only of the application directly involved, but also of all the applications with later serial numbers. Consequently, the submission of drawings with missing or incomplete headings affects other applicants and contributes to unnecessary delays in sending out filing receipts and in transmitting applications to the examiners.

It is also proposed to remove the words "or other identification" from existing paragraph (a) because they have no meaning.

Paragraph (c) of § 2.21 is proposed to be amended to change the procedure for dealing with applications that are so defective, i.e. that do not satisfy the requirements of § 2.21(a), that they are not entitled to a filing date.

The procedure within the Patent and Trademark Office under existing § 2.21(c) is that all incoming mail is date-stamped in the mail room. All papers submitted as applications for the registration of marks are given serial numbers and are then sent to the Finance Branch for the collection of the fees submitted. After the papers are annotated to show the fee submitted, the papers are returned to the mail room, which sends them to the Classification Team of Trademark Service Division for review. If any application fails to satisfy the requirements of §2.21(a), the applicant or his attorney is notified of the defect and allowed six months to correct it. In the meantime, the papers and fee are held in the Office. The time that elapses between the receipt of application papers in the Office and the dispatch of a letter notifying the applicant or his attorney that the application is not entitled to receive a filing date is approximately three to four weeks and occasionally longer.

If the defect is remedied within the six months allowed, the application is given an effective filing date as of the date when all of the requirements of § 2.21(a) are fulfilled. If the requirements for receiving a filing date are not satisfied, the fee, the drawing, and the remaining application papers are normally returned. Application papers which, when originally filed, are not entitled to receive a filing date impose extra handling burdens and costs upon the Patent and Trademark Office.

Under the proposed procedure, papers submitted as an application for registration of a mark will be reviewed immediately after their receipt in the mail room of the Patent and Trademark Office. Papers which are so defective that they are not entitled to receive a filing date will be returned to the applicant or his attorney together with any fee that was submitted. The papers will be accompanied by a letter describing the defect or defects. The applicant or his attorney will thus be notified that an application is not entitled to a filing date within about ten days from the date when the defective papers were received. This change will be beneficial to such applicants because they will be notified of, and hence have the opportunity to correct, defects in applications at an earlier time than is possible under existing § 2.21(c), and, therefore, obtain an earlier effective

filing date, than is now possible. The change will also benefit other applicants by reducing the burden and costs of the Patent and Trademark Office which adversely affect the handling of their applications.

In the event that the applicant resubmits the original application papers together with any additional paper, specimen, drawing, or fee which is required to correct the defect in the original papers, the Patent and Trademark Office will exercise reasonable discretion in determining whether the lapse of time between the date of execution of the application and the receipt in the Office of the corrected papers requires reexecution of the application. A requirement by the examiner that the application be reexecuted will not affect the filing date. See § 2.32(b).

It should be noted that the certificate of mailing procedure, 37 CFR 1.8, does not apply to the filing of trademark applications and therefore does not apply to the filing of a resubmitted trademark application. This is not a change from current practice.

Section 2.52 is proposed to be amended by revising paragraph (d) to make it mandatory to include on every drawing submitted as part of an application the identifying information prescribed by the rule. Specifically, "must" is substituted for "should" in the present rule. The reason for this proposed amendment is explained above in the explanation of the amendment proposed for § 2.21(a).

Section 2.54 is proposed to be amended to bring this section into conformity with the proposed amendments of §§ 2.21(a) and 2.52 by excluding an omitted or incomplete heading as a defect which is remediable by amendment after an examiner issues an Office action. Section 2.54 is also proposed to be amended by eliminating the provision for correction of drawings by the Office. The provision is being eliminated because of the lack of facilities.

Section 2.55 is proposed to be removed because the official draftsman of the Office does not have the facilities for making drawings for applications to register marks.

Section 2.57 is proposed to be amended by adding new paragraph (b) to make it clear that a mere reproduction of the drawing by xerographic, photographic or other copying processes will not be accepted as a facsimile showing how the mark is actually used in commerce (or is actually used in the case of an application filed under section 44 of the Trademark Act). No change is being made in the requirement that a facsimile submitted in lieu of a specimen must clearly and legibly show the mark and all matter used in connection therewith as the mark is actually used.

The Patent and Trademark Office has determined that the proposed amendments are not major rules under Executive Order 12291 since they would benefit trademark applicants and reduce the burdens on the Office.

The proposed amendments will not have a significant adverse economic impact on a substantial number of small entities. (Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*)

Notice is hereby given that pursuant to the Commissioner's authority under Section 41 of the Trademark Act of July 5, 1946, 15 U.S.C. 1123, and Section 6 of the Act of July 19, 1952, 35 U.S.C. 6, the Patent and Trademark Office proposes to amend Part 2 of Title 37 of the Code of Federal Regulations as set forth below.

In the text of the proposed amendments, additions are indicated by arrows and deletions are indicated by brackets.

It is proposed to amend 37 CFR, Part 2 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. Section 2.21 is proposed to be revised to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) Materials submitted as an application for registration of a mark will not be accorded a filing date as an application until all of the following elements are received:

(1) Name of the applicant;

(2) A name and address to which communications can be directed;

(3) A drawing [or other identification] of the mark sought to be registered [.] ►containing the information required by paragraph (d) of § 2.52;◄

(4) An identification of goods or services;

(5) At least one specimen or facsimile of the mark as actually used;

(6) A date of first use of the mark in commerce, or a certification or certified copy of a foreign registration if the application is based on such foreign registration pursuant to section 44(e) of the [act,] ►Trademark Act,◄ or a claim of the benefit of a prior foreign application in accordance with section 44(d) of the Act;

(7) The required filing fee for at least one class of goods or services.

Compliance with one or more of the rules relating to the elements specified above may be required before the application is further processed.

(b) The filing date of the application is the date on which all of the elements set forth in paragraph (a) of this section are received in the Patent and Trademark Office.

(c) If the papers [are so defective that they cannot be accepted, the applicant will be notified and the papers and fee held 6 months. If the requirements for receiving a filing date have not been satisfied within such time, the papers and fee will be returned to the applicant or otherwise disposed of; the drawing or fee of an unaccepted application may be transferred to a later application.] ►and fee submitted as an application do not satisfy all of the requirements specified in paragraph (a) of this section, the papers will not be considered to constitute an application and will not be given a filing date. The Patent and Trademark Office will return the papers and any fee submitted therewith to the person who submitted the papers. The Office will notify the person to whom the papers are returned of the defect or defects which prevented their being considered to be an application.◄

2. Section 2.52 is proposed to be amended by revising paragraph (d) to read as follows:

§ 2.52 Requirements for drawings.

* * * * *

(d) *Heading.* Across the top of the drawing, beginning one inch (2.5 cm.) from the top edge and not exceeding one-fourth of the sheet, there [should] ►must◄ be placed a heading, listing in separate lines applicant's ►complete◄ name, applicant's post office address, the date[s] of first use ►of the mark, the date of first use of the mark in commerce (except for an application filed under section 44 of the Trademark Act),◄ and the goods or services recited in the application [(] or ►a◄ typical item of the goods or services if a number ►of items◄ are recited in the application [)]. This heading [may] ►should◄ be typewritten.

* * * * *

3. Section 2.54 is proposed to be revised to read as follows:

§ 2.54 Informal drawings.

A drawing not in conformity with [§§ 2.51 to 2.53] ►§ 2.51 or paragraphs (a), (b), (c), or (e) of § 2.52 or § 2.53◄ may be accepted for purposes of examination, but the drawing must be corrected or a new one furnished, as required, before the mark can be published or the application allowed. [The necessary corrections will be made by the Patent and Tradmark