

to the classification of limited liability companies that was published in the *Federal Register* on November 17, 1980 (45 FR 75709). After consideration of the comments received on the proposed regulations, the Internal Revenue Service has decided that they should be withdrawn.

**FOR FURTHER INFORMATION CONTACT:**

David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459) (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document withdraws the notice of proposed rulemaking that appeared in the *Federal Register* on November 17, 1980 (45 FR 75709). That notice proposed amendments to the regulations under section 7701 of the Internal Revenue Code of 1954 relating to the classification of entities for Federal tax purposes. Under the proposed regulations an entity could not be classified as a partnership for Federal tax purposes unless some member of the entity was personally liable under local law for claims against the entity.

A number of comments were received concerning the notice of proposed rulemaking. After consideration of these comments, the Internal Revenue Service has decided to withdraw the proposed regulations. The Internal Revenue Service is undertaking a study of the rules for the classification of entities for Federal tax purposes with special focus on the significance of the characteristic of limited liability.

**Drafting Information**

The principal author of this document was David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both in matters of substance and style.

The proposed amendments to 26 CFR Part 301 relating to the classification of limited liability companies published in the *Federal Register* (45 FR 75709) on November 17, 1980, are hereby withdrawn.

Roscoe L. Egger, Jr.,  
*Commissioner of Internal Revenue.*

[FR Doc. 83-8701 Filed 4-1-83; 8:45 am]

BILLING CODE 4830-01-M

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

[Notice No. 460]

**Lake Erie Viticultural Area**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the States of New York, Pennsylvania, and Ohio with the proposed name of "Lake Erie." This proposal is the result of a petition from Mr. William A. Gulvin, Secretary of the Ad Hoc Committee for the Lake Erie viticultural area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

**DATE:** Written comments must be received by May 19, 1983.

**ADDRESS:** Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Attn: Notice No. 460).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7626).

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54824) 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 58692) 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. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical 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 boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

**Petition**

ATF has received a petition from Mr. William A. Gulvin, Secretary of the Ad Hoc Committee for the Lake Erie viticultural area, proposing an area in the States of New York, Pennsylvania, and Ohio as a viticultural area to be known as "Lake Erie." The proposed area includes approximately 3300 square miles of land area and approximately 775 square miles (statute) of Lake Erie for a total of 4075 square miles.

This grape-growing area is located on the Lake plain bordering the southern and eastern shores and on the island archipelago of Lake Erie. There are approximately 30 commercial wineries and 40,000 acres of commercial vineyards scattered throughout the lake area. Current orchard and vineyard surveys conducted by the States of New York, Pennsylvania, and Ohio report that commercial vineyards of one acre or more are located in every county (except Sandusky County) along the lakeshore from near Toledo, Ohio to south of Buffalo, New York.

**Viticultural Area Name**

Lake Erie is the geographical feature that defines this proposed viticultural area. Its name dates from the earliest written history of this continent, and Lake Erie is universally known as such. While reference is frequently made to

specific subareas of the Lake Erie district such as the Lake Erie Islands or the Chautauqua-Erie Grape Belt, or to the political subdivisions of the area, the Lake Erie viticultural area is also often recognized as a single entity. Harold J. Grossman, for example, in his book *Grossman's Guide to Wines, Beers, and Spirits* (1977), states that when discussing eastern wine-producing areas, it is better to discuss geographic areas of similar climate and geology than to group areas by States. Grossman states that the Chautauqua area of western New York, for example, lies in New York State but the wines realistically should be grouped with those around neighboring Lake Erie. Further on Grossman specifically defines this region with the term "Lake Erie." He states that Lake Erie is bordered on its eastern and southern shores by many vineyards that actually lie in Pennsylvania, Ohio, and western New York. The Pennsylvania wineries are mostly around the city of North East. The Ohio wineries stretch from the eastern border of Ohio and Pennsylvania all the way west to Sandusky. In New York the Chautauqua area extends westward from Buffalo to Pennsylvania.

Likewise, Dominick Abel, in his book *Guide to The Wines of the United States* (1979), states in his opening discussion of the Chautauqua region in New York that this section on the shores of Lake Erie really forms part of a single New York-Pennsylvania-Ohio-Lake Erie region. Ruth Ellen Church, in her book *Wines of the Midwest* (1982), goes further and notes that: "All of these establishments (wineries)—Ohio's, Pennsylvania's and New York's—lie close to the southern shores of Lake Erie and thus qualify for a Federal Lake Erie wine district designation; they may achieve it in the early 1980's."

And finally, a number of current tourist-oriented publications similarly use the designation "Lake Erie" in reference to this area. For example, the Association of American Vintners in its "Wine Tour Guide" (1982) employs the designation "Lake Erie Region (Western New York, Pennsylvania, Northern Ohio)" and proceeds to break the region down as "Lake Erie East," "Lake Erie West," and "Lake Erie Central." Likewise, the Pennsylvania Wine Association refers to the "Lake Erie Area" in its "1981 Wine Trails of Pennsylvania" guide.

#### Geographical/Viticultural Features

The petitioner claims the proposed 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 commercially successful 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, especially 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 commercial 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. As a rule, the successful culture of grapes requires a relatively dry and sunny growing and

ripening period. That condition is locally promoted during those seasons by Lake Erie, together with generally reduced cloudiness and therefore significantly greater insolation than in surrounding areas. Likewise, while viticulture in the area no longer stands or falls on it, the reduced summer rainfall and few fog days (which typically occur only in late winter and early spring), combined with almost continuous lake breezes, serve to considerably reduce problems with grape diseases in the Lake Erie area. Lastly, by reducing thunderstorm vigor and activity, Lake Erie shelters this area to some degree from the potential devastation of hail.

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 tissues-freezing low temperatures. These temperature effect 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

which would otherwise force premature development of buds and thereby leave the grapevines vulnerable to freeze damage. In mid to late April, the Lake commences to warm rapidly and then buffers the area against late spring frost after vine development has begun. In the summer, the high water temperature achieved in Lake Erie offers less hindrance to the heat summation necessary for full grape development than 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 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 growing season to be found in some portions of the Lake Erie area, the longest growing season 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 proposed area while inland areas often experience temperatures 10 to 15 degrees lower.

In many portions of the lake 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 have rather an advantage over the more level areas often found close 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 area in which elevation and physical features play a direct role in delimiting viticulture is in Chautauqua County, New York and Erie County, Pennsylvania. In these areas, the high-elevation Allegheny Plateau with its too short growing season and too long winter temperatures clearly limits the grape belt to a width of as little as three miles inland.

#### Historical/Current Evidence of the Boundaries

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 proposed area, to be generally uneconomical.

The petitioner claims 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 petitioner claims that the proposed boundaries reflect the extent of the area that contains sites which can justifiably be said to be suitable for commercial viticulture within the beneficial climatic influence of Lake Erie. The following outlines the considerations employed in selecting the specific boundaries proposed:

(1) Cazenovia Creek is proposed as the northeastern boundary of the viticultural area. It generally represents the location where viticulture is terminated by the urban development of Buffalo and an unsuitable flat topography which results in poor drainage of air.

(2) A line 12 miles inland from the Lake running from Cazenovia Creek near Colden, New York to the 1,300-foot contour line near Dayton, New York marks the general limit of grape growing in Erie County, New York. Viticulture further inland is prohibited by the highlands of the "Boston Hills."

(3) From near Dayton, New York to Godard, Pennsylvania, the 1,300-foot contour line delimits commercial viticulture. This contour is the highest contiguous line that follows the crest of the escarpment of the Allegheny Plateau in this section, and while very occasional Concord vineyards can be found above this elevation, they are almost never what could be described as commercial entities.

(4) From Godard, Pennsylvania, west to the intersection of Ohio Route 45 and Interstate 90, a line six miles inland from Lake Erie is proposed as the boundary. Areas further inland in this section are generally too high and too level to enjoy adequate air or water drainage for grape growing. Currently, there appears to be no commercial viticulture south of this line.

(5) The proposed boundary then proceeds south along Ohio Route 45 to a point about a mile north of Rock Creek, Ohio, 14 miles inland from the Lake, and then west along a line 14 miles inland from the Lake to the Ohio-Michigan border. In this area, viticulture extends further inland first, in northeastern Ohio through Cleveland, due to the broken

topography which provides several adequate sites quite far inland. 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.

Viticulture within the proposed boundary in this section is often limited for economic reasons by the urban and suburban development of greater Cleveland and Toledo and by heavy textured clay soils and competition from other types of agriculture between the two cities. The petitioner feels, however, that a significant potential for commercial viticulture exists throughout much of this section and therefore the area in this section should not be more closely delimited.

(6) The proposed boundary of the viticultural area then follows the Ohio-Michigan border to the international boundary and thence along the United States-Canada border to a point at 82 degrees 30 minutes west longitude which it then follows to the shore. This encompasses the Lake Erie (or Bass) Islands, whose area is almost completely devoted to the grape, and upon which the climatic influence of Lake Erie is self-evident.

(7) The boundary of the Lake Erie viticultural area then follows the lakeshore back to the starting point.

#### Proposed Boundaries

The boundaries of the proposed Lake Erie viticultural area may be found on four U.S.G.S. maps. They are titled "Toledo," scale 1:250,000 (1956, revised 1978); "Cleveland," scale 1:250,000 (1956, revised 1972); "Erie," scale 1:250,000 (1959, revised 1972); and "Buffalo," scale 1:250,000 (1962). The specific description of the boundaries of the proposed viticultural area is found in the proposed regulations.

The proposed Lake Erie viticultural area completely encompasses the boundaries of the previously approved Isle St. George viticultural area located in Ohio and overlaps with the boundaries of the proposed Grand River Valley viticultural area which is also located in Ohio.

The Isle St. George (North Bass Island) viticultural area is surrounded by Lake Erie and is located in Ottawa County approximately 16 nautical miles north-northwest of Sandusky. For a description of the proposed Grand River Valley viticultural area, see today's *Federal Register*.

ATF has reservations about establishing viticultural areas which totally or partially overlap with other proposed or approved viticultural areas. ATF believes the significance of

viticultural areas as delimited grape-growing regions distinguishable by geographical features may be eroded by the indiscriminate establishment of overlapping viticultural areas. However, ATF recognizes that a rigid policy of disapproving a proposed viticultural area solely on the grounds that it overlaps with other proposed or approved viticultural areas would be inequitable since, in some cases, it may be justifiable. Therefore, ATF will judge each petition which proposes a viticultural area that overlaps with other proposed or approved viticultural areas on a case-by-case basis. ATF will be guided in this judgement by evidence presented in the petition and by comments received from the public during the comment period.

For this reason, each petition which proposes a viticultural area that overlaps with other proposed or approved viticultural areas must fulfill the requirements of regulations relating to the establishment of viticultural areas and contain evidence to substantiate that the area of overlap should be included in the proposed viticultural area.

#### Executive Order 12291

It has been determined that this proposal 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.

#### 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 proposed rule because the proposal, if promulgated as a final rule, is not expected to have significant economic impact on a substantial number of small entities. Since the benefits to be derived from using any viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Lake Erie viticultural area, ATF does not feel that the use of this

appellation of origin will have a significant economic impact on a substantial number of small entities.

#### Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. ATF is particularly interested in receiving comments concerning the overlapping of this proposed area with the previously-approved Isle St. George viticultural area and the proposed Grand River Valley viticultural area. ATF also wants comments concerning the large size of the proposed Lake Erie area (approximately 4075 square miles) and whether the area can be reduced. Furthermore, while this document proposes possible boundaries for the Lake Erie viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

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 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 the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

#### Drafting Information

The principal author of this document is Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

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

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

#### Authority

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), the Director proposes the amendment of 27 CFR Part 9 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.

**Paragraph 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.G.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 areas 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 1300-foot contour line.

(4) The boundary proceeds generally southwestward along the 1300-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 proceeds eastward, then northeastward along the Ohio-Michigan border to the United States-Canada boundary.

(9) The boundary proceeds southeastward along the United States-Canada boundary to a point at 82 degrees 30 minutes west longitude.

(10) The boundary proceeds southward along 82 degrees 30 minutes west longitude to the shore of Lake Erie.

(11) The boundary proceeds northeastward along the shore of Lake Erie to the beginning point at the mouth of Buffalo Creek.

Approved: March 18, 1983.

Stephen E. Higgins,  
Acting Director

[FR Doc. 83-8835 Filed 4-1-83; 8:45 am]  
BILLING CODE 4810-31-M

## 27 CFR Part 9

[Notice No. 461]

### The Anderson Valley Viticultural Area

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms, (AFT) is considering the establishment of a viticultural area in Mendocino County, California, to be known as "Anderson Valley." This proposal is the result of a petition from the Anderson Valley Appellation Committee which is made up of various industry members in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come

from and will enable consumers to better identify wines they purchase.

**DATE:** Written comments must be received by May 4, 1983.

**ADDRESS:** Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385 (Attn: Notice No. 461)

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20226 (202-566-7626).

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations 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. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical 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 boundaries of the viticultural area, based on the features which can be

found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

#### Petition

AFT has received a petition from the Anderson Valley Appellation Committee proposing an area in Mendocino County, California, as a viticultural area to be known as "Anderson Valley." Anderson Valley is located in the western part of the county and lies generally along the watershed of the Navarro River, stretching from its headwaters in the coastal range and extending northwest toward, but not reaching, the Pacific Ocean. The proposed viticultural area includes approximately 57,600 acres within its boundaries.

#### Viticultural Area Name

The proposed viticultural area has been known as Anderson Valley since shortly after it was first settled in 1852 by Walter Anderson. The proposed area includes only the territory historically known as Anderson Valley and the surrounding slopes.

#### Geographical/Viticultural Features

The petitioner claims the proposed viticultural area is distinguished from surrounding areas by climatic variances and by the soil. The petitioner bases these claims on the following:

(a) The climate of the proposed Anderson Valley viticultural area has been described as "Coastal" by the Mendocino County Farm Advisor's Office, in their booklet, *The Climate of Mendocino County*. In comparison, the climate in much of the other areas of Mendocino County is classified as "Transitional" due to the fact that either the coastal or the interior climates can dominate the Mendocino County climate for either short or long periods of time.

(b) The climate of the proposed Anderson Valley viticultural area includes both Region I and Region II as classified by the University of California at Davis' system of heat summation by degree-days. A table of cumulative degree-days, published by the University of California Agricultural Extension Service Office in Lake, Mendocino, and Sonoma Counties, shows that the area around Philo is relatively cool and consequently is classified as Region I whereas the area around Boonville is warmer and consequently is classified as Region II. In comparison the Ukiah area, which lies approximately 15 miles to the