

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 this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

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

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

#### Public Participation—Written Comments

AFT requests comments from all interested persons concerning this proposed viticultural area. ATF particularly requests comments and/or information concerning: (a) The relatively small number of acres of grapes, 102 acres, in comparison to the total size of the proposed area; (b) possible alternative boundaries which more closely define the current grape growing area; and (c) additional viticultural and geographical evidence which distinguishes the proposed area from surrounding areas.

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 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 a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit a request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

#### Drafting Information

The principal author of this document is Norman P. Blake, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

#### Authority

Accordingly, under the authority in 27 U.S.C. 205, 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 § 9.71. As amended, the table of sections reads as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.	*	*	*	*	*
9.71	Hermann.				

**Par. 2.** Subpart C is amended by adding § 9.71 to read as follows:

#### Subpart C—Approved American Viticultural Areas

*	*	*	*	*
§ 9.71	Hermann.			

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Hermann viticultural area are six U.S.G.S. Missouri Quadrangle maps, 7.5 minute series. They are entitled (1) Hermann (1974), (2) Berger (1974), (3) Gasconade (1974), (4) Pershing (1974), (5) Swiss (1973), and (6) Disson (1973).

(c) *Boundaries.* The Hermann viticultural area includes approximately 80 square miles, located in Central Missouri along and south of the Missouri River, in the northern portions of Gasconade and Franklin Counties. The boundaries of the Hermann viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: starting at the intersection of the Gasconade River with the Missouri River; east and northeast approximately 16.5 miles along the Missouri Pacific Railroad, as it parallels the Missouri River, to the Gasconade/Franklin County line; continuing along the Missouri Pacific Railroad southeast approximately 8.5 miles to the intersection of Big Berger Creek; southwest along the winding course of Big Berger Creek for approximately 20 miles (eight miles due southwest) to Township line T.44/45N.; west along the T.44/45N. line approximately 15.5 miles to the intersection of First Creek; north and northwest along the course of First Creek approximately 13.7 miles (6.5 miles straight northwest) to the intersection of the Gasconade River; northeast along the course of the Gasconade River approximately 3.8 miles to the beginning point.

Signed: November 19, 1982.

Stephen E. Higgins,  
*Acting Director.*

Approved: November 30, 1982.

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

[FR Doc. 82-33946 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

### 27 CFR Part 9

[Notice No. 441]

#### Lake Michigan Shore 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 southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." This proposal is the result of a petition submitted by Mr. Charles W. Catherman, Jr., Vice President and Winemaker of the St. Julian Wine Company, Inc., and Mr. Michael E. Byrne, Winemaker of Warner Vineyards, Inc. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will allow wineries to better designate the specific grape-growing areas where their wines came from and will enable wine consumers to better identify the wine they purchase.

**DATE:** Written comments must be received by January 28, 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. 441.

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

**FOR FURTHER INFORMATION CONTACT:** Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (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 for the

establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

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

Sections 4.15a(e)(1)(i) and 9.11, 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 procedures for proposing an American viticultural area. Any interested person may petition AFT 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 application;

(c) Evidence relating to the geographical characteristics (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 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. maps with the boundaries prominently marked.

#### Petition

ATF has received a petition to establish a viticultural area in the southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." The petition was submitted by Mr. Charles W. Catherman, Jr., and Mr. Michael E. Byrne, of St. Julian Wine Company, Inc., and Warner Vineyards, Inc., respectively. The proposed area totally encompasses the counties of Berrien and Van Buren in addition to portions of Allegan, Kalamazoo and Cass. The western boundary of the proposed area, the eastern shore of Lake Michigan, is the feature which is the basis for the distinct climate and the proposed name, "Lake Michigan Shore." This area includes nine commercial wineries, approximately 930 grape-growers, and 14,472 acres of grapes.

Commercial grape-growing, within the State of Michigan, first began in 1867 in Van Buren County. The majority of grapes grown in Michigan are Concord grapes which are used in the production

of grape juice and jelly. Approximately 20 percent of the State's grapes are used in wine and account for 3,330 tons of grapes. The wine grapes grown in the proposed viticultural area comprise 14 varieties of American, French hybrid, and vinifera grapes. The counties of Berrien and Van Buren account for 83 percent of the State's grape production, with the three remaining counties in the proposed area comprising an additional 14 percent. The remaining three percent of the State's grape production primarily comes from the previously approved Leelanau Peninsula viticultural area [47 FR 13328, T.D. ATF-99], 200 miles north along the Lake Michigan shore. The previously approved Fennville viticultural area [46 FR 46318, T.D. ATF-91] is within the northwest corner of the proposed Lake Michigan Shore viticultural area.

#### Evidence Relating to the Name

The petitioner's claim that the proposed viticultural area has specifically been known by two names, "Fruitbelt" and "Lake Michigan Shore," while also being generally referred to as "Southwestern Michigan" or "Western Counties." Several State and national books on wine and grapes refer to this area generally as, the area behind the sand dunes on the Lake Michigan shore. The proposed name, "Lake Michigan Shore," refers to a narrow belt of land along the eastern shore of Lake Michigan approximately 60 miles long and 35 miles wide (approximately 2,000 square miles). Grape-growing in this area has an established history dating back 116 years.

#### Boundaries and Geographical Evidence

The petition contained substantial geographic and climatic information which distinguish the proposed viticultural boundaries from surrounding areas, based on the fact that:

(a) The entire area receives the tempering "lake effect" of Lake Michigan. This lake effect moderates the winter and summer temperature extremes, and delays budding of the vines beyond the late spring frosts. The lake effect also causes generally uniform climatic conditions, since large bodies of water retain heat and cold and react slower to temperature fluctuations. The number of frost-free growing days in this area ranges from 155 to 175 days, normally during the period of May 10 through October 13. Immediately to the north and west (the cities of Holland and Jackson, respectively) the dates for last spring and first fall frosts (frost-free growing season) are May 25 through September 24. To the immediate south (South Bend, Indiana) the frost-free

growing season is May 30 through September 30. Further, the South Bend area has consistent January mean minimum temperatures of 2-4 degrees F. lower than the proposed area. The significance of the lake effect bears out the 116 years history of grape-growing in the area and the fact that 97 percent of the State's grapes are grown in the proposed area.

(b) The composition of the soils within the proposed area are not a definitive distinguishing factor, however, the topography of the area does distinguish the area because it is of "glacial moraine" construction, as opposed to "till plain" construction for the surrounding areas. Glacial moraines are more conducive to grape-growing because of the creation of needed air drainage, whereas till plains flatten out and are unsuitable to grape-growing.

(c) The western boundary, the eastern shore of Lake Michigan, is a natural boundary from which the area draws its name and receives the necessary lake effect which moderates the climate. The northern, eastern, and southern boundaries generally identify the extent to which the glacial moraine soil construction changes to till plain.

This proposed viticultural area encompasses a large area with generally uniform geographic and climatic features, as opposed to small microviticultural areas which exhibit very definitive geographic and climatic features such as the "Fennville" viticultural area which is located within this area in the northwest corner.

The exact boundaries of the proposed viticultural area are discussed in the regulations portion of this document.

#### Compliance With Executive Order 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 costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investments, productivity, 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 regulatory flexibility analysis (5 U.S.C. 603) is not applicable to this proposal because this proposed rule, if issued as

a final rule (5 U.S.C. 604), will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners and other persons to use an appellation of origin, "Lake Michigan Shore," on wine labels and in wine advertising. ATF has determined that this proposed rule neither imposes new requirements on the public nor removes existing privileges available to the public. This 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 this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

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

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

#### Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. ATF particularly requests comments and information concerning:

(1) Possible consumer confusion regarding the proposed name, "Lake Michigan Shore," since it refers to a large area (feature) bordered by four states;

(2) Possible alternative boundaries which more closely define the actual grape-growing area and which may include portions of northern Indiana that grow wine grapes and receive the "lake effect" from Lake Michigan;

(3) Possible alternative names by which the proposed area has been locally and/or historically known by; and

(4) Additional geographical evidence (climate, soil, elevation, or other physical features) which distinguishes this area from surrounding areas.

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 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 a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit a request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

#### Drafting Information

The principal author of this document is Norman P. Blake, Coordinator, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

#### Authority

Accordingly, under the authority of 27 U.S.C. 205, 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 § 9.79. As amended, the table of sections reads as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.

\* \* \* \* \*

9.79 Lake Michigan Shore.

#### Subpart C—Approved American Viticultural Areas

**Par. 2.** Subpart C is amended by adding § 9.79 to read as follows:

#### §9.79 Lake Michigan Shore.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Michigan Shore viticultural area are four U.S.G.S. Quadrangle maps, 1:250,000 series. They are entitled: (1) Chicago (1953, revised 1970); (2) Fort Wayne (1953, revised 1969); (3) Racine (1958, revised 1969), and (4) Grand Rapids (1958, revised 1980).

(c) *Boundaries.* The Lake Michigan Shore viticultural area includes approximately 2,000 square miles located in the southwestern corner of the State of Michigan. The boundaries of the Lake Michigan Shore viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: starting at the most northern point, the intersection of the Kalamazoo River with Lake Michigan, southeast along the winding course of the Kalamazoo River for approximately 35 miles until it intersects the Penn Central railroad line just south of the City of Otsego; south along the

Penn Central railroad line, through the City of Kalamazoo, approximately 25 miles until it intersects the Grand Trunk Western railroad line at the community of Schoolcraft; southwest along the Grand Trunk Western railroad line approximately 35 miles to the Michigan-Indiana State line; west along the Michigan-Indiana State line approximately 38 miles until it meets Lake Michigan; then north along the eastern shore of Lake Michigan approximately 72 miles to the beginning point.

Signed: November 19, 1982.

Stephen E. Higgins,  
Acting Director.

Approved: November 30, 1982.

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

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### 27 CFR Part 9

[Notice No. 442]

#### Ohio River Valley 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 Indiana, Ohio, West Virginia and Kentucky to be known as "Ohio River Valley." This proposal is the result of a petition submitted by Mr. John A. Garrett, proprietor of Villa Milan Vineyards located in Milan, Indiana. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

**DATE:** Written comments must be received by January 28, 1983.

**ADDRESSES:** 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. 442).

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.