

(3) "Soledad, Cal.", 7.5 minute series, edition of 1955; and

(4) "Sycamore Flat, Cal.", 7.5 minute series, edition of 1956 (photinspected 1972).

(c) *Boundaries.* The Arroyo Seco viticultural area is located within Monterey County, California. The beginning point is found on the "Sycamore Flat, California," U.S.G.S. map at the junction of Arroyo Seco Road and the Carmel Vally Road (indicated as the Jamesburg Road on the map).

(1) Then east following Arroyo Seco Road to the Southwest corner of Section 22, T. 19 S., R. 5 E.

(2) Then east following the southern boundaries of Sections 22, 23, 24, 19, and 20 to the southeastern corner of Section 20, T. 19 S., R. 6 E.

(3) Then northeast in a straight line for approximately 1.3 miles to the summit of Pettits Peak.

(4) Then northeast in a straight line for approximately 1.8 miles to the point where the 400' contour line intersects the northern boundary of Section 14, T. 19 S., R. 6 E.

(5) Then east following the 400' contour line to a point immediately west of the Reservoir within the Posa de los Ositos Land Grant.

(6) Then following the ridge line in a northeasterly direction for approximately 7.5 miles to U.S. Highway 101 at the intersection of Underwood Road.

(7) Then east following Underwood Road to its intersection with the Posa de los Ositos Land Grant boundary.

(8) Then north following the Posa de los Ositos land Grant boundary to the west bank of the Salinas River.

(9) Then northwest following the west bank of the Salinas River to its intersection with the southern boundary of Section 17, T. 18 S., R. 7 E.

(10) Then due west for approximately 2.0 miles following the southern boundary of Section 17, and continuing to U.S. Highway 101.

(11) Then following U.S. Highway 101 in a northwesterly direction to its intersection with Paraiso Road.

(12) Then south following Paraiso Road to the intersection with Clark Road.

(13) Then south in a straight line for approximately 1.8 miles to the northeast corner of section 5, T. 19 S., R. 6 E.

(14) Then due south following the eastern boundaries of Sections 5, 8, and 17, to the intersection with Arroyo Seco Road.

(15) Then southwest in a straight line for approximately 1.0 mile to Bench Mark 673.

(16) Then west in a straight line for approximately 1.8 miles to Bench Mark 649.

(17) Then northwest in a straight line for approximately 0.2 mile to the northeast corner of Section 23, T. 19 S., R. 5 E.

(18) Then west following the northern boundaries of Sections 23 and 22 to the northwest corner of Section 22, T. 19 S., R. 5 E.

(19) Then south in a straight line for approximately 1.0 mile to the point of beginning.

Signed: September 8, 1982.

Stephen E. Higgins,
Acting Director.

Approved: October 6, 1982.

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

[FR Doc. 82-30177 Filed 11-2-82; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[Notice No. 430]

Linganore Viticultural Area; Proposed Establishment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area encompassing parts of Frederick and Carroll Counties in north central Maryland to be known as "Linganore." This proposal is the result of a petition submitted by Mr. John (Jack) T. Aellen, Jr., proprietor of a bonded winery 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 the wines they purchase.

DATE: Written comments must be received by December 3, 1982.

ADDRESSES: Send written comments or requests for a public hearing to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385, (Attn: Notice No. 430).

Copies of the petition, the proposed regulations, maps with the boundaries of the proposed viticultural area marked, and any written comments will be available for public inspection during normal business hours at the: ATF Reading Room, Office of Public Affairs

and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, DC 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. The revised regulations permit the establishment of definite viticultural areas and 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 amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used on wine labels and in wine advertisements as appellations of origin.

Section 4.24a(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 viticultural area is locally and/or nationally known as referring to the area specified in the petition;

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 the 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 proposing an area located in north central Maryland and encompassing parts of Frederick and Carroll Counties as

viticultural area. The proposed viticultural area is to be known as "Linganore." The petition was submitted by Mr. John (Jack) T. Aellen, Jr., proprietor of a bonded winery known as Berrywine Plantations, Inc.

The proposed viticultural area lies east of the town of Frederick. It encompasses an area of approximately 90 square miles or 57,000 acres. There is one winery, operated by the petitioner, with a 38 acre vineyard in the proposed viticultural area. Including the vineyard of the winery, there are approximately 52 acres planted to grapes for commercial purposes in the proposed viticultural area. The acreage devoted to grape-growing is widely dispersed throughout the proposed viticultural area. Approximately 19.5% of the total commercial grape acreage in the State of Maryland in 1980 was planted in the proposed viticultural area. In addition, there are small vineyards, generally under one acre, used for private purposes by the owners, scattered throughout the proposed viticultural area.

The boundaries of the proposed viticultural area may be found on five U.S.G.S. quadrangle (Topographic) maps, 7.5 minute series, scale 1:24,000—Walkersville, Libertytown, Damascus, Winfield, and Union Bridge. The specific viticultural area boundaries proposed by the petitioner are detailed in the proposed regulations at § 9.63(c).

Viticultural/Geographical Features

The petitioner claims the proposed viticultural area is distinguishable from the surrounding area on the basis of climate, soil, geology, and other physiographical features. The petitioner submitted evidence on the following in support of this claim.

(a) *Climate.* The petitioner submitted United States Soil Conservation Service maps which depict climatic data for the proposed viticultural area and the surrounding area. The proposed viticultural area has an average annual rainfall of 40–42 inches, temperature of 55–60 degrees F., and a frostfree season of 170–180 days. The area to the west of the proposed viticultural area has an average annual rainfall of 36–40 inches, temperature of 50–55 degrees F., and a frostfree season of 160–170 days. The area to the east of the proposed viticultural area has an average annual rainfall of 40–44 inches, temperature of 55–60 degrees F., and a frostfree season of 170–180 days. The proposed viticultural area is generally warmer, wetter, and has a longer frostfree season than the area to the west; and is slightly cooler, dryer, and has a shorter frostfree season than the area to the east.

In addition, using the same heat summation criteria as used by Amerine and Winkler under their climatic region concept, the proposed viticultural area would be classified as Region 3 while the area to the west would be classified as Region 2. That is, the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days, for each day in the period April–September of any given year is generally 3,001–3,500 for the proposed viticultural area and 2,5001–3,000 for the area to the west.

To summarize, the petitioner contends the proposed viticultural area possesses a unique set of growing conditions which distinguish it from the surrounding area. In addition, the petitioner contends the climatic conditions associated with the proposed viticultural area have a marked influence on the amount and distribution of heat and moisture received by grapes during the growing season. This, in turn, affects the development and balance of sugar, acid, and other constituents of grapes grown in the proposed viticultural area.

(b) *Geologic features.* The geomorphological characteristics of the proposed viticultural area generally correspond to distinguishable geological features which define a "piedmont," i.e., an area lying along or near the foot of a mountain range. The proposed viticultural area lies to the east of Catoctin Mountain, part of the "Blue Ridge" mountain range, and a limestone valley, which surrounds the town of Frederick and lies between Catoctin Mountain and the proposed viticultural area. The area lying to the east of the proposed viticultural area is part of the coastal plain.

(c) *Soils.* The soil in the proposed viticultural area is primarily of the "Manor" series. It is found throughout the proposed viticultural area in various soil associations. The major soil associations are Manor-Glenelg, Conestoga-Manor, Manor-Edgemont-Brandywine, Manor-Linganore-Montalto, and Manor-Linganore-Urbana.

Manor soil is a two to eight foot deep gravelly loam containing much silt and small specs of mica. It is well to excessively drained and tends to be "droughty" in years of low rainfall. However, it is underlaid with shale bedrock, which tends to have a high water table, that partially offsets the effects of low rainfall.

The natural pH of the soils in the proposed viticultural area is between 5.1 to 6.5, i.e., strongly acid to slightly acid. The petitioner claims this is ideal for the growing of grapes.

The types of soil found in the proposed viticultural area are also found in the area to the east of the proposed viticultural area. However, the types of soil found in the area to the west of the proposed viticultural area, beginning around the town of Frederick, are different from those found in the proposed viticultural area.

(d) *Watershed.* The proposed viticultural area is served by the Monocacy River drainage system. Linganore Creek is the only Monocacy River tributary in the proposed viticultural area and has a sizeable drainage basin of its own. The boundaries of the proposed viticultural area correspond, as much as possible, with the boundaries of the Linganore Creek drainage basin or watershed. The boundaries of the Linganore Creek watershed have been determined by the United States Soil Conservation Service and designated as MD-MA-Pot-54. The proposed viticultural area encompasses an area which is geographically associated on the basis of watershed criteria. The surrounding areas are served by watersheds which do not serve the proposed viticultural area.

Evidence Relating to Name and Boundaries

The petitioner claims the proposed viticultural area is locally and/or nationally known by the name "Linganore" and the boundaries of the viticultural area are as specified in the petition. The petitioner submitted historical or current evidence consisting of the following to support these claims.

(a) Excerpts from Scharf's "History of Western Maryland" which describe an area known as "Linganore District, No. 19." This area constitutes approximately one-fifth of the area proposed in the petition. In addition, these excerpts indicate the name "Linganore" has been applied to this area since the mid-1700's.

(b) Excerpts from Kenny's "The Origin and Meaning of Indian Place Names of Maryland" which indicate the name "Linganore" is of Indian origin and was used on two U.S.G.S. maps in 1909 to designate a village and a creek.

(c) Excerpts from the Frederick County telephone book which show listings for Linganore High School, associations and clubs on Lake Linganore, and individuals residing along Linganore Road.

(d) United States Soil Conservation Service maps which depict the boundaries of the Linganore Creek watershed.

(e) A map which depicts the location of commercial and private vineyards in the proposed viticultural area.

Discussion

ATF feels that evidence submitted by the petitioner indicates establishment of "Linganore" as a viticultural area may be warranted. Accordingly, we are proposing in this document the establishment of this grape-growing region as a viticultural area.

However, we are not entirely convinced the boundary proposed by the petitioner is the most appropriate for the viticultural area. We recognize the dispersed nature of the acreage devoted to viticulture may be the primary factor contributing to the petitioner's selection of a boundary for the viticultural area. Nevertheless, since a high proportion of the acreage encompassed by this boundary is either viticulturally unsuitable or used for purposes other than viticulture, other possible boundaries may be more appropriate. Accordingly, consideration will be given to other possible boundaries.

Public Participation

All interested persons are invited to participate in this proposed rulemaking by submitting written comments containing such data, views, or recommendations as they may desire. Comments should be specific, pertain to the issues proposed in this rulemaking, and provide the factual basis supporting data, views, or recommendations. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the boundaries of the viticultural area are as specified in the petition. In addition, comments are requested on alternative boundaries for the viticultural area. Comments concerning alternative boundaries should include data on the geographical and viticultural characteristics which the commenter believes distinguishes the area encompassed from the surrounding area.

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. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director within the 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 the light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine, on the basis of written comments, our own research, and in the light of any other circumstances, whether this viticultural area should be established and which boundaries are appropriate. In addition, ATF may modify, through the rulemaking process, any viticultural area which may result from this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

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 a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new 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 "Linganore" 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.

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 geographic 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 Jim Whitley, Specialist, Research and

Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel of other offices 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, Wine.

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 heading of § 9.63. As amended, the table of sections reads as follows:

Sec.

* * * * *

9.63 Linganore.

Par. 2. Subpart C is amended by adding § 9.63 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.63 Linganore.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Linganore viticultural area of five U.S.G.S. topographic maps. They are—

(1) "Walkersville Quadrangle, Maryland—Frederick Co.", 7.5 minute series, 1953 (Photorevised 1979);

(2) "Libertytown Quadrangle, Maryland", 7.5 minute series, 1944 (Photorevised 1971);

(3) "Damascus Quadrangle, Maryland", 7.5 minute series, 1944 (Photorevised 1979);

(4) "Winfield Quadrangle, Maryland", 7.5 minute series, 1950 (Photorevised 1979); and

(5) "Union Bridge Quadrangle, Maryland", 7.5 minute series, 1953 (Photorevised 1971).

(c) *Boundaries.* The Linganore viticultural area is located in north central Maryland and encompasses parts of Frederick and Carroll Counties. From the beginning point lying at the confluence of Linganore Creek and the Monocacy River, on the "Walkersville Quadrangle" map, the boundary runs—

(1) South-southeasterly 5,000 feet in a straight line to the point lying

approximately 1,000 feet south of Interstate Highway 70 at the intersection of two unnamed light duty roads in the town of Bartonville;

(2) Then east-southeasterly 15,500 feet in a straight line to the point lying at the intersection of Mussetter Road and latitude line 39 degrees 22 minutes 30 seconds;

(3) Then east-northeasterly 8,125 feet in a straight line to the point lying at the intersection of Mill Road and State Highway 144;

(4) Then easterly along State Highway 144 to the point of intersection with State Highway 27, approximately midway between the towns of Ridgeville and Parrsville;

(5) Then northeasterly along State Highway 27 to the point of intersection with State Highway 26 in the town of Taylorsville;

(6) Then northerly 2,750 feet in a straight line to the point on a hill identified as having an elevation of 850 feet;

(7) Then northwesterly 21,000 feet in a straight line to the point lying at the intersection of State Highway 31 and latitude line 39 degrees 30 minutes;

(8) Then westerly 15,625 feet along latitude line 39 degrees 30 minutes to the point of intersection with Copper Mine Road;

(9) Then northwesterly along Copper Mine Road to the point of intersection with longitude line 77 degrees 15 minutes;

(10) Then southerly 5,250 feet along longitude line 77 degrees 15 minutes to the point of intersection with latitude line 39 degrees 30 minutes;

(11) Then southwesterly 46,750 feet in a straight line to the point of beginning.

Signed: September 10, 1982.

Stephen E. Higgins,
Acting Director.

Approved: October 6, 1982.

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

[FR Doc. 82-30176 Filed 11-2-82; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[Notice No. 429]

Merritt Island Viticultural Area, Proposed Establishment

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the 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 State of California to be known as "Merritt Island." This proposal is the result of a petition submitted by Mr. Chris Bogle, Secretary, Bogle Vineyards, Incorporated. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will help wineries better designate the specific grape-growing areas where their wines came from and will help wine consumers better identify the wine they purchase.

DATE: Written comments must be received by December 20, 1982.

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. 429.

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 and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. (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 approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1978, 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.

Section 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 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 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 Yolo County, California, to be known as "Merritt Island." The petition was submitted by Mr. Chris Bogle of Bogle Vineyards, Incorporated, who operates the only winery within the proposed area. The proposed area consists of a man-made island of approximately 5,000 acres, which resulted from land reclamation of the Sacramento (river) Delta. This area is located six miles south of the City of Sacramento, California, and is the first island forming the alluvial fan of the Sacramento Delta.

The petitioner claims that commercial grape-growing, in the proposed area, first began in 1969. Currently there are 425 acres of wine grapes planted, with additional acres of new plantings. There are eight varieties of wine grapes being cultivated, the principle variety is *Chenin Blanc*. The other varieties are *Grey Riesling*, *Petite Sirah*, *Semillion*, *Cabernet Sauvignon*, *Sauvignon Blanc*, and *Merlot*. There are five vineyard operators within the proposed area. The petitioner has 156 acres of wine grapes planted. Bogle vineyards qualified with ATF as a bonded winery in March 1979 and since has bottled "estate bottled wines" and "varietal wines."

Evidence Relating to the Name

The petitioner furnished information which establishes the name Merritt Island as applying to the proposed area, as far back as November 16, 1879, on an official map of Yolo County, California. The proposed area and name is also prominently identified on a U.S.G.S. map (Clarksburg Quadrangle) submitted with the petition.

Geographical Evidence

The petition contained geographical and climatic information which distinguishes the proposed area from surrounding areas, based on the fact that: