

27 CFR Part 9**[Notice No. 477]****American Viticultural Areas; Martha's Vineyard, Southeastern New England****AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is considering the establishment of two American viticultural areas in New England. One is located in Connecticut, Rhode Island, and Massachusetts, and would be known as "Southeastern New England." The other is located in Massachusetts and would be known as "Martha's Vineyard." These proposals are the result of petitions from bonded wineries in Rhode Island and Massachusetts.

The establishment of viticultural areas and the use of viticultural area names in wine labeling and advertising will allow wineries to designate the specific grape-growing area where their wines originate, and will help consumers to identify the wine they purchase.

DATE: Written comments must be received by September 19, 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, Attention: Notice No. 477.

Copies of the petitions, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:**Background**

ATF regulations in 27 CFR Part 4 allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as application of origin on wine labels and in wine advertisements. American viticultural areas are listed in 27 CFR Part 9.

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

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

(c) Evidence relating to the geographic 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 are 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 for Southeastern New England Viticultural Area

ATF has received a petition to establish a viticultural area located within the States of Connecticut, Rhode Island, and Massachusetts to be known as "Southeastern New England." This proposed viticultural area is composed of the area around Stonington, Connecticut; Washington, Newport, and Bristol County, and Providence County east of the Blackstone River in Rhode Island; and the portion of Massachusetts south and east of the Norfolk-Bristol County boundary, the Amtrak main line, and the Neponset River. The total area is approximately 2,450 square miles or 1,568,000 acres.

The petitioner, Mr. James Mitchell, of Sakonnet Vineyards, Little Compton, Rhode Island, bases this petition on the following information:

Name. The name "Southeastern New England" is descriptive of the land adjoining the coastal bodies of water in eastern Connecticut, Rhode Island, and Massachusetts south of the Boston area. Considerable precedence exists for applying the name "Southeastern New England" to this area, and it has been used by the New England River Basins Commission to describe the proposed area.

Evidence of viticulture. Historically, most grapes grown throughout New England have been for table use rather than for the production of wine; however, local wineries produced wine from grapes grown along the New England coast for many years prior to

Prohibition. For example, the Devil's Food Winery in Quonset Point, Rhode Island grew 300 acres of grapes and sold wines as far away as Chicago from 1900 until the advent of Prohibition in 1919.

Commercial grape growing along the southern New England coast resumed in the 1960's with plantings of French Hybrid grapes in Western Connecticut.

The relatively mild climate of the proposed viticultural area, and availability of modern technology has enabled both French Hybrids and Vinifera grapes to grow within the area.

Also, the passage of farm winery laws by Connecticut, Rhode Island, and Massachusetts has encouraged the planting of vineyards and establishment of wineries. Since the early 1960's, more than 200 acres of wine grapes have been planted in 30 commercial vineyards, and more acreage is planned. Vineyards are distributed throughout the proposed viticultural area with plantings in Stonington, Connecticut, surrounding Narragansett Bay and on the islands in the bay in Rhode Island, and in Plymouth, Norfolk, and Bristol Counties, Massachusetts, as well as on Martha's Vineyard and Nantucket Island.

Varieties include Chardonnay, White Reisling, Pinot Noir, other Vinifera grapes, and French Hybrids. Currently there are nine bonded wineries within the proposed area.

Climate. Climate distinguishes the proposed Southeastern New England viticultural area from surrounding areas. The proposed area is part of that area shown on U.S. Weather Service climatic division maps as the coastal climatic divisions of Connecticut, Rhode Island, and Massachusetts.

Climate within this area is moderated by its proximity to the Atlantic Ocean and various coastal bays including Block Island Sound, Narragansett Bay, Rhode Island Sound, Buzzards Bay, Cape Cod Bay, and Massachusetts Bay. The area is uniformly low Region I on the scale developed by Winkler and Amerine of the University of California to measure degree days. The growing season of 180 days is longer and more uniform than either adjacent New England or the recognized grape-growing regions of New York. The growing season in the Hudson River Region averages 153 days while nearby interior portions of New England average about 150 days.

Precipitation in the proposed Southeastern New England viticultural area averages 44 inches a year. The average daily temperature in January is 30 degrees Fahrenheit, and in July 70° Fahrenheit, and the mean daily range of

temperature during the growing season is 20° Fahrenheit or less.

Boundaries. The boundaries of the proposed Southeastern New England viticultural area are based on the area defined by the New England River Basins Commission as "Southeastern New England." However, due to urbanization, higher elevations, and hillier terrain, Connecticut west of the Mystic River, most of Providence and Kent Counties, Rhode Island, Middlesex and western Norfolk County, Massachusetts, and the City of Boston and its immediate suburbs have been excluded from the proposed viticultural area. Generally, the area includes New London County, Connecticut east of the Mystic River; all of Rhode Island except most of Kent and Providence Counties; and all of southeastern Massachusetts east and south of the Norfolk-Bristol County boundary, the Amtrak (ex New Haven) mainline, and the Neponset River. All offshore islands between Boston and the Mystic River, including Martha's Vineyard and Nantucket, are included as part of this viticultural area. Specific boundaries are set forth in the regulatory language of § 9.72.

Petition for Martha's Vineyard Viticultural Area

Mr. George Mathiesen, co-owner of Chicama Vineyards, West Tisbury, Massachusetts, has submitted a petition for the establishment of a viticultural area known as "Martha's Vineyard." This viticultural area would consist of Martha's Vineyard (including Chappaquiddick Island) in Dukes County, Massachusetts. The petitioner bases this petition on the following information:

Name. The name "Martha's Vineyard" is well known as referring to the island. This name was given to the island in 1602 by Bartholemew Gosnold, an agent for Sir Walter Raleigh. Although the Martha for whom the Island was named remains a mystery, the vineyard referred to the proliferation of native American grape vines which grow on the island. In succeeding years, the island was referred to as Martha's or Martin's Vineyard. By 1640 after the first permanent settlement on the island, it was firmly established as Martha's Vineyard. Today, Martha's Vineyard is a well known resort area, and all references to the island are to Martha's Vineyard.

Evidence of Viticulture. The journal of two members of the original party which landed on Martha's Vineyard in 1602 described the island as "An incredible store of vines, as well as in the Woodie part of the island, where they run upon

every tree, as upon the outward parts that we could not goe for treading upon them."

Although the island is rich in native American grapes, grapes were not cultivated until 1971 when George and Catherine Mathiesen planted three acres of Chardonnay and White Riesling grapes near Oak Bluffs. Later they expanded their vineyard to 33 acres and bonded Chicama Vineyards. The first Martha's Vineyard wines, Chardonnay and White Riesling, were produced in 1974 and sold in 1975.

At the present time there are 46 acres of bearing commercial vineyards on Martha's Vineyard. All grapes grown commercially are Vinifera varieties, primarily Chardonnay, White Riesling, Gewurztraminer, Cabernet, Pinot Noir, and Merlot.

Climate. Although Martha's Vineyard is a part of the proposed Southeastern New England viticultural area, its climate is milder, being more strongly influenced by surrounding waters than coastal New England.

As an island, Martha's Vineyard is influenced by coastal winds blowing from all directions, unlike the New England coast which is influenced by ocean winds blowing from the south. These coastal winds moderate the climate of Martha's Vineyard. In the spring, winds travel over cool ocean waters causing a late island spring but protecting grapes from spring frost. In the fall, ocean winds influenced by warm water prolong the growing season. Consequently, the Martha's Vineyard growing season averages 210 days as compared to 180 days on the New England coast. Summer winds also keep grape vines dry preventing rot and mildew. In winter, snowfall is significantly less and rainfall greater than that of coastal New England.

Martha's Vineyard may be classified as a high Region I with an average of 2450 degree days. Other parts of the proposed Southeastern New England viticultural area average low Region I, and winters tend to be colder and summers warmer on the New England coast than on Martha's Vineyard. These temperature differences stem from the moderating ocean influences around Martha's Vineyard.

Typography. Martha's Vineyard is an island surrounded on the north by Vineyard Sound, on the east by Nantucket Sound, and on the south and west by the Atlantic Ocean. The greatest length of the island from east to west is 19 miles, and greatest width about 9½ miles. Total size of Martha's Vineyard is approximately 100 square miles or 64,000 acres.

Geologically, Martha's Vineyard was formed by a glacial moraine. Soils are deep, well drained sand and sandy loam, some of which are in the rocky phase.

Public Participation

ATF requests comments from all interested persons concerning the proposed viticultural areas. ATF especially requests comments concerning the name and proposed boundaries of the Southeastern New England viticultural area. ATF requests evidence that the proposed area is locally and/or nationally known as "Southeastern New England." ATF also notes that the proposed area encompasses approximately 2,450 square miles, but contains only 200 acres of vineyards. We therefore seek comments on climatic or geographic features which would allow reduction in size of the proposed viticultural area, and comments on alternative boundaries.

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 respondent considers to be confidential or inappropriate for disclosure to the public should not be included in comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed viticultural areas should submit his or her request, in writing, to the Director within the 45 day comment period. The request should include reasons why the respondent feels a public hearing is necessary. The Director reserves the right to determine whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners or other persons to use the appellations of origin, "Southeastern New England" or "Martha's Vineyard," on wine labels and in wine advertising. 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.

Compliance With Executive Order 12231

It has been determined that this proposed rule 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, activity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act Notice

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

List of Subjects in 27 CFR Part 9

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

Drafting Information

The principal author of this document is Charles N. Bacon, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority contained 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 is amended by adding §§ 9.72 and 9.73. As amended, the table of sections reads as follows:

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Subpart C—Approved American Viticultural Areas

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Sec.
9.72 Southeastern New England.
9.73 Martha's Vineyard.
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Paragraph 2. Subpart C is amended by adding §§ 9.72 and 9.73. As added, §§ 9.72 and 9.73 read as follows:

§ 9.72 Southeastern New England.

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

(b) *Approved maps.* The approved maps for determining the boundary of the Southeastern New England viticultural area are two U.S.G.S. maps. They are entitled:

(1) "Boston, Mass.; N.H.; Conn.; R.I.; Maine", scaled 1:250,000, edition of 1956, revised 1970; and

(2) "Providence, R.I.; Mass.; Conn.; N.Y.", scaled 1:250,000, edition of 1947, revised 1969.

(c) *Boundaries.* The Southeastern New England viticultural area is located in New London County, Connecticut; in the counties of Bristol, Kent, Newport, Providence, and Washington, in Rhode Island; and in the counties of Barnstable, Bristol, Dukes, Nantucket, Norfolk, and Plymouth in Massachusetts. The beginning point is found on the "Providence" U.S.G.S. map at the point where the Mystic River flows into Block Island Sound:

(1) Then north following the Mystic River through Long Pond to Connecticut Highway 2.

(2) Then east following Connecticut Highway 2 to Connecticut Highway 201.

(3) Then north following Connecticut Highway 201 to the 41°30' latitude line.

(4) Then east following the 41°30' latitude line to Interstate Highway 95 near Hope Valley.

(5) Then north following Interstate Highway 95 to the Kent County-Washington County boundary.

(6) Then east following the Kent County-Washington County boundary into Narragansett Bay.

(7) Then north through Narragansett Bay, the Providence River, and the Blackstone River to the Rhode Island-Massachusetts State boundary.

(8) Then east and south following the Rhode Island-Massachusetts State boundary to the Norfolk-Bristol (Mass.) County boundary.

(9) Then northeast following the Norfolk-Bristol (Mass.) County boundary to the Amtrak right-of-way (Penn Central on map) northeast of Mansfield.

(10) Then north following the Amtrak (Penn Central) right-of-way to the Neponset River immediately east of the Norwood Memorial Airport.

(11) Then northeast following the Neponset River into Dorchester Bay.

(12) Then east following the Norfolk-Suffolk County boundary, and the Plymouth-Suffolk County boundary into Massachusetts Bay.

(13) Then returning to the point of beginning by way of Massachusetts Bay, the Atlantic Ocean, and Block Island Sound; and including all of the offshore islands in Norfolk, Plymouth, Barnstable, Nantucket, Dukes, and Bristol Counties, Massachusetts; all offshore islands in Rhode Island; and all offshore islands in Connecticut east of the Mystic River, including Mason Island.

§ 9.73 Martha's Vineyard.

(a) *Name.* The name of the viticultural area described in this section is "Martha's Vineyard."

(b) *Approved maps.* The approved map for determining the boundary of the Martha's Vineyard viticultural area is the U.S.G.S. map, "Providence, R.I.; Mass.; Conn.; N.Y.," scaled 1:250,000, edition of 1974, revised 1969.

(c) *Boundaries.* The Martha's Vineyard viticultural area is located entirely within Dukes County, Massachusetts. The boundary of the Martha's Vineyard viticultural area is the shoreline of the islands named "Martha's Vineyard" and "Chappaquiddic Island" on the "Providence" U.S.G.S. map, and the viticultural area comprises the entire area of the islands.

Approved: July 29, 1983.

Stephen E. Higgins,
Director.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CGD5-83-06]

Bridge Locations and Clearances; Nanticoke River, MD

AGENCY: Coast Guard, DOT.

ACTION: Public hearing on bridge permit application.

SUMMARY: The Commander, Fifth Coast Guard District, has authorized a public hearing to be held to receive comments on a bridge permit application submitted

by the Maryland Department of Transportation for a fixed bridge across the Nanticoke River at Sharptown, Maryland. This hearing is being held to gather information necessary to resolve differences between various factions who support or oppose the bridge project.

DATES: (a) The hearing will be held on September 7, 1983 at 8:00 p.m. (b) Written comments concerning this permit application may be submitted on or before October 4, 1983.

ADDRESSES: (a) The location of the hearing will be the Delmar Firehouse, Delmar, Delaware.

(b) Written comments may be submitted to and will be available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the Office of the Commander (oan), Fifth Coast Guard District, Room 609, 431 Crawford Street, Portsmouth, Virginia 23705. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Portsmouth, Virginia 23705, (804) 398-6222.

SUPPLEMENTARY INFORMATION: The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement discussing the proposed application, and announce the procedures to be followed at the hearing. A transcript will be made of the hearing and may be purchased by the public.

Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit by submitting their comments in writing. Each comment should state reasons for supporting or opposing the application and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on the proposed permit application.

33 U.S.C. 491; 33 CFR 115.60(b).

Dated: July 29, 1983.

John D. Costello,
Rear Admiral, U.S. Coast Guard, Fifth Coast Guard District.

[FR Doc. 83-21256 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251 and 261

Special Uses; Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: Present regulations governing use of National Forest System lands do not adequately explain when advanced permission is required for certain recreational uses and assemblies. Ambiguous language in the present regulations sometimes leads to confusion by the public and could result in lack of uniform application by Forest Officers. The proposed rule will establish clear guidelines on the requirement for such permits. Other technical and editorial changes in the regulations are also proposed.

DATE: Comments on this proposed regulation must be received by October 3, 1983.

ADDRESS: Comments on the proposed rule should be mailed to: R. Max Peterson, Chief (2340), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: David Hammond, Recreation Staff, Forest Service, USDA, Room 4247-South Building, 12th and Independence Avenue, SW., Washington, D.C., (202) 447-2311.

SUPPLEMENTARY INFORMATION: Pursuant to 16 U.S.C. 551, the Secretary of Agriculture is authorized to promulgate regulations governing use of National Forest System lands. Regulations covering issuance of special use authorizations (permits, term permits, leases, or easements) are contained in 36 CFR Part 251. Regulations governing prohibited acts upon National Forest System lands are contained in 36 CFR Part 261.

The proposed rule would establish uniform guidelines for requiring a special use authorization for recreational activities and special events on National Forest System lands, while allowing flexibility needed to meet special conditions of particular areas.

Presently, all uses of National Forest System lands are considered special uses, except those uses provided for in the regulations governing disposal of timber and minerals and the grazing of livestock. A special use authorization is required in advance of any special use other than "noncommercial temporary use or occupancy of National Forest System land or facilities by individuals

for camping, picnicking, hiking, fishing, hunting, riding, boating, parking of vehicles and similar purposes." There has been no clear definition of "temporary" for purposes of this Part. Similarly, use of the word "individuals" has led to some confusion as to whether groups must have a permit to engage in recreational or other activities on National Forest System lands.

The proposed rule would eliminate the word "temporary" from the regulation and would add definitions for two particular types of special use requiring authorization: Recreation event and special event. Recreation event is presently defined in the Forest Service Manual; the proposed rule would incorporate the definition of the term in Part 251. Under the proposed rule, a recreation event would be a planned, organized, and/or publicized recreational activity, engaged in by a total of 10 or more participants and/or spectators, that involves competition, entertainment, or training. Spontaneous activities that were not specifically anticipated before the users arrived on National Forest land would not be considered a recreation event. Thus, for example, a spontaneous ball game among campers would normally be excluded from the definition of recreation event, but a competitive ball game that was planned, organized, and/or publicized in advance would fall within the definition. Under the proposed rule, it is primarily the level of planning or organization that would distinguish a recreation event from those recreational activities for which no special use authorization would be required.

Under the proposed rule, a special event would be defined as a meeting, assembly, demonstration, parade, or other activity with expression or exchange of views or judgments as its primary purpose. In recognition of the special significance of the activities encompassed by the definition of special event, the proposed rule would establish separate guidelines on the granting and denial of special use authorizations for special events.

In addition to clarifying when special use authorization is needed for recreational and special events, the proposed rule would also clarify special uses that may be authorized by special order or regulation. Under existing rules at 36 CFR 261.50 and 36 CFR 261.70, Forest Service officials may issue orders and regulations that require special authorization for use of National Forest System land or facilities that do not otherwise require authorization. Orders may be issued to close or restrict entry