

proven property owned by such landowner.

(iii) *Exclusion for production from certain transferred properties*—(A) *In general.* In the case of a transfer of an interest in any property, the qualified royalty production of the transferee shall not include any production attributable to an interest that has been transferred after June 9, 1981, in a transfer which is described in section 613A(c)(9)(A). For the purpose of the preceding sentence, a transfer includes a sublease and property held by an estate shall be treated as owned both by the estate and proportionately by the beneficiaries of the estate.

(B) *Exception for certain transfers at death or among certain related persons.* The transfer rule of paragraph (f)(3)(iii)(A) of this section does not apply to any transfer described in section 613A(c)(9)(B) (relating to certain transfers at death or among certain related persons).

(C) *Exception for certain transfers where the transferor and the transferee are required to share the royalty limit.* The transfer rule of paragraph (f)(3)(iii)(A) of this section shall not apply to any transfer so long as the transferor and the transferee are required to share the royalty limit in accordance with the rules of paragraph (f)(4) of this section, but only if the production from the property was qualified royalty production of the transferor.

(4) *Royalty limit*—(i) *In general.* A qualified royalty owner's qualified royalty production is determined by applying section 4994(f)(2)(A).

(ii) *Production exceeds limitation.* If a qualified royalty owner's qualified royalty production for any quarter exceeds the royalty limit in section 4994(f)(2)(A) for such quarter, the royalty owner may allocate the royalty limit for such quarter to any qualified royalty production that the royalty owner selects.

(iii) *Allocation of royalty limit among taxpayers.* For the purpose of allocating the royalty limit in section 4994(f)(2)(A) among taxpayers, section 6429(c) (2) thru (4) will be applied except that the royalty limit determined under section 4994(f)(2)(A) is substituted in place of \$2,500 each time it appears in section 6429(c) (2) thru (4).

(g) *Exempt stripper well oil.*  
[Reserved]

Par. 2. Paragraph (b)(2) of § 51.4996-1 is revised to read as follows:

§ 51.4996-1 Definitions.

\* \* \* \* \*

(b) *Producer* \* \* \*

(2) *Partnerships, trusts, and estates.* In the case of a partnership, the partnership's economic interest in the crude oil shall be allocated among the partners on the basis of each partner's proportionate share of the partnership's income from the crude oil, and the partner to whom the crude oil is allocated shall be treated as the producer of the crude oil. In the case of a trust (other than a grantor trust, *i.e.*, a trust where the grantor or another person is treated as substantial owner of the trust under subpart E of subchapter J of chapter 1 of the Internal Revenue Code) or an estate, the entity is the producer rather than the beneficiaries. In the case of a grantor trust, to the extent that a person or entity (the grantor or another person) is treated for purposes of income taxation under subchapter J of chapter 1 of the Internal Revenue Code as the owner of a crude oil interest held by such trust, such person or entity shall be deemed to be the producer of the crude oil attributable to such interest for purposes of section 4996(a)(1). (See also § 51.4994-1 for special rules concerning the treatment of trusts and estates for purposes of determining the applicability of certain exemptions from the windfall profit tax.)

Par. 3. Paragraph (b)(1) of § 51.4995-2 is revised to read as follows:

§ 51.4995-2 Producer's certificate.

\* \* \* \* \*

(b) *Exemption certificate*—(1) *In general.* For purposes of this section, an exemption certificate is a written statement certifying that all of the producer's crude oil from a property is exempt from the tax imposed by section 4986 because the crude oil constitutes exempt Indian oil or exempt royalty oil or the oil is from a qualified governmental interest or a qualified charitable interest. In the case of a trust or estate described in paragraphs (b)(4) or (c)(3) of § 51.4994-1, the exemption certificate may certify that a percentage of the oil from that property is exempt from the tax imposed by section 4986 because that portion of the oil is oil from a qualified charitable or governmental interest. The percentage referred to in the preceding sentence may be based on a reasonable estimate of the percentage of the oil from the property that is held for the benefit of a qualified charity or governmental unit for that taxable period. Any producer who furnishes an exemption certificate (other than an exempt royalty owner's certificate) to an operator, purchaser, partnership, or other disburser shall also file an exemption certificate with the Internal Revenue Service Center, Austin, Texas.

Only one such certificate need be filed even though the producer may furnish certificates to more than one operator, purchaser, partnership, or other disburser.

\* \* \* \* \*

Roscoe L. Egger, Jr.

Commissioner of Internal Revenue.

[FR Doc. 85-2719 Filed 2-11-85; 8:45 am]

BILLING CODE 4830-01-M

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

[Notice No. 556]

**Mimbres Valley; Establishment of Viticultural Area**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), 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 located in Luna and Grant Counties in southwestern New Mexico to be known as the "Mimbres Valley." The southern boundary of the proposed viticultural area reaches the U.S./Mexico International border. This proposal is the result of a petition submitted by Ms. Pam Ray, President of the Southwest Chapter of the New Mexico Vine and Wine Society. New Mexico State University, College of Agriculture and Home Economics located at Las Cruces, New Mexico, participated in gathering evidence for the petition of this proposed viticultural area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will enable industry to label wines more precisely and will help consumers to better identify the wines they may purchase.

**DATE:** Written comments must be received by March 29, 1985.

**ADDRESSES:** Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, (Attn: Notice No. 556.)

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 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-556-7626).

**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 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, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

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 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 area from the 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 proposing a viticultural area that extends from Grant County to Luna County along the Mimbres River Valley in southwestern New Mexico. The proposed viticultural area follows the Mimbres River southward from an area located approximately 2 miles north of Mimbres to approximately 3 miles south of

Columbus on the New Mexico, U.S./Mexico border. It consists of 995 square miles of land (636,800 acres) on which there is one bonded winery and 12 private grape-growers. The one bonded winery is located near Deming, New Mexico. Currently there are approximately 1,500 acres of grapes planted for viticulture in the proposed Mimbres Valley viticultural area. Local experts predict that during the next few years, grape acreage and viticultural activity is expected to increase dramatically in the Mimbres Valley.

The petitioner claims that the proposed viticultural area is distinguished from the surrounding areas based on the following evidence submitted to ATF:

(1) *Evidence that the name "Mimbres Valley" is locally and/or nationally known as referring to the area specified in the petition.*

(a) The Mimbres Valley derives its name from the Mimbres Indians who inhabited the valley between 1100 and 1300 A.D. Today, ruins of their dwellings are still found in the valley. After the Mimbres Indians disappeared the Mimbreno Apaches moved in from the Southern Great Plains.

(b) During the period that the Apaches were inhabiting the area, the Spanish began their first explorations into New Mexico. De Vaca crossed this area as early as 1535. The famous explorer, Coronado, explored most of New Mexico in 1600. Just like the Indians, the Spanish left a strong cultural imprint upon the area. That is why many locations in the proposed viticultural area have both Spanish and Indian names. The mountain peak north of Deming was first called Picacho del Mimbres until it was later renamed Cook's Peak by the Anglo-American settlers who came during the westward expansion. The valley in which Deming is located is named Mimbres, which means "willow," or osier tree.

(c) Copies of maps submitted by the petitioner dated 1850 depict the Mimbres Mountains, Camp Mimbres (U.S. Cavalry installation), and the Rio Mimbres (Mimbres River). At that time the Rio Mimbres extended south into Mexico.

(d) Viticulture in the Mimbres Valley is documented in *The History of Luna County*, published in 1978 by the Luna County Historical Society. According to that publication, vineyards were found in Chinese gardens located east of Deming at the turn of the century. The first irrigated farms in the Mimbres Valley were documented in 1909. In 1913, the Holy Family Church was established in Deming. At that time grape vines, shade trees, shrubbery and

fruit trees were planted on the church grounds.

(e) Emanuel Vocale who resides on land near Deming has 220 vines of tokay grapes that were planted by his father in 1932.

(f) The names of Mimbres Valley is in widespread usage today. Since 1850 the name has been applied to natural and manmade landmarks in the Mimbres Valley. It also appears in literature and maps of the area. Some uses of the name that are found within or near the boundaries of the proposed viticultural area are Mimbres, Mimbres Valley, Mimbres Peak, Mimbres River, Camp Mimbres, soil associations including Mimbres (Mimbres-Verhalen, Hondale-Mimbres-Bluepoint) and also the Mimbres Underground Water Basin. These references all appear on U.S.G.S. and Soil Conservation Service maps submitted by the petitioner. According to the petitioner, these names have long been established to clearly and closely associate the identity of the Mimbres Valley to the land within the proposed boundaries.

(g) There is one bonded winery located within the boundaries of the proposed viticultural area. It is known as St. Clair Vineyards and is located three miles south of Deming. The base of the operation of this new winery is 600 acres of grapes. The grape varieties being grown by St. Clair Vineyards include French Colombard, Sauvignon Blanc, Chardonnay, Malvasia, Bianca, Muscat, Canelli, Ugni Blanc, Zinfandel, Barbera, Cabernet Sauvignon, Merlot, Ruby Cabernet, Pinot Noir and Chenin Blanc. Another winery, owned by Luna County Wine Development Corporation, is proposed to be constructed near Deming in the near future.

(2) *Historical or current evidence that the boundaries of the proposed viticultural area are as specified in the petition.*

(a) The area historically known as the Mimbres Valley begins at the headwaters of the Mimbres River between Reeds Peak and McKnight Mountain, in the Black Range, near the Continental Divide in Grant County, New Mexico. This northern part of the valley which is not included in the boundaries of the proposed viticultural area is a narrow channel for the Mimbres River. It is bordered by foothills and mountains.

(b) The proposed Mimbres Valley viticultural area begins in Luna County near Bear Canyon Dam, where the valley begins to widen and show distinct evidence of a flood plain area. As the river enters Luna County, the valley widens into a broad, gently

sloping flood plain. The course of the river winds around scattered foothill areas until it sinks from sight northeast of Deming, New Mexico. At one time, the primary river course was west of Deming and proceeded south through the pass separating the Florida Mountains and the Tres Hermanas Mountains. Over the years, the river sank at an area east of Columbus, New Mexico (U.S.G.S. Bulletin 618, 1916).

(c) Today, the Mimbres River is an intermittent stream and is usually dry except during periods of rainfall. The Mimbres River has no definite channel in the southern part of Luna County. At times, water from rainfall drainage has reached as far south as the Mexican border. The proposed viticultural extends south to the New Mexico, U.S.A.-Mexico border.

(d) According to the petitioner, the Florida, Tres Hermanas Mountains and other non-agricultural land areas were excluded from being within the boundaries of the proposed viticultural area because the soils, terrain and no available water rights make these mountain areas off limits to grape-growing or any other commercial agricultural potential. Elevations in these excluded areas that contain much rock out-croppings reach as high as 7,500 feet. Elevations within the proposed viticultural area generally range from approximately 4,000 to 6,000 feet above sea level.

(3) *Evidence of the geographical characteristics which distinguish the proposed Mimbres Valley viticultural area from the surrounding areas.*

(a) Soils. The geographical features within the proposed boundaries of this viticultural area are level to gently sloping alluvial soils. The soil associations within the boundaries of the proposed viticultural area are based upon U.S.D.A. Soil Conservation Service and Water Resources Research Institute information. Soils found within the boundaries of the proposed viticultural area include Mimbres-Verhalen, Mohave Stellar, Hondale-Mimbres-Bluepoint, Mimbres and Mimbres-Verhalen associations. These soils were formed on flood plains and stream terraces. They range from sandy to loamy alluvium, and are generally fine, mixed and deep in character. These soils are usually level to gently sloping in terrain.

The following soil associations are found within the boundaries of the proposed viticultural area:

*The Mimbres association* is found in the center of the proposed Mimbres Valley viticultural area. This soil association includes a relatively broad, nearly level to gently sloping basin floor

or plains area near the center of Luna County in the vicinity of Deming. Except for a few dunes and hummocks and low alluvial ridges, the land surface is relatively smooth with a nearly uniform slope toward the southeast and south. These soils, which are dominantly deep, consist of alluvial materials of mixed origin. According to Soil Conservation Service information, much of the alluvial material undoubtedly was brought into this basin by the Mimbres River and its tributaries. Most of the irrigated land in Luna County is in this association. Cotton, grain sorghums, alfalfa, corn, small grains, beans, vegetables and pecans are the principal agricultural crops of the area.

Mimbres soils, the most extensive in the association, are characterized by a moderately thick surface layer of light brownish-gray loam or silty clay loam over a thick subsoil of pale brown silty clay loam or clay loam. A very high percentage of the soils in this association are well suited for use as cropland under irrigation.

*The Mimbres-Verhalen association* is found in the southern part of the Mimbres Valley. It occupies nearly level to very gently sloping valley bottoms and basin floors contiguous to the Mimbres and Macho intermittent drainages. These soils, which are moderately fine and fine-textured, consist of alluvial sediments of mixed origin.

*The Hondale-Mimbres-Bluepoint association* is found in the central and western area of the Mimbres Valley. Included in this association are broad, nearly level to very gently sloping basin floors and valley bottoms. These soils which are deep, consist of basin-fill sediments of mixed origin.

The following soils, not found within boundaries of the viticultural area but are found within the areas surrounding it are:

*The Rockland-Lehmans association* includes the mountain ranges, isolated mountain peaks, ridges and hills that are not found within the boundaries of the proposed Mimbres Valley viticultural area. This association is formed in areas surrounding the Mimbres Valley such as in the Cook's Range (to the east), Tres Hermanas Mountains (just outside to the west of Columbus), Florida Mountains (to the east), Carrizalillo Hills (to the west), Cedar Range (to the west) and Good Sight Mountains (to the east). Their characteristic features are the steep to very steep slopes and shallow and rocky soils which contain numerous exposures of bedrock. The stony and extremely rocky soils of this association are dominated by materials of acid igneous origin.

*The Nickel-Upton-Tres Hermanas association* includes the gently to strongly sloping and undulating piedmont slopes located at the base of the desert mountains and hills found surrounding the proposed viticultural area. It is common for this general soil area to completely surround the rough broken and rockland areas that are dominated by hills and low mountains. According to U.S. Soil Conservation Service maps, this association is found near the Cook's Range, Tres Hermanas Mountains and the Cedar Range.

(b) Water Availability. In the early part of this century irrigation was introduced to Luna County. By 1915 this form of delivering water to the soil reached a peak in the area. The favorable climate and suitability of soils for irrigation, coupled with the skillful management applied to the various kinds of soils by farmers, have allowed the land in the proposed viticultural area to be agriculturally productive. Water for irrigation in the proposed viticultural area has always been obtained from wells. Because of these limited sources of water supplies and drops in water levels over the years, experts were doubtful about the future outlook for agriculture in this area of New Mexico:

In this area of the country, the potential for expanding irrigation is limited by the lack of water and by economic restrictions, rather than by a shortage of suitable soils. The State of New Mexico has devised a plan for agricultural land use based on the relationship between suitability of soils, size, and location of land in relation to developmental demand. The surrounding areas excluded from the boundaries of the viticultural area are generally steep and rocky and are not suited to viticulture either because of soil type or unavailability of water sources. According to the petitioner, some areas of land were excluded from the viticultural area because those areas lacked water rights. Areas such as those where water rights are not available have no potential for agricultural development regardless of soil, climate, location, or any other geographical feature.

Rainfall in the desert area is insufficient to support viticulture or any other type of commercial agricultural products. Therefore, grape-growers must depend on underground supplies of water that are delivered to the grape vines either by flood or drip irrigation methods. Presently, there are approximately 1,500 acres of grape vines within the Mimbres Valley viticultural area. Of the 1,500 acres of grapes now

producing, 683 acres operate under the drip irrigation method.

According to the publication titled "New Mexico Water Rights (March 1984)" written by Linda G. Harris of the New Mexico Water Resources Research Institute, virtually all of New Mexico's surface water already belongs to someone. The rights to the ground water are vested rights if existing and recognized at the time a ground water basin is declared. The state engineer must review applications for permits to withdraw or use surface or ground water. Water rights may be transferred only within basin boundaries. There are currently 31 declared ground water basins in New Mexico. The Mimbres Valley is one of those basins. The area has similar climate features, elevations and soil types. Most important, this area has potential for commercial agricultural irrigation with the existing water rights.

According to Kenneth Kunkel, Climatologist for the State of New Mexico and facts obtained from the New Mexico State University, Agriculture Experiment Station Research Report (176), precipitation averages 9 inches annually in the Mimbres Valley. At Fort Bayard, located just west, (near the north end of the proposed Mimbres Valley viticultural area) it averages 15 inches. At Lordsburg, located 40 miles to the west of the proposed viticultural area, it averages 10.5 inches annually. In the Mesilla Valley which is located 30 miles east of the Mimbres Valley, rainfall averages only 8 inches annually. The Mesilla Valley which covers approximately 445 square miles of land running along the Rio Grande River, extends from just north of Las Cruces, New Mexico to El Paso, Texas. ATF has received a petition for a proposed viticultural area for the Mesilla Valley. The process for establishing this valley as an American viticultural area is now in the rulemaking stage.

Just like the methods of irrigation used in the nearby Mesilla Valley, many of the grape vines in the Mimbres Valley are watered by the "Drip Irrigation Method" with a trickle irrigation system, which is supplied by underground pipes. The pipes are polyethylene water hoses with emitters inserted in them that run along the lines of vine stakes.

Under this relatively new method of irrigation, wells supply the system and the water is passed through filters to remove sand and avoid plugging the emitters at the delivery end. The trickle hoses are filled at intervals so pressure throughout the system is constant in order to maintain the same rate of supply at each emitter. The scheduling and volumes of irrigation water

delivered to the grape vines are controlled by a computer. Such computers also have the capability to store temperature, wind, humidity and vine water consumption data.

(c) Climate. The proposed viticultural area is characterized by an arid continental climate with minimal precipitation totals, low humidity, plentiful sunshine and large diurnal and seasonal temperature changes.

Average annual precipitation totals are between 9 and 10 inches, with half of the the rainfall occurring by heavy thunderstorms from the months of July to September. Average annual snowfalls range from one to four inches. These snowfalls usually melt soon after they occur.

According to State Climatologist Kenneth E. Kunkel, there are three locations in the viticultural area where reasonably long weather records have been studied. They are at the towns of Deming, Columbus and Faywood. Outside of the proposed viticultural area at Fort Bayard, Lordsburg, and Las Cruces weather data has also been gathered for some time.

Within the area, the elevations vary from about 4,000 feet above sea level at the southern end to near 6,000 feet at the northern end. These elevation differences are the major cause of some climatic differences within the proposed Mimbres Valley viticultural area. Temperatures are found to be somewhat cooler at the northern end of the viticultural area than at the southern end. The means annual maximum temperature is about 4 degrees lower at Faywood than at Columbus. The growing season varies from 180 days at Faywood to 207 days at Columbus. The number of growing degree days varies from 3,826 at Faywood to 5,049 at Columbus.

(d) Distinct valley area. According to information provided by the petitioner, the non-mountainous part of Luna County conveniently divides into two physiographic areas, the piedmont slopes surrounding the mountains and the basin floor valley area. The nearly level to very gently sloping basin floors occupy the lower parts of the landscapes in this area. The three general soil associations recognized on these basin floors include the Hondale-Mimbres-Bluepoint association, the Mimbres association and the Mimbres-Verhalen association. Most water drainage in the proposed Mimbres Valley viticultural area flows into these closed basins. It is part of a larger closed-basin complex that drains into the Playa region of Northern Chihuahua in Mexico. The Mimbres River which originates in the mountains north of

Luna County is the principal drainage of the Mimbres Valley.

The more extensive and important mountain ranges excluded from the boundaries of the proposed viticultural area include the Cook's (Cooke's) Range located to the east, which attains an altitude of 8,404 feet on the summit of Cook's (Cooke's) Peak, and the Florida Mountains located Southeast of Deming, with altitudes reaching 7,500 feet. These upland areas consisting of mountains and hills are steep, with considerable differences in local relief. In these mountain areas, temperatures may be expected to be a few degrees cooler and precipitation a little greater. Soils in these areas are found to be rocky and not useful for agriculture. Reports compiled by the New Mexico State University, Agricultural Experimental Station at Las Cruces titled *Soil Classification For Irrigation—Luna and Grant Counties (Research Reports 176 and 200)*, substantiate the distinction between the mountain areas surrounding the Mimbres Valley and the flood plain valley areas of the Mimbres Valley.

Although most of the land area included with the boundaries of the proposed viticultural area is similar in topography, there are a few spotted locations where independent lesser mountains are located within it. They are Red Mountain (elevation 5,422 feet), Black Mountain (elevation 5,375 feet) and Taylor Mountain (elevation 5,938). They are rather small mountains with minimal amounts of foothills associated with them.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not 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 affect 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.

**Paperwork Reduction Act**

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.

**Public Participation—Written Comments**

ATF requests comments from all interested persons concerning this proposed viticultural area. This document proposes possible boundaries for the Mimbres Valley viticultural area. However, 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 in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of 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 or her requests, 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 will be held.

**Drafting Information**

The principal author of this document is Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

**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 title of § 9.103 to read as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.

\* \* \* \* \*  
9.103 Mimbres Valley

**Par. 2.** Subpart C, is amended by adding § 9.103 to read as follows:

**Subpart C—Approved American Viticultural Areas**

\* \* \* \* \*

**§ 9.103 Mimbres Valley.**

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

(b) Approved maps. The appropriate maps for determining the boundaries of the Mimbres Valley viticultural area are 28 U.S.G.S. quadrangle maps (26-7.5 minute series and 2-15 minute series). They are entitled:

- (1) "Akela, N. Mex.," 7.5 minute series, edition of 1972;
- (2) "Antelope Hill, N. Mex.," 7.5 minute series, edition of 1963 (photoinspected 1974);
- (3) "Bisbee Hills, N. Mex.," 7.5 minute series, edition of 1965;
- (4) "Bowlin Ranch, N. Mex.," 7.5 minute series, edition of 1965;
- (5) "Capital Dome, N. Mex.," 7.5 minute series, edition of 1965;
- (6) "Carne, N. Mex.," 7.5 minute series, edition of 1965;
- (7) "Columbus, N. Mex.," 7.5 minute series, edition of 1965;
- (8) "Columbus NE, N. Mex.," 7.5 minute series, edition of 1966;
- (9) "Columbus SE, N. Mex.," 7.5 minute series, edition of 1966;
- (10) "Deeming East, N. Mex.," 7.5 minute series, edition of 1965;
- (11) "Deming West, N. Mex.," 7.5 minute series, edition of 1964 (photoinspected 1972);
- (12) "Dwyer, N. Mex.," 15 minute series, edition of 1956;
- (13) "Faywood Station, N. Mex.," 7.5 minute series, edition of 1947;

- (14) "Florida Gap, N. Mex.," 7.5 minute series, edition of 1964;
- (15) "Goat Ridge, N. Mex.," 7.5 minute series, edition of 1964;
- (16) "Gym Peak, N. Mex.," 7.5 minute series, edition of 1964;
- (17) "Hermanas, N. Mex.," 7.5 minute series, edition of 1964;
- (18) "Malpais Hill, N. Mex.," 7.5 minute series, edition of 1965;
- (19) "Midway Butte, N. Mex.," 7.5 minute series, edition of 1965;
- (20) "Myndus, N. Mex.," 7.5 minute series, edition of 1972;
- (21) "North Peak, N. Mex.," 7.5 minute series, edition of 1965;
- (22) "Red Mountain, N. Mex.," 7.5 minute series, edition of 1965;
- (23) "San Lorenzo, N. Mex.," 15 minute series, edition of 1956;
- (24) "Sibley Hole, N. Mex.," 7.5 minute series, edition of 1972;
- (25) "South Peak, N. Mex.," 7.5 minute series, edition of 1965;
- (26) "Spalding, N. Mex.," 7.5 minute series, edition of 1964;
- (27) "West Lime Hills, N. Mex.," 7.5 minute series, edition of 1965; and
- (28) "Williams Ranch, N. Mex.," 7.5 minute series, edition of 1964.

(c) "Boundaries. The Mimbres Valley viticultural area is located within Grant and Luna County, New Mexico. The boundaries are as follows: The beginning point is located at Faywood Station on an unimproved dirt road at benchmark 4911 in Luna County, New Mexico on the northern part of Section 2, Township 21 South (T21S), Range 12 West (R12W) on the Faywood Station Quadrangle U.S.G.S. map:

(1) From the beginning point the boundary runs northeast 2.25 miles along an unimproved dirt road until it intersects U.S. Route 180 (indicated on map as U.S. Rte. 260) at New Mexico Highway 61 (indicated on map as an unnumbered secondary highway) at the south portion of Sec. 30, T20S/R11W;

(2) The boundary proceeds in a generally northerly direction on N.M. Hwy. 61 for 34.5 miles crossing over U.S. Route 90 (indicated on map as U.S. Rte. 180) near San Lorenzo, N.M. until it meets an unimproved dirt road near Bear Canyon Dam at the west line of Sec. 28, T16S/R11W on the San Lorenzo, N. Mex. 15 minute series U.S.G.S. map;

(3) It then heads east on the unimproved dirt road for .2 mile until it meets the Mimbres River at Sec. 28, T16S/R11W;

(4) It then goes south on the Mimbres River for .25 mile until it intersects the 6,000 foot elevation contour line at Sec. 28, T16S/R11W;

(5) From there the boundary runs south along the 6,000 foot elevation

contour line until it meets the east line of Sec. 11, T17S/R11W;

(6) Then it proceeds south on the section line for .6 mile until it hits the south line of Sec. 11, T17S/R11W;

(7) Then it travels east on the section line for 1.8 miles until it intersects the Noonday Canyon unimproved dirt road on the north line of Sec. 18, T17S/R10W;

(8) It then heads south on the unimproved dirt road for 2.2 miles until it intersects a medium duty secondary road at the north part of Sec. 30, T17S/R10W;

(9) The boundary goes south on the medium duty secondary road for .8 mile until it reaches the north line of Sec. 31, T17S/R10W;

(10) The boundary goes east 5 miles on the section line to the east line of Section 36 (also known as the 1st Guide Meridian West) at T17S/R10W;

(11) The boundary proceeds south on the section line (1st Guide Meridian West) for 13 miles to the southeast corner of Section 36 (also indicated on map as Luna/Grant County line), T19S/R10W on the Dwyer, N. Mex. 15 minute U.S.G.S. map;

(12) The boundary travels west on the section line (Luna/Grant County line) three miles to the northeast corner of Section 4, T20S/R10W;

(13) The boundary goes south on the section line for three miles to the southeast corner of Section 16, T20S/R10W;

(14) Then it goes west on the south line of Section 16 for approximately .6 mile to an improved road that intersects the south line of Section 16 located 500 feet south of Benchmark 5119 on T20S/R10W;

(15) The boundary heads south on the improved dirt road for approximately 10.25 miles until it meets Hwy. 180 at the west line of Section 9, T22S/R10W on the Spalding, N. Mex. U.S.G.S. map;

(16) Then it proceeds southeasterly on Hwy. 180 for approximately 5 miles to the north line of Section 6, T23S/R9W on the Deming West, N. Mex. U.S.G.S. map;

(17) It then goes east on the section line approximately 11.75 miles to the east line of Section 1, T23S/R8W on the Carne, N. Mex. U.S.G.S. map;

(18) It then travels south on the section line for 1.5 miles until it meets an unimproved dirt road at Sec. 12, T23S/R8W;

(19) It follows the unimproved dirt road in a easterly direction for 3 miles until it goes to Carne Windmill and another unimproved dirt road at the northeast part of Sec. 17, T23S/R7W;

(20) From there it follows the unimproved dirt road in a southeasterly direction .75 miles until it meets the

south line at the southeast corner of Sec. 16, T23S/R7W;

(21) Then it proceeds due east along the section line for 9 miles until it arrives at the east line of Sec. 24, T23S/R6W on the Myndus, N. Mex. U.S.G.S. map;

(22) Then it goes due south on the section line for 15 miles until it meets the south line of Section 36, T25S/R6W on the Sibley Hole, N. Mex. U.S.G.S. map;

(23) Then it heads west on the section line for 8 miles until it intersects the 4,200 foot elevation contour line at the southeast corner of Sec. 34, T25S/R7W on the Gym Peak, N. Mex. U.S.G.S. map;

(24) Then it heads north on the 4,200 foot elevation contour line for 11 miles until it meets N.M. Hwy. 549 (indicated on map as U.S. Rte. 70/80/180) at the southwest corner of Sec. 5, T24S/R7W on the Florida Gap, N. Mex. U.S.G.S. map;

(25) The boundary heads west on N.M. Hwy. 549 (indicated on map as U.S. Rte. 70/80/180) for 4.5 miles until it meets the light duty road at the east line (northeast corner) of Sec. 3, T24S/R8W on the Capital Dome, N. Mex. U.S.G.S. map;

(26) It then goes south on the light duty road/section line for 4 miles until it meets another light duty road at the south line of Sec. 22, T24S/R8W;

(27) Then the boundary heads west for 2 miles on the light duty road/section line until it intersects an unimproved dirt road at the east line of Sec. 29, T24S/R8W;

(28) Then it travels south on the unimproved dirt road/section line for 2 miles until it meets another unimproved dirt road at the south line of Sec. 32, T24S/R8W;

(29) It then moves west .25 mile on the unimproved dirt road until it reaches the east line of Sec. 5, T25S/R8W;

(30) Then it goes south on the section line for 6 miles until it reaches an unimproved dirt road near Crawford Ranch at the north line of Sec. 5, T25S/R8W on the South Peak, N. Mex. U.S.G.S. map;

(31) Then it follows the unimproved dirt road in a southwest direction for .4 mile until it meets the east line of Sec. 6, T26S/R8W;

(32) It follows the section line south (which also partly is an unimproved dirt road) for 2.5 miles until it hits the north line of Sec. 20, T26S/R8W;

(33) It then travels east for 1 mile along the section line until it hits the east line of Sec. 20, T26S/R8W;

(34) From there it proceeds south for 2 miles on the section line until it intersects the north line of Sec. 33, T26S/R8W;

(35) It then heads east for 5 miles on the section line until it intersects the east line of Sec. 31, T26S/R7W on the Gym Peak, N. Mex. U.S.G.S. map;

(36) The boundary goes south on the section line (which also partly serves as a light duty road and unimproved dirt road) for 7 miles until it meets the north line of Sec. 5 (which also is a light duty road), T28S/R7W on the Columbus NE, N. Mex. U.S.G.S. map;

(37) Then it goes east for 4 miles on the section line (which also partly is a light duty road and unimproved dirt road) until it meets the east line of Sec. 2 near Oney Tank, T28S/R7W;

(38) Then it goes south on the section line (which also is partially an unimproved dirt road) for 8.7 miles until it meets the New Mexico, U.S.A./Mexico International border at the east line of Sec. 14, T29S/R7W of the Columbus SE, N. Mex. U.S.G.S. map;

(39) The boundary follows the section line (which also is partially an unimproved dirt road) in a west direction along the International border for 23 miles to the west line of Sec. 18, T29S/R10W on the Hermanas, N. Mex. U.S.G.S. map;

(40) It then heads north on the section line (which also is partially an unimproved dirt road and a light duty dirt road) for 3.5 miles to the north line of Sec. 31, T28S/R10W;

(41) It then moves east for 13 miles on the section line until it intersects the west line of Sec. 29, T28S/R8W on the Columbus, N. Mex. U.S.G.S. map;

(42) Then it follows the section line north for 8 miles until it meets the south line of Sec. 18, T27S/R8W on the North Peak, N. Mex. U.S.G.S. map;

(43) Then it proceeds west on the section line for 11 miles to the west part of Sec. 16 identified as longitude point 107 degrees, 52 minutes, 30 seconds, T27S/R10W on the West Lime Hills, N. Mex. U.S.G.S. map;

(44) Then it moves north on the 107 degrees, 52 minutes, 30 seconds longitude point for 9 miles until it intersects the north line of Sec. 4 (which is also partially an unimproved dirt road), T26S/R10W on the Midway Butte, N. Mex. U.S.G.S. map;

(45) Then it goes west on the section line for 6.5 miles until it hits the west line of Sec. 33, T25S/R11W on the Bisbee Hills, N. Mex. U.S.G.S. map;

(46) The boundary then travels north on the section line for 26.5 miles (crossing the Southern Pacific Railroad tracks) until it intersects with the Atchison, Topeka and Santa Fe Railroad tracks on the west line of Sec. 21, T21S/R11W on the Spalding, N. Mex. U.S.G.S. map;

(47) Finally it follows the Atchison, Topeka and Santa Fe Railroad tracks in a northwesterly direction for 5 miles until it reaches the beginning point at benchmark 4911 on an unimproved dirt road in Faywood Station at Sec. 2, T21S/R12W on the Faywood Station, N. Mex. U.S.G.S. map.

Approved: February 6, 1985.

Stephen E. Higgins,

Director.

[FR Doc. 85-3451 Filed 2-11-85; 8:45 am]

BILLING CODE 4810-31-M

## PANAMA CANAL COMMISSION

35 CFR Parts 101, 107, 111, 113, and 123

### Revised Rules for Arriving and Departing Vessels

**AGENCY:** Panama Canal Commission.

**ACTION:** Notice Of Proposed Rulemaking.

**SUMMARY:** This proposed amendment would make changes in several parts of Title 35, Code of Federal Regulations. These regulations pertain generally to the requirements for arriving and departing vessels and hazardous cargoes. The Canal Commission proposes to adopt the standards set forth in various International Maritime Organization (IMO) Conventions. By way of background, the IMO was established in 1958 with headquarters in London, England. 9 UST 621, UKTS 54, 289 UNTS 3. It has, at present, 125 member nations. The Organization has been effective in drawing up a comprehensive body of internationally-accepted regulations and standards covering various aspects of shipping, including the prevention and control of pollution, and navigation safety. The purpose of the proposed amendment to Part 101 is to consolidate in one part the rules describing the anchorages for vessels using the Panama Canal. The amendment to Part 107 would require that officers and crews of vessels meet certain training standards recommended by the IMO. Part 111 is revised to change the flag requirements for vessels carrying toxic or radioactive commodities. Part 113 would be amended to adopt new dangerous cargo rules. Part 123 is proposed to be amended to change the requirements for advance radio notification by vessels carrying dangerous cargo.

**DATES:** Comments must be received on or before March 14, 1985.

**ADDRESSES:** Comments should be sent to Secretary, Panama Canal

Commission, Suite 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004 or Panama Canal Commission, Office of General Counsel, APO Miami, Florida 34011.

Comments will be available for public inspection in the Office of the Secretary, Suite 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, Telephone: 202-724-0104 or Mr. John L. Haines, Jr., General Counsel, telephone in Balboa Heights, Republic of Panama, 011-507-52-7511.

### SUPPLEMENTARY INFORMATION:

*Part 101.* Presently, the description of the anchorage areas for merchant vessels and small craft are in Part 101, while the description of the anchorage areas for vessels carrying hazardous cargoes is in Part 113. This rule will delete the description of the hazardous cargo anchorage area from Part 113 and insert it in Part 101, thereby consolidating the descriptions of all the anchorage areas in one part. In § 101.10 the list of documents which must be present to Canal boarding inspectors is revised to delete certain obsolete requirements and to add new requirements, in order to conform to the revisions in Part 113. Under this change vessels must submit a copy of the Hazardous Cargo Manifest for packaged dangerous cargo and a copy of the Loading Plan for dangerous cargo in bulk. Additional documents which must be made available for inspection by the boarding officer include certifications of training for officers and crew and the International Oil Pollution Prevention certificate.

*Part 107.* This part deals with the manning requirements for vessels navigating the waters of the Panama Canal. Section 107.1 is proposed to be amended to require that the officers and crews of vessels in Canal waters meet the training standards recommended by the International Maritime Organization.

*Part 111.* Under current regulations all vessels carrying dangerous cargo are required to fly a red flag during daylight. This amendment would require vessels carrying a dangerous cargo to fly the red flag if the cargo is a fire or explosion hazard and the international flag "T", if the cargo is toxic or radioactive.

*Part 113.* The Panama Canal Commission proposes to revise the rules for transporting dangerous cargoes. Because of the increasing volume and number of dangerous substances passing through the Panama Canal and the complexity of the safety

requirements for them, standardized identification and reporting procedures are needed. Recognizing the international character of Canal traffic, it is proposed to adopt the International Maritime Organization's rules concerning dangerous cargoes. These rules have worldwide acceptance, and their adoption will cause minimum inconvenience to world shipping because most maritime nations already have adopted these or similar regulations. Many non-U.S. registered vessel Canal customers who do not utilize U. S. ports will find these regulations more convenient than compliance with U.S. Coast Guard Regulations, as required by current regulations. Other minor changes not directly related to the adoption of IMO standards are also proposed. For example, amended § 113.4 deletes the requirement that vessels communicate to Canal authorities the results of mandatory tests of alarms and safety devices. Instead, the results of the test must be noted in the ship's log. Certain Canal operating procedures would be deleted as being internal matters not required to be published in the Code of Federal Regulations. A more significant change concerns the carriage of nuclear materials. Under present rules, vessels not in compliance with the International Maritime Dangerous Goods (IMDG) Code could be permitted to enter Canal waters if a waiver of the Code regulations were granted by Canal authorities. This amendment would eliminate the waiver provision: Vessels carrying nuclear material must comply with the IMDG Code. In addition, these nuclear carriers shall be required to provide proof of financial responsibility.

*Part 123.* Section 123.4 requires vessels approaching the Panama Canal to provide advance notification by radio of their estimated time of arrival and of certain other matters. The notification requirements pertaining to dangerous cargoes are proposed to be amended to conform to the proposed changes in Part 113. Also, an obsolete reference to smallpox vaccinations is deleted from the notification requirement pertaining to quarantine and immigration.

This regulation is not a major rule within the meaning of Executive Order 12291, 3 CFR Part 127 (1981 comp.), and therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities and is not, therefore, subject to the Regulatory Flexibility Act (5 USC 601-612). The incorporation by reference in this rule were approved by the Director of the Federal Register on (insert date on