

Signed November 3, 1981.

G. R. Dickerson,
Director.

Approved: December 8, 1981.

John M. Walker, Jr.,
Assistant Secretary (Enforcement and
Operations).

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27 CFR Part 9

[Notice No. 404; Re: Notice No. 360]

North Coast Viticultural Area, Calif.; Amendment of Proposed Boundary

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice amends the proposed boundary of the proposed North Coast Viticultural Area. Evidence received in response to Notice No. 360 published in the *Federal Register* on December 15, 1980 (45 FR 82470) and at a public hearing indicates that the originally proposed area does not meet the requirements of 27 CFR 4.25a(e). Therefore, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing new boundaries delineating an area which it feels does meet the viticultural area requirements.

DATE: Comments must be received by February 25, 1982.

ADDRESSES: Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 404).

Copies of comments will be available for public inspection during normal business hours at the—ATF Reading Room, Federal Building, Room 4405, 1200 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Ference, Research and Regulations Branch (202-566-7626).

SUPPLEMENTARY INFORMATION:

Original Proposal

On December 15, 1980, ATF published a notice of proposed rulemaking, Notice No. 360, in the *Federal Register* proposing the establishment of the "North Coast" viticultural area in Napa, Sonoma, and Mendocino Counties. A public hearing concerning this proposal was held in Santa Rosa, California, on January 12, 1981. ATF accepted written comments on this proposal until February 13, 1981.

Geographical Features. The original North Coast proposal was based on a petition submitted by the California

North Coast Grape Growers, a trade association. Under this proposal, the viticultural area would be comprised of Napa, Sonoma, and Mendocino Counties, California in their entirety.

Section 4.25(e)(2) (iii) requires a viticultural area to possess geographical features which distinguish the viticultural features of the area from the surrounding areas. The petitioners stated that the viticultural features of these three counties were geographically distinguishable from the surrounding areas by soil type and climate. The Lake County Wine Producers, the West Solano County Grape Growers Association, and others took exception to that position. The petitioner submitted comments rebutting the comments and testimony in opposition to the original petition. After consideration of all of the matter presented, ATF has concluded that the evidence received in written comments and hearing testimony indicates that the originally proposed area is not viticulturally distinguishable from nearby grape-growing areas in the adjacent Lake and Solano Counties.

ATF believes that the original petitioners failed to show that the soil composition of the three-county area differs significantly from that of surrounding areas. Furthermore, ATF feels that the soil types found in Napa, Sonoma, and Mendocino Counties are so diverse that a meaningful viticultural area cannot be formed on the basis of soil composition.

The petitioners also argued that the grape-growing areas in Lake County and Southwestern Solano County have a much hotter climate during the growing season than the originally proposed area. In general, the temperatures north of San Francisco Bay become increasingly warmer moving east from the Pacific Ocean. However, the grape-growing areas in portions of Lake and Solano Counties are not markedly warmer than some grape-growing areas in portions of Mendocino and Napa Counties. These areas generally fall into the Region III category as based on the heat summation scale established by viticulturalists at the University of California, at Davis. ATF also feels that other factors such as fog and rainfall are not consistent enough throughout the originally proposed area to form a basis for approving the three counties as a viticultural area. Finally, ATF feels that the petitioners failed to show how the county boundaries which they used as viticultural area boundaries had any bearing on their claim to the geographical distinctions of the proposed area.

On the other hand, the climatic evidence presented at the hearing suggests that an area other than the original three-county proposal does possess a climate somewhat influenced by intrusions of cooler, damper, coastal marine air. While this coastal influence progressively diminishes moving east from the Pacific Ocean, the area north of San Francisco Bay and including portions of Solano and Lake Counties is generally distinguishable by climate from the hotter regions of California's Central Valley.

Proposed Name. Section 4.25a(e)(2)(i) requires a proposed viticultural area to be known by the proposed name. Historical evidence indicates that the name "North Coast" has been applied at one time or another to various areas throughout northern California. In 1974, ATF administratively limited the use of the name "North Coast" to wines produced from grapes grown in Napa, Sonoma, and Mendocino Counties. At the time, there were no provisions for an appellation area based on geographical or viticultural characteristics. In the absence of a procedure to establish a viticultural area based on geographical or viticultural characteristics, ATF attempted to limit appellation areas to political subdivisions as much as possible. This was done for the sake of simplicity, since county boundaries were already well established and usually well marked.

However, with the new viticultural area procedure (including provisions for public and industry comment) all appellations other than the actual names of counties or States must be based on geographical and viticultural characteristics. Furthermore, ATF made it clear with the promulgation in 1978 of the new rules concerning viticultural area appellations, that old policies no longer applied. Each viticultural area must stand on its own inherent merits and must meet the criteria in 27 CFR 4.25a. The original petitioner's historical claim to the name "North Coast" is essentially based on ATF's 1974 action. Prior to this action, grapes from portions of Lake County were bought and used as "North Coast" grapes by wineries located in the three-county area. Also, 80 percent of the grapes grown in the southwest portion of Solano County are used in wines currently eligible for a North Coast appellation. Based on the record, ATF feels that the three counties originally proposed as the North Coast viticultural area have no greater historical claim to the name than the adjacent areas in Lake and Solano Counties.

Other Comments. Some commenters stated that the proposed area was too large to be viticultural area. Section 4.25a(e) places no restriction on the size of a viticultural area. A viticultural area may be any size as long as the geographical and other criteria in § 4.25a(e)(2) are met.

One commenter felt that to assign the "North Coast" designation to any area other than the proposed three-county area would be misleading to consumers since the three-county area is currently recognized. In the promulgation of Treasury Decision 53, which established the criteria for a viticultural area, ATF made it clear that no grape-growing area would be "grandfathered" and each area must meet the new criteria before approval.

ATF established the viticultural area criteria to prevent the use of appellations which have no meaning and are misleading. To allow the use of an appellation for an area which does not meet the criteria would, in itself, be misleading. The proposed three-county area does not meet the criteria.

New Proposal

ATF is amending the proposed boundary of the proposed North Coast viticultural area to include the grape-growing areas north of San Francisco Bay which are generally influenced by a coastal, marine climate. This boundary includes the western portions of Lake County and the southwestern portion of Solano County. The new proposed boundary also deletes the extreme northeastern corner of Napa County and the northern portion of Mendocino County from the proposed area. The deleted portion of Napa County has a climate more closely associated with the hotter Central Valley region. The deleted portion of Mendocino County, while possessing similar climatic characteristics, has a more rugged mountainous topography.

The new proposed boundary is described by using features which appear on the following United States Geological Survey maps—

- (1) "Ukiah," Western United States, 1:250,000 scale;
- (2) "Cordelia Quadrangle, California" 7.5 minute series;
- (3) "Fairfield South Quadrangle, California," 7.5 minute series; and
- (4) "Fairfield North Quadrangle, California," 7.5 minute series.

The new proposed boundary begins at the conjunction of the Sonoma County-Marine County line and the Pacific Ocean. From this point, the boundary runs along the Sonoma County-Marine County line to San Pablo Bay. The boundary then runs along the shore of

San Pablo Bay to the Napa County-Solano County line and then along this county line to State Road 12. From this point, the boundary runs easterly along State Road 12 to Interstate Highway 80, southwesterly along Interstate 80 to the Southern Pacific Railroad track, and easterly along this railroad track to the range line between Range 3 West and Range 2 West.

From the intersection of this range line and the railroad track, the boundary runs in a straight line northeasterly to the intersection of Ledgewood Creek and the southern township line of Township 5 North. From this point, the boundary runs northeasterly to Bench Mark (BM) No. 19 in the town of Fairfield. The boundary then runs due north to Soda Springs Creek and then in a straight line northwesterly to an extreme southeastern corner of Napa County. This corner of Napa County is located just south of Section No. 34, Township 6 North, Range 2 West.

From this corner of Napa County, the boundary runs north along the Napa County-Solano County line to Lake Berryessa, along the southern and western shores of Lake Berryessa to Putah Creek, and along Putah Creek to the Lake County-Napa County line. The boundary then runs from the junction of Putah Creek and the Lake County-Napa County line straight to the summit of Brushy Sky High Mountain (elevation 3,196 feet). The boundary then runs in a northwesterly direction to Bally Peak, Round Mountain, Evans Peak, Pinnacle Rock Lookout, and Youngs Peak (elevation 3,638 feet). From Youngs Peak, the boundary runs in a straight line across Elk Mountain to the summit of Pine Mountain (elevation 4,057 feet). From the summit of Pine Mountain, the boundary runs northwesterly in a straight line to the summit of an unnamed mountain marked with an elevation of 2,703 feet. This mountain is found in Section 20, Township 19 North, Range 13 West. The boundary then runs from this mountain in a southwesterly direction to the junction of Redwood Creek and the Noyo River, then down the Noyo River to the Pacific Ocean. The boundary then runs along the coast of the Pacific Ocean from the Noyo River to the Sonoma County-Marine County line.

Public Participation

ATF requests comments concerning this proposal from all interested persons. In response to the first notice of proposed rulemaking, it was alleged that the term "North Coast" is a "Registered Trademark." ATF requests comments or other evidence showing that the term "North Coast" has been registered as a

trademark on the Federal Principal Register in accordance with the Lanham Trademark Act, 15 U.S.C. 1115. Furthermore, while this document proposes boundaries for the North Coast viticultural area, comments concerning other boundaries for this viticultural area will be given consideration. Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires Federal agencies to make an initial and final analysis of regulatory proposals where the agency feels that the proposal will have a significant economic impact on a substantial number of small entities. In addition, the agency is required to determine if a proposal would have significant secondary or incidental effects on a substantial number of small entities, or cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

The value of an appellation of origin when used in wine labeling and advertising is primarily intangible. Moreover, the value of an appellation of origin such as "North Coast" may vary widely due to factors completely unrelated to this proposal. Therefore, ATF is not able to assign a realistic economic value to the use of "North Coast" as an appellation of origin. In the absence of evidence to the contrary, ATF does not expect this proposal, if promulgated as a final rule, to have a significant economic impact on a substantial number of small entities. This proposal is not expected to have significant secondary incidental effects on a substantial number of small entities, or cause a significant increase in the reporting, recordkeeping, or other compliance burdens 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 cost 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, innovation, or on the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Thomas L. Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This viticultural area is proposed under the authority in 27 U.S.C. 205.

Signed: November 24, 1981.

G. R. Dickerson,

Director.

Approved: December 23, 1981.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

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27 CFR Part 9

[Notice No. 401]

Establishment of Suisun Valley Viticultural Area, Calif.

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Solano County, California, to be known as "Suisun Valley." This proposal is the result of a petition from Mr. Ben A. Volkhardt, president of the West Solano County Grape Growers Association. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

DATE: Written comments must be received by March 12, 1982.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, (Attn: Notice No. 401).

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

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

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 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, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the 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 features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

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

Petition

ATF has received a petition from Mr. Ben A. Volkhardt, president of the West

Solano County Grape Growers Association, proposing an area in Solano County, California, as a viticultural area to be known as "Suisun Valley." The proposed area is located in the southwestern portion of the county adjacent to the Napa County line and east of Green Valley. Suisun Valley lies within the southern end of two ranges of the Coast Range, the Vaca Mountains on the east and the Mount George Range on the west. The valley terminates in the south at the marshlands of Suisun Bay.

Geographical/Viticultural Features

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

(a) The Suisun Valley grape area lies within the Coastal area climate and is characterized by cool, moist winds blowing inland from the ocean and bay almost continuously from May through early Fall.

(b) The climate in Suisun Valley is mid-region III as classified by the University of California at Davis system of heat summation by degree-days. Over a 14-year period, the University of California weather station in mid-Suisun Valley averaged an accumulation of 3,368 degree-days.

(c) The season totals for degree-days above 50 degrees Fahrenheit for upper Suisun Valley were 3,768.4 in 1973 and 3,700.5 in 1974. In mid-Suisun Valley the season totals were 3,460.4 in 1973 and 3,256.3 in 1974. In comparison, the season totals for Green Valley, which lies directly west of Suisun Valley, were 3,683.9 in 1973 and 3,498.2 in 1974.

(d) Fog hardly ever penetrates into the Suisun Valley due to its distance from the Pacific Ocean. In contrast, fog is very prevalent in Green Valley due to its proximity to the ocean.

(e) The soils in Suisun Valley consist of Brentwood clay loam, Sycamore silty clay loam, San Ysidro sandy loam and Rincon clay loam.

(f) The watershed in Suisun Valley drains southward into the Suisun Bay. In the Vacaville-Dixon area, which lies to the east of Suisun Valley, the watershed drains eastward in to the Sacramento River.

Historical Background

According to information provided by the petitioner, Suisun Valley is approximately three miles wide and eight miles long. Grapes have been grown commercially in Solano County since the late 1800's. As early as 1909, over 2,000 acres were recorded by the