

a final rule (5 U.S.C. 604), will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners and other persons to use an appellation of origin, "Lake Michigan Shore," on wine labels and in wine advertising. ATF has determined that this proposed rule neither imposes new requirements on the public nor removes existing privileges available to the public. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 27 CFR Part 9

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

Public Participation—Written Comments

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

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

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

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

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

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

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

any person submitting a comment is not exempt from disclosure.

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

Drafting Information

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

Authority

Accordingly, under the authority of 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.79. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.79 Lake Michigan Shore.

Subpart C—Approved American Viticultural Areas

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

§9.79 Lake Michigan Shore.

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

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

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

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

Signed: November 19, 1982.

Stephen E. Higgins,
Acting Director.

Approved: November 30, 1982.

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

[FR Doc. 82-33947 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[Notice No. 442]

Ohio River Valley Viticultural Area

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

ACTION: Notice of proposed rulemaking.

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

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

ADDRESSES: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Attn: Notice No. 442).

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

FOR FURTHER INFORMATION CONTACT:

John A. Linticum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7602).

SUPPLEMENTARY INFORMATION:**Background**

On August 23, 1978, ATF published Treasury Decision AFT-53 (43 FR 37872, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive 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. 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) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

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

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

Petition

ATF has received a petition proposing an area in Indiana, Ohio, West Virginia and Kentucky as a viticultural area to be known as "Ohio River Valley." The area consists of approximately 26,000 square miles.

There are 570 acres of grapevines growing in the proposed area. There are 463 grape growers and 18 wineries in the proposed area.

There are 42 counties which are wholly included in the proposed area and 55 counties which are partially included. However, the portions of Rowan County, Kentucky and Hocking County, Ohio included in the area are almost entirely public park lands. The 1978 Census of Agriculture reports grape production in 65 of these counties and no grape production in 32 of these counties. The non-producing counties are scattered throughout the proposed area.

The petitioner claims that the Ohio River Valley is rich in winemaking tradition. One of the leading American winemakers of the nineteenth century, Nicholas Longworth, produced one of the nation's first sparkling wines in the Ohio River Valley. His wines were praised in a poem, "Ode to Catawba Wine," written by the famous American poet Henry Wadsworth Longfellow. Ohio was the leading wine producing state in 1859, producing more than one third of the national total. Black rot and powdery mildew destroyed nearly all of the Ohio River Valley vineyards around the time of the American Civil War.

The proposed Ohio River Valley viticultural area consists of the Ohio River Minor Tributaries Hydrological Sub-Basin, excluding marshy areas in western Kentucky and southern Illinois which are unsuitable for viticulture and the areas north of 40 degrees north latitude parallel where the growing season is too short.

The petitioner claims that the area is characterized by a distinctive rainfall pattern, called "Ohio Type" by Robert DeCourcy Ward in *The Climates of the United States*. One characteristic of "Ohio Type" rainfall is accumulated rainfall in excess of 2.5 inches within a 24 hour period. The petitioner claims that this phenomenon occurs monthly, except in October. This phenomenon could be expected to cause severe flood damage were it not for two other distinctive features of the proposed area. The moderate to slow permeability of the dominant soil group, Gray-Brown Podzolic, and the general topography of the valley permit rapid drainage of the excessive rains.

The petitioner also claims that Gray-Brown Podzolic soils are not dominant in the surrounding area, making it another distinctive feature of the proposed area.

The petitioner claims that the area is also distinguished by a unique climate influenced by winds travelling up the river valley from the Mississippi River valley, originating in the Gulf of Mexico. The climate within a few miles of the river is more moderate, with less dramatic temperature extremes during

the growing season, than other areas of similar latitude.

The boundary of the proposed viticultural area is described in the proposed § 9.78.

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 the 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.

AFT is not able to assign a realistic economic value to using "Ohio River Valley" as an appellation of origin. An appellation of origin is primarily an advertising intangible. Moreover, changes in the values of grapes or wines may be caused by a myriad of factors unrelated to this proposal.

Any value derived from using the "Ohio River Valley" appellation of origin would apply equally to all grape growers in the proposed area.

Therefore, ATF believes 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.

Compliance With Executive Order 12291

In compliance with Executive Order 12291 the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of \$100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the Ohio River Valley viticultural area, comments concerning

other possible boundaries for this viticultural area will be given consideration.

The proposed Ohio River Valley viticultural area is so large and contains large areas not connected with viticultural activity that it may have little meaning as an appellation of origin. Therefore, ATF is especially interested in receiving comments proposing alternative boundaries which reduce the size of the area.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

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

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

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

Drafting Information

The principal author of this document is John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.78. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.78 Ohio River Valley.

Supart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.78. As added, § 9.78 reads as follows:

§ 9.78 Ohio River Valley.

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

(b) *Approved maps.* The approved maps for determining the boundary of the Ohio River Valley viticultural area are 12 U.S.G.S. topographic maps in the scale 1:250,000, as follows:

- (1) Paducah NJ 16-7 (dated 1949, revised 1969);
- (2) Belleville NJ 16-4 (dated 1958, revised 1977);
- (3) Vincennes NJ 16-5 (dated 1956, revised 1969);
- (4) Louisville NJ 16-6 (dated 1956, revised 1969);
- (5) Cincinnati NJ 16-3 (dated 1953, revised 1974);
- (6) Columbus NJ 17-1 (dated 1967);
- (7) Clarksburg NJ 17-2 (dated 1956, limited revision 1965);
- (8) Canton NJ 17-11 (dated 1957, revised 1969);
- (9) Charleston NJ 17-5 (dated 1957, limited revision 1965);
- (10) Huntington NJ 17-4 (dated 1957, revised 1977);
- (11) Winchester NJ 16-9 (dated 1957, revised 1979); and
- (12) Evansville NJ 16-8 (dated 1957, revised 1974);

(c) *Boundary.* The Ohio River Valley viticultural area is located in Indiana, Ohio, West Virginia and Kentucky. The boundary description in paragraphs (c)(1)–(c)(21) of this section includes, for each point, the name of the map sheet (in parentheses) on which the point can be found.

(1) The beginning point is the point at which the Kentucky, Illinois, and Indiana state lines converge at the confluence of the Wabash River and the Ohio River (Paducah map).

(2) The boundary follows the Illinois-Indiana state line northerly (across the Belleville map) to Interstate Route 64 (Paducah map).

(3) From the intersection of Interstate Route 64 and the Wabash River, the boundary proceeds in a straight line northeasterly to the town of Oatsville in Pike County, Indiana (Vincennes map).

(4) The boundary proceeds in a straight line southeasterly to the point in Spencer County, Indiana at which State Route 162 diverges northerly from U.S. Route 460, which is known locally as State Route 62 (Vincennes map).

(5) The boundary proceeds in a straight line northeasterly to the point in

Harrison County, Indiana at which State Route 66 diverges northerly from State Route 64 (Vincennes map).

(6) The boundary proceeds in a straight line northeasterly (across the Louisville map) to the town of New Marion in Ripley County, Indiana (Cincinnati map).

(7) The boundary proceeds in a straight line northerly to the town of Clarksburg in Decatur County, Indiana (Cincinnati map).

(8) The boundary proceeds in a straight line easterly to the town of Ridgeville in Warren County, Ohio (Cincinnati map).

(9) The boundary proceeds in a straight line southeasterly to the town of Chapman in Jackson County, Ohio (Columbus map).

(10) The boundary proceeds in a straight line northeasterly to the town identified on the map as Hesboro, also known as Ilesboro, in Hocking County, Ohio (Columbus map).

(11) The boundary proceeds in a straight line northeasterly to the town of Tacoma in Belmont County, Ohio (Clarksburg map).

(12) The boundary proceeds in a straight line easterly to the town of Valley Grove in Ohio County, West Virginia (Canton map).

(13) The boundary proceeds in a straight line southerly to the town of Jarvisville in Harrison County, West Virginia (Clarksburg map).

(14) The boundary proceeds in a straight line southwesterly to the town of Gandeerville in Roane County, West Virginia (Charleston map).

(15) The boundary proceeds in a straight line southwesterly to the town of Atenville in Lincoln County, West Virginia (Huntington map).

(16) The boundary proceeds in a straight line westerly to the town of Isonville in Elliott County, Kentucky (Huntington map).

(17) The boundary proceeds in a straight line northwesterly to the town of Berlin in Bracken County, Kentucky (Louisville map).

(18) The boundary proceeds in a straight line westerly to the town of Dry Ridge in Grant County, Kentucky (Louisville map).

(19) The boundary proceeds in a straight line southwesterly to the town of Crest in Hardin County, Kentucky (Winchester map).

(20) The boundary proceeds in a straight line westerly to the intersection of State Route 56 and U.S. Route 41 in the city of Sebree in Webster County, Kentucky (Evansville map).

(21) The boundary proceeds in a straight line northwesterly to the beginning point (Paducah map).

Signed: November 4, 1982.

Stephen E. Higgins,
Acting Director.

Approved: November 29, 1982.

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

[FR Doc. 82-33944 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2180-7; FL-002]

Approval and Promulgation of Implementation Plans; Florida: Prevention of Significant Determination

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On August 7, 1980 (45 FR 52676), EPA promulgated revised regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit revised regulations for PSD. The State of Florida has developed, and on December 23, 1981, submitted to EPA regulations substantially meeting all of EPA's requirements except one. The procedure which Florida uses to calculate increment consumption for the short-term standards can lead to lower estimates of increment consumption than the procedure which is used by EPA in certain situations. EPA is today proposing to conditionally approve the PSD plan submitted by Florida.

DATE: To be considered, comments must be submitted on or before January 13, 1983.

ADDRESSES: Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Environmental Protection Agency,
Region IV, Air Management Branch,
345 Courtland Street, N.E. Atlanta,
Georgia, 30365

Florida Department of Environmental
Regulation, Bureau of Air Quality
Management, Twin Towers Office
Building, 2600 Blair Stone Road,
Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT:
Barry Gilbert, EPA Region IV, Air
Management Branch, at the above listed
address and phone 404/881-3286 or FTS
257-3286.

SUPPLEMENTARY INFORMATION: On December 5, 1974, EPA published regulations for PSD under the 1970 version of the Clean Air Act. These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). The Clean Air Act Amendments of 1977 changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans.

On June 19, 1978, (43 FR 26380), EPA promulgated further guidance. On August 7, 1980 (45 FR 52676), EPA promulgated the latest guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements.

The State of Florida, to comply with these requirements, adopted PSD regulations on June 10 and October 28, 1981. On December 23, 1981, the Florida Department of Environmental Regulation (FDER) submitted the following sections of 17-2., Florida Administrative Code (FAC): 100, 210, 220, 260, 270, 310, 400, 420, 430, 440, 450, 500, 520, and 630.

Although EPA is proposing to approve the Florida revisions, it should be noted that certain portions of the revisions would require inclusion of vessel emissions in the review of certain stationary sources. In connection with EPA's recent amendments to SIP new source review requirements, (47 FR 27554, 27555-27556 June 25, 1982), several members of the maritime industry raised the claim that States are implicitly preempted from requiring such reviews by the Ports and Waterways Safety Act, as amended, 46 U.S.C. 391(a) *et seq.* EPA is still considering these claims. Accordingly, a final decision on whether to approve the vessel emission provisions of the revised regulations may be deferred until this issue is resolved. It should also be noted, however, that any EPA decision on whether to approve these revisions, insofar as they apply to vessel emissions, will not affect the applicability of the rules for purposes of State law.

The definitions contained in Florida regulation 17-2.100 apply under State law to both Florida's PSD program and Florida's new source review program for nonattainment areas EPA is proposing to approve regulation 17-2.100 only under Part C of the Clean Air Act as

providing adequate definitions for an acceptable PSD plan. EPA is proposing to take no action on the definitions under Part D of the Act. Although regulation 17-2.100 will be applicable to Florida's nonattainment new source review program under State law, the definitions will not be approved by EPA as satisfying the requirements of Part D of the Act. EPA is proposing to take no action at this time on any of the recent amendments to Florida's nonattainment program. The new source review regulations approved by EPA on March 18, 1980, will continue to be the approved Part D SIP for Florida.

Section 17-2.210(3) exempts certain sources from PSD permitting provisions. Florida has assured EPA that all of the exempt sources are minor sources. EPA is proposing to approve the regulations including the exemption provision based upon the State's assurance that the exemption will not allow major stationary sources to escape PSD review.

Section 17-2.100(39) states in part, " 'Commence Construction'—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under federal air pollution control laws and regulations which are part of the SIP or which are part of Chapter 17-2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state construction permit for an air pollution source * * *." As written, the definition discusses permits required under federal laws in the SIP but not permits required under federal laws not in the SIP. The phrase " * * * and those air pollution control laws and regulations" has inadvertently been omitted after "regulations". The definition should read, " 'Commence Construction'—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under federal air pollution control laws and regulations and those air pollution control laws and regulations which are part of the State Implementation Plan (SIP) or which are part of Chapter 17-2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state construction permit for an air pollution source * * *." FDER has committed to add this phrase at the earliest opportunity. This deviation from the EPA PSD regulations will have a minor effect on the objective or preventing significant deterioration.

Section 17-2.100(18) provides for FDER to establish both a baseline