

in effect on September 3, 1982) and the regulations thereunder. For example, if an employer at a food or beverage operation is a member of a controlled group of corporations, then all employees of all corporations which are members of such controlled group of corporations shall be treated as employed by each such employer for purposes of this paragraph.

Par. 4. A new § 31.6053-4 is added immediately after existing § 31.6053-3 to read as follows:

§ 31.6053-4 Substantiation requirements for tipped employees.

(a) *Substantiation of tip income*—(1) *In general.* An employee shall maintain sufficient evidence to establish the amount of tip income received by the employee during a taxable year. A daily record maintained by the employee (as described in paragraph (a)(2) of this section) shall constitute sufficient evidence. If the employee does not maintain a daily record, other evidence of the amount of tip income received during the year, such as documentary evidence (as described in paragraph (a)(3) of this section), shall constitute sufficient evidence, but only if such other evidence is as credible and as reliable as a daily record. However, notwithstanding any other provision of this paragraph (a) (1), a daily record or other evidence that is as credible and as reliable as a daily record may not be sufficient evidence if there are facts or circumstances which indicate that the employee received a larger amount of tip income. Moreover, oral statements of the employee, without corroboration, cannot constitute sufficient evidence.

(2) *Daily record.* The daily record shall state the employee's name and address, the employer's name, and the establishment's name. The daily record shall show for each work day the amount of cash tips and charge tips received directly from customers or from other employees, and the amount of tips, if any, paid out to other employees through tip sharing, tip pooling or other arrangements and the names of such employees. The record shall also show the date that each entry is made. Form 4070A, *Employee's Daily Record of Tips*, may be used to maintain such daily record. The daily record of tips received by an employee shall be prepared and maintained in such manner that each entry is made on or near the date the tip income is received. A daily record made on or near the date the tip income is received has a high degree of credibility not present with respect to a record prepared subsequent thereto when generally there is a lack of accurate recall. An entry is made "near the date

the tip income is received" if the required information with respect to tips received and paid out by the employee for the day is recorded at a time when the employee has full present knowledge of those receipts and payments.

(3) *Documentary evidence.* Documentary evidence consists of copies of any documents that contain (i) amounts that were added to a check by customers as a tip and paid over to the employee or (ii) amounts that were paid by a customer for food or beverages with respect to which tips generally would be received by the employee. Examples of documentary evidence are copies of restaurant bills, credit card charges, or charges under any other arrangement (see § 31.6053-3(j)(4)) containing amounts added by the customer as a tip.

(b) *Retention of records.* Records maintained under this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

(c) *Effective date.* The substantiation requirements of this § 31.6053-4 shall be effective for tips received on or after October 1, 1985. For the rules in effect prior to October 1, 1985, see section 6001 and the regulations thereunder. Substantiation considered sufficient as provided in this § 31.6053-4 will also be considered sufficient for tips received before October 1, 1985.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by removing from the table "§ 31.6053-3T and § 31.6053-4T . . . 1545-0065" and inserting in the appropriate places in the table "§ 31.6053-3 and § 31.6053-4 . . . 1545-0065."

* * * * *
 Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved: May 15, 1987.

J. Roger Mentz,
Assistant Secretary of the Treasury.
 [FR Doc. 87-12841 Filed 6-5-87; 8:45 am]
 BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-252 Re: Notice No. 612]

Old Mission Peninsula Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule. Treasury decision.

SUMMARY: This final rule establishes a viticultural area known as Old Mission Peninsula, located in Grand Traverse County (in the northwest portion of the lower peninsula of Michigan). The petition was submitted by a winery located in the viticultural area. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase. It will also allow wineries to better designate the specific grape-growing area where their wines come from.

EFFECTIVE DATE: July 8, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, ATF Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 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 also allow the name and location 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 4.25(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 and/or nationally known as referring to the area specified in the petition;

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

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

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

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

Petition

ATF was petitioned for a viticultural area encompassing the narrow peninsula above Traverse City, Michigan. The petition for the "Old Mission Peninsula" viticultural area was submitted by Edward O'Keefe, President of the Chateau Grand Traverse Winery, the only winery located within the boundary of the viticultural area. The viticultural area consists of all the land in Peninsula Township (excluding Marion and Bassett Islands). It also includes a small portion of Traverse City Township. This peninsula is a sliver of land that juts into Grand Traverse Bay, forming on its east side, the East Arm of Grand Traverse Bay, and on its west side, the West Arm of Grand Traverse Bay. The viticultural area is approximately 19 miles long and no more than 3 miles wide at any point. The total area of the viticultural area is approximately 30 square miles (19,200) of land. There are 50 acres of vinifera vineyards for wine production in the Old Mission Peninsula viticultural area. 31 more acres of vineyards are planned for use by 1989. The Old Mission Peninsula is the fourth American viticultural area to be established in Michigan. Leelanau Peninsula located nearby to the west (across Grand Traverse Bay) is one of them.

Evidence of Name

The petitioner submitted evidence in the form of excerpts from Michigan history books and wine reference books that verified that the area has been locally and nationally called the Old Mission Peninsula for a number of years.

Evidence of Boundaries

The Old Mission Peninsula viticultural area is bounded on three sides by the waters of Grand Traverse Bay, and connected on the south by the mainland of Michigan's lower peninsula, at Traverse City. The south boundary, the unmarked light-duty road (known locally as Eastern Avenue) bordering on Northwestern Michigan College, although a man-made boundary, coincidentally is the demarcation point between the Old Mission Peninsula and the inland areas of northwestern Michigan's lower peninsula.

The boundaries of the Old Mission Peninsula viticultural area may be found on two U.S.G.S. Quadangle (15 Minute Series) maps.

Area History

The petitioner furnished information which identified the viticultural area as a fruit-growing region (cherries, peaches, plums, apples, berries and grapes) for over 100 years. In recent years there has been a revival in interest in grape-growing for commercial purposes on the Old Mission Peninsula. The petitioner claimed the peninsula is isolated and distinguishable from the surrounding area by virtue of natural boundaries and unique geographical features.

Evidence of Geographical Characteristics

Climate

A climate of favorable summer and winter caused by the moderating influence of Lake Michigan is most pronounced in the Grand Traverse Region which includes Old Mission Peninsula, Leelanau Peninsula and a few surrounding counties. The surrounding deep waters of the Grand Traverse Bay, coupled with southwesterly winds carrying warmth from the mainland, create a microclimate on the Old Mission Peninsula. The peninsula, then, is doubly tempered, once from Lake Michigan effects, and again by the Grand Traverse Bay. This additional insulating effect of the bay is reflected in differences in total degree growing days between Old Mission Peninsula, Traverse City, and Leelanau Peninsula.

Data gathered from a National Weather Service summary for the 15-year period (1962-1976) and for the 2-year period (1980-1981) in western Michigan, was provided by the petitioner. Total growing degree days for Old Mission Peninsula at base 50 (the base temperature used for grapes as well as cherries) averages 2,075 degree days over the 15 year period. Traverse City and Leelanau Peninsula average

2,134 degree days over the 2 year period and 2,109 degree days over the 15 year period, respectively. However, even though total growing degree days afforded fruit crops on the Old Mission Peninsula are less in number, they are virtually frost-free, as has been experienced by local fruit growers. In contrast, area frosts have been known to wipe out identical crops in the surrounding Grand Traverse Region, with little or no damage reported on the isolated Old Mission Peninsula. Therefore, temperature variations in both the spring and fall seasons are markedly more moderate on the Old Mission Peninsula than in the immediate surrounding areas.

The evidence presented in the petition and the notice of proposed rulemaking supports the fact that the Old Mission Peninsula region has within its boundaries, distinct and unique grape growing conditions which entitle it to be a separate American viticultural area.

On the basis of the evidence provided by the petitioner, ATF finds Old Mission Peninsula to be a delimited grape growing region distinguishable by geographical characteristics.

Discussion of Comments

On November 18, 1986, Notice No. 612 was published in the *Federal Register* with a 45-day comment period. In that Notice ATF invited comments from all interested parties regarding the proposal to establish "Old Mission Peninsula" as an American viticultural area. Of particular note, ATF specifically invited comments on the proposed boundary and the name for the viticultural area. No comments were received from the public during the comment period.

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 final rule because the proposal is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; or (2) to 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 final rule, will not have a significant economic impact or impose compliance burdens on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the 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 final rule because no requirement to collect information is proposed.

Miscellaneous

ATF does not wish to give the impression by approving "Old Mission Peninsula" as a viticultural area that it is approving or endorsing the quality of the wine derived from this area. ATF is approving this area as being distinct and not better than other areas. By approving this area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from "Old Mission Peninsula."

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 procedures, Viticultural areas, Consumer protection, Wine.

Authority and Issuance

27 CFR Part 9—American Viticultural Areas is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of contents in 27 CFR Part 9, Subpart C, is amended to add the title of 9.114 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *
9.114 Old Mission Peninsula.
* * * * *

Par. 3 Subpart C is amended by adding § 9.114 to read as follows:

Subpart C—Approved American Viticultural Areas**§ 9.114 Old Mission Peninsula.**

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the "Old Mission Peninsula" viticultural area are 2 U.S.G.S. Quadrangle (15 Minute Series) maps, scaled at 1:62,500. They are entitled:

- (1) Elk Rapids, Mich. (1957); and
- (2) Traverse City, Mich. (1957).

(c) *Boundary.* The boundary in Grand Traverse County, Michigan, consists of all of Peninsula Township, excluding Marion and Bassett Islands. In addition, the viticultural area takes in a small portion of Traverse City Township.

(1) The beginning point is on the Traverse City, Mich., U.S.G.S. map at the shoreline of the West Arm of Grand Traverse Bay at Section 1, Township 27 North, Range 11 West (T27N, R11W), approximately 500 feet due west of the intersection of two unmarked light-duty roads (approx. 750 feet north of Bryant Park);

(2) The boundary proceeds north 19 miles along the western shoreline of the Old Mission Peninsula until it reaches the lighthouse near Old Mission Point at the north side of the Peninsula on the Elk Rapids, Mich., U.S.G.S. map, Sec. 23, T30N, R10W;

(3) It then proceeds south for approximately 19 miles along the eastern shoreline of the peninsula to the southeast portion of an unmarked light-duty road (known locally as Eastern Avenue) at Sec. 6, T27N, R10W on the Traverse City, Mich., U.S.G.S. map. The unmarked light-duty road is located immediately north of Northwestern Michigan College on the shoreline of the East Arm of the Grand Traverse Bay;

(4) The boundary travels west along the unmarked light-duty road (known locally as Eastern Avenue) for approximately one mile until it meets an unmarked north/south light-duty road at Sec. 1, T27N, R11W; and

(5) Finally, the boundary proceeds due east 500 feet to the beginning point on the shoreline of the West Arm of the Grand Traverse Bay at Sec. 1, T27N, R11W.

Signed: May 4, 1987.
Stephen E. Higgins,
Director.

Approved: May 21, 1987.

John P. Simpson,
Deputy Assistant Secretary (Regulatory,
Trade and Tariff Enforcement).
[FR Doc. 87-12986 Filed 6-5-87; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 100**

[CGD 1-87-14]

Special Local Regulations; Save the Bay's 11th Annual Swim the Bay Ocean Swim; Coasters Harbor Island, Newport, RI to Potter Cove, Jamestown, RI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Swim the Bay—Save the Bay ocean swim. This event will be held on July 18, 1987 from 7:00 a.m. to 11:00 a.m. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 7:00 a.m. to 11:00 a.m. on July 18, 1987.

FOR FURTHER INFORMATION CONTACT: Lt. L. Brown, U.S. Coast Guard. Phone (617) 223-8311.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553 a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was not received until May 8, 1987, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Lt L. Brown, project officer, First Coast Guard District Boating Safety Division, and Lt D.J. St. James, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The Save the Bay, Inc. ocean swim includes 100 swimmers each accompanied by a small rowboat. The participants will enter the water at