

memorial site at the Wakefield Farm on Pope's Creek in Westmoreland County. In addition, the Northern Neck was also the birthplace of two other U.S. Presidents as well as other prominent famous Americans. ATF seeks comments on any other name or boundary description that may be appropriate in identifying the proposed viticultural area.

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 comment as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in 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 written request 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 Edward A. Reisman, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

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

Authority and Issuance

PART 9—[AMENDED]

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

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

Authority: August 29, 1935, Chapter 814, Sec. 5, 49 Stat. 981, as amended 27 U.S.C. 205, unless otherwise noted.

Par. 2. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.109 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *
9.109 Northern Neck.

Par. 3. Subpart C, is amended by adding § 9.109 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *
§ 9.109 Northern Neck.

(a) *Name.* The name of the viticultural area described in this section is "Northern Neck."

(b) *Approved maps.* The approved maps for determining the boundary of the Northern Neck viticultural area are 2 U.S.G.S. 1:250,000 scale maps. They are entitled:

(1) Washington, D.C.; Maryland; Virginia 1957 (Revised 1979) and
(2) Richmond, VA; MD. 1973

(c) *Boundary.* The proposed Northern Neck viticultural area takes in a land area locally and nationally known as the Northern Neck of Virginia. It consists of all of the land in the Counties of Westmoreland, King George, Northumberland, Lancaster and Richmond. The boundary is as follows:

Beginning on the Washington, D.C.; Maryland; Virginia U.S.G.S. map at a point on Potomac Creek where the King George County western boundary line at its northernmost point intersects Potomac Creek, thence easterly along the Potomac Creek shoreline approximately 3 miles to the Potomac River, thence easterly and southeasterly on the Richmond, VA; MD. U.S.G.S. map, along the Virginia shoreline of the Potomac River for approximately 66 air miles to Smith Point on the Chesapeake Bay, thence southerly along the shoreline of the Chesapeake Bay for approximately 20 air miles to Windmill Point at the mouth of the Rappahannock River, thence northwesterly approximately 72 air miles to Muddy Creek at the point where the western boundary line of King George County at its southernmost point begins, thence northward along the King George County-Stafford County line approximately 7 air miles to the point of the beginning.

Signed: September 3, 1985.

W.T. Drake,

Acting Director.

[FR Doc. 85-22155 Filed 9-16-85; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[Notice No. 569]

Ozark Mountain Viticultural Area

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

ACTION: Proposed rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Arkansas, Missouri, and Oklahoma to be known as "Ozark Mountain." This proposal is the result of a petition submitted by Mr. Al

Wiederkehr, a grape grower and winery proprietor in the proposed area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising enables winemakers to label wines more precisely and helps consumers to better identify the wines they purchase.

DATE: Written comments must be received by November 1, 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 (Notice No. 569).

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 4406, Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for 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.

Part 9 of 27 CFR provides 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 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 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(s) with the boundaries prominently marked.

Petition

ATF has received a petition from Mr. Al Wiederkehr of Altus, Arkansas, proposing an area in southern Missouri, northern Arkansas, and northeastern Oklahoma as a viticultural area to be known as "Ozark Mountain." The area contains about 55,000 square miles. There are about 4,280 acres of grapes currently planted in the proposed area. The petitioner states that approximately 35 wineries are operating within the area.

Name

The petitioner claims that the proposed viticultural area is known by the name of "Ozark Mountain." To support this, he submitted the following evidence;

(a) Wine labels from Wiederkehr Wine Cellars and others have borne the appellation "Ozark Mountain" since as far back as 1959.

(b) This area has been referred to as the "Ozark Mountain" region in many geographical books, including *Natural Regions of the United States and Canada* by C.B. Hunt (W.H. Freeman & Co., San Francisco, 1974) and *The Ozarks* by Richard Rhodes (Time-Life Books, New York, 1974).

(c) The Ozark Mountain area is well-known as a winemaking region, as is shown by this quote: "Like all of the other American wine regions, the Ozarks [Mountains] are quietly seething with new ideas, new personalities, new grape varieties and a new sense of direction." (*Restaurateurs' Guide to American Wines, Part IV: The Wines and Wineries of the Ozarks*. "Dining," April-May 1973, p. 58.)

Geography

The proposed viticultural area is distinguished geographically from the surrounding areas. In his book, *The Ozarks*, Richard Rhodes states (pp. 19, 22), as quoted by the petitioner:

Stretching from the forests of southern Missouri outside St. Louis through northern Arkansas to the Oklahoma plains near Tulsa, the 55,000 square miles of the Ozarks are bounded by five major rivers: The Mississippi, the Missouri, the Osage, the Neosho, and the Arkansas. The Ozark highlands, the only extensive elevated area in the United States between the Appalachians

and the Rocky Mountains, consist of low mountains and hills shaped by springfed streams and rivers . . . cutting their way through the elevated bed rock . . .

. . . These boundaries do not merely locate the Ozarks on the map, but also serve to isolate some of the region's plant and animal life . . .

The Ozarks mark the farthest western extension of the great deciduous forest that once covered the eastern United States. Their western border is the beginning of the prairie that runs from Western Missouri to the Rockies and from Texas to Canada. Their northern border, the Missouri River, is about as far south as the glacier of the ice age came . . . And the hot, lush alluvial lands of the Mississippi begin at the Ozarks' abrupt southeastern edge, in the Missouri bootheel.

With four different climatic regions pressing against them, the Ozarks serve as a sanctuary for a selection of plants and animals from all sides . . .

Geologically, the Ozarks are regarded as an upland plateau, in which mountains and valleys have been carved out by numerous streams and rivers. The land is hilly to mountainous, and the soils are characteristically stony and well-drained. The distinctive soil of the Ozark region is "Clay from deeply weathered, well consolidated sedimentary and deeply weathered volcanic rocks." (Hunt, op. cit., pp. 122-123.) Most of the land remains forested, as it was before the arrival of civilization, in contrast to the neighboring plains country.

The primary effect which the mountainous terrain has on the climate of the Ozarks is to divide the region into innumerable small microclimatic temperature zones. This is demonstrated by the following quote from Milton D. Rafferty in *The Ozarks, Land and Life* (University of Oklahoma Press, Norman, 1980), p. 29:

Within the Ozarks, temperatures will vary widely with the orientation of slope, nature of surface materials, relief, and presence of water. South and west-facing slopes receive the greatest amount of sunlight and are subject to higher rates of evaporation . . . In winter, perhaps the most noticeable effect of temperature differences within a small area is the duration of snow and icicles on the north-facing slopes . . .

Air drainage creates the most readily observed temperature differences in summer. Nights are notable for the cool breeze that drains down the slopes, beginning an hour or two before sunset . . .

. . . As a rule, frosts occur in the valleys several weeks earlier in fall and later in spring than they do on the uplands, especially in the case of the larger valleys lying in the hill regions. The margins of the uplands have the best air drainage and are least subject to frosts.

Ozark viticulturists rely on their knowledge of local microclimatic conditions to select the best sites for

their vineyards. Such sites possess generally similar conditions of soil and climate, thus giving Ozark viticulture a distinctive character. Favorable conditions for viticulture can be found at locations throughout the Ozarks, from Herman in the north to Altus in the south. The reason for this is summarized succinctly by Milton D. Rafferty in the book mentioned above (p. 160): "The growing of grapes is well suited to the climate and soils of the Ozarks."

Boundaries

The boundaries of the proposed viticultural area have been drawn by the petitioner to follow the five major rivers mentioned above in the quote from Richard Rhodes. These boundaries may be found on 11 U.S.G.S. maps in the scale of 1:250,000, titled St. Louis, Jefferson City, Springfield, Joplin, Tulsa, Fort Smith, Russellville, Memphis, Poplar Bluff, Paducah, and Rolla. The boundaries would be as described in the proposed § 9.108. The following approved viticultural areas are entirely enclosed within the proposed Ozark Mountain boundaries: Altus (§ 9.77) and Hermann (§ 9.71).

In establishing a large viticultural area based on geographical features which affect viticultural features, ATF recognizes that the distinctions between a small area and its surroundings are more refined than the differences between a large area and its surroundings. It is possible for a large viticultural area to contain approved viticultural areas, if each area fulfills the requirements for establishment of a viticultural area.

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 significant economic impact 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. Further, 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.

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 of Feb. 17, 1981, 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 geographical regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, 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 notice, because no requirement to collect information is proposed.

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 Ozark Mountain viticultural area, 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 suggestions for possible 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 procedures, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Issuance

Accordingly, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: August 29, 1935, Chapter 814 sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205), unless otherwise noted.

Par. B. The table of sections in 27 CFR Part 9, Subpart C, is revised to add the title of § 9.108, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

| | |
|-----------|-----------------|
| Sec. | |
| * * * * * | |
| 9.108 | Ozark Mountain. |
| * * * * * | |

Par. C. Subpart C of 27 CFR Part 9 is amended by adding § 9.108, which reads as follows:

§ 9.108 Ozark Mountain.

(a) *Name.* The name of the viticultural area described in this section is "Ozark Mountain."

(b) *Approved maps.* The appropriate maps for determining the boundaries of Ozark Mountain viticultural area are 11 U.S.G.S. maps in the scale of 1:250,000. They are titled—

- (1) St. Louis, Missouri (1963, revised 1969);
- (2) Jefferson City, Missouri (1955, revised 1970);
- (3) Springfield, Missouri (1954, revised 1969);
- (4) Joplin, Missouri; Kansas (1954, revised 1974);
- (5) Tulsa, Oklahoma; Arkansas; Missouri; Kansas (1958, revised 1973);
- (6) Fort Smith, Arkansas-Oklahoma (1978);
- (7) Russellville, Arkansas (compiled in 1954);
- (8) Memphis, Tennessee; Arkansas; Missouri (1953, revised 1978);
- (9) Poplar Bluff, Missouri; Arkansas (1957, revised 1978);
- (10) Paducah, Kentucky; Illinois; Missouri; Indiana (1949, revised 1969); and
- (11) Rolla, Missouri; Illinois (1954, revised 1969).

(c) *Boundary*—(1) *General.* The Ozark Mountain viticultural area is located in Missouri, Oklahoma, and Arkansas. The

starting point of the following boundary description is the point at which the Missouri River joins the Mississippi River north of St. Louis, Missouri (on the St. Louis map).

(2) *Boundary Description*—(i) The boundary proceeds from the starting point westward along the Missouri River until it meets the Osage River;

(ii) Then further westward along the Osage River (flowing through Lake of the Ozarks and the Harry S. Truman Reservoir) until it passes adjacent to Missouri Highway 82 in Osceola, Missouri (on the Jefferson City map);

(iii) Then southwestward along Missouri Highway 82 until it intersects U.S. Highway 54 in Eldorado Springs, Missouri (on the Joplin map);

(iv) Then westward along U.S. Highway 54 until it intersects U.S. Highway 71 near Nevada, Missouri;

(v) Then southward along U.S. Highway 71 until it intersects Interstate Highway 44 approximately 5 miles south of Carthage, Missouri;

(vi) Then westward and southwestward along Interstate Highway 44 into the State of Oklahoma, and continuing southwestward until Interstate Highway 44 crosses the Neosho River near Miami, Oklahoma (on the Tulsa map);

(vii) Then southward along the Neosho River (flowing through the Lake of the Cherokees, Lake Hudson, and Fort Gibson Lake) until it flows into the Arkansas River approximately 2 miles west of Fort Gibson, Oklahoma (on the Fort Smith map);

(viii) Then southward and eastward along the Arkansas River (flowing through the Robert S. Kerr Lake) into the State of Arkansas, and continuing eastward until the Arkansas River is joined by Caldron Creek approximately 6 miles west of Conway, Arkansas (on the Russellville map);

(ix) Then northeastward and eastward along Caldron Creek for about 2½ miles until passes under U.S. Highway 64 approximately 3½ miles west of Conway, Arkansas;

(x) Then eastward along U.S. Highway 64 until it intersects U.S. Highway 67 near Beebe, Arkansas (on the Memphis map);

(xi) Then northeastward along U.S. Highway 67 into the State of Missouri, then northward until U.S. Highway 67 intersects U.S. Highway 60 in Poplar Bluff, Missouri (on the Poplar Bluff map);

(xii) Then eastward along U.S. Highway 60 until it crosses the western boundary of Stoddard County (here that boundary is the St. Francis River);

(xiii) Then northward, northeastward, and eastward along the boundary of

Stoddard County until it joins the southern boundary of Cape Girardeau County (on the Cape Girardeau map);

(xiv) Then northeastward along the Cape Girardeau County boundary until it meets the Mississippi River south of Cape Girardeau, Missouri;

(xv) Then northward along the Mississippi River to the starting point.

Signed: September 2, 1985.

W.T. Drake,

Acting Director.

[FR Doc 85-22154 Filed 9-16-85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Regulatory Program; Proposal To Supersede a Provision of State Law

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: This document announces and seeks public comment on a proposed action by OSM to preempt and supersede Kentucky Revised Statute (KRS) 350.060(22). This provision proposed for preemption and supersession involves the exemption of "operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site" from the requirements of the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program).

The proposed action would not require that mere loading facilities that are not engaged in the physical processing of coal which are not located at or near the mine site be regulated.

This action is being taken because the Director has determined that these provisions are inconsistent with the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Director's determination is based on reasons cited in the "Director's Findings" section in a separate notice announcing disapproval of the statutory provision in today's *Federal Register*.

DATE: Written comments or other information not received on or before October 17, 1985 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to: W.H. Tipton, Director, Lexington Field Office,

Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Copies of the Kentucky program, the proposed modification to the program, and all written comments received in response to this notice will be available for review and copying at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Office of Surface Mining, Reclamation and Enforcement, Room 5124, 1100 L Street, NW., Washington DC 20240.

Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: W.H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Public Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanation in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington, Kentucky Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

II. Background

Detailed background on the actions proposed in this document can be found in a notice of final rulemaking pertaining to the Kentucky program which also appears in today's *Federal Register*.

III. Director's Findings and Proposed Action

Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), the Director proposes to preempt and supersede KRS 350.060(22) which reads as follows:

(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

The Director proposes to take this action because he has determined that this provision is inconsistent with section 701(28) of SMCRA and less effective than 30 CFR 700.5 and 701.5 based on the reasons cited under "Director's Findings" in a separate notice of final

rulemaking pertaining to the Kentucky program, also being published in today's *Federal Register*.

This proposed action will not require that the State of Kentucky regulate mere loading facilities that are not engaged in the physical processing of coal which are not located at or near the mine site. However, this proposed action would remove any legal bar to Kentucky being able to regulate processing facilities, and OSM expects Kentucky to submit a schedule for the prompt permitting of them.

The Director is now soliciting comments on this proposal to preempt and supersede KRS 350.060(22). If no evidence is received demonstrating why this provision should not be preempted and superseded, a final notice will be published to effect the supersession of the provision by Federal law. This action, if taken, will require the State to operate and enforce the approved program as if the preempted and superseded provisions did not exist.

IV. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.