

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 9**

[Notice No. 738; Re: Notice Nos. 728 and 729; 89F-92P and 89F-90P]

RIN 1512-AA07

Reopening of the Comment Periods of the Proposed Oakville and Rutherford Viticultural Areas

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Reopening of the written comment periods on two proposed rules.

SUMMARY: This notice announces the reopening of the written comment periods for the proposed Oakville and Rutherford viticultural areas. The two proposed areas are immediately adjacent to each other and are both located in Napa County, California. In Notice Nos. 728 and 729 (56 FR 47039 and 47044), published in the *Federal Register* on September 17, 1991, ATF detailed proposals for the establishment of these two viticultural areas and requested comments. In consideration of the comments received, ATF has decided to reopen the comment periods of both notices to give all interested persons more time to submit additional written evidence (comments) concerning whether these two proposed viticultural areas should be established and, if so, what boundaries should be adopted. ATF feels this additional comment period is necessary since it was obvious from the comments received that there was an expectation that a public hearing would be held. ATF is not contemplating holding a public hearing on this matter.

DATES: Written comments must be received by July 21, 1992.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 738). Copies of the petitions, the proposed regulations, the appropriate maps, and any written comments received will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, room 6300, 650 Massachusetts Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202-927-8230).

SUPPLEMENTARY INFORMATION:**Background**

On September 17, 1991, ATF published two notices of proposed rulemaking, Nos. 728 and 729 (56 FR 47039 and 47044), in the *Federal Register*. In the notices, proposals were made for the establishment of two viticultural areas in Napa County, California, to be known as Oakville and Rutherford.

As specified in Notice No. 728, the proposed Oakville viticultural area is located just north of the town of Yountville, and approximately 10 miles northwest of the city of Napa. In very general terms, the proposed Oakville boundary goes as far north as Skellenger Lane, as far east as the 500-foot contour line on the western side of the Vaca Mountain Range, as far west as the 500-foot contour line on the eastern side of the Mayacamas Mountain Range, and as far south as approximately one mile northwest of the town of Yountville.

As specified in Notice No. 729, the proposed Rutherford viticultural area is located just south of the city of St. Helena and approximately 12 miles northwest of the city of Napa. In very general terms, the proposed Rutherford boundary goes as far north as Zinfandel Lane, as far east as the 500-foot contour line on the western side of the Vaca Mountain Range, as far west as the 500-foot contour line on the eastern side of the Mayacamas Mountain Range, and as far south as Skellenger Lane with the exception of one area going approximately .5 mile south of Skellenger Lane.

It is important to note that the proposed southern boundary of Rutherford coincides exactly with the proposed northern boundary of Oakville.

In response to the two notices of proposed rulemaking, ATF received a total of 19 comments. After reviewing the comments, it appears there is controversy concerning the northern and northeastern boundary of Rutherford, the southern boundary of Rutherford, and the southwestern boundary of Oakville. In addition, one commenter is against any further subdivision of Napa Valley.

Nine commenters disagree with the northern boundary of Rutherford. These commenters feel that the Rutherford boundary should extend further north either to Sulphur Creek or to the southern city limits line of St. Helena.

One commenter disagrees with the northeastern boundary of Rutherford. He feels that the northeastern boundary should continue to be the 500-foot contour line (which would include the Spring Valley area) rather than changing

to the 380-foot contour line which would exclude the Spring Valley area.

Two commenters disagree with the southern boundary of Rutherford. Both commenters feel that any boundaries for Rutherford must include Beaulieu Vineyard properties No. 2 and No. 4 which have historically been associated with Beaulieu Vineyard and its Cabernet Sauvignon wines, and which have contributed greatly to the development and consumer recognition of the Rutherford name. These two vineyard properties are currently within the proposed Oakville viticultural area. One of the commenters suggests that these two vineyard properties either be "grandfathered" into the Rutherford viticultural area or else allow part of the Rutherford viticultural area to overlap with part of the Oakville viticultural area so as to include these two vineyard properties in both the Rutherford and Oakville areas.

Two commenters disagree with the southwestern boundary of Oakville. Both commenters feel that the southwestern boundary extends too far south into what they feel is Yountville. According to one of these commenters, the Oakville/Yountville border has always been known by the locals to be Dwyer Road to Highway 29, then Yount Mill Road to Rector Creek. This commenter submitted evidence which suggests that one winery and several other businesses located south of Dwyer Road have Yountville addresses and consider themselves to be in the Yountville area. These businesses are currently located within the boundaries of the proposed Oakville viticultural area.

Request for Additional Comments

Based on the information presented in the comments, it is apparent that disagreement exists as to whether these two viticultural areas should be established and, if so, what boundaries should be adopted for these two areas.

Therefore, ATF desires to obtain more information on the establishment of these two viticultural areas, their proposed boundaries, and other possible boundaries.

For these reasons, ATF has determined that the reopening of the comment periods of the two notices is necessary and would serve the public interest. The purpose of the reopening is to obtain additional evidence for the record and to afford interested parties an additional opportunity to express their views. Evidence obtained and views expressed will be considered in the preparation of any final rules

concerning the Oakville and Rutherford viticultural areas.

It is extremely important that all interested parties submit any additional evidence which they want considered concerning the establishment of these two viticultural areas during this additional comment period since it is not currently contemplated that a public hearing will be held.

In all written comments, each topic to be discussed should be separately numbered and each numbered topic should specify the factual basis supporting the views, data, or arguments presented. Comments submitted which are not supported by factual evidence will not be particularly helpful in developing a reasoned regulatory decision. However, all written comments received, both during the original comment period and during this additional comment period, will be considered in the development of a decision on this matter.

ATF specifically requests that commenters consider making written comments on the following questions:

1. What are the historical and current boundaries (north, south, east, west) of the areas known as Oakville and Rutherford?

2. Why, and how, should the boundaries of Oakville and Rutherford, as proposed in Notice Nos. 728 and 729 respectively, be modified?

3. What geographical or climatic features, or other current or historical evidence, support the extension of the Rutherford area north of Zinfandel Lane into the Sulphur Creek area, or northeast of the 380-foot contour line, along the proposed northeastern border of Rutherford, into the Spring Valley area?

4. What geographical or climatic features, or other current or historical evidence, support the extension of the southern boundary of the proposed Rutherford viticultural area to include Beaulieu Vineyard properties No. 2 and No. 4, which are currently within the proposed Oakville viticultural area?

5. What geographical or climatic features, or other current or historical evidence, support using Dwyer Road and Yount Mill Road as the southwestern border of the proposed Oakville viticultural area? Currently, the proposed southwestern border extends south of Dwyer Road approximately 1 mile.

6. Is there any additional evidence, other than what is currently in the Oakville and Rutherford petitions, which supports the boundaries of the proposed Oakville and Rutherford viticultural areas as proposed in Notice Nos. 728 and 729 respectively?

7. Is there evidence that the name of the proposed Rutherford viticultural area is locally or nationally known as including the area north of Zinfandel Lane to include the Sulphur Creek area, or northeast 380-foot contour line along the northeastern border of Rutherford to include the Spring Valley area, or south of Skellenger Lane along the southern border of Rutherford to include Beaulieu Vineyard properties Nos. 2 and 4?

8. Is there evidence that the name of the proposed Oakville viticultural area is locally or nationally known as including the area south of Dwyer Road and Yount Mill Road up to a distance of approximately 1 mile?

9. What do wineries outside of the proposed Oakville and Rutherford areas consider to be the Oakville and Rutherford grape growing areas?

10. To what extent have wineries in the Oakville and Rutherford areas, as proposed in Notice Nos. 728 and 729, as well as those wineries located in the previously mentioned controversial areas, identified themselves as being in either Oakville or Rutherford?

11. To what extent have grapes grown in the proposed Oakville or Rutherford areas, or in the previously mentioned controversial areas, been or not been marketed as either Oakville or Rutherford grapes?

Drafting Information

The author of this document is Robert White, Coordinator, 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, and Wine.

Authority: This notice reopening the comment periods of the proposed Oakville and Rutherford viticultural areas is issued under the authority of 27 U.S.C. 205.

Approved: April 16, 1992.

Stephen E. Higgins,

Director.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD 85-096]

RIN 2115-AC03

Navigation on Certain Waterways Tributary to the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearings; Extension of comment-period.

SUMMARY: On September 26, 1991, the Coast Guard published a notice of proposed rulemaking (NPRM) concerning navigation on certain waterways tributary to the Gulf of Mexico (56 FR 48773); on December 18, 1991, the Coast Guard extended the comment-period through March 26, 1992 (56 FR 65720). In response to several requests, the Coast Guard held public hearings in Corpus Christi, TX, Galveston TX, and New Orleans, LA, and extended the comment-period through April 27, 1992. In response to several more requests, received after the first three hearings were scheduled, the Coast Guard will hold one more hearing, in Saint Louis, MO. Also, to allow time for any written comments that may arise from the final hearing, the Coast Guard will extend the comment-period by another month.

DATES: The comment-period for the proposed rulemaking is extended to, and comments must be received on or before, May 28, 1992. The date of the public hearing is May 15, 1992, as further explained in **SUPPLEMENTARY INFORMATION** below.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2, 3406) [CGD 85-096], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. Comments will become part of the public docket for this rulemaking and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

The site of the public hearing is Saint Louis, MO. The time and place of the public hearing are specified in **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Mr. Harry C. Robertson, Short Range Aids to Navigation Division, U.S. Coast Guard Headquarters, (202) 267-0405; or Mr. Monty Ledet, Aids to Navigation Branch, Eighth Coast Guard District, (504) 589-4686.

SUPPLEMENTARY INFORMATION: The Coast Guard is holding another public hearing and extending the comment-period for the NPRM, which concerns navigation on certain waterways tributary to the Gulf of Mexico. The Coast Guard has received several requests for a hearing in Saint Louis, MO. There are corporations, barge lines,