

Federal, State or local governmental agency or instrumentality or (iii) a junior (second or third) mortgage securing the repayment of funds advanced to reduce the mortgagor's monthly payments on the insured mortgage following the date it is insured;

that the applicable requirements of 24 CFR 203.32 (b), (c) or (d), 203.32 (b), (c) or (d) as incorporated by reference in § 221.1, or § 234.55 are met;

(8) That the property designed for a two- three- or four-family residence has one of the dwelling units occupied by the mortgagor, as required by 24 CFR 221.12;

(9) For a condominium unit, that the mortgaged property is in a project that has been approved by HUD under 24 CFR 234.26;

(10) In the case of proposed or new construction to which 24 CFR 203.12 is applicable, that the property covered by the application for insurance meets the requirements of 24 CFR 203.12(c); and

(11) That the property covered by the mortgage is not located in an area that is precluded from receiving Federal financial assistance pursuant to the Coastal Barrier Resources Act (Pub. L. 97-349).

(d)

(6) That all necessary certifications are made in accordance with paragraphs (b) and (c) of this section.

Dated: March 25, 1987

James E. Schoenberger,
Acting General Deputy Assistant Secretary
for Housing, Federal Housing Commissioner.
[FR Doc. 87-8041 Filed 4-9-87; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 628]

San Benito Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in California to be known as "San Benito." This proposal is the result of a petition submitted by Almaden Vineyards, a winery and grape grower in the proposed area. The establishment of viticultural areas and the subsequent use of viticultural area

names in wine labeling and advertising will enable winemakers to label wines more precisely and will help consumers to better identify the wines they purchase.

DATES: Written comments must be received by May 26, 1987

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. 628).

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, Ariel Rios 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 Almaden Vineyards, proposing an area in San Benito County, California, as a viticultural area to be known as "San Benito." The proposed area contains about 45,000 acres of land, of which approximately 2,500 are currently planted to grapes. The area is located along and near the San Benito River, approximately two miles south of Hollister, California. The petitioner states that at least three major wineries are operating within the area, and that approximately 23 different varieties of wine grapes are grown there. The proposed area is located inside the approved "Central Coast" viticultural area and contains within it the approved "Paicines," "Cienega Valley," and "Lime Kiln Valley" areas. (See the discussion of overlapping viticultural areas below, under "BOUNDARIES OF THE AREA.")

Name of the Area

The association of the name "San Benito" with the proposed viticultural area goes back far into history. The San Benito River flows through the area, and one of the principal streets of nearby Hollister was already called "San Benito Street" in 1874, when the surrounding territory, including the proposed viticultural area, was organized as "San Benito County." (See *Crimes and Career of Tiburcio Vasquez*, San Benito County Historical Society, pp. Nine and Seventeen.) The town of San Benito is about 15 miles southeast of the proposed area, and San Benito Mountain is about 30 miles farther southeast, near the source of the San Benito River and the eastern boundary of San Benito County.

The history of viticulture in the proposed area was described by John P. Ohrwall in a talk given to the San Benito County Historical Society on July 29, 1965. A copy of the talk was submitted to ATF by the petitioner. In that talk, Mr. Ohrwall related that the first vineyard in San Benito County was planted near the proposed viticultural area by Theophile Vache in the early 1850's. Other vineyards were planted too, and the area where vineyards were sited became known locally as the "Vineyard District." Before the end of the nineteenth century, the vineyard planted by Vache had been named "San Benito Vineyard," and, under that name, wines made in the area "were said to

have won prizes at various expositions and fairs, including some held in France and Italy" (quote from Ohrwall). Gradually, additional vineyards and wineries were established in the proposed viticultural area. In the 1950's, Almaden Vineyards arrived and began greatly expanding the area's grape acreage. Today, Almaden is the dominant grape grower in the area.

Unfortunately, the original vineyard planted by Theophile Vache is no longer in production, because the soil in that vicinity has become permeated with boron salts. (See the discussion of boron below, under "GEOGRAPHY OF THE AREA.") Thus, the original "San Benito Vineyard" is excluded from the proposed viticultural area for a geographical reason, but the name that this vineyard gave to the viticultural area remains.

Although there are some scattered grape plantings elsewhere in San Benito County, by far the preponderance of viticulture in that county is practiced in the geographical area proposed by the petitioner. According to the petitioner, 95 percent of the vinifera grapes from San Benito County are grown in the proposed area. The other 5 percent are grown in other areas with different climates, according to the petitioner, who declares, "We are not aware of any other area within San Benito County that could be known as 'San Benito' or that would have comparable climatic and growing conditions." ATF agrees with these assertions, since it appears likely that much of the other 5 percent of the vinifera in San Benito County is planted in the already-established "Pacheco Pass" viticultural area (located north of Hollister, straddling the border of San Benito and Santa Clara Counties).

Further evidence was offered by the petitioner, concerning its use of the name "San Benito" on wine labels. Since 1959, labels have appeared on wines of the petitioner, made from grapes from the proposed area, indicating "San Benito" or "San Benito County" as the appellation of origin.

Geography of the Area

The petitioner presented evidence that the proposed viticultural area is distinguished geographically from the surrounding areas, as follows:

(a) To the north, the area is distinguished from the Hollister Valley by a relative absence of fog. There are presently few or no grapes grown in the Hollister Valley, but if there were, according to the petitioner, they would be of different character from grapes grown in the proposed area. According to the petitioner, "Even an extra hour of

fog daily, which is the situation around Hollister, can create a different characteristic in the wine. The grapes would be slower ripening and would result in higher acid.

(b) Additionally, the proposed area is distinguished from certain areas to its north and northeast which are burdened, to quote the petitioner, with "a high amount of boron in the water which deforms and destroys the leaves; the vines cannot grow properly and the grapes cannot ripen. This area of boron contamination includes the site of the original "San Benito Vineyard" discussed above.

Boron contamination is a natural feature of the subsoil north of the proposed viticultural area. Groundwater percolating through this subsoil dissolves some of the boron salts. If such groundwater is later drawn up through wells and used for irrigation, boron contamination begins to build up in the topsoil. This apparently is what happened over a period of years in the original "San Benito Vineyard" land. Although famous for grapes for 50-75 years, that land today is unsuitable for viticulture.

By contrast, vineyards inside the proposed area are irrigated by water from "deep wells with an extremely low level of boron. There is no toxicity and this condition is monitored on a yearly basis," the petitioner states.

(c) The eastern, southern, and western boundaries of the proposed area correspond closely to a climatic change as indicated in *Western Garden Book*, published by Sunset Books. According to this book, the area inside the proposed viticultural area is an "inland area with some ocean influence" which moderates the climate. By contrast, the surrounding areas to the east, south, and west are designated as areas with more "sharply defined seasons, due to their more mountainous elevations.

(d) Distinctions to the east and west, and to a lesser extent to the south as well, exist on the basis of topography. Those neighboring areas are, for the most part, too steeply sloped to be suitable for viticulture. This topographic distinction is apparent from examination of the applicable U.S.G.S. maps.

(e) Finally, the mountain areas to the east and west of the proposed area would generally be too cold for viticulture, according to a statement made to ATF by the University of California Farm Advisor for San Benito County.

Boundaries of the Area

The boundaries of the proposed viticultural area may be found on six U.S.G.S. maps of the 7.5 minute series,

titled Hollister Quadrangle, Tres Pinos Quadrangle, Quien Sabe Valley Quadrangle, Mt. Harlan Quadrangle, Paicines Quadrangle, and Cherry Peak Quadrangle. The boundaries would be as described in the proposed § 9.110. These boundaries are slightly altered from the boundaries proposed in the petition, so that the San Benito viticultural area, as proposed in this document, would completely encompass the following approved viticultural areas: "Lime Kiln Valley" (§ 9.27), "Cienega Valley" (§ 9.38), and "Paicines" (§ 9.39). Moreover, the proposed "San Benito" viticultural area would lie entirely within the approved "Central Coast" area (§ 9.75).

In establishing a viticultural area based on geographical features which affect viticultural features, ATF recognizes that the distinctions between a smaller area and its surroundings are more refined than the differences between a larger area and its surroundings. It is possible for a viticultural area to contain smaller 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 a 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, innovation, or on the ability of 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 "San Benito" 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 future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material that 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 the 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: 27 U.S.C. 205.

Par. B. The table of sections in 27 CFR Part 9, Subpart C, is revised to add the title of § 9.110, to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.
9.110 San Benito.

Par. C. Subpart C of 27 CFR Part 9 is amended by adding § 9.110, which reads as follows:

§ 9.110 San Benito.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of San Benito viticultural area are six U.S.G.S. maps. They are titled:

- (1) Hollister Quadrangle, 7.5. minute series, 1955 (photorevised 1971).
- (2) Tres Pinos Quadrangle, 7.5. minute series, 1955 (photorevised 1971).
- (3) Queen Sabe Valley Quadrangle, 7.5. minute series, 1968.
- (4) Mt. Harlan Quadrangle, 7.5. minute series, 1968.
- (5) Paicines Quadrangle, 7.5. minute series, 1968.
- (6) Cherry Peak Quadrangle, 7.5. minute series, 1968.

(c) *Boundary*—(1) *General.* The San Benito viticultural area is located in San Benito County, California. The starting point of the following boundary description is the point where the eastern border of Section 17 of Township 15 South, Range 7 East, crosses the latitude 36°37'30" (on the Cherry Peak map).

(2) *Boundary Description*—(i) From the starting point westward along latitude 36°37'30" to the Range Line R.6E./R.7E. (on the Paicines map).

(ii) Then northward along that range line to the southern border of Section 1, Township 15 South, Range 6 East.

(iii) Then westward along that southern border to the western border of the same section.

(iv) Then northward along that western border to the 800-foot contour line.

(v) Then northwestward along that contour line to the Township Line T.14S./T.15S.

(vi) Then westward along that township line to the southern border of Section 34, Township 15 South, Range 6 East.

(vii) Then continuing westward along that southern border to the 1200-foot contour line.

(viii) Then generally northwestward along that contour line until it crosses for the second time the southern border of Section 28, Township 14 South, Range 6 East.

(ix) Then westward along that southern border to the 1400-foot contour line.

(x) Then following the 1400-foot contour line through the following sections: Sections 28, 29, and 30, Township 14 South, Range 6 East; Section 25, Township 14 South, Range 5 East; Sections 30, 19, 20, and returning to 19, Township 14 South, Range 6 East; to the point where the 1400-foot contour line intersects the section line between Sections 19 and 18, Township 14 South, Range 6 East.

(xi) From there in a straight line due northward to the 1200-foot contour line in Section 18, Township 14 South, Range 6 East.

(xii) Then following the 1200-foot contour line generally northwestward to the northern border of Section 10, Township 14 South, Range 5 East (on the Mt. Harlan map).

(xiii) Then following that northern border northwestward to the 1600-foot contour line.

(xiv) Then following the 1600-foot contour line generally northward to an unimproved road.

(xv) Then looping southward along the unimproved road and continuing eastward past the designated "Spring and then northward parallel with Bonanza Gulch to the Vineyard School on Cienega Road (on the Hollister map).

(xvi) From there in a straight line northeastward, crossing Bird Creek and the San Benito River, to the northwestern corner of Section 19, Township 13 South, Range 6 East (on the Tres Pinos map).

(xvii) From there following the northern border of Sections 19 and 20, Township 13 South, Range 6 East, to the northeastern corner of Section 20.

(xviii) From there in a straight line due eastward to the Range line R.6E./R.7E.

(xix) Then southward along that Range line to the Township line T.13S./T.14S.

(xx) Then eastward along that Township line to the eastern border of

Section 6, Township 14 South, Range 7 East (on the Queen Sabe Valley map).

(xxi) Then southward along the eastern border of Sections 6, 7 and 18, Township 14 South, Range 7 East, to the northern border of Section 20, Township 14 South, Range 7 East (on the Cherry Peak map).

(xxii) Then eastward along that northern border to the eastern border of Section 20.

(xxiii) Then southward along the eastern border of Sections 20, 29, and 32, Township 14 South, Range 7 East, and continuing southward along the eastern border of Sections 5, 8, and 17 Township 15 South, Range 7 East, to the starting point.

Approved: April 2, 1987

Stephen E. Higgins,
Director.

[FR Doc. 87-8001 Filed 4-9-87; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Ohio Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Ohio as amendment to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consist of proposed changes to Ohio's Reclamation Board of Review (RBR) procedural rules. One of the proposed amendments was submitted in response to a required amendment imposed on the State with the approval of the RBR rules published in the *Federal Register* on May 6, 1986 (51 FR 16677).

This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the

proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., May 11, 1987 will not necessarily be considered in the decision on whether the proposed amendment should be approved and incorporated into the Ohio regulatory program. If requested, a public hearing on the proposed amendment will be scheduled for April 30, 1987. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by April 27, 1987. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will not be held. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing, if requested, is scheduled for 1:00 p.m., in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227. Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSMRE Field Office listed above and at the OSMRE Headquarters Office and the Office of State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 "L" Street, NW., Washington, DC 20240
Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227. Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 *Federal Register* (47 FR 34688). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 *Federal Register*. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

II. Submission of Revisions

By letter dated January 28, 1987 the Ohio Department of Natural Resources, Division of Reclamation submitted proposed amendments to the Reclamation Board of Review (RBR) rules at OAC sections 1513-3-02, 1513-3-03, 1513-3-04, 1513-3-08, 1513-3-19, and 1513-3-21. The proposed changes include amending O.A.C. 1513-3-02(D)(5) and (6), 1513-3-04(d)(6) and 1513-3-19(F)(1), (2), (3), and (4) to reflect changes in the statutory language of O.R.C. 1513.02(F)(3). The amendments change "an escrow account" to "a penalty fund" O.A.C. 1513-3-03(F) is amended to include language prohibiting *ex parte* Communications between the Board and parties, or representatives of parties, regarding substantive issues of a pending case. O.A.C. 1513-3-08(G) is amended to include language prohibiting the Board from granting temporary relief in cases where such relief would result in the issuance of a coal mining and reclamation permit. The amendments proposed in O.A.C. 1513-3-21(E)(3), (4), and (5) were required by OSMRE so that the Ohio rule would be no less effective than the Federal counterpart regulations. The amendment sets forth the standards which the Board will apply in determining whether an award of costs and attorneys' fees is appropriate in a case before the Board.

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSMRE's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendment. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Ohio program.