

Department is adopting the following amendment to 22 CFR 126.1(a).

PART 126—[AMENDED]

1. The authority for part 126 continues to read as follows:

Authority: Sec. 38, sec. 42, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778, 2780); E.O. 11958, 42 FR 4311, E.O. 11322, 32 FR 119; 22 U.S.C. 2658, unless otherwise noted.

2. Section 126.1(a) is revised to read as follows:

§ 126.1 Prohibited exports and sales to certain countries.

(a) *General.* It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Albania, Armenia, Azerbaijan, Bulgaria, Byelorussia, Cambodia, Cuba, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, North Korea, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. This policy also applies to countries with respect to which the United States maintains an arms embargo or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. The exemptions provided in the regulations in this subchapter, except §§ 123.17 and 125.4(b)(13) of this subchapter, do not apply with respect to exports to or originating in any of such proscribed countries or areas.

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For the Department of State.

Dated: June 24, 1993.

Lynn E. Davis,

Under Secretary of State for International Security Affairs.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-342; RE: Notice Nos. 729, 738, and 756]

RIN 1512-AA07

The Rutherford Viticultural Area [89F-90P]

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Napa County, California, to be known as "Rutherford." The petition for establishing this viticultural area was submitted by the Rutherford and Oakville Appellation Committee which is composed of seven wineries and seven grape growers within the Rutherford and Oakville areas of Napa County, California. 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 better identify the wines they may purchase, and will help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: August 2, 1993.

FOR FURTHER INFORMATION CONTACT: Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Ave., NW., Washington, DC 20226 (202-927-8230).

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 allow the establishment of definite viticultural areas. The regulations 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, for the listing of approved American viticultural areas.

Section 4.25a(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:

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;
- 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 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.

Rulemaking Proceeding

Petition

On March 8, 1989, the Rutherford and Oakville Appellation Committee petitioned ATF for establishment of a viticultural area in Napa County, California, to be known as "Rutherford." The viticultural area proposed by the petitioners is located in the central portion of the Napa Valley approximately 12 miles northwest of the city of Napa. In general terms, the proposed area extended 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 extending approximately .5 mile south of Skellenger Lane. The proposed area contains approximately 31 bonded wineries and consists of about 6,650 total acres, most of which are densely planted to vineyards.

Notice of Proposed Rulemaking

In response to the petition, ATF published Notice No. 729 in the *Federal Register* on September 17, 1991 (56 FR 47044), proposing establishment of the Rutherford viticultural area. The notice detailed the boundaries as proposed in the petition, with some minor modifications, and requested comments from all interested persons. Written comments were to be received on or before November 18, 1991.

Comments to Notice of Proposed Rulemaking

ATF received 17 comments in response to the notice of proposed rulemaking. Nine commenters disagreed with the northern boundary of Rutherford. These commenters felt that the Rutherford boundary should extend further north either to Sulphur Creek or to the southern city limits line of St. Helena. One commenter disagreed with the northeastern boundary of Rutherford. This commenter felt that the northeastern boundary should continue to be the 500-foot contour line (which would include an area designated on the pertinent U.S.G.S. map as Spring Valley) rather than changing to the 380-

foot contour line which would exclude the Spring Valley area. Two commenters disagreed with the southern boundary of Rutherford and stated that it should extend further south to include Beaulieu Vineyard properties No. 2 and No. 4. According to these two commenters, Beaulieu Vineyard properties No. 2 and No. 4 have historically been associated with Beaulieu Vineyard and its Cabernet Sauvignon wines, both of which have contributed greatly to the development and consumer recognition of the Rutherford name. And finally, one commenter stated he was against any further subdivision of the Napa Valley.

Based on the controversial nature of the comments received, ATF decided to reopen the comment period for an additional 90 days in order to obtain more information on the establishment of the Rutherford viticultural area, its proposed boundaries, and other possible boundaries. Reopening Notice

On April 22, 1992, ATF published Notice No. 738 (57 FR 14681) reopening the comment period on both the proposed Rutherford viticultural area and the directly adjacent Oakville viticultural area. ATF specifically requested comments on 11 questions which were asked in this reopening notice which mostly pertained to possible boundary changes. Interested persons were given until July 21, 1992, to submit their comments.

Comments to Reopening Notice

ATF received 62 comments in response to the reopening notice. Twenty-five commenters disagreed with the proposed northern boundary of Rutherford. These commenters felt that the Rutherford boundary should extend further north either to Sulphur Creek or to the southern city limits line of St. Helena. One of these commenters submitted geographical information in support of his position that there is little or no difference in the geographical features of the area between Zinfandel Lane and Sulphur Creek as compared to the proposed Rutherford viticultural area. Ten commenters, on the other hand, agreed with the proposed northern boundary of Rutherford and stated that there is no historical or current evidence which would suggest that the area north of Zinfandel Lane has ever been considered to be within the Rutherford area.

One commenter disagreed with the northeastern boundary of Rutherford. This commenter felt 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.

One commenter disagreed with the northwestern boundary of Rutherford. This commenter felt that the Rutherford boundary should be extended along the northern fork of Bale Slough approximately 2,750 feet north of Zinfandel Lane to a point intersecting the straight line westward extension of the light-duty road known as Inglewood Avenue, then following that line to the west to the 500-foot contour line.

Two commenters disagreed with the eastern boundary of Rutherford. These two commenters stated that the eastern boundary of Rutherford should be extended beyond the currently proposed 500-foot elevation line to the 1200-foot elevation line to include the area south of Lake Hennessey known as Pritchard Hill.

Five commenters, plus petitions containing the names of 56 additional interested persons within the Napa Valley, disagreed with the southern boundary of Rutherford. These commenters and petitioners felt that any boundaries for Rutherford must include Beaulieu Vineyard properties No. 2 and No. 4 which, according to these commenters, have historically been associated with Beaulieu Vineyard and its Cabernet Sauvignon wines, and have contributed greatly to the development and consumer recognition of the Rutherford name. These two Beaulieu Vineyard properties were at that time located within the proposed Oakville viticultural area directly south of the proposed Rutherford viticultural area.

Six commenters stated that they agreed with the originally proposed southern boundary of Rutherford and did not feel that it should be changed to include Beaulieu Vineyard properties No. 2 and No. 4. These commenters stated that these two vineyard properties were located in the Oakville area and referred to the information submitted in the original Rutherford and Oakville petitions as evidence for their position.

Hearing Notice

As a result of the large number of comments received to the reopening notice and to the conflicting nature of the information contained in those comments, ATF determined that a public hearing was necessary and would serve the public interest. Consequently, on October 2, 1992, ATF published Notice No. 756 (57 FR 45588) which announced the time and place of a public hearing to be held by ATF concerning the establishment of the Rutherford viticultural area. The notice stated that the hearing would be held in

Napa, California, on December 9, 1992, and requested that all interested persons who wished to testify at the hearing submit a letter notifying ATF of their intent to comment on or before November 9, 1992. The notice also stated that interested persons could continue to submit written comments on this matter until December 28, 1992.

Public Hearing

A public hearing was held on December 9, 1992, in Napa, California, for the purpose of gathering additional information and to receive evidence with respect to the establishment of the Rutherford viticultural area, the proposed boundaries, and other possible boundaries. Twenty persons testified at the public hearing.

Controversial Boundaries

As a result of the hearing testimony and the large number of written comments received concerning the establishment of the Rutherford viticultural area, ATF has determined that there are five boundary disputes that need to be resolved. These disputes involve the northern, northwestern, northeastern, eastern and southwestern boundaries of Rutherford. We will address the evidence presented by the different parties for each boundary dispute and then give our final decision as to where the boundaries of the Rutherford viticultural area are located and why.

1. Northern Boundary of Rutherford. Mr. W. Andrew Beckstoffer of Beckstoffer Vineyards, Mr. David I. Freed, President of the UCC Vineyards Group, and numerous vineyard owners located between Zinfandel Lane and Sulphur Creek want the proposed northern boundary of Rutherford extended further north. Mr. Beckstoffer and many of the other vineyard owners between Zinfandel Lane and Sulphur Creek want the boundary extended to Sulphur Creek which is within the city limits of St. Helena. Mr. Freed states that if it is not feasible to extend the boundary inside the city limits of St. Helena, then he feels the boundary should extend to the southern city limits line of St. Helena. The proponents of this northward extension state that Zinfandel Lane is not a natural geographical boundary separating the proposed Rutherford viticultural area from the St. Helena area but rather a man-made road which has no geographical significance.

As support for his position, Mr. Beckstoffer submitted a report titled "Letter-Report, Hydrogeologic Evaluation of St. Helena-Rutherford Area" prepared by Mr. Richard C. Slade,

consulting groundwater geologist. Mr. Slade's report concludes that generally, climatic, topographic, and geologic characteristics across the study area, from St. Helena to Rutherford, are similar. The report states that the alluvial sediments along the southwestern border of the Napa Valley in this area and emanating from the mountains to the west, are generally composed of material consisting of Sonoma Volcanics and Franciscan assemblage rocks. The report states that the Sulphur Creek drainage is the major influence on alluvial sediments across the entire project site. In addition, the report states that the predominant mineralogic composition of alluvial fans underlying the site appears to be derived from Franciscan assemblage shale, sandstone, and greenstone bodies, along with Sonoma Volcanics. The report further states that there appear to be some differences in the mineralogic composition of alluvial sediments in the area of Bale Slough compared to the region north of Zinfandel Lane and extending to Sulphur Creek.

Mr. Beckstoffer also states that the Soil Survey of Napa County, California, prepared by the United States Department of Agriculture Soil Conservation Service, shows that Zinfandel Lane is surrounded by a "lake" of Pleasanton soil with no distinction between the area immediately north and immediately south of the county road. The Soil Survey map designates the entire area as 170 which is defined as Pleasanton loam, 0 to 2 percent slopes.

In a letter dated December 22, 1992, Mr. Beckstoffer also refers to a letter from Mr. Slade, dated December 23, 1992, which states that in Mr. Slade's professional opinion the Sulphur Creek alluvial fan extends approximately 1 mile south of Zinfandel Lane. Mr. Slade also states that the Sulphur Creek alluvial fan appears to be much larger than the Bear Creek alluvial fan. Mr. Slade states that based on his examination of current topographic maps for the area, the Sulphur Creek alluvial fan covers an area of approximately 5 square miles east of the mountain front. The Bear Creek alluvial fan, on the other hand, covers an area of approximately 2½ square miles. Therefore, according to Mr. Slade, the Sulphur Creek alluvial fan is about twice as large as the Bear Creek alluvial fan. Further, the watershed area drained by Sulphur Creek within the hills west of the valley is approximately three times as large as the watershed area drained by Bear Creek. Mr. Slade states that his examination of published geologic maps for the area show that

Franciscan formation rocks comprise the highland area west of the Sulphur and Bear Creek areas. Therefore, according to Mr. Slade, both watershed areas drain geologic terrain consisting of similar rocks, in gross chemical and physical composition.

Mr. Slade states that as a result of his examination, there appears to be little difference in the gross physical and chemical character of the sediments of the Sulphur Creek alluvial fan, compared to the Bear Creek alluvial fan. Therefore, according to Mr. Slade, it is reasonable to extend the northern boundary of the Rutherford viticultural area northward to Sulphur Creek.

After reviewing Mr. Slade's letter of December 23, 1992, Mr. Beckstoffer concludes that Franciscan sedimentary materials can be the same formation whether delivered down Sulphur Canyon (west of St. Helena) or Bear Canyon (west of Rutherford). Consequently, according to Mr. Beckstoffer, the geologic formation in the Rutherford area is similar (Franciscan) even though delivered by two different slides (canyons).

Mr. Beckstoffer states that since Zinfandel Lane is not a natural geological boundary, he feels that the northern boundary of Rutherford should be extended north until the first natural geological feature is observed. According to Mr. Beckstoffer, this natural geological feature would be Sulphur Creek which runs through the city limits of St. Helena and is about 1.85 miles north of Zinfandel Lane.

Mr. Beckstoffer also states that much of the grapes grown between Zinfandel Lane and Sulphur Creek have Rutherford character and are sold to wineries, particularly Rutherford wineries, because of this Rutherford character. He feels that this area should be included within the Rutherford viticultural area due to this Rutherford character and to the long historical use of these grapes by Rutherford wineries.

Mr. David I. Freed also disapproves of using Zinfandel Lane as the northern boundary of the Rutherford viticultural area. Mr. Freed states that if Sulphur Creek is not acceptable as a northern boundary of Rutherford due to its being located within the city limits of St. Helena then he feels the northern boundary should be the southern city limits line of St. Helena. Mr. Freed states that there are no climatic differences which can be distinguished by Zinfandel Lane. He states that to the contrary, the changes in climate are imperceptible. In addition, he states that there are no soil differences which can be distinguished at Zinfandel Lane. To the contrary, Mr. Freed states that the

"lake" of Pleasanton soil in the middle of the valley floor on the map presented by Mr. Beckstoffer shows an equal area of the same type of soil (Pleasanton) lying to the north as well as to the south of Zinfandel Lane. Furthermore, according to Mr. Freed, there are no distinguishing geographical features existing at Zinfandel Lane other than the existence of a county road. Mr. Freed states that vineyards lying between Zinfandel Lane and the southern city limits boundary of St. Helena are in Napa County as are all of the properties in the proposed Rutherford area. Furthermore, all zoning, vineyard regulation, taxation and all other governmental matters are controlled by the Board of Supervisors of Napa County, not the city of St. Helena. Mr. Freed states that if the southern city limits line of St. Helena is not adopted as the northern boundary of Rutherford for some reason, then consideration should at least be given to Inglewood Avenue and Chaix Lane as being more accurate, even though somewhat less expedient, than Zinfandel Lane. Mr. Freed indicates that the Inglewood Avenue/Chaix Lane boundary would avoid creating a "no man's land" that would separate grape suppliers from their historical winery connections.

Mr. Richard Mendelson, lawyer for the Rutherford and Oakville Appellation Committee, states in both public testimony and in written comments that the northern boundary of the Rutherford viticultural area should remain at Zinfandel Lane. In support of this position, Mr. Mendelson states that historical and modern community perceptions show that the area north of Zinfandel Lane, except for possibly the historical Rennie property on the extreme western side of the valley, has never been known by the name of Rutherford. Mr. Mendelson submitted various historical and current maps of the area which, according to Mr. Mendelson, show that the area north of Zinfandel Lane has always been considered to be part of the greater St. Helena area.

Ms. Deborah L. Elliott-Fisk, Associate Professor of Geography, University of California at Davis, who represents the Rutherford and Oakville Appellation Committee, states that the map shown by Mr. Beckstoffer at the public hearing, which depicted the extent of the Sulphur Canyon Fan which issues from Sulphur Canyon immediately west of the town of St. Helena, is incorrect. Ms. Elliott-Fisk bases this statement on her research over the last 5½ years which includes sampling over 95 trenches and numerous hand-dug pits and exposures

in the proposed Rutherford viticultural area, the St. Helena region, and the drainage basins that feed the fans and Bale Slough in this section of Napa Valley. Ms. Elliott-Fisk states that her statement is also based on her review of all published materials on the geology of this region. According to Ms. Elliott-Fisk, Sulphur Canyon Fan extends only a little way south of Zinfandel Lane into the northern part of the proposed Rutherford area.

Ms. Elliott-Fisk states that the research report done by Mr. Slade for Mr. Beckstoffer was done for the region north of Zinfandel Lane and west of Highway 29 only, and was based on a 1950s report on groundwater in Napa and Sonoma Counties, on a set of preliminary geologic maps at a scale of 1:62,500 produced by Fox et al. (1973), and with one day of field reconnaissance. Ms. Elliott-Fisk states that, as she mentioned at the December 9 and 10, 1992, public hearings, these maps are inaccurate. Ms. Elliott-Fisk states that Mr. Slade indicates in his report that "alluvial fans emanating from Sulphur Creek are derived from lithologies that are, generally, Franciscan in nature." Mr. Slade later states, according to Ms. Elliott-Fisk, that "the predominant mineralogic composition of alluvial fans underlying the site appears to be derived of Franciscan assemblage shale, sandstone, and greenstone bodies, along with Sonoma volcanics." Ms. Elliott-Fisk states that this statement by Mr. Slade indicated that he relied heavily on the inaccurate Fox et al. (1973) maps for his analyses. Ms. Elliott-Fisk indicates that her extensive field research shows the surficial geology of the Sulphur Canyon draining basin (including its tributary, Heath Canyon) to be approximately 70 percent Sonoma Volcanics (e.g., rhyolitic tuff, rhyolite, dacite and andesite), 20 percent metamorphic units of diverse lithologies, and 10 percent Franciscan sedimentary lithologies. According to Ms. Elliott-Fisk, much more of the region was covered with volcanic flows during the eruption and deposition of the Sonoma Volcanics than is shown by the Fox et al. (1973) maps.

Ms. Elliott-Fisk indicates that the Napa River dominates much of the area Mr. Beckstoffer depicts as Sulphur Canyon Fan south of Zinfandel Lane. She states that Mr. Beckstoffer's depiction of a large Sulphur Canyon Fan "lake" in this region is totally inaccurate. Ms. Elliott-Fisk agrees with Mr. Slade's report concerning his statement that the soils of the Bale Slough are mineralogically different in

composition from those of the Sulphur Canyon Fan.

In summary, Ms. Elliott-Fisk states that her research shows that the Sulphur Canyon Fan, the Bale Slough, the Napa River and the Bear Canyon Fan are distinct geomorphic surfaces with correspondingly distinctive soils providing distinctive viticultural environments. According to her, the mineralogic composition of the Bale Slough soils is much more similar to the Bear Canyon Fan soils than to the Sulphur Canyon Fan soils. Ms. Elliott-Fisk states that the Sulphur Canyon Fan should be left for a future St. Helena viticultural area, as it has rocky soils (with a higher percentage of boulders and large cobbles) and is dominated by rhyolite and other volcanic lithologies with a soil matrix of fine sands and secondary clays, providing for moderate to moderately high vine vigor under slightly warmer climates and increased precipitation than in the Rutherford region.

Mr. Robert E. Steinhauer, Senior Vice President, Wine World Estates, submitted a letter dated December 21, 1992, in which he states that he does not believe that the boundary of Rutherford should be moved into the city environs of St. Helena and especially not to Sulphur Creek which would include a major portion of the city limits of St. Helena. Mr. Steinhauer states that he does not agree with Mr. Beckstoffer that geology is the only criteria for determining a boundary. According to Mr. Steinhauer, the area north of Zinfandel Lane is not locally or nationally known as Rutherford, especially where it includes the city limits of St. Helena. Mr. Steinhauer states that moving the boundary into St. Helena invalidates the integrity of Rutherford and "guts" any future St. Helena viticultural area. He further states that moving the Rutherford boundary north of Zinfandel Lane does not meet the climatic or geographic evidence requirements that would substantiate this area as Rutherford.

As support for the above statement, Mr. Steinhauer states that the Sulphur Creek Fan has different soil types—primarily Cortina and Pleasanton—as it fans out over the valley floor. These differences are due to the velocity of the depositing waters with the larger soil particles being deposited by the turbulent, fast moving waters at the fan entrance and the finer clay and loam being deposited in the slow moving waters at the extremities of the spreading fan and as the changes in elevation become more gradual. Mr. Steinhauer states that the second major influence on the Sulphur Creek Fan as

it extends into the valley floor is the influence of the Napa River deposits since these deposits make the predominate contribution to the soil chemistry and physical structure on the valley floor. Mr. Steinhauer states that the Napa River deposits formulate the soil all along the vineyards on the valley floor. The 1986 Washington's Birthday flood visually exhibited the influence of the Napa River up and down the entire valley floor according to Mr. Steinhauer.

Mr. Steinhauer states that he has farmed property just south of Zinfandel Lane and found the property to be very wet with a water table at approximately three feet requiring substantial drainage. According to Mr. Steinhauer, the soils are a clay loam and very high in nutrients with the exception of potassium. Potassium deficiency is unavoidable due to high water tables. Mr. Steinhauer indicates that this site was planted to white varieties because his farming company felt the soils would produce only average quality Cabernet Sauvignon. Mr. Steinhauer states that the Cortina soils located just south of Sulphur Creek and extending out to the valley floor are composed of more coarse sandy loams with a large amount of stone. These soils are deeper with lower fertility and somewhat droughty and very suitable for the production of all varieties but produce especially very high quality red wines such as Zinfandel and Cabernet Sauvignon. According to Mr. Steinhauer, this area is completely different from the main valley floor and much more similar to the soils of his Beringer home vineyard, Spotswood vineyard, Bartolucci vineyard and other vineyards all located north of Sulphur Creek and located in the city limits of St. Helena. Consequently, Mr. Steinhauer states that the soils evidence does not support the concept that the areas north of Zinfandel Lane and west of Highway 29 are the same as those areas south of Zinfandel Lane. He states that he strongly believes that all of the geologic evidence supports the Zinfandel Lane boundary as being the closest visual demarcation to the geology separating Rutherford from St. Helena.

After reviewing all the pertinent information submitted by all interested parties, ATF has determined that the most appropriate northern boundary for the Rutherford viticultural area is Zinfandel Lane. This boundary is the same as was proposed in Notice No. 729. Proponents of a northern boundary for Rutherford that is further north than Zinfandel Lane did not submit any evidence that this area between Zinfandel Lane and Sulphur Creek has

ever been known, either currently or historically, as Rutherford. The Rutherford and Oakville Appellation Committee, on the other hand, submitted numerous maps and other name evidence which tends to show that this area has always been considered to be part of the greater St. Helena area.

In regard to geographical features, the evidence submitted by both sides is more difficult to interpret. Mr. Beckstoffer, Mr. Freed, and the rest of their group state that Zinfandel Lane is just a county road with no geographical significance. They point out that the Soil Conservation Service lists both the north and south side of Zinfandel Lane as being Pleasanton loam soil, 0 to 2 percent slopes. Mr. Beckstoffer refers to this area as a Pleasanton "lake" with no change in soil type at Zinfandel Lane. In a letter from Mr. Beckstoffer dated December 22, 1992, he refers to a letter from Mr. Slade stating that it is Mr. Slade's professional opinion that the Sulphur Creek Fan extends approximately 1 mile south of Zinfandel Lane. This would place the southern edge of the Sulphur Creek Fan somewhere in the vicinity of Galleron Avenue. Disputing this assertion, Ms. Elliott-Fisk states that the southern edge of the Sulphur Canyon Fan is much closer to Zinfandel Lane and that the deposits shown by Mr. Slade as Sulphur Canyon Fan deposits, located up to 1 mile south of Zinfandel Lane, are really Napa River deposits. In support of Ms. Elliott-Fisk's position, Mr. Richard Mendelson, lawyer for the Rutherford and Oakville Appellation Committee, states in his public hearing testimony that, for the most part, the Sulphur Canyon Fan extends only slightly south of Zinfandel Lane. Mr. Mendelson states that only one part of Zinfandel Lane, in the very middle of the valley, is two-tenths of a mile away from the lowest point of the incursion of this Sulphur Canyon Fan into the Rutherford viticultural area. Mr. Mendelson states that Zinfandel Lane is a close approximation of the southern edge of the Sulphur Canyon Fan as it extends across the Napa Valley floor and is similar to ATF's decision to use the Yountville Cross Road as the northern boundary of the Stags Leap District viticultural area even though it was approximately two-tenths of a mile north of the originally proposed geographic northern boundary.

Mr. Slade states that his examination of published geologic maps for the area show that Franciscan formation rocks comprise the highland area west of the Sulphur and Bear Creek areas. Therefore, Mr. Slade states that both

watershed areas drain geologic terrain consisting of similar rocks, in gross chemical and physical composition. Consequently, according to Mr. Slade, based on the results of his examination, there appears to be little difference in the gross physical and chemical character of the sediments of the Sulphur Creek alluvial fan, compared to the Bear Creek alluvial fan. Therefore, according to Mr. Slade, it is reasonable to extend the northern boundary of the Rutherford viticultural area northward to Sulphur Creek.

Ms. Elliott-Fisk agrees that Franciscan formation rocks predominantly comprise the Bear Canyon Fan Complex. She states that her examination of soils from the Inglenook-Napa Valley Home Vineyard, directly east of Bear Canyon on the western side of the Rutherford area, shows that these soils are very gravelly sandy clay loam soils. These soils, according to Ms. Elliott-Fisk, are deep, moderately drained soils derived from marine sedimentary bedrock (Franciscan formation) clasts brought down from Bear Canyon. Ms. Elliott-Fisk states that serpentine clasts are infrequently encountered in these soils, but are more frequent towards the northern edge of the Bear Canyon Fan along Bale Slough. Ms. Elliott-Fisk states that her analysis of these soils shows that the soils are neutral in pH, have well developed structure (firm, subangular blocky to platy at depth), have great rooting depths (beyond 92 inches), and have moderate permeability. She states that the neutral pH values of these soils are both a function of the sandstone parent materials and the influence of the alkaline (basic) serpentine clasts, which slightly increase the pH.

In regard to the Sulphur Canyon fan soils, Ms. Elliott-Fisk states that her extensive field research shows the surficial geology of the Sulphur Canyon draining basin (including its tributary, Heath Canyon) to be approximately 70 percent Sonoma Volcanics (e.g., rhyolitic tuff, rhyolite, dacite and andesite), 20 percent metamorphic units of diverse lithologies, and 10 percent Franciscan sedimentary lithologies. Ms. Elliott-Fisk states that the Sulphur Canyon Fan has rocky soils (with a higher percentage of boulders and large cobbles) and is dominated by rhyolite and other volcanic lithologies with a soil matrix of fine sands and secondary clays, providing for moderate to moderately high vine vigor. Ms. Elliott-Fisk also states that the mineralogic composition of the Bale Slough soils is much more similar to the Bear Canyon Fan soils than to the Sulphur Canyon Fan soils.

After reviewing the evidence submitted by Mr. Slade and Ms. Elliott-Fisk, we have determined that there is at least some difference between the Sulphur Canyon Fan soils in comparison to the Bear Canyon Fan soils. We also conclude that the Bale Slough soils are more similar to the Bear Canyon Fan soils than to the Sulphur Canyon Fan soils. Consequently, we have determined that the southern edge of the Sulphur Canyon Fan should be approximately the northern boundary of the Rutherford viticultural area.

Furthermore, from the expert testimony of Mr. Slade and Ms. Elliott-Fisk, we have concluded that the Sulphur Canyon Fan extends either just south of Zinfandel Lane (perhaps up to two-tenths of a mile in the middle of the valley) or approximately 1 mile south of Zinfandel Lane in the vicinity of Galleron Avenue, or possibly somewhere in-between. Consequently, we feel that the northern boundary of Rutherford should either be Zinfandel Lane or approximately 1 mile further south or possibly somewhere in-between.

If the more southern boundary were adopted, the two most obvious choices for a specific boundary would be either Galleron Avenue or a contour line in this area, possibly the 180-foot or 160-foot contour line or somewhere in-between the two. The major problem with both of these choices, or any other choice in this immediate area, is that a contour line or the extension of Galleron Avenue entirely across the valley would cut through a number of people's vineyards. In addition, such a boundary would be very difficult to follow on the ground and might lead to confusion as to who was inside or outside of the boundary.

Since a more southern, northern boundary of Rutherford might create innumerable administrative problems and since there is at least some expert testimony stating that the Sulphur Canyon Fan ends somewhere just south of Zinfandel Lane, we have determined that the northern boundary of the Rutherford viticultural area should remain at Zinfandel Lane as originally proposed. This boundary has the added benefit of not dividing individual vineyards except for vineyards owned by Flora Springs Winery which are located at the extreme western end of Zinfandel Lane. Furthermore, most current and historical maps, as well as other name evidence, suggest that Zinfandel Lane is the most appropriate dividing line between Rutherford and St. Helena. The only exception to using Zinfandel Lane as the northern boundary of Rutherford concerns the

vineyards owned by Flora Springs Winery, located south of Inglewood Avenue and west of the north fork of Bale Slough, which will be addressed in the next section.

Mr. Beckstoffer and Mr. Freed stated in both their oral testimony and in their written comments that grapes grown in vineyards located between Zinfandel Lane and Sulphur Creek have Rutherford character and that the majority of those grapes have been sold to Rutherford wineries and have gone into wines associated with Rutherford. ATF does not believe that this by itself is a major consideration in determining the boundaries of a viticultural area.

Many Rutherford wineries buy grapes from throughout the Napa Valley and possibly from other areas. The mere fact that grapes are purchased by Rutherford wineries and the resulting wine is bottled using a Rutherford winery address, or possibly a brand name using the word Rutherford, does not necessarily mean that the grapes are entitled to be considered as coming from the Rutherford viticultural area. Otherwise, grapes sold to Rutherford wineries from all over the Napa Valley, as well as possibly from other areas, would have to be considered as coming from the Rutherford viticultural area.

To be designated as coming from a particular viticultural area, grapes must be grown within the boundaries of that particular viticultural area. The boundaries of a viticultural area are determined by such things as name evidence, history of the area, and geographical features (climate, soil, elevation, physical features, etc.) rather than by the address or brand name used by wineries who buy grapes from a particular area.

Mr. Beckstoffer and his group have stated that they feel their situation is similar to that of certain portions of Napa County (not within the Napa River watershed), which were eventually included within the Napa Valley viticultural area due to their historical association with the Napa Valley.

ATF agrees that certain outlying portions of Napa County were included within the Napa Valley viticultural area due to their historical association with Napa Valley. However, the grapes grown in these outlying valleys had a long history of being used in wine bearing the appellation Napa Valley. This is different from the current situation whereby grapes grown in the area between Zinfandel Lane and Sulphur Creek are sold to Rutherford wineries and the resulting wine is marketed as Napa Valley wine using a Rutherford winery address or possibly a Rutherford brand name. Consequently, ATF does

not feel that the historical use of a portion of the grapes grown in the area between Zinfandel Lane and Sulphur Creek by Rutherford wineries justifies this area's inclusion within the Rutherford viticultural area.

2. Northwestern Boundary of Rutherford. The only individually owned vineyards which are split by Zinfandel Lane are located at the extreme western end of this road and are owned by Flora Springs Winery. Mr. Patrick J. Garvey and Mr. John A. Komes, co-owners of Flora Springs Winery, both have testified and submitted comments stating that their vineyard property, located south of Inglewood Avenue and west of the north fork of Bale Slough, should be included in the Rutherford viticultural area. In support of their request, they have submitted various evidence which they feel, when added together, justifies the inclusion of this vineyard property within Rutherford. Mr. Garvey and Mr. Komes submitted numerous articles from newspapers, magazines and books on wine which mention Flora Springs winery as being a Rutherford winery. In addition, these articles mention the Rutherford character of the wine from Flora Springs and state that the wine was produced from estate vineyards located on the edge of the Rutherford area.

Mr. Garvey and Mr. Komes also submitted historical evidence to support their inclusion within Rutherford. This evidence is a 1895 Napa County map which shows that the historic Rennie Brothers' property of 210.8 acres was entirely located immediately north of Zinfandel Lane. The Rennie Brothers' property was listed as being in Rutherford according to a report titled "The Vineyards of Napa County" which was prepared by E. C. Priber in 1893 at the request of the Board of State Viticultural Commissioners. The historical Rennie Brothers' property, along with additional property located immediately south of Zinfandel Lane, is now owned by Flora Springs Winery.

Mr. Garvey and Mr. Komes request that the northwest boundary of Rutherford be changed to follow the north fork of Bale Slough north of Zinfandel Lane approximately 2,750 feet to a point intersecting the straight line westward extension of the light-duty road known as Inglewood Avenue, west of the 227-foot elevation marker, then following that line west to the 500-foot contour line. This extension of Rutherford would include Flora Springs vineyard blocks E, F and L which are located north and south of Zinfandel Lane as well as west of Bale Slough. Mr. Garvey and Mr. Komes submitted a soils

report from Ms. Deborah L. Elliott-Fisk which recommends including the area west of Bale Slough within Rutherford. Ms. Elliott-Fisk states that her field work has shown that the Bale Slough soils, and hence Bale Slough as a geomorphological feature, are included in the proposed Rutherford appellation except for the Komes/Garvey property in question. She recommends that the Bale Slough be in Rutherford and the Sulphur Canyon Fan (as closely as can be approximated across property lines) be in St. Helena.

Ms. Elliott-Fisk states that the Komes/Garvey blocks F and L wrap around the front (eastern side) of a small hill where the Flora Springs Wine Company is sited. Ms. Elliott-Fisk states that both color-infrared vineyard photographs submitted by Mr. Garvey and her soil analyses show that these two blocks are Bale Slough soils, darker in color and heavier in texture than the residual bedrock hillside soils to the west and the alluvial fan soils of the Sulphur Canyon Fan to the east. She states that the north fork of the Bale Slough appears to have been confined to the area between the base of the hills and its current channel in recent geologic times, providing the parent material for the Bale Slough soils of blocks E, F and L that are seen today. These soils, according to Ms. Elliott-Fisk, are a variant of the Maxwell series, with parent material primarily serpentinite alluvium with minor inputs of sandstone and volcanic alluvium.

In summary, Ms. Elliott-Fisk states that the vineyards Mr. Garvey and Mr. Komes propose to include in the Rutherford viticultural area are Bale Slough vineyards with characteristic Bale Slough geology and soils. These vineyards (blocks F and L), according to Ms. Elliott-Fisk, have soils identical to vineyards immediately to the south, such as Komes/Garvey block E, which is currently included within the proposed Rutherford viticultural area.

For contrast, Ms. Elliott-Fisk states that she examined soils immediately adjacent to the eastern bank of the north fork of the Bale Slough (including Komes/Garvey blocks not proposed by them to be included in the Rutherford viticultural area) and areas further eastward to and across Highway 29. According to Ms. Elliott-Fisk, even a surficial examination shows these soils to be very different, as these are the soils of the Sulphur Canyon bouldery alluvial fan. According to Ms. Elliott-Fisk, these soils have gravel content of 30 percent or greater, with gravels primarily boulder-sized and secondarily cobbles. The dominant clasts (over 60 percent of the gravels) are rhyolite, rhyolitic tuff,

dacite and andesite from the Sonoma Volcanics formation that dominates the surficial geology of the Sulphur Canyon basin.

After reviewing the current and historical name and boundary information, as well as the geographical information, submitted by Mr. Garvey and Mr. Komes, ATF has determined that the Garvey/Komes vineyard property, located south of Inglewood Avenue and west of the north fork of Bale Slough, should be included within the Rutherford viticultural area. In support of this determination, we note that Mr. Garvey and Mr. Komes have submitted evidence showing that their property west of the north fork of Bale Slough and south of Inglewood Avenue has historically been considered as part of Rutherford. In addition, they submitted numerous articles by wine writers to show that their winery and vineyards are considered to be located on the edge of the Rutherford area. Furthermore, Mr. Garvey and Mr. Komes submitted a soils report by Ms. Elliott-Fisk which concludes that the Garvey/Komes vineyard property, located south of Inglewood Avenue and west of the north fork of Bale Slough, is located on Bale Slough soils rather than on Sulphur Canyon Fan soils. Ms. Elliott-Fisk states that these vineyard soils are identical to the vineyard soils immediately to the south of Zinfandel Lane in Garvey/Komes vineyard block E. Since Mr. Garvey and Mr. Komes submitted substantial evidence which supports the inclusion of a large portion of their property within Rutherford, ATF has decided to include this vineyard property, located south of Inglewood Avenue and west of the north fork of Bale Slough, within the Rutherford viticultural area.

3. Northeastern Boundary of Rutherford. Mr. David Heitz of Heitz Wine Cellars testified at the public hearing on Rutherford and submitted several written comments requesting that the Spring Valley area, located northeast of Rutherford, be included within the Rutherford viticultural area. Mr. Heitz states that he feels that Heitz Wine Cellars was unjustly excluded from the proposed Rutherford viticultural area because of the arbitrary decision of the petitioners to lower the elevation, in the area around his winery and vineyards, to the 380-foot contour line which happens to correspond to his property line, whereas elsewhere the boundary follows the 500-foot contour line.

Mr. Heitz states that Spring Valley, the official U.S.G.S. map designation of the area around his winery and vineyards, is an interesting valley in

that it drains both to the north along Taplin Road to the Napa River, and also, in part, to the south through his neighbor's property which is part of the proposed Rutherford viticultural area. Therefore, according to Mr. Heitz, Spring Valley is not so much a separate entity but rather a logical extension of the Rutherford appellation as proposed. Mr. Heitz states that his neighbor's soils are very similar to his own because over the centuries erosion from his property has deposited soils on his neighbor's property. In addition, Mr. Heitz states that the Napa County soils map, issued in 1978 by the United States Department of Agriculture Soil Conservation Service, shows that he shares soils 139 (Forward gravelly loam, 9 to 30 percent slopes), 155 (Kidd loam, 15 to 30 percent slopes), 140 (Forward gravelly loam, 30 to 75 percent slopes), and 141 (Forward-Kidd complex, 50 to 75 percent slopes) with his immediate neighbors as well as other neighbors who are included in the proposed Rutherford appellation.

Mr. Heitz states that as far as climate is concerned, a barbed wire fence is not a climatic barrier and that is what separates him from his neighbors who are in the proposed Rutherford appellation. Mr. Heitz further states that he has no historical documents showing that his property belongs to the Rutherford area. However, from a review of the Rutherford petition, Mr. Heitz states that he cannot find any historical documents to support the inclusion of his neighbors either and they are included within the proposed appellation. In addition, Mr. Heitz states that he owns 17 acres of vineyards on the south side of Zinfandel Lane and has no historical evidence of this property belonging to the Rutherford area, but it is included in the proposed appellation.

The Rutherford and Oakville Appellation Committee does not agree that the Spring Valley area should be included within the Rutherford viticultural area. They state that this area has its own identity, Spring Valley, as shown on the U.S.G.S. map and in the promotional material of wineries in that area. Specifically, they refer to the promotional material from Joseph Phelps Vineyards, located in this area, which states that their vineyard property lies in Spring Valley, a small fold in the hills east of St. Helena. This promotional material goes on to refer to this property in Spring Valley as Joseph Phelps' St. Helena area ranch. Since Spring Valley is a separate valley with no apparent historical or geographical ties to Rutherford, the Rutherford and Oakville Appellation Committee does

not feel that Spring Valley should be included within the Rutherford viticultural area.

After reviewing the information submitted by all interested parties, ATF has determined that the Spring Valley area should not be included within the Rutherford viticultural area. ATF made this decision based on the fact that Mr. Heitz did not present any evidence which shows that Spring Valley is currently or historically associated with Rutherford. In addition, Mr. Heitz presented very little geographical information in support of his position that Spring Valley should be included within the Rutherford viticultural area. Instead, he submitted a letter stating that since a portion of his property is adjacent to the 380-foot contour line that is being used by the petitioners as a northeastern boundary for Rutherford, he should be included in the Rutherford area since, in other places, the eastern boundary of Rutherford is the 500-foot contour line. The only geographical information Mr. Heitz submitted was soil information from the *Soil Survey of Napa County, California*, issued by the Soil Conservation Service, that showed that some of the same types of soils that are found on his property are also found on his neighbor's property which is located within the proposed Rutherford viticultural area. Since Spring Valley is located northeast of Zinfandel Lane and is shown on U.S.G.S. maps as a separate valley, ATF does not feel it should be included within Rutherford.

Furthermore, since it drains mostly to the north along Taplin Road to the Napa River, which is northeast of Zinfandel Lane, and since Spring Valley is associated more with the greater St. Helena area than with Rutherford, ATF has decided not to include it within the Rutherford viticultural area.

4. Eastern Boundary of Rutherford. ATF has received written comments from Mr. Douglas A. Long and Mr. Gordon C. Anderson stating that they feel their property should be included within the Rutherford viticultural area. Both state that they have been grape farmers and wine producers in the Rutherford area for some 10 years and have always considered their property as being part of the Rutherford area. They state that their property should be included within Rutherford because of its geographical location, historical relationship with the town of Rutherford, current post office box location in Rutherford, and similar soils and climatic conditions as those in Rutherford.

Mr. Long and Mr. Anderson both state that they believe an arbitrary line of 500 feet in elevation does not adequately

take into consideration their property, which consists of vineyards and agricultural land between 800 feet and 1200 feet in elevation. They state that inasmuch as the difference between the arbitrary 500-foot elevation and their property is less than 200 to 300 yards, they believe that the oversight of not including the area south of Lake Hennessey known as Pritchard Hill would be an extreme oversight.

The Rutherford and Oakville Appellation Committee does not agree that the Pritchard Hill area, located south of Lake Hennessey, should be included within the Rutherford viticultural area. They point out that this area is shown on U.S.G.S. maps as Pritchard Hill, not as Rutherford. Since this area has its own identity, the Rutherford and Oakville Appellation Committee does not feel it should be included within Rutherford.

After reviewing all pertinent information submitted concerning this area, ATF has determined that the area known as Pritchard Hill should not be included within the Rutherford viticultural area. Neither Mr. Long nor Mr. Anderson submitted any evidence to support their position that the Pritchard Hill area has the same, or very similar, soils and climatic conditions as those in Rutherford. In addition, neither Mr. Long nor Mr. Anderson submitted any evidence to support their position that the Pritchard Hill area has a historical relationship with the Rutherford area. Furthermore, it has been determined that a post office box location in Rutherford is not necessarily a sign of a significant relationship to Rutherford since anyone can obtain such a post office box if they pay the appropriate fee. Also, it has been determined that the elevation of most of the vineyard property in the Pritchard Hill area is between 800 and 1200 feet which is considerably higher than the other vineyards in the proposed Rutherford area. Consequently, due to the lack of evidence showing that the Pritchard Hill area is historically and/or geographically closely related to the Rutherford area, ATF has decided not to include the Pritchard Hill area within the Rutherford viticultural area.

5. Southwestern Boundary of Rutherford. Mr. Anthony A. Bell of Beaulieu Vineyard submitted letters dated November 15, 1991, and July 17, 1992, requesting that Beaulieu Vineyard properties No. 2 and No. 4 be included within the Rutherford viticultural area due to their historical association and geographical similarity to Rutherford. Subsequently, Mr. Bell submitted a letter dated December 7, 1992, requesting that their earlier requests be

amended to only include Beaulieu Vineyard property No. 2 within Rutherford. Mr. Bell requested that Beaulieu Vineyard property No. 4 remain in the Oakville viticultural area. Mr. Bell states that Beaulieu Vineyard property No. 2 should be located within the Rutherford viticultural area because of its historical association with Beaulieu Vineyard Cabernet Sauvignon wines. These wines, according to Mr. Bell, have contributed greatly to the development and consumer recognition of the Rutherford name. Mr. Bell also states that Beaulieu Vineyard property No. 2 has the same or very similar soils and climate as the rest of their vineyard property in the Rutherford area.

Mr. Phillip Freese of Robert Mondavi Winery supports the inclusion of Beaulieu Vineyard property No. 2 within the Rutherford viticultural area. In public testimony given on December 9, 1992, Mr. Freese stated that the Rutherford and Oakville Appellation Committee, of which the Robert Mondavi Winery is a member, relied on a drainage channel on the north side of Beaulieu Vineyard property No. 2, as well as a division of the Rutherford Bear Canyon Fan Complex (Franciscan lithology) and the Oakville Grade Fan Complex (Great Valley Sequence lithology), to provide the geographical feature for the drawing of the viticultural area boundary. Mr. Freese states that subsequent historical research shows that this drainage channel had been redirected by man for the ease of viticultural operations in the subject vineyard blocks. According to Mr. Freese and Mr. Bell, the original drainage of this property went through the middle of the property prior to being rerouted. Mr. Freese states that the boundary should be placed along a well established access road just south of the southern border of Beaulieu Vineyard property No. 2. Mr. Freese states that this access road serves as the northern entrance to the Robert Mondavi Winery property.

Mr. Freese states that historically the grapes from Beaulieu Vineyard No. 2 have been considered Rutherford and have been recognized by Beaulieu Vineyard as Rutherford. In addition, according to Mr. Freese and Mr. Bell, the wine produced from grapes from this vineyard property has been labeled as Rutherford wine. Furthermore, according to Mr. Freese, historical records from the latter part of the nineteenth century show that this property was considered part of Rutherford. These historical records, according to Mr. Freese, also show that the property immediately south of Beaulieu Vineyard property No. 2 was,

at that time, owned by H.W. Crabb of Oakville. This historical "Crabb" property is now owned by the Robert Mondavi Winery which considers its location to be Oakville, according to Mr. Freese. Consequently, from both a historical and geographical perspective, Mr. Freese and Mr. Bell state that Beaulieu Vineyard property No. 2 should be included within the Rutherford viticultural area.

The Rutherford and Oakville Appellation Committee also state that Beaulieu Vineyard property No. 2 should be included within Rutherford. They have submitted amended boundaries which, if approved, would include this vineyard property within Rutherford.

After reviewing the information submitted by Mr. Bell and Mr. Freese, ATF has determined that Beaulieu Vineyard property No. 2 should be included within the Rutherford viticultural area whereas Beaulieu Vineyard property No. 4 should not be included in this area. Substantial historical and geographical evidence has been submitted in support of the inclusion of Beaulieu Vineyard property No. 2 within Rutherford. Furthermore, we have received a petition signed by numerous persons within the Napa Valley supporting this proposal. In addition, we have not received any opposition to this proposal.

Consequently, ATF has decided that Beaulieu Vineyard property No. 2 should be included within Rutherford.

ATF's decisions with respect to the boundaries as discussed above are hereby incorporated into the analysis of the Rutherford viticultural area as follows.

Boundary

The boundary of the Rutherford viticultural area may be found on two United States Geological Survey maps, titled Rutherford Quadrangle and Yountville Quadrangle, with a scale of 1:24,000. The boundary is described in § 9.133 which can be found in the regulations portion of this document.

Viticultural Area Name

The name Rutherford has been associated with the area between St. Helena and Oakville in the Napa Valley for over 100 years. From the mid-nineteenth through the early twentieth centuries, Rutherford moved from an unnamed region with an unknown reputation to become a settled and integral part of Napa County and of the Napa Valley wine industry. Wine writers as early as the 1880s wrote highly of wines from the Rutherford area, including those of Gustave

Niebaum, founder of Inglenook Winery. In 1838 George Yount arrived in the area now called Yountville and planted his first grapes in the 1850s. His vineyard is reported to be the first planted in Napa County. In 1864, Yount gave 1,040 acres of land to his granddaughter, Elizabeth (Yount) Rutherford and her husband Thomas. According to historian John Wichels, "The settlement surrounding this ranch was thereafter known as Rutherford." The southern border of the ranch runs from Silverado Trail to the Napa River along a straight line which incorporates what is now Skellenger Lane. That lane and the Rutherfords' southern property line is used to define part of the southern border of the Rutherford viticultural area.

From 1850 to 1880, Rutherford steadily increased in prominence as a community center. One reason for its emergence was the establishment of the rail system from Napa to Calistoga in 1868. Geographer William Ketteringham writes, "With the completion of the [railroad] line in 1868 other settlements along the line such as Rutherford and Oakville sprang up."

The Rutherford Post Office was established in 1871 and the Rutherford voting precinct was established in 1884. During the 1870s and early 1880s, there was rapid expansion in the number of vineyard plantings and wine production. The cellars of E.B. Smith and Charles Krug (which eventually became those of Niebaum) produced 76,000 gallons.

Following the wine boom of the 1870s and early 1880s, Napa Valley wineries suffered a significant setback as phylloxera set in. Vineyard plantings decreased 83 percent over a ten-year period, from 18,177 acres in 1890 to 3,000 acres in 1900. This period was followed by Prohibition from 1919 to 1933. Surprisingly, planted acreage during Prohibition increased in Napa Valley to keep pace with the burgeoning demand for grapes used to make medicinal, sacramental and home wines, which remained legal. After Prohibition, planted acreage in Napa County remained at around 10,000 acres through the 1960s. Not until the wine renaissance of the 1970s was the acreage total of 1890 surpassed.

Although the period after Prohibition until the early 1970s was relatively stagnant in the wine sector, the community of Rutherford in particular continued to bolster its reputation for quality grapes and wine. Throughout these years, Beaulieu and Inglenook were regular award winners at the California State Fair. Inglenook owner John Daniel prided himself on the fact

that all of Inglenook's grapes were estate grown on its vineyards in Rutherford, with the sole exception of Daniel's Napa Nook Ranch located south of the Oakville area on land now owned by the John Daniel Society in Yountville.

The name "Rutherford" has a long history of use by newspapers, magazines and wine books to describe this prominent Napa Valley wine community. Some examples of these publications include *The Connoisseurs' Handbook of California Wines* by Charles Olken, Earl Singer and Norman Roby, third edition, revised, 1984; *The Wine Spectator* magazine, "The Rutherford Bench" by James Laube, July 15, 1987; *Friends of Wine* magazine, "Napa Winery Profiles: The Quest for Site," May 1984, Volume XXI, Number 2; and the *Modern Encyclopedia of Wine* by Hugh Johnson, second edition, revised and updated, 1987. Numerous newspapers throughout the country have had articles about wine which contain references to the Rutherford area. *Historical/Current Evidence of Boundaries*.

Because the village of Rutherford is not an incorporated township, there are no municipal boundaries on which to rely in delimiting this area.

Consequently, the petitioners to a great extent utilized commercial and public sector uses of the community name in establishing the boundaries of the Rutherford viticultural area. The Rutherford Crossroads and the Rutherford Post Office are the most notable examples of the name's use within the area. It is also worth noting that there are three wineries whose brand names refer directly to Rutherford—Rutherford Hill, Rutherford Vintners and Round Hill Winery's Rutherford Ranch Brand. All three wineries are located in the Rutherford viticultural area. Postal and telephone service areas are less relevant in terms of precise boundaries for the area but do attest to consumer recognition of Rutherford as a distinct and separate community.

Also, various wine press accounts have helped to define what is considered to be the Rutherford area. One such account from *The Connoisseurs' Handbook of California Wines* includes the following entry:

Rutherford (Napa) Small community located in southcentral Napa Valley between Oakville and St. Helena in a temperate Region II climate. * * * The area is home for many important wineries—Beaulieu, Inglenook Caymus, Rutherford Hill* * *.

Of the approximately 31 bonded wineries located in the area, most have Rutherford addresses. The main

exceptions include approximately 6 wineries at the northern boundary which have St. Helena addresses and one winery along the Silverado Trail in Rutherford that has a Napa address. These exceptions apparently relate to the fact that these wineries have their mail delivered directly from the St. Helena or Napa post offices and do not maintain post office boxes in Rutherford. These bonded winery addresses (with the exceptions noted) generally substantiate the boundaries proposed in the petition.

Geographical Features

Napa Valley can be divided into a group of distinct topographical areas: the lowland Napa River valley between the Mayacamas and Vaca Ranges; the mountains themselves; and the intermontane, eastern portions of the county beyond the watershed of the Napa River. The elevational differences and relief between these areas are pronounced and influence all aspects of the region's physical geography (climate, geomorphology, hydrology, soils and vegetation).

The floor of the Napa Valley is 25 miles in length south to north and between one and four miles wide. Traversing the entire length of the valley is the Napa River, which commences north of Calistoga and drains into San Pablo Bay. Along its course through the valley, the river elevation drops from around 380 feet near the city of Calistoga to around 20 feet near the city of Napa. The gently sloping valley floor, however, is interrupted by numerous bedrock outcrops which form isolated hills. In other places, the valley floor features broad alluvial fans extending toward the center of the valley from mountain streams which serve as tributaries to the Napa River.

Two fundamental geographic distinctions within Napa Valley are particularly relevant to the delimitation of the Rutherford viticultural area: on the east-west axis, mountain versus valley floor, delineating the valley floor viticultural environments; and on the north-south axis, climatic differences as the result of a decreasing incursion of maritime air into the valley.

These distinctions can be integrated with the community identity of Rutherford (and the other communities of Napa Valley) to provide consumers with meaningful and distinctive reference points concerning the viticulture of Napa Valley. From the perspective of a wine consumer, such basic geographic distinctions offer a useful introduction to the complexity of viticulture in Napa Valley.

Climate

The major climatic difference between the watershed area of Napa Valley and the outlying valleys is the maritime nature of the former. Whereas the valley as defined by the watershed area is classified as a coastal valley, the outlying valleys are considered interior or inland valleys, representing a different climatic type. This is well evidenced by the vegetation, the distribution of which is primarily controlled by climate. Moderate to high elevations in the interior valleys are covered by chamise chaparral and other plant communities tolerant of summer drought and heat. At these same elevations in the Napa Valley river drainage, mixed forests of douglas fir, oak, madrone and coastal redwood dominate. Bedrock geology and soils act as secondary influences controlling these vegetation distributions.

Higher elevation and mountainous regions within Napa Valley experience shorter growing seasons (though they may extend longer into early autumn), fewer degree days, lower daily maximum temperatures during the growing season, less fog, increased solar radiation and increased precipitation. These conditions affect the time of wine grape harvest. In the mountainous areas, desirable acid-sugar levels often are reached much after the harvest on the valley floor. In some mountain settings, with small intermontane basins, local cold air drainage may result in marginal conditions for wine grape production.

Along the valley floor from Napa to Calistoga, there are pronounced mesoclimatic variations which relate to the penetration of marine influences from San Pablo Bay and, to a lesser extent, to the rise in elevation as one proceeds up valley.

A mesoclimate is a subdivision of a macroclimate. California's Mediterranean climate is considered a macroclimate. Napa Valley's mesoclimates refer to modifications of this macroclimate due to altitude/elevation or distance from the nearest ocean. Because of the diminution of marine influences as one travels up valley, the northern regions of the valley are characterized by much warmer summers and significantly colder and wetter winters than in the south. That is, summer temperatures and total precipitation increase as one travels north. Summer days down valley often are cool, foggy and breezy. The fog usually dissipates early in the day, clearing first to the north and progressing southward to the bay.

Altitudinal variation also affects temperature distribution. The lower,

southern troughs of the valley experience the lowest winter temperatures along the valley floor. As the elevation rises up valley, temperatures also rise, between 1.5 and 2.8 degrees Fahrenheit for each 500 feet.

As a result of these mesoclimatic trends along the valley floor, wine writers often speak of different climate regions within Napa Valley. The following excerpt from William Massee's *Guide to the Wines of America* is illustrative of the association of community names with mesoclimatic variations in Napa Valley.

[In the Carneros area] there is a tempering influence from the northern round of bay. San Pablo, a receptacle for rivers—the Sacramento and San Joaquin, the Petaluma and Napa—and many creeks. Cool air currents sweep down from the mountain and in from the ocean, bringing fog. It is a cool Region One, * * *. Around Yountville, it is about one and a half—you can often see the fog line in the morning that marks the difference. Near Oakville, it is a cool Region Two, where Beaulieu grows its Johannisberg Riesling, up behind Bob Mondavi. Rutherford is a solid Region Two but it is warmer in Vineyard No. 3, to the east, because it gets the late sun. Up around Calistoga, it is Region Three.

The Rutherford viticultural area is warmer than the area around Oakville to the south and cooler than the St. Helena area to the north. The incursion of fog is also less pronounced in the Rutherford area than in the Oakville area.

Within this general mesoclimatic context, local relief or topoclimate is significant in determining diurnal temperature pattern within the Rutherford viticultural area. Topoclimate refers to a subdivision of mesoclimates influenced by topography, which may be elevational, topographic blocking by a barrier, or a change in slope or aspect.

In sum, as opposed to some mountain settings of Napa Valley, this part of the central portion of the valley floor offers the type of climatic conditions necessary for the production of a wide variety of wine grapes. Considerable acreage is planted to several varieties, including Cabernet Sauvignon, Chardonnay, Sauvignon Blanc, among others, throughout this region.

Geological History

Geological history is an important factor in shaping Napa Valley viticultural environments. Napa Valley is largely a synclinal (down-folded) valley of Cenozoic age. Faulting (accompanied by minor folding) throughout the valley later resulted in the formation of bedrock "islands" (outcrops) across the valley floor. These

rock islands have been modified during the last million years through erosion by the Napa River, its tributaries and other erosional slope processes. Sections of the old Napa River channel are still visible here and there in the valley, including in several places within the Rutherford viticultural area.

In this central portion of the valley, much of the old river channel and its alluvial sediments have been buried by more recent Napa River floodplain sediments, but they principally have been covered by alluvial fans emerging from the mountain streams on the western and eastern sides of the valley. The age and size of these fan surfaces are a function of climatic change, basin lithology (mineral composition and structure of rocks), and basin size, all of which vary among the four major drainage basins in the Rutherford and Oakville areas, accounting for differences in these fan surfaces. The northern fans (in the Rutherford area) are the larger geomorphic features, have more significantly controlled the course of the Napa River through time, and are geologically more diverse.

Geomorphology, Hydrology and Soils

The occurrence of specific soil types can be related to topography in Napa Valley, as topography is one of the five variables that controls soil formation. The Soil Survey of Napa County, California [hereinafter Soil Survey], published by the U.S. Department of Agriculture Soil Conservation Service in 1978, divides the 11 soil associations of Napa County into two general categories: lowland depositional soils, which account for four of the 11 soil associations and are found on alluvial fans, flood plains, valleys and terraces; and upland residual soils, which account for the remaining seven soil associations, and are found on bedrock and colluvially-mantled slopes. The "General Soil Map" from the Soil Survey shows the location of these upland and lowland soils. This map as well as the text of the Soil Survey show that the lowland-upland soil break occurs at around the 500-foot elevation. This same elevation line, with minor exceptions, has been used to differentiate the Rutherford viticultural area from the mountains to the east and west.

According to the petitioners, soils and geomorphic mapping should go hand in hand, as soils usually are mapped according to geomorphic surfaces or units. Within the valley floor area of Napa Valley, there are both alluvial fans and river deposits. The petitioners state that the size and location of these fans, their (dis)similarity in terms of geologic

parent material and soils, and the course of the Napa River and other drainage systems can help to establish viticultural area boundaries on the valley floor. For example, north of Rutherford is a massive fan emanating from the Sulphur Canyon drainage system in the Mayacamas Range. This fan sweeps across the valley floor in St. Helena from west to east and lies generally north of Zinfandel Lane. Pleasanton loam soils predominate. The Rutherford and Conn Creek fans south of Zinfandel Lane push against the Sulphur Canyon fan from the south. Although the point of convergence of these three fans does not lie along a straight line, Zinfandel Lane does serve to separate these areas and therefore provides a good northern boundary for the Rutherford viticultural area. As one proceeds down Napa Valley, Zinfandel Lane also marks the widening of the valley floor, which continues until the appearance of the Yountville Hills at the southern end of Oakville.

Specific Climatological Information

A previously published report, prepared by the National Oceanic and Atmospheric Administration and submitted on behalf of the Napa Valley Appellation petition in 1980, established the general weather and climatic differences of Napa County. This report showed that Napa Valley can be divided into two general climatic regions (coastal and inland), and three topographical areas—the valley itself lying within the Mayacamas Range to the west and the Vaca Range to the east; the area within the mountains themselves; and the area covering the eastern portion of the county.

The elevation within Napa County increases as one progresses north up the valley. With this increase in elevation there is an increase in precipitation, ranging from 20 inches in the south to 50 inches in the north. Additionally, the coastal influence in the Napa Valley results in a relatively moderate climate in the south (warmer than the northern area of Napa Valley in the winter and cooler in the summer) and a relatively extreme climate in the north (hotter than the southern area of Napa Valley in the summer and colder in the winter).

Two sets of data have been submitted to show the difference in temperature, measured in degree-days, between the different areas in Napa Valley. The first set of data is from the Cooperative Extension, University of California, Napa Valley, and is shown below:

Location	Degree-days	Temperature relative to Rutherford in Center of valley (percent)
Calistoga	3369	+7
St. Helena	3229	+2
Rutherford	3159	
Oakville	3124	-1
Napa	2882	-9

The second set of data was collected by the Rutherford and Oakville Appellation Committee. The weather stations used to collect this data are generally located within the center of the Napa Valley, where they are subject to similar relative humidity, wind direction and solar radiation conditions. The data is shown below and is the average reading for the 4-year period between 1985 and 1988:

Location	Degree-days	Temperature relative to Rutherford in Center of valley (percent)
Calistoga	3768	+11
St. Helena	3575	+5
Rutherford	3389	
Oakville	3039	-10
Yountville	2695	-20
Napa	3180	-6

Rainfall

The Cooperative Extension, University of California, Napa Valley, has prepared a chart showing that rainfall generally increases as one proceeds up the Napa Valley from Napa to Calistoga. The data is shown below:

Location	Approximate yearly rainfall (inches)
Calistoga	45 to 50
St. Helena	35 to 40
Rutherford	35 to 40
Oakville	35
Yountville	30
Napa	30

Soil

The General Soil Map of Napa County, California, prepared by the United States Department of Agriculture (U.S.D.A.) Soil Conservation Service, shows most of the Napa Valley floor as being generally the same types of soils. These soils are the Bale-Cole-Yolo series which are nearly level to gently sloping, well drained and somewhat poorly drained loams, silt loams, and clay loams on flood plains, alluvial fans, and terraces. In addition to the Bale series, the Pleasanton soil series dominates

much of the central section of the Napa Valley floor. Both of these soil series consist of deep, alluvial soils.

According to Associate Professor Deborah L. Elliott-Fisk, Department of Geography, University of California, Davis, the contribution of small percentages of metamorphic clasts (such as serpentine and chert) on the Rutherford fan soils contributes to minor soil differences between the Rutherford viticultural area and Oakville. The composition of these types of minerals and rocks tends to raise pH slightly in the Rutherford area and alters soil texture and plant nutrition. The high frequency of clasts from Sonoma Volcanics in the Oakville fan soils unifies the Oakville viticultural area and distinguishes it from Rutherford.

After a review of the entire record in this matter, including all data submitted pursuant to the public hearing, ATF believes that there is sufficient evidence with respect to name, boundaries, and geographical features to warrant the establishment of the Rutherford viticultural area.

Oakville Viticultural Area

In today's issue of the Federal Register, ATF is also publishing a Treasury decision on the Oakville viticultural area. This area is in Napa Valley adjacent to the Rutherford viticultural area. All interested parties should review this Treasury decision.

Petitions for Rutherford Bench and Oakville Bench Viticultural Areas

The petitions for the Rutherford Bench and Oakville Bench viticultural areas, which were submitted at the same time as the petitions for the Rutherford and Oakville viticultural areas, have been officially withdrawn by the Rutherford and Oakville Appellation committee. Consequently, no further action will be taken concerning these petitions.

Miscellaneous

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

Executive Order 12291

It has been determined that this document is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required 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 geographic regions; and it will not have 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.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Accordingly, ATF certifies that the designation of a viticultural area itself has no significant economic impact on a substantial number of small businesses within or without the area because any commercial advantage can only come from consumer acceptance of wines made from grapes grown within the area. In addition, no new recordkeeping or reporting requirements are imposed. Therefore, a regulatory flexibility analysis is not required.

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 imposed.

Drafting Information

The principal author of this document is Robert L. White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

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

Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in subpart C is amended to add the title of § 9.133 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

Section 9.133 Rutherford.

Par. 3. Subpart C is amended by adding § 9.133 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.133 Rutherford.

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

(b) *Approved maps.* The appropriate maps for determining the boundary of the Rutherford viticultural area are two U.S.G.S. topographical maps of the 1:24,000 scale:

(1) "Yountville Quadrangle, California," edition of 1951, photorevised 1968.

(2) "Rutherford Quadrangle, California," edition of 1951, photorevised 1968, photoinspected 1973.

(c) *Boundary.* The Rutherford viticultural area is located in Napa County in the State of California. The boundary is as follows:

(1) Beginning on the Yountville quadrangle map at the point where the county road known as the Silverado Trail intersects Skellenger Lane, just outside the southwest corner of Section 12, Township 7 North (T.7 N.), Range 5 West (R.5 W.), the boundary proceeds in a southwesterly direction in a straight line approximately 1.7 miles along Skellenger Lane, past its intersection with Conn Creek Road, to the point of intersection with the main channel of the Napa River (on the "Rutherford" map);

(2) Then south along the center of the river bed approximately .4 miles to the point where an unnamed stream drains into the Napa River from the west;

(3) Then along the unnamed stream in a generally northwesterly direction to its

intersection with the west track of the Southern Pacific Railroad Track;

(4) Then southeasterly along said railroad track 1,650 feet to a point which is approximately 435 feet north of the centerline of the entry road to Robert Mondavi Winery (shown on the map) to the southeast corner of Assessor's Parcel Number 27-250-14;

(5) Thence southwesterly S 55° 06' 28" W for 3,869 feet along the common boundary between Assessor's Parcel Numbers 27-250-14 and 27-280-50/51 to the southwest corner of Assessor's Parcel Number 27-250-14;

(6) Thence northwesterly N 40° 31' 42" W for 750 feet along the westerly property line of Assessor's Parcel Number 27-250-14;

(7) Thence southwesterly S 51° 00' W in a straight line to the 500-foot contour line of the Mayacamas Range in the northwestern corner of Section 28, T.7 N., R.5 W.;

(8) Then proceeding along the 500-foot contour line in a generally northwesterly direction in T.7 N., R.5 W. through Sections 21, 20, 17, 18, 17, and 18 to the northwest portion of Section 7 where the 500-foot contour line intersects a southwestward straight line extension of the light-duty road known as Inglewood Avenue;

(9) Thence in a straight line in a northeasterly direction along this extension of Inglewood Avenue to its intersection with the north fork of Bale Slough;

(10) Thence in a southeasterly direction along the north fork of Bale Slough approximately 2,750 feet to its intersection with the end of the county road shown on the map as Zinfandel Avenue, known locally as Zinfandel Lane, near the 201-foot elevation marker;

(11) Then in a northeasterly direction along Zinfandel Avenue (Zinfandel Lane) approximately 2.12 miles to the intersection of that road and Silverado Trail, then continuing northeasterly in a straight line to the 380-foot contour line;

(12) Then following the 380-foot contour line southeasterly through Section 33 to the western border of Section 34, T.8 N., R.5 W., then following that section line north to the 500-foot contour line;

(13) Then following the 500-foot contour line southeasterly to the western border of Section 2, T.7 N., R.5 W., then south along that section line past Conn Creek to its intersection with the 500-foot contour line northwest of the unnamed 832-foot peak;

(14) Then continuing in a westerly direction and then a generally southeasterly direction along the 500-foot contour line through Sections 3, 2,

11 and 12 to the intersection of that contour line with the southern border of Section 12 (on Yountville map);

(15) Then proceeding in a straight line in a westerly direction to the intersection of the Silverado Trail with Skellenger Lane, the point of beginning.

Signed: June 1, 1993.

Daniel R. Black,
Acting Director.

Approved: June 21, 1993.

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 93-15650 Filed 7-1-93; 8:45 am]

BILLING CODE 4810-31-U

27 CFR Part 9

[T.D. ATF-343; RE: Notice Nos. 728, 738 and 756]

RIN 1512-AA07

The Oakville Viticultural Area (89F-92P)

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Napa County, California, to be known as "Oakville." The petition for establishing this viticultural area was submitted by the Rutherford and Oakville Appellation Committee which is composed of seven wineries and seven grape-growers within the Rutherford and Oakville areas of Napa County, California. 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 better identify the wines they may purchase, and will help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: August 2, 1993.

FOR FURTHER INFORMATION CONTACT: Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Ave., NW., Washington, DC 20226 (202-927-8230).

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 allow the establishment of definite viticultural areas. The regulations 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, for the listing of approved American viticultural areas.

Section 4.25a(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 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 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.

Rulemaking Proceeding

Petition

On March 8, 1989, the Rutherford and Oakville Appellation Committee petitioned ATF for establishment of a viticultural area in Napa County, California, to be known as "Oakville." The viticultural area proposed by the petitioners is located in the south-central portion of the Napa Valley approximately 10 miles northwest of the city of Napa. In general terms, the proposed area extends 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. The proposed area contains approximately 13 bonded wineries and consists of about 5,760 total acres, most of which are densely planted to vineyards.

Notice of Proposed Rulemaking

In response to the petition, ATF published Notice No. 728 in the Federal

Register on September 17, 1991 (56 FR 47039), proposing establishment of the Oakville viticultural area. The notice detailed the boundaries as proposed in the petition, with some minor modifications, and requested comments from all interested persons. Written comments were to be received on or before November 18, 1991.

Comments to Notice of Proposed Rulemaking

ATF received 8 comments in response to the notice of proposed rulemaking. Several of these commenters submitted only general comments about the desirability of public hearings or the undesirability of smaller viticultural areas within the Napa Valley. However, two commenters were opposed to the northwestern boundary and two more commenters were opposed to the southwestern boundary of Oakville. Both commenters who opposed the northwestern boundary stated that they felt that any boundaries for Oakville should not include Beaulieu Vineyard properties No. 2 and No. 4 which, according to these commenters, 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.

The two commenters who opposed the southwestern boundary of Oakville stated that this boundary extended too far south into what they felt was Yountville. According to one of these commenters, the Oakville/Yountville boundary has always been known by the locals to be Dwyer Road to Highway 29, then Yount Mill Road to Rector Creek.

Based on the controversial nature of the comments received, ATF decided to reopen the comment period for an additional 90 days in order to obtain more information on the establishment of the Oakville viticultural area, its proposed boundaries, and other possible boundaries.

Reopening Notice

On April 22, 1992, ATF published Notice No. 738 (57 FR 14681) reopening the comment period on both the proposed Oakville and Rutherford viticultural areas. ATF specifically requested comments on 11 questions which were asked in this reopening notice which mostly pertained to possible boundary changes. Interested persons were given until July 21, 1992, to submit their comments.

Comments to Reopening Notice

ATF received a total of 62 comments in response to the reopening notice.