

**Note 3:** The subject of this AD is addressed in German AD 93-010, dated January 5, 1993.

Issued in Kansas City, Missouri, on March 11, 1998.

**Michael Gallagher,**

Manager, Small Airplane Directorate, Aircraft Certification Service.

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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 9

[Notice No. 858]

RIN 1512-AA07

#### Chiles Valley Viticultural Area (96F-111)

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) has received a petition for the establishment of a viticultural area in Napa County, California, to be known as "Chiles Valley." This proposal is the result of a petition submitted by Mr. Volker Eisele, owner of the Volker Eisele Vineyard and Winery.

**DATES:** Written comments must be received by May 19, 1998.

**ADDRESSES:** Send written comments to: Chief, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, D.C. 20091-0221 (Attn: Notice No. 858). Copies of the petition, the proposed regulation, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Thomas B. Busey, Specialist, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, D.C. 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 definitive 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, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in Subpart C of part 9.

Section 4.25(e)(2), Title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

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

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

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

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

##### Petition

ATF has received a petition from Mr. Volker Eisele, representing the Chiles Valley District Committee proposing to establish a new viticultural area in Napa County, California to be known as "Chiles Valley District." The proposed Chiles Valley District viticultural area is located entirely within the Napa Valley. The proposed viticultural area is located in the eastern portion of Napa Valley between and on the same latitude as St. Helena and Rutherford. It contains approximately 6,000 acres, of which 1,000 are planted to vineyards. Four wineries are currently active within the proposed viticultural area.

##### Evidence That the Name of the Area Is Locally or Nationally Known

An historical survey written by Charles Sullivan spells out the historical use of the name Chiles Valley and

vineyard plantings dating back to the late 1800's. Numerous references exist indicating the general use of the name "Chiles Valley" to refer to the petitioned area. The petitioner included copies of title pages of various publications, guide and tour book references, public and private phone book listings and Federal and State agency maps, to illustrate the use of the name.

In the petitioner's original proposal, the term "district" was included as part of the viticultural area name (i.e., Chiles Valley District). Although the petitioner stated that there was no historical evidence for the use of the term "district" in conjunction with Chiles Valley, the committee felt that the use of this term was important to emphasize that the Chiles Valley was part of a larger valley, in this case the Napa Valley, which totally surrounds the proposed viticultural area. Under California state law an appellation that is totally surrounded by the Napa Valley appellation can only use the name conjunctively with the name Napa Valley on any wine label. ATF has permitted the addition of the term "District" to the proposed names of viticultural areas before. See Stag's Leap District, 27 CFR 9.117; San Ysidro District, 27 CFR 9.130; and, Spring Mountain District, 27 CFR 9.143. However, in each of these there was evidence submitted to justify the use of the term "district" as part of the viticultural area name.

ATF does not believe the petitioner has submitted sufficient evidence to support the use of the term "District" with Chiles Valley. Consequently, the name of the proposed viticultural area is being proposed as "Chiles Valley." However, ATF encourages the submission of any specific comments on the issue of whether the term "district" in the proposed name is appropriate.

##### Historical or Current Evidence That the Boundaries of the Viticultural Area Are as Specified in the Petition

According to the petitioner, the boundaries establish a grape producing area with an identifiable character and quality, based on climate, topography, and historical tradition. The historical evidence can be dated to the mid 1800's with a land grant from the Mexican government to Joseph Ballinger Chiles, whose name the valley would later bear. The land grant was called Rancho Catacula and these lands all lie within the proposed appellation boundaries. The boundaries of the land grant are still recognized on U.S.G.S. maps of the area. A vineyard planting was one of the earliest agricultural operations conducted. For the most part the

boundaries of the proposed area use the land grant (Rancho line) boundary lines. This area includes virtually all lands that in any way might be used for agricultural purposes. Beyond the Rancho line are very steep slopes, which are mostly part of the serpentine chaparral soil formation. Historically it is also fairly clear the land grant boundaries were drawn to include usable land rather than the watershed, which, on all sides of the old Rancho Catacula is much further up the slopes. In sum, the petitioner believes the proposed boundaries encompass an area of remarkable uniformity with respect to soils, climate and elevation that produce a unique microclimate within the Napa Valley.

*Evidence Relating to the Geographical Features (Climate, Soil, Elevation, Physical Features, Etc.) Which Distinguish Viticultural Features of the Proposed Area From Surrounding Areas*

According to the petitioner, the geographical features of the proposed viticultural area set it apart from the surrounding area in the Napa Valley and produce a unique microclimate.

The lands within the proposed boundaries generally lie between the 800 and 1000 feet altitudes above sea level. The valley runs northwest to southeast and is therefore an open funnel for the prevailing northwesterly winds. This fairly constant northwesterly flow produces substantial cooling during the day and, in combination with the altitude, relatively dry air. During the night, this drier air leads to more rapid cooling than in most of the Napa Valley. In addition, the narrow valley surrounded by the hills up to 2200 feet concentrates the cooler air flowing down the hillsides toward the valley floor where the vineyards are located.

Also, the relative distance from the San Pablo Bay and the Pacific Ocean allows the summer fog to move in much later than in the main Napa Valley. By the time the fog does reach the Chiles Valley the air temperatures have dropped much more dramatically than in the Napa Valley, thereby causing much lower temperatures during the night. Late fog ceiling, combined with low minimums, cause a very slow heat buildup during the day, again producing relatively cooler average temperature than is found in many places of the Napa Valley.

Available data indicates a "Region Two" according to the U.C. Davis climate classification. The growing season starts later than in the Napa Valley due to a more continental winter with temperatures dropping below 20

degrees F. The high incidence of spring frost is another indication of the generally cooler climate conditions.

In the areas immediately adjacent to the proposed boundaries, the microclimate changes significantly. As one moves up the hillsides on either side of Chiles Valley the summer fog blanket gets thinner and thinner and disappears altogether at approximately 1400 to 1500 feet elevation.

Since the cold air drains down into the Chiles Valley, the night time temperatures are quite a bit higher on the steep slopes than on the valley floor. In addition, the lack of fog allows a much faster temperature build up during the day, reaching the daily high two to three hours earlier than on the valley floor. Not only is the temperature drop at nightfall less, but also much more gradual so that during a 24 hour period the heat summation is substantially higher on the slopes than within the proposed boundaries. In winter, the situation is reversed. Strong winds tend to chill the uplands creating much more of a continental climate than on the valley floor. Snowfall above 1400 feet has been observed many times.

The microclimatic limitations combined with enormous steepness and very poor soil (serpentine, heavy sandstone formations, and shale outcroppings) create an abrupt change from the proposed viticultural area to the areas surrounding it.

The petitioner believes that Pope Valley to the north of the proposed viticultural area is also significantly different. A combination of a lower elevation valley floor and substantially higher mountains on the western side causes the formation of inversion layers which result in substantially higher average temperatures during the growing season and significantly lower ones in the winter. In addition, the summer fog from the Pacific Ocean never reaches the Pope Valley.

The petitioner also states that the particular interplay between climate and soil make for unique growing conditions in the proposed area. The soils within the proposed appellation are uncommonly well drained and of medium fertility. The overall terrain gently slopes toward a series of creeks which act as natural drainage for surface as well as subterranean water. The petitioner believes this is a good basis for high quality grapes.

Uniform elevation and relatively uniform soil make the proposed viticultural area a clearly identifiable growing area. Almost all vineyards lie between 800 and 1000 feet elevation. As a general rule the soils in the Chiles Valley all belong to the Tehama Series:

Nearly level to gently sloping, well drained Silt loams on flood plains and alluvial fans.

The total planted acreage in 1996 was roughly 1000 acres. The remaining plantable area does not exceed 500 acres. This small size illuminates the petitioner's goal of a well defined, specific appellation.

*Proposed Boundaries*

The boundaries of the proposed Chiles Valley viticultural area may be found on four 1:24,000 scale U.S.G.S. maps titled: St. Helena, CA (1960); Rutherford, CA (1968); Chiles Valley, CA (1980); and Yountville, CA (1968).

**Public Participation-Written Comments**

ATF requests comments from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so. However, assurance of consideration can only be given on or before the closing date.

ATF will not recognize any submitted material as confidential and comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927-8602, provided the comments: (1) Are legible; (2) are 8½" x 11" in size, (3) contain a written signature, and (4) are three pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Any person who desires an opportunity to comment orally at a public hearing on the proposed regulation should submit his or her request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

**Paperwork Reduction Act**

The provisions of the Paperwork Reduction Act of 1995, (44 U.S.C. 3507(j)) and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

## Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant 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. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from the region.

Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

## Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this executive order.

## Drafting Information

The principal author of this document is Thomas B. Busey, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

## List of Subjects in 27 CFR Part 9

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

## Authority and Issuance

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

## PART 9—AMERICAN VITICULTURAL AREAS

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

**Authority:** 27 U.S.C. 205.

**Par. 2.** Subpart C is amended by adding § 9.154 to read as follows:

\* \* \* \* \*

## Subpart C—Approved American Viticultural Areas

### § 9.154 Chiles Valley

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

(b) *Approved maps.* The appropriate maps for determining the boundary of the Chiles Valley viticultural area are four 1:24,000 Scale U.S.G.S. topography maps. They are titled:

- (1) St. Helena, CA 1960 photorevised 1980
- (2) Rutherford, CA 1951 photorevised 1968
- (3) Chiles Valley, CA 1958 photorevised 1980
- (4) Yountville, CA 1951 photorevised 1968

(c) *Boundary.* The Chiles Valley viticultural area is located in the State of California, entirely within the Napa Valley viticultural area. The boundaries of the Chiles Valley viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps follow. The local names of roads are identified by name.

(1) Beginning on the St. Helena, CA quadrangle map at the northernmost corner of Rancho Catacula in Section 34, Township 9 North (T9N), Range 5 West (R5W), Mount Diablo Base and Meridian (MDBM);

(2) Then in southwesterly direction along the Rancho Catacula boundary line to its intersection with the Rancho La Jota boundary line;

(3) Then in a south-southeasterly direction approximately 3,800 feet along the Rancho Catacula/Rancho La Jota boundary line to the point where the Rancho Catacula boundary separates from the common boundary with Rancho La Jota;

(4) Then in a southeasterly direction continuing along the Rancho Catacula boundary approximately 23,600 feet to a point of intersection, in the NE ¼ Sec. 19, T8N, R4W, on the Chiles Valley quadrangle map, with a county road known locally as Chiles and Pope Valley Road;

(5) Then in a southwesterly direction along Chiles and Pope Valley Road to a point where it first crosses an unnamed blueline stream in the SE ¼ Section 19, T8N, R4W;

(6) Then following the unnamed stream in generally southeast direction to its intersection with the 1200 foot contour;

(7) Then following the 1200 foot contour in a northeasterly direction to a point of intersection with the Rancho Catacula boundary in section 20, T8N, R4W;

(8) Then in a southeasterly direction along the Rancho Catacula boundary

approximately 17,500 feet to the southwest corner of Rancho Catacula in section 34, T8N, R4W on the Yountville, CA, quadrangle map;

(9) Then in a northeasterly direction along the Rancho Catacula boundary approximately 650 feet to its intersection with the 1040 foot contour;

(10) Then along the 1040 foot contour in a generally east and northeast direction to its intersection with the Rancho Catacula boundary;

(11) Then in a northeasterly direction along the Rancho Catacula boundary approximately 1100 feet to its intersection with the 1040 foot contour;

(12) Then along the 1040 foot contour in an easterly direction and then in a northwesterly direction to its intersection of the Rancho Catacula boundary;

(13) Then in a southwesterly direction along the Rancho Catacula boundary approximately 300 feet to a point of intersection with a line of high voltage power lines;

(14) Then in a westerly direction along the high voltage line approximately 650 feet to its intersection with the 1000 foot contour;

(15) Then continuing along the 1000 foot contour in a generally northwesterly direction to the point of intersection with the first unnamed blueline stream;

(16) Then along the unnamed stream in a northerly direction to its point of intersection with the 1200 foot contour;

(17) Then along the 1200 foot contour in a northwesterly direction to its points of intersection with the Rancho Catacula boundary in Section 35, T9N, R5W on the St. Helena, CA, quadrangle map;

(18) Then along the Rancho Catacula boundary in a northwesterly direction approximately 5,350 feet to a northernmost corner of Rancho Catacula, the beginning point on the St. Helena quadrangle map a the northernmost corner of Rancho Catacula in Section 34, T9N, R5W, MDBM.

Signed: February 20, 1998.

**John W. Magaw,**

*Director.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Subchapter S

[CGD 97-066]

### Federal Requirements for Education in Recreational Boating Safety

**AGENCY:** Coast Guard, DOT.