

TABLE OF CONTENTS

Page

Preface

Definitions

I - TREASURY DECISIONS

ALCOHOL

Johannisberg Riesling; Deferral of

Compliance Date

(T.D. 405).....

Procedures for the Issuance, Denial, and Revocation

of Certificates

of Label Approval, Certificates of Exemption

From Label Approval,

and Distinctive Liquor Bottle Approvals (T.D.

406).....

Procedures for the Issuance, Denial, and Revocation of Certificates

of Label Approval, Certificates of Exemption From Label Approval,

and Distinctive Liquor Bottle Approvals; Correction (T.D.406a).....

Establishment of the San Francisco Bay Viticultural Area

and the Realignment of the Boundary of the Central Coast

Viticultural Area (T.D. 407).....

Chiles Valley Viticultural Area (T.D. 408).....

IV -ANNOUNCEMENTS

Major Disaster Declarations.....

Industry Circular 99-2: Realignment of Field Offices.....

Offers in Compromise/Revocations.....

Preface

The Alcohol, Tobacco and Firearms Quarterly Bulletin is the authoritative instrument of the Bureau for announcing official rulings and procedures, and for publishing Treasury decisions, legislation, administrative matters, and other items of general interest. It incorporates, into one publication, matters of the Bureau, which are of public record.

The Bureau publishes rulings and procedures to promote uniform application of the laws and regulations it administers. Rulings interpret the requirement of laws and regulations and apply retroactively unless otherwise indicated; whereas, procedures establish methods for performing operations to comply with such laws and regulations.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department regulations but they may be used as precedents. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings and procedures must be considered. Concerned parties are cautioned against reaching the same conclusions in

other cases unless the facts and circumstances are substantially the same.

Definitions

Rulings and procedures that have an effect on previous rulings or procedures use the following defined terms to describe the effect:

AMPLIFIED is used in a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth in the new ruling. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified.

CLARIFIED is used in a situation where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

DECLARED OBSOLETE is used in a situation where a previously published ruling is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are declared obsolete because of changes in law or regulations. A ruling may also be declared obsolete because its substance has been included in regulations subsequently adopted.

MODIFIED is used in a situation

where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, but the new ruling hold that it applies to both A and B, the prior ruling is modified.

REVOKED is used in a situation

where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Rulings which have been revoked have no further effect.

SUPERSEDED is used in a variety

of situations. The term may be used where the new ruling amplifies a prior ruling if both the position taken in the prior ruling and the position as amplified are contained in the text of the new ruling. The term may be similarly used where the new ruling clarifies or modifies a prior ruling. The term may also be used where, for the purpose of updating references, the new ruling does nothing more than restate the substance and situation of a prior ruling. For example, a ruling issued under former statutes and regulations (e.g. the 1939 Code-

26 CFR Part 225) may be reissued under the current statutes and regulations (e.g. the 1954 Code- Part

201). Lastly, the term may be used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings.

SUPPLEMENTED is used in situations

in which a list, such as a list of curios and relics, is published in a ruling and that list is expanded by adding further items in subsequent rulings. After the original ruling has been supplemented

several items, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Treasury Decisions - I

Subpart A - ALCOHOL

TITLE 27- ALCOHOL, TOBACCO PRODUCTS

AND FIREARMS- CHAPTER I -

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

Johannisberg Riesling; Deferral of Compliance

Date

T.D. ATF-405

27 CFR Part 4

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule temporarily extends the applicability date with respect to the use of the term Johannisberg Riesling set forth in Sec. 4.92(b) in T.D. ATF-370. The reason ATF is deferring this date is to allow for the sufficient review and evaluation of comments and any additional information received as a result of a notice of proposed rulemaking, Notice Number 871, proposing to extend the phase-out for the term Johannisberg Riesling as a designation for American wines for an additional seven years.

DATES: This document is effective January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Teri Byers, Regulations Division,
650 Massachusetts Avenue, NW, Washington, DC 20226; Telephone (202) 927-8195, or e-mail: <thbyers@atfhq.atf.tres.gov>

SUPPLEMENTARY INFORMATION

Background

Treasury Decision ATF-370, 61 FR 522, January 8, 1996, adopted a list of grape variety names which ATF has determined to be appropriate for use in designating American wines. The Treasury decision did not include Johannisberg Riesling in the list of prime names, either as a prime grape name or as a synonym. Johannisberg Riesling was instead listed as an alternative name in Sec. 4.92 for use in advertising and labeling wines only until January

1, 1999, after which the required varietal designation for this wine would be Riesling or the synonym White Riesling.

Petition

ATF received a petition from the law firm of Buchman & O'Brien, on behalf of trade associations representing United States wineries. This petition requests ATF to extend the phase-out period for the term Johannisberg Riesling for an additional seven years to January

1, 2006. The petition asserts that this change would allow American wineries additional time to educate the consumers and provide additional time for wineries to change labels, packaging, and merchandising material for this wine. Based on the evidence presented in the petition as well as documented support and marketing information, ATF is issuing a notice of proposed rulemaking that solicits comments and requests further information to determine whether the phase-out date should be extended to January 1, 2006.

Because ATF needs time to receive and consider the evidence produced as a result of this notice, ATF is temporarily extending the current phase-out date provided by T.D. ATF-370 for the term Johannisberg Riesling from January 1, 1999, to September 30, 1999. ATF

wishes to make it clear that neither the airing of this petition nor the issuance of this rule represents any change in ATF's position to eventually phase-out use of the term Johannisberg Riesling.

Notice and Public Procedure

Because this final rule merely postpones the compliance date with respect to the use of Johannisberg Riesling as an alternative name in T.D. ATF-370, and in view of the immediate need for time to solicit and review comments received as a result of the notice of proposed rulemaking discussed above, it is found to be impractical and contrary to the public interest to issue this rule with notice and public procedure under 5 U.S.C. 553(b), and with a 30-day delayed effective date under 5 U.S.C. 553(d).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 4

Advertising, consumer protection, Customs duties and inspections, Imports, Labeling, Packaging and containers, Wine.

Disclosure

Copies of the petition, the notices, the Treasury decision, and all comments are available for public inspection during normal business hours at: ATF Reading Room, Room 6300, 650 Massachusetts Avenue NW, Washington, DC.

Drafting Information

The principal author of this document is Ms. Teri Byers, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

Therefore, pursuant to the authority set forth in 27 U.S.C. 205(e), ATF is postponing the compliance date with respect to the use of the term Johannisberg Riesling set forth in 27 CFR 4.92(b) to September 30, 1999.

Signed: October 16, 1998.

**John W. Magaw,
Director.**

Approved: November 20, 1998.

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

[FR Doc. 98-34843 Filed 12-31-98; 2:07 pm]

**TITLE 27 ¾ ALCOHOL, TOBACCO
PRODUCTS AND FIREARMS ¾ CHAPTER
I ¾ BUREAU OF ALCOHOL TOBACCO
AND FIREARMS, DEPARTMENT OF THE TREASURY**

**Procedures For The Issuance, Denial,
And Revocation Of Certificates Of Label Approval, Certificates
Of Exemption From Label Approval, And Distinctive Liquor Bottle
Approvals**

TD ATF - 406

27 CFR Parts 4, 5, 7, 13, and 19

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

Treasury.

ACTION: Final Rule, Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing regulations setting forth the procedures for the issuance, denial, and revocation of certificates of label approval (COLAs), certificates of exemption from label approval, and distinctive liquor bottle approvals. The denial and revocation regulations are new, whereas the issuance regulations merely amend current regulations. The new regulations also codify procedures for administratively appealing the denial or revocation of certificates of label approval, exemptions from label approval, or distinctive liquor bottle approvals.

DATES: These regulations are effective March 15, 1999.

ADDRESSES: Copies of the proposed regulation and written comments are available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, Jr., Alcohol Labeling and Formulation Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226 (202-927-8140).

SUPPLEMENTARY INFORMATION:

Background

The Federal Alcohol Administration (FAA) Act, 27 U.S.C. § 205(e), provides ATF, as the delegate of the Secretary of the Treasury, with authority to promulgate regulations with respect to the bottling, packaging, and labeling of distilled spirits, wine, and malt beverages in order to prohibit deception of the consumer, and provide the consumer with adequate information as to the identity and quality of the product.

In order to carry out such requirements, domestic bottlers and producers are prohibited from bottling distilled spirits, wines, or malt beverages, and importers are prohibited from removing bottled distilled spirits, wines, or malt beverages from customs custody unless they have in their possession a certificate of label approval covering such products, "issued by the Secretary in such manner and form as he shall by regulations prescribe."

27 U.S.C. § 205(e). The law provides an exemption from these requirements for products that are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced, in interstate or foreign commerce.

The regulations implementing these statutory provisions provide that no person shall bottle or pack wine, distilled spirits, or malt beverages unless application is made to the Director and an approved certificate of label approval, ATF Form 5100.31, is issued. 27 CFR §§ 4.50(a), 5.55(a), and 7.41. The regulations also provide that no bottled wines, distilled spirits, or malt beverages shall be released from customs custody for consumption unless an approved certificate of label approval, ATF Form 5100.31, is deposited with the appropriate customs officer

at the port of entry. 27 CFR §§ 4.40(a), 5.51(a), and 7.31(a).

A bottler of wine or distilled spirits who can show to the satisfaction of the Director that the product is not to be sold, offered for sale, or shipped or delivered for shipment or otherwise introduced in interstate or foreign commerce, must make application for exemption from the labeling requirements of the FAA Act on ATF Form 5100.31 in accordance with the instructions on the form. If the application is approved, a certificate of exemption from label approval will be issued on the same form. 27 CFR §§ 4.50(b) and 5.55(b). Certificates of exemption from label approval are not issued for malt beverages.

Finally, the ATF Form 5100.31 is also used to obtain approval for distinctive liquor bottles, pursuant to the regulations appearing at 27 CFR § 19.633(a). ATF's authority to regulate liquor bottles is derived from section 5301 of the Internal Revenue Code of 1986, 26 U.S.C. § 5301. However, the approval of a distinctive liquor bottle also includes the approval of the label on that bottle, pursuant to the FAA Act.

Revocation of COLAs

ATF reviews approximately 60,000 applications for certificates of label approval, exemptions from label approval, and distinctive liquor bottle approvals every year. Because errors occasionally occur in the approval process, there is a need for some type of revocation procedure.

Since the enactment of the FAA Act in 1935, ATF and its predecessor

agencies have taken the position that the statutory authority to issue certificates of label approval includes the implied statutory authority to cancel or revoke the certificates if they were approved in error. However, there have never been formal procedures in the regulations for denial or revocation of certificates of label approval. Instead, ATF has utilized informal procedures for denials and revocations, where applicants or certificate holders who wished to contest a denial or revocation are given an opportunity to do so in writing, or through informal meetings with Bureau officials.

The certificate of label approval was never intended to convey any type of proprietary interest to the certificate holder. On the contrary, Paragraph 1 of Form 5100.31 provides that "This certificate is issued for ATF use only. This certificate does not constitute trademark protection." Paragraph 2 of this form reminds applicants that the "certificate does not relieve any person from liability for violations of the Federal Alcohol Administration Act." The certificate of label approval is a statutorily mandated tool used to help ATF in its enforcement of the labeling requirements of the FAA Act.

ATF's informal procedures for revocation of COLAs were subject to challenge in the Federal District Court for the Northern District of California. In Cabo Distributing Co. v. Brady, 821 F. Supp. 601 (N.D. Cal. 1992), the court set aside ATF's revocation of labels for "Black Death" vodka on several grounds.

The court held that there was no express statutory or regulatory authority for the Bureau to cancel certificates of label approval, and that the Bureau had implied authority to reverse its actions

only in limited circumstances. The court thus concluded that

"[w]ithout statutory authority or regulatory authority,

the BATF cannot cancel a certificate of label approval."

821 F. Supp. at 612. The court also held that the Bureau's informal

procedures for revoking the "Black Death" certificates

of label approval had not afforded the certificate holders their

constitutional right to procedural due process. 821 F. Supp.

at 612.

ATF does not agree with the court's decision on either of

these two holdings. ATF believes that a right to cancel certificates

of label approval is implied from the authority granted by the

statute to the Secretary to issue certificates of label approval

"in such manner and form as he shall by regulations prescribe..."

The statute explicitly authorizes ATF, as a delegate of the Secretary,

to issue regulations governing the procedure for the issuance

of certificates of label approval. There is also implicit statutory

authority to issue regulations governing the procedures for denying

and revoking certificates of label approval.

Furthermore, ATF believes that the procedures that it has

been using for revoking certificates of label approval, although

not codified in the regulations, have provided certificate holders

with due process of law. However, ATF determined that rulemaking

was appropriate in order to clarify its authority and procedures

for revocation of label approvals.

Notice of Proposed Rulemaking

On September 13, 1995, ATF published a notice of proposed

rulemaking (Notice No. 815, 60 FR 47506-47512)

to solicit public comment on regulations setting forth procedures for the issuance, denial, and revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals. The comment period closed on December 12, 1995, and was reopened until February 21, 1996, by notice dated January 22, 1996 (Notice No. 819, 61 FR 1545-1546).

Notice No. 815 proposed to make existing regulations covering issuance of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals more specific and proposed new regulations to codify existing informal procedures for denial of applications and revocation of certificates. The notice also proposed the codification of procedures for administratively appealing the denial or revocation of certificates of label approval, exemptions from label approval, and distinctive liquor bottle approvals. In the notice, ATF restated its position that the proposed regulations would afford applicants and certificate holders due process of law, and that the codification of these procedures in the regulations would eliminate any question as to ATF's authority to revoke certificates of label approval, exemptions from label approval, and distinctive liquor bottle approvals.

Under current regulations, the authority to approve certificates of label approval, exemptions from label approval, and distinctive liquor bottle applications rests with the Director and has been delegated to the labeling specialists in the Alcohol Labeling and Formulation Branch. The proposed regulations described the process of approval, denial, and administrative appeal in a new Part 13. Proposed revisions to Parts 4, 5, 7, and 19 added cross-references to the new Part 13.

With respect to revocations of certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals, and administrative appeals of such actions, the proposed regulations set forth a procedure based on ATF's informal practices.

In response to Notice 815, ATF received comments from the following organizations:

Government Liaison Services, Inc.;

Presidents' Forum of the Beverage Alcohol Industry (Presidents' Forum);

American Brandy Association (ABA);

Wine Institute;

Fédération Internationale des Vins et Spiriteux (FIVS);

Fédération des Exportateurs de Vins & Spiriteux de France (FEVS);

National Association of Beverage Importers, Inc. (NABI). Five importers, Remy Amerique, Inc., Austin Nichols & Co, Inc., Dribeck Importers, Inc., Guinness Import Company, Kobrand Corporation, and two associations, The Scotch Whisky Association and the Asociación de Criadores Exportadores de Sherry, wrote to endorse the comments of NABI;

The Distilled Spirits Council of the U.S. (DISCUS). Jim Beam Brands Co., a distiller, wrote to express agreement with the DISCUS comments;

Beer Institute filed comments on behalf of its senior members:

The Anheuser Busch Companies, Miller Brewing Company, Coors Brewing Company, Stroh Brewery Company, and G. Heileman Brewing Company;

Ropes & Gray filed comments on behalf of the Institut Nationale des Appellations d'Origine (INAO) of France, an entity responsible for protecting French appellations of origin; The U.S. Department of Commerce transmitted comments from the European Commission (EC); and The Embassy of Mexico Trade Office forwarded comments from Mexico's Dirección General De Normas concerning labeling of tequila and mezcal. This last comment suggests regulatory changes that are beyond the scope of Notice Number 815, but may be considered as part of a future rulemaking.

Analysis of Comments

The majority of the commenters expressed support for ATF's effort to promulgate regulations covering issuance, denial, and revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, though most had comments on specific proposals.

Proposals and Comments on Application, Approval and Denial

In Notice No. 815, ATF set forth proposed regulations describing in detail the steps in applying for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, including issuance of approved certificates, denial of applications, and appeal of such denials. A number of comments addressed specific items in these proposed regulations. In its comment, Government Liaison Services, Inc. expressed

concern at the use of the word "send" in proposed § 13.11, which they interpreted to preclude hand delivery of applications for label approval. A clarifying change is made to this section, now designated as § 13.21. ATF did not intend to prohibit hand-delivered applications.

In the proposed rule, ATF described the approval process, including the noting of any qualifications to the approval in the appropriate space on the form. The proposed rule further provided that if an application is denied for any reason, the applicant is sent an ATF Form 5190.1, "ATF F 5100.31 Correction Sheet," with the reasons for the denial briefly noted on the form. The proposed regulations afforded the applicant an opportunity to file an administrative appeal of the denial of an application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, with the Chief, Labeling Section, Alcohol Labeling and Formulation Branch, who would make a final decision on the denial of the application.

Government Liaison Services, Inc., the Presidents' Forum, NABI and DISCUS all commented that the initial correction notice and informal discussion of technical issues arising from the application that often occurs between applicants and ATF representatives should be kept separate from a formal appeal process. DISCUS, in its comment, noted "these informal consultations and contacts have served and do serve the interests of all parties, with commensurate savings in expenditures and manpower for both the government and the industry."

In practice, applicants and ATF representatives often informally resolve issues related to a qualified approval or a denied application. ATF does not wish to create the impression that all qualifications or denials must be formally appealed. Accordingly, we have added a new subsection § 13.25(b) to confirm that the applicant has the option of pursuing informal resolution of a labeling issue by requesting an informal conference with the Alcohol Labeling and Formulation Branch Specialist or the Chief, Alcohol Labeling and Formulation Branch.

Government Liaison Services, Inc. also noted that the proposed

regulations did not incorporate ATF's practice of allowing voluntary withdrawal of applications. A new § 13.22 has been added to cover withdrawal of applications.

Beer Institute, DISCUS and Government Liaison Services, Inc. questioned ATF's proposal to authorize the Chief of the Labeling Section to make final decisions on appeals of denials of applications for certificates of label approvals, exemptions from label approvals and distinctive liquor bottles. They suggested review by either a higher level official within the Alcohol and Tobacco Programs Division or by someone outside the Division. Pursuant to these comments, a second level of appeal has been added in § 13.27 for qualifications or denials of applications for label approval. The final rule provides that the first appeal will be decided by the Chief, Alcohol Labeling and Formulation Branch, and the second appeal will be decided by the Chief, Alcohol and Tobacco Programs Division.

Appeal of qualifications

The final rule expands the formal and informal resolution and appeal procedures for denials to include resolution of disagreements concerning qualifications on approved certificates. For these purposes, a qualification is treated like a partial denial, since it limits the use of the COLA.

Comments on Revocation and Appeal

With respect to revocations of certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals, the proposed regulations divided revocations into two categories, revocation of specific labels and revocation by operation of law or regulation. The two types of revocation will be discussed separately in this background material.

The proposed regulations on revocation of specific approvals gave the Chief, Alcohol Labeling and Formulation Branch, authority to issue a notice of proposed revocation and gave the certificate holder 45 days to present written arguments as to why the revocation should not occur. In the proposed rule, the Chief, Alcohol Labeling and Formulation Branch, was authorized to decide whether to revoke the certificate. If a label or distinctive liquor bottle approval were revoked, the certificate holder would have 45 days to file a written appeal with the Chief, Alcohol and Tobacco Programs Division. In the proposed rule, the decision of the Chief, Alcohol and Tobacco Programs Division, was the final decision of the Bureau.

ATF's Authority to Revoke Label Approvals

Most commenters who addressed the issue agreed that ATF had authority to revoke certificates of label approval, although there was disagreement on the circumstances where revocation would be appropriate. DISCUS argued, however, that in the absence of a specific statutory provision authorizing revocations of approved labels, ATF lacked authority to take such actions.

ATF does not agree that it lacks statutory authority to revoke certificates of label approval. Many courts have recognized "an implied authority in other agencies to reconsider and rectify errors even though the applicable statute and regulations do not expressly provide for such reconsideration." Gun

South, Inc. v. Brady, 877 F.2d 858, 862 (11th Cir. 1989).

For example, in concluding that the Interstate Commerce Commission could order a refund to correct a prior error, the Supreme Court stated that "[a]n agency, like a court, can undo what is wrongfully done by virtue of its order." United Gas Improvement

Co. v. Callery Properties, 382 U.S. 223, 229 (1965). See

also Kudla v. Modde, 537 F. Supp. 87, 89 (E.D.

Mich. 1982) ("[t]he power of the state to require a license implies the power of the state to revoke a license which has been improperly issued."), aff'd without opinion, 711 F.2d 1057 (6th Cir. 1983); Century Arms, Inc. v. Kennedy, 323 F. Supp. 1002, 1016-17 (D. Vt. 1971), ("we are aware of no licenses which once granted, can never be taken away."), aff'd, 449 F.2d 1306 (2d Cir. 1971), cert. denied, 405 U.S. 1065 (1972).

As we explained in the notice, it is ATF's position that its statutory authority to issue regulations governing the issuance of COLAs also includes the implied authority to issue regulations setting forth procedures for the denial and revocation of such COLAs. The single comment opposed to this position did not provide a persuasive basis for concluding otherwise.

Due Process Issues

The American Brandy Association (ABA), Beer Institute, Wine Institute, NABI and DISCUS submitted comments suggesting that ATF's approval of a certificate of label approval (COLA) does create a property right subject to the protection of due process of law.

ATF has always maintained that its informal procedures concerning the denial and revocation of COLAs were sufficient to provide procedural due process to the applicant or certificate holder.

Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the

Fifth Amendment. The Supreme Court has recognized that "due process is flexible and calls for such procedural protections as the particular situation demands." Morrissey v. Brewer, 408 U.S. 471, 481 (1972).

In determining whether an administrative procedure accords due process, three factors are considered:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Eldridge, 424 U.S. 319, 334 (1976).

ATF recognizes that brand names and other terms on labels may be significant elements in the marketing of an alcohol beverage.

However, even assuming that a certificate represents a property interest, we believe that the procedures set forth in the final rule minimize the risk of an erroneous deprivation of the interest of the industry member. The procedures adopted in the final rule ensure that certificate holders are given prior written notice of a proposed revocation; the opportunity to meet with agency officials to discuss the issues; and the opportunity to present written arguments or evidence before the agency takes final action to revoke a label.

There have been suggestions that an evidentiary hearing, complete with an Administrative Law Judge and the right to cross-examine witnesses, is the appropriate model for a revocation proceeding.

However, none of the commenters explained why a written review procedure involved a risk of erroneous deprivation of the certificate holder's property interests, or why an evidentiary hearing would shed further light on the issue of whether a label is in compliance with the regulations. See Doolin Sec. Sav. Bank v.

FDIC, 53 F.3d 1395, 1403 (4th Cir. 1995), cert. denied

516 U.S. 973 (1995) (finding that an agency was not required to provide an evidentiary hearing where the plaintiff did not "offer sufficient evidence demonstrating that an oral hearing would allow it to present evidence . . . that it could not present in the written review procedure" and the "determination did not involve credibility assessments, which would benefit from an oral hearing with the presentation of witnesses").

Thus, the comments provided no basis for concluding that the additional procedural safeguards provided by an evidentiary hearing would be of value. However, such hearings would certainly impose additional administrative burdens on the agency. After evaluating the factors set forth in Mathews v. Eldridge, it is clear

that due process does not require a formal evidentiary hearing before the agency revokes a certificate of label approval. As the Supreme Court noted in that case, "the judicial model of an evidentiary hearing is neither a required, nor even the most effective, method of decisionmaking in all circumstances."

424 U.S. at 348. This is especially true where, as here, judicial review of the final agency determination is available in the United States District Court pursuant to the Administrative Procedure Act (APA). See 27 U.S.C. § 205(e); 5 U.S.C. § 702. See also Doolin, 53 F.3d at 1405 ("This

opportunity for judicial review of FDIC reclassification determinations therefore supports our conclusion that the FDIC's risk classification review procedures satisfy due process"). Accordingly, the final rule does not provide for evidentiary hearings in connection with the revocation of certificates.

Level of Appeal

Some commenters suggested that the impact of a revocation on the industry member warrants review at a higher level than the ATF officials designated in the proposed rule. A number of commenters, including Beer Institute, suggested that the officials designated in the proposed rule to hear appeals are in day-to-day contact with the persons making the initial decisions and may even have participated in making those initial decisions. As previously noted, some commenters even suggested that appeals of revocations should be heard by an Administrative Law Judge. The APA, 5 U.S.C. § 554, generally requires that an independent hearing officer preside at formal adjudicatory hearings "in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing."

Section 554 also requires the separation of investigatory and decisionmaking functions for this type of formal adjudication. The Federal Alcohol Administration Act does not provide that proceedings regarding labels must be "determined on the record after opportunity for an agency hearing." Accordingly, proceedings regarding the approval or denial of a label do not constitute formal adjudicatory proceedings under the APA. See

Joseph E. Seagram & Sons, Inc. v. Dillon, 344 F.2d

497 (D.C. Cir. 1965). Similarly, there is no statutory requirement that appeals of denials or revocations be determined on the record after opportunity for an agency hearing. Since these proceedings are not formal adjudications, there is no legal requirement that such appeals be heard by an independent hearing officer or Administrative Law Judge.

Nonetheless, ATF recognizes that many industry members believe that fairness dictates that appeals should be heard at a high enough level to ensure some division between the initiation of revocation proceedings and the final appeal. In response to these comments, we have revised the final rule to designate higher level officials to make revocation decisions and hear appeals. The Chief, Alcohol Labeling and Formulation Branch, will issue a notice of proposed revocation, but the decision whether or not to revoke a certificate will be made by the Chief, Alcohol and Tobacco Programs Division. Any appeal of such a revocation will be decided by the Assistant Director, Alcohol and Tobacco.

Time Limits for Initiating Revocation Proceedings

As noted above, many commenters suggested limitations on ATF's authority to rescind label approvals. Several commenters suggested setting a time within which ATF must begin revocation proceedings.

For example, Beer Institute suggested a 30-day period during which ATF could revoke labels to correct agency administrative errors without a formal administrative hearing, and then "an outer limit of one year" on any other revocation. Wine Institute suggested that any time limit (they suggested five years) should be measured from "relatively wide and bona fide distribution" of a product, rather than from approval of a label.

It has been ATF's experience that in some cases, errors

in the label approval process are not detected right away. For example, a label may be approved for a product that is not placed on the market for some time. ATF believes that the placement of an artificial time constraint on its ability to take revocation action would not further the statutory purpose of protecting the consumer from misleading labels. Accordingly, the final rule does not set forth such a time limit.

Standard of Proof for Revocation

The American Brandy Association and DISCUS suggested that the standard for revocation should be based on "clear and convincing evidence" that a label is not in compliance with law or regulations. However, the comment did not provide a legal basis for imposing such a standard.

Under the APA, an agency action (including an informal adjudication such as a denial or revocation of a certificate) shall be set aside by a reviewing court if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

5 U.S.C. § 706(2)(A). Even an agency's action in a formal adjudicatory proceeding (which this is not) will be set aside by a reviewing court only if it is "unsupported by substantial evidence." 5 U.S.C. § 706(2)(E). There is no requirement that an agency establish "clear and convincing evidence" to justify its actions.

The standard of review set forth in the APA provides sufficient protection to applicants and certificate holders wishing to contest agency actions. Accordingly, this comment was not adopted.

Judicial Review

ATF is modifying the final rule to clarify that the administrative remedies available within ATF must be exhausted prior to application to the Federal courts for review. Accordingly, sections 13.26, 13.27 and 13.44 are amended to reflect this requirement.

Effect of Revocation

There were several comments and questions concerning the effect of revocation of a certificate. In response, we have added a new § 13.73 to clarify this issue. Section 13.73 provides that, as of the effective date of the revocation, a revoked certificate may not be used to bottle or pack distilled spirits, wine or malt beverages; to remove such products from the place where they were bottled or packed; or to remove such products from customs custody for consumption.

Use-Up Period

A number of commenters suggested a longer "use-up" period for revoked labels. We have revised the section covering this issue, now designated as § 13.72, to allow 60 days from the date of the initial revocation of the certificate. Some commenters also did not understand that the proposed regulations provided that a timely appeal would stay the effective date of a revocation of a certificate (other than a revocation by operation

of law or regulations). Accordingly, § 13.72 now incorporates the material on the effect of an appeal on the date of revocation, which was originally proposed in § 13.50(b).

Revocations by Operation of Law or Regulation

With respect to revocations by operation of law or regulation, the proposed rule did not require ATF to issue a notice of proposed revocation prior to notifying a certificate holder of the revocation of a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval. The proposed rule stated that in these cases, the burden of ensuring that affected labels were in compliance with the new requirements imposed by statute or regulation was on the certificate holder, not ATF.

The proposed rule provided that if ATF determined that a label or bottle which was not in compliance with the new statutory or regulatory requirements was still being used, the Chief, Alcohol Labeling and Formulation Branch, would issue a letter notifying the certificate holder that the certificate had been revoked by operation of law or regulation. If the certificate holder wished to challenge the application of the law or regulation to the particular label or bottle, the holder would appeal the decision, in writing, to the Chief, Alcohol and Tobacco Programs Division.

In its comment, DISCUS expressed its opinion that ATF should individually notify holders whose labels are revoked by operation of law, that ATF should never require submission of new COLAs to show compliance with any new requirement in the law, and further

expressed the opinion that COLAs may not be revoked by operation of regulation. ATF is not adopting any of these comments. In the first instance, affected certificate holders will likely receive notice of a proposed or final change in regulations by the publication of such notice or regulation in the Federal Register. Changes in law usually will be accompanied by changes in regulations. Amendments to both the law and regulations affecting industry members will be published in the ATF Quarterly Bulletin. Thus, there can be no argument that industry members do not receive notice of such changes. In those instances, ATF believes the responsibility for learning about the changes in the law and regulations and making appropriate changes to labels properly rests with the certificate holders.

Second, ATF reserves the right to decide, based on the facts and circumstances of each change in regulations, whether to require certificate holders to file new applications to show compliance with new requirements or to excuse holders of approved certificates from filing new applications, so long as labels are modified appropriately.

Finally, on the issue of ATF's authority to revoke labels by operation of regulations, we believe this is part of our general authority to promulgate regulations and to revoke labels, which was discussed earlier in this preamble. Changes in the labeling regulations usually affect all future labeling activities, regardless of when a certificate of label approval was originally issued for a particular label. Such changes to the regulations will usually set forth specifically whether existing certificates of label approval must be surrendered, and new certificates obtained.

In the event that an individual change to the labeling regulations is accompanied by a "grandfathering" provision for previously approved certificates of label approval, the regulation will so provide.

Time Limits for Appeals

Several commenters, including Beer Institute, DISCUS, FEVS and NABI, asked ATF to set a time limit for its own actions in response to appeals. DISCUS, in its comment, suggested that "[c]onsistent with the tenet of administrative efficiency, we believe that it is appropriate that the Bureau be required to issue its written decision concerning a COLA denial within 15 days from the receipt of the applicant's appeal of the denial." DISCUS made similar recommendations with respect to deadlines for ATF action on decisions after a COLA holder disputes a notice of proposed revocation and appeals a revocation. Beer Institute made the following suggestion: "... we propose that ATF adopt a 45-day period to render decisions on appeals of denials of COLA applications." With respect to revocations, they recommend that decisions "be made within 30 days" after a formal appeal by the holder of the COLA.

Pursuant to the comments received on this issue, ATF has added a time limit provision to each of the regulatory sections covering initial approvals, appeals of denials of certificates, decisions whether or not to revoke a certificate, and appeals of revocations. ATF does not believe that the time periods suggested by the comments provide sufficient time for the unusual labeling cases that may

require extensive agency review. Accordingly, the final rule provides that ATF must generally act within 90 days of receiving an application or appeal. However, the regulations provide that, if an applicant or certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. Further, ATF may exercise an option to extend this period one time for an additional 90 days, based on unusual circumstances.

It should be emphasized that ATF's current customer service standards call for action on initial label applications within 9 calendar days; the allowance of 90 days in the regulations does not reflect any intention to lengthen the average period of time for label review. Instead, the regulation merely places an outside limit on the unusual labeling cases that may require additional fact-finding, consultation with other agencies, or extensive review within the agency. A new § 13.75 has been added to clarify the beginning date of this time limit.

Formal Third-Party Involvement in the Label Process

The INAO comment suggested that ATF should recognize the rights of third parties with respect to certificates of label approval.

One example given by the INAO was where "a label may contain a brand, fanciful name, class, type or other designation that is identical or substantially similar to a term, such as an appellation of origin, which is protected under U.S. treaties, agreements,

laws or regulations." The INAO suggested that in such a case, ATF should implement procedures to ensure that the country of origin was contacted regarding the use of the term on the label.

In appropriate situations, ATF will contact the country of origin for more information regarding whether the use of a labeling term would violate the laws of that country. Accordingly, ATF does not believe it is necessary to codify such procedures in the regulations.

The INAO also suggested that ATF should implement a system to publish approved labels, perhaps similar to the Official Gazette of the Patent and Trademark Office. Their comment suggested that such a procedure would enable concerned third parties to receive timely notice of approved labels, and, in the case of an erroneous approval, will enable the third party to bring the error to ATF's attention promptly.

Certificates of label approval or exemption from label approval, and approvals of distinctive containers, become public information upon approval, and can be viewed at the ATF Library or requested by mail under the Freedom of Information Act. ATF is also working to make these public records more readily available through electronic means. We hope to make the approved label database available on the Internet in the next year or two; we believe that this will provide affected third parties ample opportunity to inspect approved labels. Thus, we do not see a need for publishing approved labels on a regular basis.

However, in response to this comment, the final regulations contain a new section 13.61, which codifies ATF's policy

concerning publicity of information contained in applications for certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, and the resulting approvals or administrative actions. The regulations also codify ATF's longstanding policy that pending and denied applications for label approval are treated as proprietary information and are not released to the public without the consent of the submitter.

The INAO and FEVS requested ATF to consider new procedures that would allow third parties to intervene in proceedings concerning the denial or revocation of a label. The INAO suggested that if a proposed revocation of such a label were appealed by the certificate holder, the third party should have an opportunity during the appeal process to submit material in support of revocation.

The INAO correctly noted that ATF currently reviews complaints concerning approved labels where a third party believes that the label is in violation of the regulations. However, the INAO suggested that this policy be codified, so that the public would be aware of its existence. We concur with the suggestion to codify ATF's policy and informal practice concerning review of third party complaints, and accordingly have added a new § 13.62 to the final rule. However, the regulation does not provide for any formal role for third parties during a revocation proceeding. ATF believes that it may be appropriate in certain cases to seek the opinions of third parties regarding whether a particular label is misleading to consumers; however, we believe that this is best determined on a case-by-case basis.

Service of Notices

In proposed § 13.55, ATF stated that notices of denial, proposed revocation and revocation will be served by first class mail or by personal delivery. NABI and several other commenters stated that service by mail should be by registered mail, return receipt requested. This section has been renumbered as § 13.76 in the final rule and modified to require proof of service of notices of proposed revocation or revocation, either a postal return receipt or equivalent written acknowledgment obtained from the addressee by a commercial delivery service or a report of hand delivery by an ATF official. The final rule does not require proof of service for notices of denial of applications, since applicants may not use a label until an approved certificate is received.

Informal Conferences

In proposed § 13.40(a), ATF reserved the right to decide whether to grant an informal conference to discuss a denial or revocation of a certificate. Several commenters suggested that such a conference should be granted as a matter of right, and cited 27 CFR § 70.418, which states that any person may have a conference concerning "any matter arising in connection with such person's operations" upon request. In the final rule, the paragraph, now designated as § 13.71, is revised to show that a conference will be granted upon request. Proposed paragraph (b) of that section stated that no transcript

would be made of a conference, if one was held, and that any arguments, facts or evidence on which an applicant or certificate holder wishes to rely, should be incorporated in a written submission.

A number of commenters expressed the opinion that there should be a formal record made of such a conference. ATF disagrees.

As noted above, proceedings regarding label approvals are not required by statute to be conducted on the record after an agency hearing; accordingly this is not a formal adjudicatory proceeding.

The regulations clarify that the conference is an informal means of clarifying issues or discussing alternative solutions, not an administrative hearing. The written submission of the applicant or certificate holder and the written response of ATF will form the official administrative record of such proceedings.

Comments Regarding Imported Products

The EC commented that "establishing a mandatory procedure concerning certificates of label approval would appear to be disproportionate to the pursued objective" [of preventing consumer deception]. The EC said further that they "would, therefore, deem this regulation as having the effect of creating unnecessary obstacles to European exports unless the US authorities can show that this proposal is not more trade-restrictive than necessary to fulfil the pursued objective and explain the justification for this technical rule in terms of these Articles...."

[Article 2.2 and Article 5.1.2 in connection with Article 2.5 of the Agreement on Technical Barriers to Trade].

The final regulations do not create any unnecessary obstacles

to European exports to the United States; on the contrary, the regulations will provide all applicants and certificate holders with more detailed and specific information about the label approval process. The regulations also set forth specific avenues of appeal for applicants and certificate holders. Domestic and imported products are treated with parity under both the proposed and final regulations. Accordingly, ATF does not agree that the regulations create unnecessary obstacles to imported products.

In its comment, FEVS asked that ATF ensure equal treatment of domestic and foreign goods in the final rule, but did not identify any specific changes to be made. As noted above, ATF is not aware of any provision in the proposed rule or this final rule that treats domestic and imported products differently.

NABI noted that importers of beer are subject to suspension or revocation of their basic permits for FAA Act violations, including labeling violations, while domestic brewers are not required to obtain a basic permit under the FAA Act. However, this distinction flows directly from the statute and is not subject to change through regulations. Furthermore, brewers may be subject to other sanctions for violations of the FAA Act. Thus, no changes were made to the final rule as a result of these comments.

Unrelated Labeling Issues

Government Liaison Services, Inc. expressed concerns about ATF's day-to-day handling of applications for certificates of label approval, exemption from label approval, and distinctive liquor bottles. They requested that ATF make changes in areas

such as training, workflow, recordkeeping, and communication of policy decisions. Similar concerns were raised in the DISCUS and INAO comments.

These issues are beyond the scope of this rulemaking document.

Nonetheless, ATF is committed to improving the day-to-day administration of its label approval system. ATF is addressing these issues through partnership meetings with the regulated industry, and through internal restructuring efforts.

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 regulation will give ATF specific regulatory authority to issue, deny or revoke certificates of label approval, exemptions from label approval, and distinctive liquor bottle approvals.

The regulation will not increase recordkeeping or reporting requirements.

Accordingly, a regulatory flexibility analysis is not required because the 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 final rule is not a significant regulatory action as defined by Executive Order 12866. Accordingly,

this rule is not subject to the analysis required by this Executive Order.

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 document because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Marjorie D. Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF participated in developing this document.

List of Subjects in

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers, Reporting

and recordkeeping requirements, Trade practices.

27 CFR Part 7

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, Labeling.

27 CFR Part 13

Administrative practice and procedure, Alcohol and alcoholic beverages, Appeals, Applications, Certificates of label approval, Certificates of exemption from label approval, Denials, Distinctive liquor bottle approvals, Informal conferences, Labeling, Revocations.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

Authority and Issuance

Chapter I of Title 27, Code of Federal Regulations, is amended as follows:

PART 4--LABELING AND ADVERTISING OF WINE [AMENDED]

Paragraph 1. The authority citation for Part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. Section 4.40 is amended to add paragraph (d) to read as follows:

§ 4.40 Label approval and release.

* * * * *

(d) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see Part 13 of this chapter.

Par. 3. Section 4.50 is amended to add paragraph (c) to read as follows:

§ 4.50 Certificates of label approval.

* * * * *

(c) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, and certificates of exemption from label approval, as well as appeal procedures, see Part 13 of this chapter.

PART 5--LABELING AND ADVERTISING OF DISTILLED SPIRITS [AMENDED]

Par. 4. The authority citation for Part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

Par. 5. Section 5.46 is amended to revise paragraph (d) to read as follows:

§ 5.46 Standard liquor bottles.

*** * * * ***

(d) *Exceptions. (1) Distinctive Liquor Bottles.*

The headspace and design requirements in paragraphs (b) and (c) of this section do not apply to liquor bottles that are specifically exempted by the Director, pursuant to an application filed by the bottler or importer.

(2) *Cross reference.* For procedures regarding the issuance, denial and revocation of distinctive liquor bottle approvals, as well as appeal procedures, see Part 13 of this chapter.

Par. 6. Section 5.51 is amended to add paragraph (e) to read as follows:

§ 5.51 Label approval and release.

* * * * *

(e) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see Part 13 of this chapter.

Par. 7. Section 5.55 is amended to add paragraph (d) to read as follows:

§ 5.55 Certificates of label approval.

* * * * *

(d) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval and certificates of exemption from label approval, as well as appeal procedures, see Part 13 of this chapter.

PART 7--LABELING AND ADVERTISING OF MALT BEVERAGES [AMENDED]

Par. 8. The authority citation for Part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 9. Section 7.31 is amended to add paragraph (d) to read as follows:

§ 7.31 Label approval and release.

*** * * * ***

(d) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see Part 13 of this chapter.

Par. 10. Section 7.41 is revised to read as follows:

§ 7.41 Certificates of label approval.

(a) *Requirement.* No person shall bottle or pack malt beverages, or remove malt beverages from the plant where bottled or packed unless application is made to the Director, and an approved certificate of label approval, ATF Form 5100.31, is issued by the Director.

(b) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see Part 13 of this chapter.

PART 13--LABELING PROCEEDINGS

Par. 11. Part 13 is added to read as follows:

Subpart A - Scope and Construction of Regulations

Sec.

13.1 Scope of part.

Subpart B - Definitions

13.11 Meaning of terms.

Subpart C - Applications

13.21 Application for certificate.

13.22 Withdrawal of applications.

13.23 Notice of denial.

13.25 Appeal of qualification or denial.

13.26 Decision after appeal of qualification or denial.

13.27 Second appeal of qualification or denial.

Subpart D - Revocations of Specific Certificates

13.41 Authority to revoke certificates.

13.42 Notice of proposed revocation.

13.43 Decision after notice of proposed revocation.

13.44 Appeal of revocation.

13.45 Final decision after appeal.

Subpart E - Revocation by Operation of Law or Regulation

13.51 Revocation by operation of law or regulation.

13.52 Notice of revocation.

13.53 Appeal of notice of revocation.

13.54 Decision after appeal.

Subpart F - Miscellaneous

13.61 Publicity of information.

13.62 Third-party comment on certificates.

13.71 Informal conferences.

13.72 Effective dates of revocations.

13.73 Effect of revocation.

13.74 Surrender of certificates.

13.75 Evidence of receipt by the Bureau.

13.76 Service on applicant or certificate holder.

13.81 Representation before the Bureau.

13.91 Computation of time.

13.92 Extensions.

Authority: 27 U.S.C. 205(e), 26 U.S.C. 5301 and 7805.

Subpart A - Scope and Construction of Regulations

§ 13.1 Scope of part.

The regulations in this part govern the procedure and practice in connection with the issuance, denial, and revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals under 27 U.S.C. 205(e) and 26 U.S.C. 5301. The regulations in this part also provide for appeal procedures when applications for label approval, exemptions from label approval, or distinctive liquor bottle approvals are denied, when such applications are approved with qualifications,

or when these applications are approved and then subsequently revoked.

Subpart B - Definitions

§ 13.11 Meaning of terms.

Where used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this subpart. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "include" and "including" do not exclude things not enumerated that are in the same general class.

Act. The Federal Alcohol Administration Act.

Applicant. The permittee or brewer whose name, address, and basic permit number, or plant registry number, appears on an unapproved ATF F 5100.31, application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

Assistant Director, Alcohol and Tobacco. The ATF official responsible for deciding an appeal of a revocation of a certificate of label approval, a certificate of exemption from label approval, or a distinctive liquor bottle approval, under this part.

ATF. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC 20226.

Brewer. Any person who brews beer (except a person

who produces only beer exempt from tax under 26 U.S.C. 5053(e))
and any person who produces beer for sale.

Certificate holder. The permittee or brewer whose name, address, and basic permit number, or plant registry number, appears on an approved ATF F 5100.31, certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

Certificate of exemption from label approval. A certificate issued on ATF F 5100.31 which authorizes the bottling of wine or distilled spirits, under the condition that the product will under no circumstances be sold, offered for sale, shipped, delivered for shipment, or otherwise introduced by the applicant, directly or indirectly, into interstate or foreign commerce.

Certificate of label approval. A certificate issued on ATF F 5100.31 that authorizes the bottling or packing of wine, distilled spirits, or malt beverages, or the removal of bottled wine, distilled spirits, or malt beverages from customs custody for introduction into commerce, as long as the product bears labels identical to the labels affixed to the face of the certificate, or labels with changes authorized by the certificate.

Chief, Alcohol and Tobacco Programs Division. The ATF official responsible for issuing revocations of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part. This official is also responsible for deciding certain appeals of denials of applications for certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part.

Chief, Alcohol Labeling and Formulation Branch. The ATF official responsible for deciding first appeals of denials of applications for certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part. This official is also responsible for proposing revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Distilled spirits. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use. The term "distilled spirits" does not include mixtures containing wine, bottled at 48 degrees of proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

Distinctive liquor bottle. A liquor bottle of distinctive shape or design.

Distinctive liquor bottle approval. Approval issued on ATF F 5100.31 that authorizes the bottling of distilled spirits, or the removal of bottled distilled spirits from customs custody for introduction into commerce, as long as the bottle is identical to the photograph affixed to the face of the form.

Interstate or foreign commerce. Commerce between any State and any place outside that State, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside that State.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes, and which has been determined by the Director to protect the revenue adequately.

Malt beverage. A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Permittee. Any person holding a basic permit under the Federal Alcohol Administration Act.

Person. Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof.

Alcohol Labeling and Formulation Branch Specialist. An ATF official responsible for reviewing initial applications for certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part, with authority to issue approvals, qualified approvals, or denials of such applications for certificates.

United States. The several States and Territories and the District of Columbia; the term "State" includes

a Territory and the District of Columbia; and the term "Territory" means the Commonwealth of Puerto Rico.

Use of other terms. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

Wine. (a) Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and (b) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

Subpart C - Applications

§ 13.21 Application for certificate.

(a) Form of Application. An applicant for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, must send or deliver signed duplicate copies of ATF Form 5100.31, "Application For And Certification/Exemption Of Label/Bottle Approval" to the Alcohol Labeling and Formulation Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. If the application complies with applicable laws and regulations, a certificate of label approval, certificate

of exemption from label approval, or distinctive liquor bottle approval will be issued. If the approval is qualified in any manner, such qualifications will be set forth in the appropriate space on the form.

(b) *Time Period for Action on Application.* Within 90

days of receipt of an application, the Alcohol Labeling and Formulation Branch must notify the applicant whether the application has been approved or denied. The Alcohol Labeling and Formulation Branch may extend this period of time once by an additional 90 days if it finds that unusual circumstances require additional time to consider the issues presented by an application. If the Alcohol Labeling and Formulation Branch extends the period, it must notify the applicant by letter, along with a brief explanation of the issues presented by the label.

If the applicant receives no decision from the Alcohol Labeling and Formulation Branch within the time periods set forth in this paragraph, the applicant may file an appeal as provided in section 13.25 of this part.

§ 13.22 Withdrawal of applications.

A person who has filed an application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, may withdraw such application at any time before ATF takes action on the application.

§ 13.23 Notice of denial.

Whenever an application for a certificate of label approval,

certificate of exemption from label approval, or distinctive liquor bottle approval is denied, a Alcohol Labeling and Formulation Branch Specialist must issue to the applicant a notice of denial on ATF Form 5190.1, entitled "ATF F 5100.31 Correction Sheet," briefly setting forth the reasons why the label or bottle is not in compliance with the applicable laws or regulations. The applicant may then submit a new application for approval after making the necessary corrections.

§ 13.25 Appeal of qualification or denial.

(a) *Form of Appeal.* If an applicant for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval wishes to appeal the qualified approval or denial of an application, the applicant may file a written appeal with the Chief, Alcohol Labeling and Formulation Branch, within 45 days after the date of the notice of qualification or denial. The appeal should explain why the applicant believes that the label or bottle is in compliance with applicable laws and regulations. If no appeal is filed within 45 days after the date of the notice of qualification or denial, the notice will be the final decision of ATF.

(b) *Informal Resolution.* Applicants may choose to pursue informal resolution of disagreements regarding correction sheets or qualifications by requesting an informal conference with the Specialist or the Chief, Alcohol Labeling and Formulation Branch. However, formal administrative appeals must comply with the provisions of paragraph (a) of this section.

§ 13.26 Decision after appeal of qualification or denial.

(a) *Decision.* After considering any written arguments

or evidence presented by the applicant, the Chief, Alcohol Labeling and Formulation Branch, must issue a written decision to the applicant. If the

decision is that the qualified approval or denial should stand,

a copy of the application, marked "appeal denied,"

must be returned to the applicant with an explanation of the

decision and the specific laws or regulations relied upon in

qualifying or denying the application. If the decision is that

the certificate of label approval, certificate of exemption from

label approval, or distinctive liquor bottle application should

be approved without qualification, the applicant should resubmit

ATF Form 5100.31 and the certificate will be issued.

(b) *Time Limits for Decision.* Within 90 days of receipt

of an appeal, the Chief, Alcohol Labeling and Formulation Branch, must notify

the appellant whether the appeal has been granted or denied.

If an applicant requests an informal conference as part of an

appeal, as authorized in § 13.71, the 90-day period

will begin 10 days after the date of the conference to allow

for consideration of any written arguments, facts or evidence

submitted after the conference. The Chief, Alcohol Labeling and Formulation Branch, may extend this period of time once by an additional

90 days if he or she finds that unusual circumstances require

additional time to consider the issues presented by an appeal.

If the Chief, Alcohol Labeling and Formulation Branch, extends the period,

he or she must notify the applicant by letter, briefly explaining

the issues presented by the label. If the appellant receives no decision from the Chief, Alcohol Labeling and Formulation Branch, within the times periods set forth in this paragraph, the appellant may appeal as provided in § 13.27.

(c) *Judicial review.* Prior to applying to the Federal courts for review, an applicant must first exhaust his or her administrative remedies, including the appeal rights set forth in this section and section 13.27.

§ 13.27 Second appeal of qualification or denial.

(a) *Form of Appeal.* The decision of the Chief, Alcohol Labeling and Formulation Branch, may be appealed in writing to the Chief, Alcohol

and Tobacco Programs Division. If the decision is that the qualified approval or denial was correct, a copy of the application, marked "appeal denied," must be returned to the applicant, with an explanation of the decision and the specific laws or regulations relied upon in qualifying or denying the application.

If the decision is that the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle application should be approved without qualification, the applicant may resubmit ATF Form 5100.31 and the certificate will be issued.

(b) *Time Limits for Decision.* Within 90 days of receipt of an appeal, the Chief, Alcohol and Tobacco Programs Division, must notify the appellant whether the appeal has been granted or denied. If an applicant requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference

to allow for consideration of any written arguments, facts or evidence submitted after the conference. The Chief, Alcohol and Tobacco Programs Division, may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the unique issues presented by an appeal. If the Chief, Alcohol and Tobacco Programs Division, extends the time period, he or she must notify the applicant by letter, briefly explaining the issues presented by the label. The decision of the Chief, Alcohol and Tobacco Programs Division, shall be the final decision of ATF.

(c) *Judicial review.* An appeal to the Chief, Alcohol and Tobacco Programs Division is required prior to application to the Federal courts for review of any denial or qualification of an application.

Subpart D - Revocations of Specific Certificates

§ 13.41 Authority to revoke certificates.

Certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, previously approved on ATF Form 5100.31, may be revoked by the Chief, Alcohol and Tobacco Programs Division, upon a finding that the label or bottle at issue is not in compliance with the applicable laws or regulations.

§ 13.42 Notice of proposed revocation.

Except as provided in section 13.51, when the Chief, Alcohol Labeling and Formulation Branch, determines that a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval has been issued for a label or bottle that is not in compliance with the laws or regulations, he or she must issue to the certificate holder a notice of proposed revocation. The notice must set forth the basis for the proposed revocation and must provide the certificate holder with 45 days from the date of receipt of the notice to present written arguments or evidence why the revocation should not occur.

§ 13.43 Decision after notice of proposed revocation.

(a) *Decision.* After considering any written arguments or evidence presented by the certificate holder, the Chief, Alcohol and Tobacco Programs Division, must issue a decision. If the decision is to revoke the certificate, a letter must be sent to the holder explaining the revocation of the certificate, and the specific laws or regulations relied upon in determining that the label or bottle was not in conformance with law or regulations. If the decision is to withdraw the proposed revocation, a letter of explanation must be sent.

(b) *Time Limits for Decision.* Within 90 days of receipt of written arguments or evidence from the certificate holder, the Chief, Alcohol and Tobacco Programs Division, shall notify the appellant of his or her decision. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days

after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The Chief, Alcohol and Tobacco Programs Division, may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by a proposed revocation. If the Chief, Alcohol and Tobacco Programs Division, extends the time period, he or she must notify the applicant by letter, along with a brief explanation of the issues under consideration.

§ 13.44 Appeal of revocation.

(a) *Filing of appeal.* A certificate holder who wishes to appeal the decision of the Chief, Alcohol and Tobacco Programs Division, to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, may file a written appeal with the Assistant Director, Alcohol and Tobacco, setting forth why the holder believes that the decision of the Chief, Alcohol and Tobacco Programs Division, was erroneous. The appeal must be filed with the Assistant Director, Alcohol and Tobacco within 45 days after the date of receipt of the decision of the Chief, Alcohol and Tobacco Programs Division.

(b) *Judicial review.* An appeal to the Assistant Director, Alcohol and Tobacco, is required prior to application to the Federal courts for review of any revocation of a certificate.

§ 13.45 Final decision after appeal.

(a) Issuance of Decision. After considering any written arguments or evidence presented by the certificate holder or the holder's representative, the Assistant Director, Alcohol and Tobacco, must issue a final decision. If the decision is to revoke the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, a letter must be issued explaining the basis for the revocation, and the specific laws or regulations relied upon in determining that the label or bottle was not in conformance with law or regulations. If the decision is to withdraw the proposed revocation, a letter explaining the decision must be sent.

(b) Time Limits for Decision. Within 90 days of receipt of an appeal, the Assistant Director, Alcohol and Tobacco, must notify the holder whether the appeal has been granted or denied. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The Assistant Director, Alcohol and Tobacco, may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the Assistant Director, Alcohol and Tobacco, extends the period, he or she must notify the holder by letter, briefly explaining the issues presented by the label. The decision of the Assistant Director, Alcohol and Tobacco, will be the final decision of the Bureau.

Subpart E - Revocation by Operation of Law or Regulation

§ 13.51 Revocation by operation of law or regulation.

ATF will not individually notify all holders of certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals, that their approvals have been revoked if the revocation occurs by operation of law or regulation. If changes in labeling or other requirements are made as a result of amendments or revisions to the law or regulations, the certificate holder must voluntarily surrender all certificates that are no longer in compliance. The holder must submit applications for new certificates in compliance with the new requirements, unless ATF determines that new applications are not necessary. If a new application is unnecessary, it is the responsibility of the certificate holder to ensure that labels are in compliance with the requirements of the new regulations or law.

§ 13.52 Notice of revocation.

If ATF determines that a certificate holder is still using a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval that is no longer in compliance due to amendments or revisions in the law or regulations, the Chief, Alcohol Labeling and Formulation Branch, will notify the certificate holder in writing that the subject certificate has been revoked by operation of law or regulations, with a brief description of the grounds for such revocation.

§ 13.53 Appeal of notice of revocation.

Within 45 days after the date of receipt of a notice of revocation by operation of law or regulations, the certificate holder may file a written appeal with the Chief, Alcohol and Tobacco Programs Division. The appeal should set forth the reasons why the certificate holder believes that the regulation or law at issue does not require the revocation of the certificate.

§ 13.54 Decision after appeal.

(a) Issuance of Decision. After considering all written arguments and evidence submitted by the certificate holder, the Chief, Alcohol and Tobacco Programs Division, must issue a final decision regarding the revocation by operation of law or regulation of the certificate. If the decision is that the law or regulation at issue requires the revocation of the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, a letter must be issued explaining the basis for the revocation, and citing the specific laws or regulations which required the revocation of the certificate. If the decision is that the law or regulation at issue does not require the revocation of such certificate, a letter explaining the decision must be sent to the certificate holder. The decision of the Chief, Alcohol and Tobacco Programs Division, will be the final decision of ATF.

(b) Time Limits for Decision. Within 90 days of receipt

of an appeal, the Chief, Alcohol and Tobacco Programs Division, must notify the holder whether the appeal has been granted or denied. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The Chief, Alcohol and Tobacco Programs Division, may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the Chief, Alcohol and Tobacco Programs Division, extends the period, he or she must notify the holder by letter, briefly explaining the issues presented by the label. The decision of the Chief, Alcohol and Tobacco Programs Division, will be the final decision of ATF.

Subpart F - Miscellaneous

§ 13.61 Publicity of information.

(a) *Pending and denied applications.* Pending and denied applications for certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals are treated as proprietary information, unless the applicant or certificate holder provides written authorization to release such information.

(b) *Approved applications.* The Chief, Alcohol Labeling and Formulation Branch, shall cause to be maintained in the ATF Library for public

inspection, a copy of each approved application for certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval. These documents may be viewed during business hours at 650 Massachusetts Avenue, NW, Washington, DC 20226.

(c) Revoked certificates. If an approved certificate is subsequently revoked, the record of the approved application will remain on file for public inspection, but the index will be annotated to show it was revoked.

(d) Further disclosure of information on denied or revoked certificates. If an applicant whose application is pending or has been denied, or a holder of a revoked certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, issues public statements concerning ATF action in connection with such application or certificate, then ATF may issue a statement to clarify its position or correct any misstatements of fact, including a disclosure of information contained on the application or certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

§ 13.62 Third-party comment on certificates.

When a third party (such as a foreign government, another Federal agency, a State agency, an industry association, a competitor of a certificate holder, a consumer or consumer group, or any other interested person) wishes to comment on an approved certificate of label approval, certificate of exemption from label approval,

or distinctive liquor bottle approval, such comments should be submitted in writing to the Chief, Alcohol Labeling and Formulation Branch. The Chief, Alcohol Labeling and Formulation Branch, will review the subject of the comment. If the comment raises an issue that is outside the scope of ATF's statutory or regulatory authority, or the Chief, Alcohol Labeling and Formulation Branch, determines that the certificate is in compliance with applicable law and regulations, the commenter will be informed that no further action will be taken. If the Chief, Alcohol Labeling and Formulation Branch, determines that the commenter has raised a valid issue that ATF has authority to address, then the Chief, Alcohol Labeling and Formulation Branch, will initiate appropriate action. The Chief, Alcohol Labeling and Formulation Branch, may, in his or her discretion, notify the commenter as to the action being taken by ATF with respect to the certificate.

§ 13.71 Informal conferences.

(a) *General.* As part of a timely filed written appeal of a notice of denial, a notice of proposed revocation, or a decision of the Chief, Alcohol and Tobacco Programs Division, to revoke a certificate, an applicant or certificate holder may file a written request for an informal conference with the ATF official deciding the appeal, or that official's delegate.

(b) *Informal conference procedures.* The deciding official, or such official's delegate, and the applicant or certificate holder will agree upon a date for an informal conference. The informal conference is for purposes of discussion only, and no transcript shall be made. If the applicant or certificate holder

wishes to rely upon arguments, facts, or evidence presented at the informal conference, he or she has 10 days after the date of the conference to incorporate such arguments, facts, or evidence in a written submission to the deciding official.

§ 13.72 Effective dates of revocations.

(a) *Effective dates.*

(1) *Revocation of specific certificates.* A written decision to revoke a certificate becomes effective 60 days after the date of the decision.

(2) *Revocation by operation of law or regulation.* If a certificate is revoked by operation of law or regulation, the revocation becomes effective on the effective date of the change in law or regulation with which the certificate does not comply, or if a separate label compliance date is given, on that date.

(b) *Use of certificate during period of appeal.*

If a certificate holder files a timely appeal after receipt of a decision to revoke a certificate from the Chief, Alcohol and Tobacco Programs Division, pursuant to section 13.45, the holder may continue to use the certificate at issue until the effective date of a final decision issued by the Assistant Director, Alcohol and Tobacco. However, the effective date of a notice of revocation by operation of law or regulations, issued pursuant to section 13.52, is not stayed pending the appeal.

§ 13.73 Effect of revocation.

On and after the effective date of a revocation of a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, the label or distinctive liquor bottle in question may not be used to bottle or pack distilled spirits, wine or malt beverages, to remove such products from the place where they were bottled or packed, or to remove such products from customs custody for consumption.

§ 13.74 Surrender of certificates.

On the effective date of a final decision that has been issued by the Chief, Alcohol and Tobacco Programs Division, or the Assistant Director, Alcohol and Tobacco, to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, the certificate holder must surrender the original of the certificate to ATF for manual cancellation. Regardless of whether the original certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval has been manually canceled or not, the certificate is null and void after the effective date of the revocation. It is a violation of this section for any certificate holder to present a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval to an official of the United States Government as a valid certificate after the effective date of the revocation of the certificate if the certificate holder has been previously notified that such certificate has been revoked by ATF.

§ 13.75 Evidence of receipt by ATF.

If there is a time limit on ATF action that runs from ATF's receipt of a document, the date of receipt may be established by a certified mail receipt or equivalent written acknowledgment secured by a commercial delivery service or by a written acknowledgment of personal delivery. In the absence of proof of receipt, the date the document is logged in by ATF will be considered the date of receipt.

§ 13.76 Service on applicant or certificate holder.

(a) *Method of service.* ATF must serve notices of denial on an applicant by first class mail, or by personal delivery. ATF must serve notices of proposed revocation and notices of revocation on a certificate holder by certified mail, return receipt requested, by a commercial delivery service that will provide an equivalent written acknowledgment from the recipient, or by personal delivery.

(b) *Date of receipt.* If there is a time limit on a certificate holder's action that runs from the holder's receipt of a document, the date of receipt may be established by a certified mail receipt, an equivalent written acknowledgment secured by a commercial delivery service, or by a written acknowledgment of personal delivery.

(c) *Person to be served.* When service is by mail or other commercial delivery service, a copy of the document must

be sent to the applicant or certificate holder at the address stated in the application or at the last known address. If authorized by the applicant or certificate holder, the copy of the document may be mailed to a designated representative. If service is by personal delivery, a copy of the document must be delivered to the certificate holder or to a designated representative. In the case of a corporation, partnership, or association, personal delivery may be made to an officer, manager, or general agent thereof, or to the attorney of record.

§ 13.81 Representation before ATF.

An applicant or certificate holder may be represented by an attorney, certified public accountant, or other person recognized to practice before ATF as provided in 31 CFR Part 8 (Practice Before the Bureau of Alcohol, Tobacco and Firearms). The applicable requirements of 26 CFR 601.521 through 601.527 (conference and practice requirements for alcohol, tobacco, and firearms activities) shall apply.

§ 13.91 Computation of time.

In computing any period of time prescribed or allowed by this part, the day of the act, event or default after which the designated period of time is to run, is not counted. The last day of the period to be computed is counted, unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the next day that is not a Saturday, Sunday, or legal holiday. Papers

or documents that are required or permitted to be filed under this part must be received at the appropriate office within the filing time limits, if any.

§ 13.92 Extensions.

An applicant or certificate holder may apply to the Chief, Alcohol Labeling and Formulation Branch, the Chief, Alcohol and Tobacco Programs Division, or the Assistant Director, Alcohol and Tobacco for an extension of any time limit prescribed in this part. The time limit may be extended if ATF agrees the request is reasonable.

PART 19 - DISTILLED SPIRITS PLANTS [AMENDED]

Par. 12. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004-5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111-5113, 5142, 5143, 5146, 5171-5173, 5175, 5176, 5178-5181, 5201-5204, 5206, 5207, 5211-5215, 5221-5223, 5231, 5232, 5235, 5236, 5241-5243, 5271, 5273, 5301, 5311-5313, 5362, 5370, 5373, 5501-5505, 5551-5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 13. Section 19.633 is amended to add paragraph (c) to read as follows:

§ 19.633 Distinctive liquor bottles.

*** * * * ***

(c) *Cross reference.* For procedures regarding issuance, denial and revocation of distinctive liquor bottle approvals, as well as appeal procedures, see Part 13 of this chapter.

Par. 14. Section 19.641 is revised to read as follows:

§ 19.641 Certificate of label approval or exemption.

(a) *Requirement.* Proprietors are required by 27 CFR Part 5 to obtain approval of labels, or exemption from label approval, for any label to be used on bottles of spirits for domestic use and shall exhibit evidence of label approval, or of exemption from label approval, on request of an ATF officer.

(b) *Cross reference.* For procedures regarding the issuance, denial and revocation of certificates of label approval and certificates of exemption from label approval, as well as appeal procedures, see Part 13 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Signed: August 6, 1998.

John W. Magaw

Director

Approved: December 11, 1998.

John P. Simpson

***Deputy Assistant Secretary, (Regulatory,
Tariff and Trade Enforcement).***

[FR Doc. 99-624 Filed 1-12-99; 8:45 am]

TITLE 27 ¾ ALCOHOL, TOBACCO

PRODUCTS AND FIREARMS ¾ CHAPTER

I ¾ BUREAU OF ALCOHOL, TOBACCO

AND FIREARMS, DEPARTMENT OF THE TREASURY

**Procedures for the issuance, Denial,
and Revocation of Certificates of Label Approval, Certificates
of Exemption From Label Approval, and Distinctive Liquor Bottle
Approvals (93F-029P); Correction**

T.D. ATF-406a

27 CFR Part 13

ACTION: Final rule; correction.

SUMMARY: This document corrects the regulatory text of a final rule published in the Federal Register of January 13, 1999, regarding issuance, denial, and revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals.

DATES: Effective March 15, 1999.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman,
Product Compliance
Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts
Avenue, NW, Washington, DC 20226, Telephone (202) 927-8140.

SUPPLEMENTARY INFORMATION: The Bureau of Alcohol, Tobacco and Firearms published a document in the Federal Register of January 13, 1999, (64 FR 2122). Several words were omitted from the text of 27 CFR 13.27. This document corrects this error.

In rule FR Doc. 99-624, published on January 13, 1999, make the following correction:

§ 13.27 [Corrected]

On page 2131, in the center column, correct the first full sentence of Sec. 13.27(a) to read: "The decision of the Chief, Alcohol Labeling and Formulation Branch, may be appealed in writing to the Chief,
Alcohol and Tobacco Programs Division, within 45 days after

the date of the decision of the Chief, Alcohol Labeling and Formulation Branch."

Signed: February 23, 1999.

John W. Magaw,

Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 99-5090 Filed 3-5-99; 8:45 am]

TITLE 27 ¼ ALCOHOL, TOBACCO

PRODUCTS AND FIREARMS ¾ CHAPTER

I ¾ BUREAU OF ALCOHOL, TOBACCO

AND FIREARMS, DEPARTMENT OF THE TREASURY

Establishment of the San Francisco Bay

Viticultural Area and the Realignment of the Boundary of the

Central Coast Viticultural Area (97-242)

T.D. ATF- 407

27 CFR Part 9

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision establishes a viticultural area in the State of California to be known as "San Francisco Bay," under 27 CFR part 9. The viticultural area is located

mainly within five counties which border the San Francisco Bay and partly within two other counties. These counties are: San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, and partly in Santa Cruz and San Benito Counties. The "San Francisco Bay" viticultural area encompasses approximately 2,448 square miles total and contains nearly 5,800 acres planted to grapes and over 39 wineries. In conjunction with establishing the "San Francisco Bay" viticultural area, ATF is amending the boundaries of the Central Coast viticultural area to include the "San Francisco Bay" viticultural area. The previous boundaries of the Central Coast viticultural area already encompassed part of the "San Francisco Bay" viticultural area. Approximately 639 square miles is added to Central Coast with an additional 2,827 acres planted to grapes.

EFFECTIVE DATE: 60 days from date of publication

in the Federal Register.

FOR FURTHER INFORMATION CONTACT: David Brokaw, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, 650 Massachusetts Avenue, NW, Washington, DC., 20226, (202) 927-8199.

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, 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 4.25a(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 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 boundaries prominently marked.

Petition for the San Francisco Bay Viticultural Area

A consortium of nearly 75 growers and vintners led by Wente Bros., petitioned ATF to establish a new viticultural area in Northern California known as "San Francisco Bay," that will be included within the Central Coast viticultural area.

The "San Francisco Bay" viticultural area is located mainly within five counties which border the San Francisco Bay and partly within two other counties. These counties are: San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, and partly in Santa Cruz and San Benito Counties. Santa Cruz County, although it has no Bay shoreline, has traditionally been associated with the place name "San Francisco Bay." The portion of the Santa Clara Valley located in San Benito County has been included. The viticultural area encompasses approximately 2,448 square miles total containing nearly 5,800 acres planted to grapes and over 39 wineries.

ATF has determined that the area is distinguished by a marine climate which is heavily influenced by the proximity of the San Francisco Bay and the Pacific Ocean. Specifically, the San Francisco Bay and the local geographical features surrounding it permit the cooling influence of the Pacific Ocean to reach farther into the interior of California in the Bay Area than elsewhere along the California coast.

The waters of the San Francisco Bay as well as urban areas,

particularly the City of San Francisco, have purposely been included since San Francisco Bay is the source of the viticultural area's weather and the focal point of its history. Although it is not a likely vineyard site, the city has long been a wine industry hub.

Comments

On October 20, 1997, ATF published a notice of proposed rulemaking, Notice No. 856, in the Federal Register soliciting comments on the proposed viticultural area. Given the scope of the proposals and the wide range of interests that were likely to be affected by the establishment of a San Francisco Bay viticultural area, ATF solicited specific public comment with respect to certain questions raised by the petition. ATF asked the following questions in Notice No. 856:

- 1) Is there sufficient evidence that the name, "San Francisco Bay," can be associated with regions south and east of the bay such as Santa Clara Valley and Livermore? Do these regions have climatic or geographic differences with other regions of the proposed area to such a degree that they cannot be considered as one viticultural area?
- 2) Does the evidence support exclusion from the proposed viticultural area of the regions north of the Bay, i.e., Marin, Napa, Solano, and Sonoma Counties?
- 3) Can the regions where grapes cannot be grown in the proposed viticultural area, such as the dense urban settings and the Bay itself, be easily segregated from the rest of the proposed area?

Does it undermine the notion of a viticultural area to keep them included?

ATF received 49 comments in response to Notice No. 856. Basically, the comments fall into five categories. These categories are as follows: those in support (9), those in support for expanding the "San Francisco Bay" area (1), those that oppose "San Francisco Bay" but support the Central Coast expansion (3), those that oppose being associated with another viticultural area (33), and those that oppose the creation of "San Francisco Bay "(3).

Those in support felt that the appellation clearly defines a unique area influenced by San Francisco Bay weather patterns. Among the favorable comments were statements indicating that approval of the area would align the boundaries between coastal appellations, would recognize a historic wine growing region, would reinforce the economic impact of wine growing in the area, and would be of benefit in educating the wine consumer.

One respondent, the Allied Grape Growers, disagreed that the coastal climatic influences stop at the crest of the hills of Altamont. This respondent felt that the Brentwood - Byron area is now considered by most independent observers as a part of the "San Francisco Bay" area. While this respondent believed that Brentwood - Byron corridor should be included, no specific evidence was provided.

Three respondents opposed the "San Francisco Bay" viticultural area but supported the expansion of the Central Coast viticultural area. Among these respondents was the Sonoma

County Grape Growers Association. The Association claimed that the petitioners have taken reference works out of context with "preposterous" results. The Association cited dramatic differences in climatic conditions (San Francisco and Livermore), conflicting definitions of the area (disagreement over what constitutes the Bay area), the fact that the climate of San Francisco cannot sustain winegrape growing, and that the proposal was for marketing purposes only. The Association believed that it is not a meaningful viticultural area and will undermine the integrity of the American viticultural area system. On the other hand, the Association believed that there seems to be no reason to oppose expanding the Central Coast viticultural area. The remaining two respondents in this category generally felt that it is too broad an appellation to have climatic integrity and seemed to have been proposed for marketing and convenience considerations. One of the respondents felt that the Central Coast appellation needs to be reexamined while the other respondent felt that the Santa Cruz Mountains viticultural area should be included in the Central Coast viticultural area.

Thirty-three respondents opposed being associated with either the "San Francisco Bay" viticultural area or the expansion of the Central Coast viticultural area. These respondents were from the Santa Cruz Mountains viticultural area. They felt that they have worked hard to establish the distinctiveness of their wines and inclusion in either the "San Francisco Bay" viticultural area or the expanded central coast viticultural area will do them "incalculable damage." These respondents claimed that the soils, rainfall, climate, and physical features

of Livermore differ completely from those of the Santa Cruz Mountains viticultural area. They stated that their vineyards are, for the most part, above the fogs. The average temperatures are in the 2140 to 2880 degree-day zone while Livermore is 3400. Rainfall for Livermore is listed in the petition at 18 inches. These respondents stated that the Santa Cruz Mountains viticultural area averages more than double that amount of rainfall at a minimum of 36 to 40 inches. Further, the Santa Cruz Mountains viticultural area shares virtually none of the soil types of Livermore with the soils producing average yields dramatically smaller than the average yields in Livermore, resulting in a different style of wine entirely. These respondents claimed that the excluded areas in the "North Bay" and "East Bay" share far more geographical and climatic features with Livermore than does the Santa Cruz Mountains viticultural area. In addition, these respondents felt that it would undermine the meaning of American viticultural areas by including large, dissimilar areas where grapes cannot be grown. Specifically, these areas include the northern half of the San Francisco Peninsula which is too cold to grow grapes, the heavy urban populations of Oakland and the East Bay, and the Bay itself, which is not an inland lake but a large bay of the Pacific Ocean. These respondents also felt that including areas like southern Santa Clara County, and parts of San Benito County would mislead the American public since residents of these areas, as well as Santa Cruz County, historically have not been considered and do not consider themselves to be living in the San Francisco Bay area. Similarly, these respondents opposed the inclusion of the Santa Cruz Mountains viticultural

area in the expanded Central Coast viticultural area since the Santa Cruz Mountains viticultural area does not share the same soils, climate or geographical characteristics. These respondents also felt that the Central coast is a recent construct having only limited validity from Monterey Bay south.

Three respondents generally opposed the creation of the viticultural area. One of these respondents, Mr. William Drake, claimed that anyone who has spent any time at all in the Bay Area is well aware that there are extreme differences in the various climates between the areas included in the petition. In addition, Mr. Drake claimed that the topography of this nearly two million acre proposed area differs dramatically as one travels from the eastern portion westward to, and over the coastal mountains. Mr. Drake also believed that while there may be a Bay Area, that area is understood to include a number of distinctly different areas, some of which are even outside of the Bay Area, let alone the "San Francisco Bay Area." Another respondent in opposition was the Association of California North Coast Grape Growers. Regarding the name evidence, the Association stated that Santa Clara, Santa Cruz, and San Benito are nowhere near the San Francisco Bay. If anything, Santa Cruz is associated with Monterey Bay. The Association further stated that the petitioner provided no supporting evidence that the San Benito area is locally or nationally known to be affiliated with San Francisco. Regarding the exclusion of areas north of the Bay, *i.e.*, Marin, Napa, Solano, and Sonoma Counties, the Association felt that there was not supporting evidence, on the one hand to exclude these areas, while, on the other hand, there was not supporting evidence that the "San Francisco

Bay" area should be included with regions north of the bay.

The Association felt that the most important question revolves around the purpose of appellation names, i.e., to identify and distinguish grape growing regions which are unique from other growing regions based on geographic, altitude, climate, and soil conditions. The Association believed that the fact that the City of San Francisco is "not a feasible vineyard site" seemed to be a prima facie case for immediate disqualification of the appellation name. The Association also believed that the fact that the "San Francisco Bay is a locally, nationally or internationally recognized place name" is completely irrelevant to the issue of whether that place is known for growing wine grapes. The City of San Francisco, and certainly its bay, are not viticultural areas, according to the Association. The Association went on to state that the petitioner might do just as well calling the viticultural area "Golden Gate Region" if name recognition is to be the litmus test for approving an appellation petition. The Association further believed that if this area is approved, it would set a precedent that would allow specific city or location names to be used to describe very large geographic areas. According to the Association, the North Coast appellation could be renamed "Napa Area," Central Coast could be called "Santa Barbara," and the Central Valley might be named "Yosemite." The Association felt that should the petitioned area be found to be unique, and a qualified appellation area, the name of the region should be more generalized (i.e., Central Bay Area) as opposed to the specific city name of San Francisco. The Association claimed that misstatements

and irrelevant evidence was provided by the petitioner. As examples, excerpts from Hugh Johnson's book *The World Atlas of Wine* and Robert Lawrence Balzer's *Vineyards and Wineries: Bay Area and Central Coast Counties* were cited to illustrate that the "Bay Area" is not accepted by these authors and industry experts as a viticultural region as claimed by the petitioners. The Association further claimed that the petitioners have provided extraneous historical and current evidence. The Association cited the use of grape pricing districts as setting a bad precedent to be used as a determinant for appellation designation approval. The Association pointed out that San Benito is clearly not listed as a part of the Grape Pricing District which includes San Francisco, San Mateo, Santa Cruz, Santa Clara, Alameda and Contra Costa.

ATF Analysis of Comments

ATF has reviewed both the comments and the petitioner's response to them and has concluded that, with one exception, the petitioner has demonstrated that the proposed area represents a continuum of coastal climate that is moderated and altered by San Francisco Bay creating a distinct and recognizable area known as "San Francisco Bay." The exception is the Santa Cruz Mountains viticultural area. According to the comments from members of the Santa Cruz Mountains Winegrowers Association, the Santa Cruz Mountains vineyards, in the vast majority, are located above the coastal fogs. The Santa Cruz vintners believe that the Santa Cruz Mountains viticultural area is based primarily

on altitude and is not affected by the climates below. They also point out that their viticultural area does not share the soils, climate, or geographical characteristics of other viticultural areas in the State. The Santa Cruz Mountains viticultural area is characterized by a climate which is greatly influenced in the western portion by the Pacific Ocean breezes and fog movements, and in the eastern portion by the moderating influences of the San Francisco Bay. These two influences tend to produce weather which is generally cool during the growing season. Temperatures in the slopes of the hillsides where most of the vineyards are located appear to vary from that at the lower elevations. This is caused by the marine influence coming off the Pacific Ocean which cools the mountains at night much more than the valley floor. ATF has concluded that the Santa Cruz Mountains viticultural area exhibits features and characteristics unique to its boundaries when compared to the surrounding areas and should not be included within the "San Francisco Bay" viticultural area. Accordingly, The Santa Cruz Mountains viticultural area has been excluded from the "San Francisco Bay" viticultural area.

ATF further believes that there is no significant or substantive evidence at this time that would warrant holding hearings on this issue as requested in some of the comments from the Santa Cruz Mountains vintners.

Finally, ATF is not including the Brentwood - Byron area as requested by the Allied Grape Growers. While this respondent believed that the coastal climatic influences extended into the Brentwood - Byron corridor, no specific evidence was provided to support this request.

Evidence That the Name of the Area is Locally or Nationally Known.

"San Francisco Bay" is a locally, nationally and internationally recognized place name. ATF has concluded that "San Francisco Bay" is the appropriate name for the area. San Francisco Bay is widely recognized as the well-known body of water by that name and, by inference, the land areas that surround it.

The counties of San Francisco, Contra Costa, Alameda, Santa Clara and San Mateo---within which the area is located---border the San Francisco Bay. Santa Cruz County, although it has no Bay shoreline, has traditionally been associated with the place name "San Francisco Bay." Also included is the portion of the Santa Clara Valley located in San Benito County.

The names "San Francisco Bay area" or "San Francisco Bay region" sometimes refer to an area that is different than the area discussed in the petition. Although sources differ in how broadly they define the San Francisco Bay region, the various definitions---without exception---include the counties mentioned above. The following sources were cited by the petitioner as being representative of the consensus among experts that the petitioned area is widely known by the name San Francisco Bay.

The name San Francisco Bay is more frequently and more strongly associated with the counties lying south and east of the San Francisco Bay than with nearby counties to the north. For example, the 1967 Time Life book entitled *The Pacific States*, describes

the San Francisco Bay Area as a megalopolis with the city [of San Francisco] as the center, stretching 40 miles south to San Jose and from the Pacific to Oakland and beyond.

The weather expert Harold Gilliam, in his book *Weather of the San Francisco Bay Region*, discusses an area including San Francisco, San Mateo, Alameda, Contra Costa, and Santa Cruz Counties. James E. Vance, Jr., Professor of Geography at the University of California, Berkeley, studied the same area in his book entitled *Geography and Urban Evolution in the San Francisco Bay Area*. Also, climatologist Clyde Patton studied the same region in his definitive work *Climatology of Summer Fogs in the San Francisco Bay Area*. Mr. Vance's and Mr. Patton's maps of "Bay Area Place Names" were included with the petition.

A final source is Lawrence Kinnaird, University of California Professor of History, who wrote *a History of the Greater San Francisco Bay Region*. Mr. Kinnaird's book also covers the counties of San Francisco, Santa Clara, Alameda, Contra Costa, San Mateo, and Santa Cruz.

Historical or Current Evidence That the Boundaries of the Viticultural Area are as Specified in the Petition.

Within the grape growing and winemaking community, the name San Francisco Bay has always been identified with the "San Francisco Bay" viticultural area. Several references reflect the industry's perception of this place name.

For example, wine writer Hugh Johnson, in his book *The*

World Atlas of Wine, devotes a separate section ("South of the Bay") to the winegrowing areas of the San Francisco Bay and Central Coast. Mr. Johnson describes the traditional centers of wine-growing in this area as concentrated in the Livermore Valley east of the Bay; the western foot-hills of the Diablo range; the towns south of the Bay, and along the slopes of the Santa Cruz mountains down to a cluster of family wineries round the Hecker Pass. Mr. Johnson repeatedly distinguishes the winegrowing region south and east of the Bay from areas to the north of the Bay. A statement in Mr. Johnson's book points out that the area just south and east of San Francisco Bay is wine country as old as the Napa Valley.

Another writer, Robert Lawrence Balzer devotes a chapter to "Vineyards and Wineries: Bay Area and Central Coast Counties" in his book *Wines of California*. This chapter and the accompanying map include wineries and vineyards in Alameda, Contra Costa, San Mateo, Santa Clara, and Santa Cruz Counties. Throughout his book, Mr. Balzer makes it clear that he differentiates the San Francisco Bay area grape growing areas from those north of San Francisco Bay and south of Monterey Bay. In support of this claim are several quotes from the book. For example, Mr. Balzer states that, "Logic, as well as geography, dictates our division into these unofficial groups of counties: North Coast, Bay Area and Central Coast, South Central Coast, Central Valley, and Southern California. The vineyard domain south of San Francisco is as rich and colorful in its vintage history as the more celebrated regions north of the Bay Area." This author does not consider Napa and Sonoma Counties as part of the Bay Area. The following

statement is evidence of this. "Alameda County does not have the scenic charm of ... Napa and Sonoma...." The same book contains a photograph showing the Golden Gate Bridge and San Francisco Bay with the caption, "San Francisco Bay divides the North Coast from the other wine areas of California."

Another source in support of the "San Francisco Bay" viticultural area boundaries is "Grape Intelligence," a reporting service for California winegrape industry statistics.

Grape Intelligence issues a yearly report for grape varieties in the San Francisco Bay Area. Reports for this region cover San Francisco, San Mateo, Santa Cruz, Alameda and Contra Costa Counties.

As historical evidence, the San Francisco Viticultural District, defined by the State Viticultural Commissioners at the end of the last century, comprised the counties of San Francisco, San Mateo, Alameda, Santa Clara, Santa Cruz, San Benito, and Monterey---but no areas north of the Bay.

The California Department of Food and Agriculture currently considers the area as a single unit. The Grape Pricing Districts established by the State of California reflect the joined perception of the six San Francisco Bay counties, by grouping San Francisco, San Mateo, Santa Cruz, Santa Clara, Alameda, and Contra Costa together in District 6.

A list of "Largest Bay Area Wineries" from a chart which appeared in the San Francisco Business Times of November 21, 1988, includes 21 wineries in Alameda, Contra Costa, San Francisco, and San Mateo Counties. No wineries from the North Coast counties of Sonoma, Napa, Mendocino, or Lake are included.

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

Climate

The unifying and distinguishing feature of the coastal climate of the "San Francisco Bay" viticultural area is the influence of both the Pacific Ocean and the San Francisco Bay. Coastal areas north of the appellation area are influenced by the Pacific Ocean and by the San Pablo and Richardson Bays, while areas south of the appellation area are influenced by the Pacific Ocean and by Monterey Bay. In addition, the ocean influence enters each region through different routes---through the Estero Gap in the North Coast, through the Golden Gate in the San Francisco Bay region, and through Monterey Bay in the southerly portion of Central Coast.

West to east flowing winds named the westerlies, which bring weather systems in California onshore from the ocean, prevail in the "San Francisco Bay" viticultural area. Directly affecting the weather in the area is the Pacific high pressure system, centered a thousand miles off the Pacific Coast. During winter months, its location south of San Francisco allows the passage of westward moving, rain producing, low pressure storms through the area.

During the summer months the high is located closer to the latitude of San Francisco. It then deflects rain, producing storms

to the north, producing a dry summer climate in the San Francisco area. The winds from the high (which flow onshore from the northwest to the southeast) produce a cold southward flowing surface water current (called the California Current) off the California coast by a process called upwelling, in which cold deep water is brought to the surface. When moist marine air from the Pacific High flows onshore over this cold water, it cools, producing fog and/or stratus cloud areas which are transported inland by wind.

Climatic Affect and Boundaries

From a meteorological perspective, the northwesterly windflow through the Estero Gap (near Petaluma in Sonoma County) into the Petaluma Valley, provides the major source of marine influence for areas north of the Golden Gate. Airflow inland from San Pablo Bay also affects the climate of southern Napa and Sonoma Counties. San Francisco Bay has little impact on the weather in the region to its north. The onshore prevailing northwesterly flow direction, in combination with the coastal range topographic features of counties north of the Bay and the pressure differential of the Central Valley, minimize a northward influence from the air that enters the Golden Gate. The higher humidity, lower temperatures, and wind flow that enter the Golden Gate gap do not flow north of the San Francisco Bay.

As a result of the different air mass sources, grape-growing sites immediately north of the Bay are cooler than corresponding sites in the Bay Area. As an example, *General Viticulture* lists Napa with 2880 degree-days, while Martinez (directly

south of Napa on the Carquinez Strait) has 3500 degree-days.

Calistoga is listed as 3150 degree-days, while Livermore (approximately equidistant from the Carquinez Strait, but to the south) has 3400. The degree-day concept was developed by UC Davis Professors Amerine and Winkler as a measure of climate support for vine growth and grape ripening; large degree-day values indicate warmer climates.

The "San Francisco Bay" viticultural area is also distinguished from the counties north of the San Francisco Bay by annual rainfall amounts. Most winter storms that hit the Central California coast originate in the Gulf of Alaska. Thus, locations in the North Coast viticultural area generally receive more rain than sites in the "San Francisco Bay" viticultural area.

This effect is illustrated by Hamilton Air Force Base on the northwest shore of the San Pablo Bay in Marin County. The base gets 25 percent more rain in a season than does San Mateo, which has a corresponding bayshore location 34 miles to the south. San Francisco gets an average of 21 inches of rain annually, but nine miles north of the Golden Gate, Kentfield gets 46 inches - more than double the amount of rain. Average rainfall over the entire south bay wine producing area is only 18 inches, while the City of Napa averages 25 inches, Sonoma County (average of 5 sites) averages 35 inches, and Mendocino County averages 40 inches.

It should be noted that the California North Coast Grape Growers advanced a position that is consistent with the petitioner's current position. In a letter to the Bureau of Alcohol, Tobacco

and Firearms dated September 14, 1979, they asked that the term North Coast Counties be applied only to Napa, Sonoma and Mendocino Counties. Part of their reasoning was the observations of Professor Crowley of the Geography Department at Sonoma State University who said that the counties north of the San Francisco Bay have different climates from the counties south of the bay.

Thus, the main determinants of the northern boundary of the viticultural area include the: (1) natural geographic/topographic barriers, (2) lack of direct San Francisco Bay influence in areas to its north, and (3) different predominant coastal influences in the northern area. These factors lead to significant wind flow, temperature, and precipitation differences between the areas north and south of San Francisco Bay. Thus, it is logical to draw the northern boundary of the proposed area at the point where the Golden Gate Bridge and San Francisco Bay separate the northern counties, i.e., Marin, Napa, Solano, and Sonoma of the North Coast viticultural area from the counties of San Francisco and Contra Costa.

The eastern boundary of the "San Francisco Bay" viticultural area matches the existing boundary of the Central Coast viticultural area and is located at the inland boundary of significant coastal influence, i.e., along the hills and mountains of the Diablo Range that form a topographical barrier to the intrusion of marine air.

East of the Diablo Range lies the Central Valley, distinguished from the "San Francisco Bay" viticultural area by its higher temperature, lower humidity, and decreased rainfall. The Central Valley has a completely continental climate, i.e.,

much hotter in summer and cooler in winter. Amerine & Winkler categorize the grape growing areas in the Central Valley (Modesto, Oakdale, Stockton, Fresno) as Region V (over 4000 degree-days), while sites in the "San Francisco Bay" viticultural area range from Region I to III. This is illustrated on a "Degree Day Map" provided by the petitioner.

North of Altamont, the viticultural area boundary continues to follow the inland boundary of coastal influence. (This portion of the boundary matches the boundary extension for the Central Coast Viticultural area.) Like the existing eastern boundary of the Central Coast, this extension excludes the innermost range of coastal mountains. The eastern boundary includes Martinez and Concord, but excludes Antioch, and the eastern portion of Contra Costa County.

The average precipitation in the Central Valley is lower than in the "San Francisco Bay" viticultural area. Following are thirty year average rainfall statistics in inches for locations in the Central Valley: Modesto 10.75, Fresno 10.32, Los Banos 7.98, Lodi 12.74, Antioch 12.97.

Thus, the main determinants of the eastern boundary of the viticultural area include the (1) historic existing eastern boundary of the Central Coast viticultural area, (2) natural geographic/topographic climatic barrier created by the Diablo Range, and (3) the inland boundary of the coastal marine influence. These factors lead to significant temperature, humidity and precipitation differences between the areas east and west of the eastern boundary.

The southern boundary matches those of the Santa Cruz and Santa Clara viticultural areas. As discussed in the section on

climate, the San Francisco Bay influence is diminished and the Monterey Bay influence is felt south of the "San Francisco Bay" viticultural area. The regional northwestern prevailing wind flow direction generally prevents the Monterey Bay influence from affecting the climate in the viticultural area.

Monterey Bay has a very broad mouth with high mountain ranges to both the north and south. Fog and ocean air traveling along the Pajaro River do on rare occasions reach the south end of the Santa Clara Valley to the north, but most of the Monterey Bay influence travels to the east and south (borne by the prevailing northwest wind) into the Salinas Valley and up against the eastern coastal hills.

Coast climate thus gradually warms with increased distance from the San Francisco Bay, as air traveling over land areas south of the bay accumulates heat and dries out. The warming trend reverses, however, at the point where the south end of the Santa Clara Valley meets the Pajaro River. Here wind and fog from the Monterey Bay, flowing westward through the Pajaro River gap, begins to assert a cooling influence.

The decrease of San Francisco Bay influence, and the concurrent increase of Monterey Bay influence, is demonstrated by the difference in heat summation between Gilroy and Hollister. Central Coast sites warm with increasing distance from the San Francisco Bay, but this pattern reverses at the southern boundary of the Santa Clara Valley viticultural area, between Gilroy and Hollister, as the influence of the Monterey Bay becomes dominant. This produces significantly cooler temperatures in Hollister than in Gilroy, even though Hollister is farther from San Francisco Bay.

Petition Table 2 "Decrease in San Francisco Bay Influence,"

indicates a

gradual warming trend as one travels southward from the San Francisco Bay. Past Gilroy to Hollister, however, a new cooling trend is observed due to the influence of the Monterey Bay.

Hollister is significantly cooler than Gilroy even though its location is sheltered by hills from the full influence of Monterey Bay. The weather station near coastal Monterey shows the strongest cooling from the Monterey Bay. Continuing south in the Salinas Valley, the climate again grows warmer with increasing distance from Monterey Bay.

In summary, the southern boundary of the "San Francisco Bay" viticultural area has been defined to match the southern boundary of the Santa Clara Valley and Santa Cruz viticultural areas because this is the location of the transition from a climate dominated by flow from the San Francisco Bay to one dominated by flow from Monterey Bay.

The western boundary of the "San Francisco Bay" viticultural area follows the Pacific coastline from San Francisco south to just north of the City of Santa Cruz. This area is greatly influenced by Pacific Ocean breezes and fog. The western hills of the Santa Cruz Mountains are exposed to the strong prevailing northwest winds. The climate of the eastern portion of these hills is affected by the moderating influences of the San Francisco Bay.

Just north of the City of Santa Cruz, the western boundary turns east excluding a small portion of Santa Cruz County from the viticultural area, as it was from the Santa Cruz Mountains

viticultural area. The Santa Cruz Mountains viticultural area has been excluded from the "San Francisco Bay" viticultural area as discussed above. The area around Santa Cruz and Watsonville is close to sea level, and is sheltered from the prevailing northwesterly Pacific Ocean winds by the Santa Cruz mountains. Therefore, fog and bay breezes from Monterey Bay impact the area, while the San Francisco Bay does not influence the area.

Thus, the main determinant of the western boundary of the proposed viticultural area includes the (1) natural geography of the coastline, (2) Pacific Ocean and San Francisco Bay influence, and (3) historical identity as part of the San Francisco Bay Area.

Topography

The weather in the bay region is a product of the modification of the onshore marine air masses described above by the topography of the coast ranges, a double chain of mountains running north-northwest to south-southeast. Each chain divides into two or more smaller chains, creating a patchwork of valleys.

As the elevation of the western chain of the coastal ridge is generally higher than the altitude of the inversion base, the inversion acts as a lid to prevent the cool onshore flowing marine air and fog from rising over the mountains and flowing inland. Because of this, successive inland valleys generally have less of a damp, seacoast climate and more of a dry, continental climate.

This pattern is modified by a few gaps and passes in the mountain

ranges that allow marine influences to spread farther inland without obstruction. These inland areas are, however, somewhat protected from the Pacific fogs, which are evaporated as the flow is warmed by passage over the warmer land surfaces.

The three largest sea level gaps in the central California coastal range mountainous barrier are (north to south): Estero Lowland in Sonoma, Golden Gate into San Francisco Bay, and Monterey Bay. Several smaller mountain pass gaps (San Bruno and Crystal Springs) sometimes also allow for the inland spread of coastal climate in the Bay Area when the elevated inversion base is high enough.

The Bay Area climate is greatly modified by San Francisco Bay, whose influence is similar to that of the ocean, *i.e.*, it cools summer high temperatures and warms winter low temperatures.

The narrowness of the Golden Gate limits the exchange of bay and ocean waters, and thus Bay waters are not quite as cold as the coastal ocean currents during the summer.

Marine air exits the San Francisco Bay (without having experienced the normal drying and heating effects associated with over-land travel) in several directions. The predominant outflow is carried by the onshore northwesterly winds toward the south through the Santa Clara Valley to Morgan Hill and to the east via the Hayward Pass and Niles Canyon.

Temperatures at given locations in the Bay Area are thus dependent on streamline distance (actual distance traveled) from the ocean, rather than its "as the crow flies" distance from the ocean. Livermore Valley temperatures show this phenomenon. Ocean air flows across San Francisco Bay, through the Hayward Pass

and Niles Canyon, and into the Livermore Valley, causing a cooling effect in summer and a warming effect in winter.

In summary, because of the interaction of topography with the prevailing winds in the Bay Area, the Pacific Ocean and San Francisco Bay are the major climatic influences in the "San Francisco Bay" viticultural area. This interaction has two principal effects: (1) to allow the coastal influence of the Pacific Ocean to extend farther east than otherwise possible, and (2) to modify that coastal influence because of the moderating effects of Bay waters on surrounding weather.

Boundaries

In the original proposal, a small part of the east end of the Livermore Valley was omitted. This newly described area most accurately completes the description and designation of the climatic and geographic zones for Livermore Valley and has been added to the new "San Francisco Bay" viticultural area by ATF. This area adds less than three square miles to the viticultural area and approximately 350 acres of wine grapes.

Amendment of the Boundaries of the Central Coast Viticultural Area

In conjunction with establishing the "San Francisco Bay" viticultural area, ATF is amending the boundaries of the Central Coast viticultural area to encompass the "San Francisco Bay" viticultural area as proposed by the petitioners and

discussed in Notice No. 856.

An examination of the three large viticultural areas on the California coast reveals a gap between Monterey and Marin, where many acres of existing and potential vineyards are not represented by any viticultural area. The revised Central Coast viticultural area continues the logical pattern already established in the organization of viticultural areas on the California coast. The expanded Central Coast viticultural area is a larger area that ties together several smaller sub-appellations (Santa Clara Valley, Ben Lomond Mountain, Livermore Valley, San Ysidro District, Pacheco Pass, San Benito, Cienega Valley, Mount Harlan, Paicines, Lime Kiln Valley, Monterey, Carmel Valley, Chalone, Arroyo Seco, Paso Robles, York Mountain, Edna Valley, Arroyo Grande Valley, Santa Maria Valley, Santa Ynez Valley, and the "San Francisco Bay" viticultural area), all of which are dominated by the same geographic and general marine influences that create their climate. The evidence presented in the petition establishes that the well-known Central Coast name and the general marine climate extend north and northwest beyond the previous Central Coast boundaries.

The Name, Central Coast, as Referring to the Counties Surrounding San Francisco Bay

The name Central Coast, as used by wine writers and the state legislature, extends north and west into Santa Cruz County and five counties that surround the San Francisco Bay, beyond the area previously recognized as the Central Coast viticultural

area. In support of this, are the following references.

Patrick W. Fegan's book *Vineyards and Wineries of America*, contains a map of "Central Coastal Counties" designating Contra Costa, Alameda, San Mateo, Santa Clara, Santa Cruz, Monterey, San Benito, San Luis Obispo and Santa Barbara.

Another example is *Central Coast Wine Tour*, published by Vintage Image in 1977 and 1980, which covers the area from San Francisco to Santa Barbara and specifically describes past and present wineries in San Francisco, Alameda, Contra Costa, Santa Clara, San Mateo and Santa Cruz Counties.

The *Connoisseurs' Handbook of California Wines* defines "Central Coast" in the section entitled "Wine Geography" as: "The territory lying south of San Francisco and north of the city of Santa Barbara--San Mateo, Santa Cruz, Santa Clara, San Benito, Monterey, San Luis Obispo, and Santa Barbara Counties."

Bob Thompson and Hugh Johnson, in their book *The California Wine Book*, describe the "Central Coast" as an indeterminate area between San Francisco and Santa Barbara, including San Francisco, Contra Costa, Alameda, Monterey, Santa Clara and Santa Cruz Counties.

In *Wines of California*, by Robert Balzer, the wine producing areas on the California coast are categorized into three groups: North Coast counties, Bay Area and Central Coast counties, and South Central Coast counties. The section on "Bay Area and Central Coast" features a map, included with the petition, illustrating the counties surrounding San Francisco Bay. Finally, a vineyard and winery map published by Sally Taylor and Friends in the 1980's includes Santa Cruz County on

the map entitled "North Central Coast."

In addition to the numerous viticultural writings, government and scholarly studies on the climate and geography of the California Central Coast also include the counties around the San Francisco Bay in the area.

The historic San Francisco Viticultural District in 1880 grouped the counties of San Francisco, San Mateo, Alameda, Santa Clara, Santa Cruz and Contra Costa together. The 1930 University of California monograph "Summer Sea Fogs of the Central California Coast" by Horace R. Byers focuses on an area "from Point Sur to the entrance of Tomales Bay, including San Francisco and Monterey Bays: Santa Clara, San Ramon, Livermore, San Benito, and Salinas valleys...." These valleys are located in Santa Clara, Contra Costa, Alameda, San Benito and Monterey Counties, respectively.

Section 25236 of the 1955 California Alcoholic Beverage Control Act allowed the use of the description "central coastal counties dry wine" on wine originating in several counties including Santa Clara, Santa Cruz, Alameda, Contra Costa, Monterey, San Luis Obispo Counties. While "central coastal counties" is not a recognized viticultural area under the Federal Alcohol Administration Act, this law is mentioned solely to support the fact that the counties surrounding San Francisco Bay have been accepted in California as belonging within the place name "Central Coast."

The California Division of Forestry's "Sea Breeze Effects on Forest Fire Behavior in Central Coastal California" summarizes the results of several fireclimate surveys conducted

in the 1960's in several counties surrounding San Francisco Bay. Currently, the National Oceanic and Atmospheric Administration/ National Climatic Data Center publishes monthly summaries of climatological data grouped into geographical divisions. The "Central Coast Drainage" division includes locations in San Francisco, Alameda, Contra Costa, San Mateo, Santa Clara, Santa Cruz, Monterey and San Luis Obispo Counties.

The sources discussed above demonstrate that the counties included in the revised Central Coast boundaries are commonly and historically known as being within the place-name "Central Coast."

The Santa Cruz Mountains viticultural area has been excluded from the revised Central Coast viticultural area for the same reasons cited above for excluding it from the "San Francisco Bay" viticultural area.

Evidence Relating to the Geographical Features (Climate, Soil, Elevation, Physical Features, etc.) Which Distinguish the Viticultural Features of the Area from Surrounding Areas

Coastal Climate and Marine Influence

The coastal climate of the Central Coast viticultural area is the principal feature which unifies the area and distinguishes it from surrounding areas. An indication of the "coastal climate" effect on the area is the difference between July and September temperatures. September (fall) is usually warmer than July (summer) in coastal areas, while the reverse is true

in continental areas. This unique coastal characteristic results from two factors: fogs and air flows. Fogs keep summer coastal temperatures low while the interior regions absorb all of the sun's summer energy. These fogs diminish in strength and frequency in the fall allowing more coastal solar gain and the resultant temperature rise, while interior temperatures begin their relative decline. This seasonal fluctuation comes about when, (1) the pressure differential between the Pacific high and the Central Valley is reduced which eliminates the inversion cap over the coast ranges, and (2) the temperature of the Pacific Ocean reaches its highest level in the fall which reduces the cooling of onshore air flows. These air flows from the Pacific Ocean invade the land mass through gaps in the coast range. Thus, a location's climate is dictated primarily by its position relative to the windstream distance from the Pacific - the greater the windstream distance the greater the July/October temperature differential and the greater the degree day accumulation as the windstream will be increasingly warmed by the ground it passes over.

Table 1 in the petition lists California cities in windstream groups from the most coastal (initiation) to the most continental (terminus). This table lists the difference (in degrees) between the average July and September temperatures in each city, which constitutes the measure of "coastal" character. Continental cities (Antioch to Madera), which are outside the previous and revised boundaries of the Central Coast, exhibit the highest July temperatures and the greatest difference in temperature from July to September. Also, included are accumulated degree-days

for April through October following Winkler's system. This chart demonstrates that within the coastal region - north and south - there is a continuum of coastal influence and the ensuing heat gradient during the growing season (degree-days).

Within the extension, the climate acts in an identical manner to the area in the previous Central Coast viticultural area.

This claim is supported by Table I, demonstrating that locations within the revision to the Central Coast viticultural area (San Francisco, Richmond, Oakland, Berkeley, Half Moon Bay, Martinez, San Jose, Ben Lomond, Palo Alto) share the same coastal character (i.e., (1) higher September temperatures, and (2) an airstream continuum of degree-day temperatures correlated with the airstream distance from the Pacific Ocean) as found at the current Central Coast cities (Monterey, Salinas, Hollister, King City, Livermore, Gilroy). A Coastal Character Map showing this data was attached to the petition. Accordingly, the data presented above establishes that the Central Coast boundary should be revised to accurately reflect the extent of the Central Coast climate.

The "San Francisco Bay" viticultural area and the Central Coast viticultural area lie within the same botanic zone according to the *Sunset Western Garden Book* published for 55 years by the editors of *Sunset Magazine*. This comprehensive western plant encyclopedia has become a leading authority regarding gardening in the western United States. The *Western Garden Book* divides the region from the Pacific Coast to the eastern slope of the Rocky Mountains into twenty-four climate zones. The Central Coast viticultural area lies within Zones 7, 14, 15, 16, and 17.

The climate zones established by Sunset Magazine demonstrate that the main distinguishing feature of Central Coast - the coastal climate - extends west to the Santa Cruz coastline and north to the Golden Gate. The revision to the Central Coast viticultural area also lies within these zones.

The characteristic cool Mediterranean climate of the Central Coast viticultural area extends north and west of the current boundaries. This coastal Mediterranean climate is cool in the summer and the marine fog which penetrates inland makes the coast very oceanic, with little difference in temperature between mild winters and cool summers. The Mediterranean climate classification is so called because the lands of the Mediterranean Basin exhibit the archetypical temperature and rainfall regimes that define the class. The Climatic Regions Map from *Atlas of California* supports the Mediterranean climate claim. This map is based on the Koeppen classification, which divides the world into climate regions based on temperature, the seasonal variation of drought, and the relationship of rainfall to potential evaporation. The Koeppen system uses letters based on German words having no direct English equivalents. The Climatic Regions Map depicts the extent of cool Mediterranean climate both north and west of the current Central Coast boundary and within it.

The map shows that Alameda, Contra Costa, Santa Clara, San Mateo, and Santa Cruz Counties in the revision to the Central Coast viticultural area, like Monterey, San Benito, San Luis Obispo, and Santa Barbara Counties in the current Central Coast viticultural area, are mostly classified as Csb Mediterranean climates (average of warmest month is less than 22 C), with partial

Csbn climate (more than thirty days of fog) along the coast.

It is due to this coastal climate (mainly fog and wind), that the degree of marine influence in the revised Central Coast viticultural area is similar to the degree of marine influence found at other places inside the previous boundaries of the Central Coast viticultural area. A map of central California, submitted with the petition, shows the extent of marine fog in the area. This map shows that the fog pattern in the revised viticultural area is similar to other areas included in Central Coast. The fog extends inland to approximately the same extent throughout the revised viticultural area. The "Retreat of Fog" map submitted with the petition also shows the similarity in the duration of fog in the previous and revised Central Coast viticultural area. The similar fog pattern is most evident along the coastal areas of Big Sur, Monterey Bay and San Francisco.

Topography

Santa Cruz and the other San Francisco Bay Counties share the Central Coast's terrain. One of the major California coast range gaps which produces the climate within the previous Central Coast boundaries lies within the revision to the Central Coast. The three largest sea level gaps in the central California coastal range mountainous barrier are (north to south): Estero Lowland in Sonoma County, Golden Gate into San Francisco Bay, and Monterey Bay. The Golden Gate and Monterey Bay allow the ocean influence to enter into the previous Central Coast viticultural area creating its coastal climate which is the unifying and distinguishing

feature of the area. The main gap in the previous Central Coast viticultural area, the Monterey Bay allows marine air and fog from the Pacific Ocean to travel south and inland, into the Salinas Valley. This feature creates the grape-growing climate that exists in the Salinas Valley, but from a meteorological perspective, it has comparatively little influence on the portion of Central Coast viticultural area lying north of it. The on-shore prevailing North-Westerly flow direction, combined with the coastal range topographical features north of the Bay's mouth, minimize northward influence from the air that enters the Monterey Bay. The Golden Gate gap introduces a cooling marine influence and the San Francisco Bay allows marine air and fog to travel much further inland and south through the Santa Clara and Livermore Valleys and provides most of the coastal influence affecting the northern portion of the Central Coast viticultural area. Although the Golden Gate and San Francisco Bay are primary influences on the previous Central Coast climate, neither shoreline was included in the previous Central Coast boundary. The revision to the Central Coast viticultural area logically extends the previous Central Coast boundaries to include the shores of the Golden Gate and San Francisco Bay.

Boundaries

The extension of the Central Coast viticultural area would include the currently excluded portions of five counties which border the San Francisco Bay. These counties are San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, and all of Santa

Cruz County with the exception of the Santa Cruz Mountains viticultural area. The "San Francisco Bay" viticultural area adds approximately 639 square miles to Central Coast. This area contains 2,827 acres planted to grapes. In the original proposal, a small part of the east end of the Livermore Valley was omitted. This newly described area most accurately completes the description and designation of the climatic and geographic zones for Livermore Valley and has been added to the revised Central Coast viticultural area. This area adds less than three square miles to the viticultural area and approximately 350 acres of wine grapes.

The revision to the Central Coast boundary follows the Pacific coastlines of Santa Cruz, San Mateo, and San Francisco Counties, crosses San Francisco Bay, follows the northern boundary of Contra Costa County to Concord, and then follows the inland boundary of coastal influence along straight lines between landmarks in the Diablo Mountain Range to the current Central Coast boundary.

The southern boundary of the Central Coast viticultural area remains unchanged. The changes to the western boundary, the California coastline, consists of extending the boundary north to the Golden Gate. The eastern boundary is extended to include the area northwest of Livermore up to the San Pablo Bay. From Altamont (just east of Livermore) south, the eastern boundary follows the previous boundary of the Central Coast viticultural area. North of Altamont, the boundary extension excludes the easternmost range of coastal mountains. The eastern boundary includes Martinez and Concord, but excludes Antioch, and the eastern portion of Contra Costa County.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 C.F.R. Part 1320, do not apply to this final rule because there is no requirement to collect information.

Regulatory Flexibility Act

It is hereby certified that this 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 that region. No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this

Executive Order.

Drafting Information

The principal author of this document is David W. Brokaw,
Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

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

Authority and Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural
Areas, is 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. Section 9.75 is amended by revising paragraph
(b) to add 23 U.S.G.S. Quadrangle 7.5 Minute Series (Topographic)
maps (19) through (41), by revising paragraph (c) to add three
counties, by removing paragraphs (c)(2) through (c)(13) and replacing

them with new paragraphs (c)(2) through (c)(16) and, renumbering existing paragraphs (c)(14) through (c)(40) as paragraphs (c)(17) through (c)(43).

Subpart C--Approved American Viticultural Areas

* * * * *

§ 9.75 Central Coast

(a) Name. * * *

(b) Approved maps. * * *

* * * * *

**(19) Diablo, California, scale 1:24,000, dated 1953, Photorevised
1980**

**(20) Clayton, California, scale 1:24,000, dated 1953, Photorevised
1980**

**(21) Honker Bay, California, scale 1:24,000, dated 1953, Photorevised
1980**

**(22) Vine Hill, California, scale 1:24,000, dated 1959, Photorevised
1980**

**(23) Benicia, California, scale 1:24,000, dated 1959, Photorevised
1980**

**(24) Mare Island, California, scale 1:24,000, dated 1959,
Photorevised 1980**

(25) Richmond, California, scale 1:24,000, dated 1959, Photorevised

1980

(26) San Quentin, California, scale 1:24,000, dated 1959,

Photorevised 1980

(27) Oakland West, California, scale 1:24,000, dated 1959,

Photorevised 1980

**(28) San Francisco North, California, scale 1:24,000, dated
1956, Photorevised 1968 and 1973**

**(29) San Francisco South, California, scale 1:24,000, dated
1956, Photorevised 1980**

**(30) Montara Mountain, California, scale 1:24,000, dated 1956,
Photorevised 1980**

**(31) Half Moon Bay, California, scale 1:24,000, dated 1961,
Photoinspected 1978, Photorevised 1968 and 1973**

**(32) San Gregorio, California, scale 1:24,000, dated 1961,
Photoinspected 1978, Photorevised 1968**

**(33) Pigeon Point, California, scale 1:24,000, dated 1955,
Photorevised 1968**

**(34) Franklin Point, California, scale 1:24,000, dated 1955,
Photorevised 1968**

**(35) Año Nuevo, California, scale 1:24,000, dated 1955,
Photorevised 1968**

**(36) Davenport, California, scale 1:24,000, dated 1955, Photorevised
1968**

**(37) Santa Cruz, California, scale 1:24,000, dated 1954, Photorevised
1981**

**(38) Felton, California, scale 1:24,000, dated 1955, Photorevised
1980**

(39) Laurel, California, scale 1:24,000, dated 1955 , Photoinspected

1978, Photorevised 1968

(40) Soquel, California, scale 1:24,000, dated 1954, Photorevised 1980

(41) Watsonville West, California, scale 1:24,000, dated 1954, Photorevised 1980.

(c) *Boundary.* The Central Coast viticultural area is located in the following California counties: Monterey, Santa Cruz, Santa Clara, Alameda, San Benito, San Luis Obispo, Santa Barbara, San Francisco, San Mateo, and Contra Costa. The Santa Cruz Mountains viticultural area is excluded. (The boundaries of the Santa Cruz Mountains viticultural area are described in 27 C.F.R. §9.31.) * * *

* * * * *

(2) The boundary follows north along the shoreline of the Pacific Ocean (across the Watsonville West, Soquel, Santa Cruz, Davenport, Año Nuevo, Franklin Point, Pigeon Point, San Gregorio, Half Moon Bay, Montara Mountain and San Francisco South maps) to the San Francisco/Oakland Bay Bridge. (San Francisco North Quadrangle)

(3) From this point, the boundary proceeds east on the San Francisco/Oakland Bay Bridge to the Alameda County shoreline. (Oakland West Quadrangle)

(4) From this point, the boundary proceeds east along the shoreline of Alameda County and Contra Costa County across the Richmond, San Quentin, Mare Island, and Benicia maps to a point marked BM 15 on the shoreline of Contra Costa County. (Vine Hill

Quadrangle)

(5) From this point, the boundary proceeds in a southeasterly direction in a straight line across the Honker Bay map to Mulligan Hill elevation 1,438. (Clayton Quadrangle)

(6) The boundary proceeds in southeasterly direction in a straight line to Mt. Diablo elevation 3,849. (Clayton Quadrangle)

(7) The boundary proceeds in a southeasterly direction in a straight line across the Diablo and Tassajara maps to Brushy Peak elevation 1,702. (Byron Hot Springs Quadrangle)

(8) The boundary proceeds due south, approximately 400 feet, to the northern boundaries of Section 13, Township 2 South, Range 2 East. (Byron Hot Springs Quadrangle)

(9) The boundary proceeds due east along the northern boundaries of Section 13 and Section 18, Township 2 South, Range 3 East, to the northeast corner of Section 18. (Byron Hot Springs Quadrangle)

(10) Then proceed south along the eastern boundaries of Sections 18, 19, 30, and 31 in Township 2 South, Range 3 East to the southeast corner of Section 31. (Byron Hot Springs Quadrangle)

(11) Then proceed east along the southern border of Section 32, Township 2 South, Range 3 East to the northwest corner of Section 4. (Altamont Quadrangle)

(12) Then proceed south along the western border of Sections 4 and 9. (Altamont Quadrangle)

(13) Then proceed south along the western border of Section 16 approximately 4275 feet to the point where the 1100 meter elevation contour intersects the western border of Section 16.

(Altamont Quadrangle)

(14) Then proceed in a southeasterly direction along the 1100

meter elevation contour to the intersection of the southern border of Section 21 with the 1100 meter elevation contour. (Altamont Quadrangle)

(15) Then proceed west to the southwest corner of Section 20. (Altamont Quadrangle)

(16) Then proceed south along the western boundaries of Sections 29 and 32, Township 3 South, Range 3 East and then south along the western boundaries of Sections 5, 8, 17, 20, Township 4 South, Range 3 East to the southwest corner of Section 20. (Mendenhall Springs Quadrangle)

* * * * *

Par. 3. The table of sections in subpart C is amended by adding § 9.157 to read as follows:

* * * * *

9.157 San Francisco Bay

Par. 4. Subpart C is amended by adding § 9.157 to read as follows:

Subpart C--Approved American Viticultural Areas

* * * * *

§ 9.157 San Francisco Bay

(a) *Name.* The name of the viticultural area described

in this section is "San Francisco Bay."

(b) *Approved maps.* The appropriate maps for determining the boundary of the San Francisco Bay viticultural area are forty-two U.S.G.S. Quadrangle 7.5 Minute Series (Topographic) maps and one U.S.G.S. Quadrangle 5 x 11 Minute (Topographic) map. They are titled:

(1) Pacheco Peak, California, scale 1:24,000, dated 1955, Photorevised 1971

(2) Gilroy Hot Springs, California, scale 1:24,000, dated 1955, Photoinspected 1978, Photorevised 1971

(3) Mt. Sizer, California, scale 1:24,000, dated 1955, Photoinspected 1978, Photorevised 1971

(4) Morgan Hill, California, scale 1:24,000, dated 1955, Photorevised 1980

(5) Lick Observatory, California, scale 1:24,000, dated 1955, Photoinspected 1973, Photorevised 1968

(6) San Jose East, California, scale 1:24,000, dated 1961, Photorevised 1980

(7) Calaveras Reservoir, California, scale 1:24,000, dated 1961, Photorevised 1980

(8) La Costa Valley, California, scale 1:24,000, dated 1960, Photorevised 1968

(9) Mendenhall Springs, California, scale 1:24,000, dated 1956, Photoinspected 1978, Photorevised 1971

(10) Altamont, California, scale 1:24,000, dated 1953, Photorevised 1981

- (11) Byron Hot Springs, California, scale 1:24,000, dated 1953, Photorevised 1968**
- (12) Tassajara, California, scale 1:24,000, dated 1953, Photoinspected 1974, Photorevised 1968**
- (13) Diablo, California, scale 1:24,000, dated 1953, Photorevised 1980**
- (14) Clayton, California, scale 1:24,000, dated 1953, Photorevised 1980**
- (15) Honker Bay, California, scale 1:24,000, dated 1953, Photorevised 1980**
- (16) Vine Hill, California, scale 1:24,000, dated 1959, Photorevised 1980**
- (17) Benicia, California, scale 1:24,000, dated 1959, Photorevised 1980**
- (18) Mare Island, California, scale 1:24,000, dated 1959, Photorevised 1980**
- (19) Richmond, California, scale 1:24,000, dated 1959, Photorevised 1980**
- (20) San Quentin, California, scale 1:24,000, dated 1959, Photorevised 1980**
- (21) Oakland West, California, scale 1:24,000, dated 1959, Photorevised 1980**
- (22) San Francisco North, California, scale 1:24,000, dated 1956, Photorevised 1968 and 1973**
- (23) San Francisco South, California, scale 1:24,000, dated 1956, Photorevised 1980**
- (24) Montara Mountain, California, scale 1:24,000, dated 1956, Photorevised 1980**

- (25) Half Moon Bay, California, scale 1:24,000, dated 1961,
Photoinspected 1978, Photorevised 1968 and 1973**
- (26) San Gregorio, California, scale 1:24,000, dated 1961,
Photoinspected 1978, Photorevised 1968**
- (27) Pigeon Point, California, scale 1:24,000, dated 1955,
Photorevised 1968**
- (28) Franklin Point, California, scale 1:24,000, dated 1955,
Photorevised 1968**
- (29) Año Nuevo, California, scale 1:24,000, dated 1955,
Photorevised 1968**
- (30) Davenport, California, scale 1:24,000, dated 1955, Photorevised
1968**
- (31) Santa Cruz, California, scale 1:24,000, dated 1954, Photorevised
1981**
- (32) Felton, California, scale 1:24,000, dated 1955, Photorevised
1980**
- (33) Laurel, California, scale 1:24,000, dated 1955, Photoinspected
1978, Photorevised 1968**
- (34) Soquel, California, scale 1:24,000, dated 1954, Photorevised
1980**
- (35) Watsonville West, California, scale 1:24,000, dated 1954,
Photorevised 1980**
- (36) Loma Prieta, California, scale 1:24,000, dated 1955,
Photoinspected 1978, Photorevised 1968**
- (37) Watsonville East, California, scale 1:24,000, dated 1955,
Photorevised 1980**
- (38) Mt. Madonna, California, scale 1:24,000, dated 1955,
Photorevised 1980**

(39) Gilroy, California, scale 1:24,000, dated 1955, Photorevised

1981

(40) Chittenden, California, scale 1:24,000, dated 1955, Photorevised

1980

(41) San Felipe, California, scale 1:24,000, dated 1955, Photorevised

1971

(42) Three Sisters, California, scale 1:24,000, dated 1954,

Photoinspected 1978, Photorevised 1971

(c) *Boundary.* The San Francisco Bay viticultural area

is located mainly within five counties which border the San Francisco Bay and partly within two other counties in the State of California.

These counties are: San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa and partly in Santa Cruz and San Benito Counties.

The Santa Cruz Mountains viticultural area is excluded (see 27 C.F.R.

§9.31.) The boundaries of the San Francisco Bay viticultural

area, using landmarks and points of reference found on appropriate

U.S.G.S. maps, are as follows:

(1) Beginning at the intersection of the 37 degree 00'

North latitude parallel with State Route 152 on the Pacheco Peak Quadrangle.

(2) Then proceed in a northwesterly direction in a straight

line to the intersection of Coyote Creek with the township line dividing Township 9 South from Township 10 South on the Gilroy Hot Springs Quadrangle.

(3) Then proceed in a northwesterly direction in a straight

line to the intersection of the township line dividing Township 8 South from Township 9 South with the range line dividing Range 3 East from Range 4 East on the Mt. Sizer Quadrangle.

- (4) Then proceed in a northwesterly direction in a straight line (across the Morgan Hill Quadrangle) to the intersection of the township line dividing Township 7 South from Township 8 South with the range line dividing Range 2 East from Range 3 East on the Lick Observatory Quadrangle.**
- (5) Then proceed in a northwesterly direction in a straight line to the intersection of State Route 130 with the township line dividing Township 6 South from Township 7 South on the San Jose East Quadrangle.**
- (6) Then proceed in a northeasterly direction following State Route 130 to its intersection with the range line dividing Range 1 East from Range 2 East on the Calaveras Reservoir Quadrangle.**
- (7) Then proceed north following this range line to its intersection with the Hetch Hetchy Aqueduct on the La Costa Valley Quadrangle.**
- (8) Then proceed in a northeasterly direction in a straight line following the Hetch Hetchy Aqueduct to the western boundary of Section 14 in Township 4 South, Range 2 East on the Mendenhall Springs Quadrangle.**
- (9) Then proceed south along the western boundary of Section 14 in Township 4 South, Range 2 East to the southwest corner of Section 14 on the Mendenhall Springs Quadrangle.**
- (10) Then proceed east along the southern boundary of Section 14 in Township 4 South, Range 2 East to the southeast corner of Section 14 on the Mendenhall Springs Quadrangle.**
- (11) Then proceed south along the western boundary of Section 24 in Township 4 South, Range 2 East to the southwest corner of Section 24 on the Mendenhall Springs Quadrangle.**
- (12) Then proceed east along the southern boundary of Section**

24 in Township 4 South, Range 2 East and Section 19 in Township 4 South, Range 3 East to the southeast corner of Section 19 on the Mendenhall Springs Quadrangle.

(13) Then proceed north along the western boundaries of Sections 20, 17, 8, and 5 on the Mendenhall Springs Quadrangle in Township 4 South, Range 3 East, north (across the Altamont Quadrangle) along the western boundaries of Sections 32, 29, to the southwest corner of Section 20, in Township 3 South, Range 3 East.

(14) Then east along the southern boundary of Sections 20, and 21, in Township 3 South, Range 3 East on the Altamont Quadrangle to the 1100 meter elevation contour.

(15) Then, along the 1100 meter contour in a northwesterly direction to the intersection with the western boundary of Section 16, Township 3 South, Range 3 East on the Altamont Quadrangle.

(16) Then north along the eastern boundary of Sections 17, 8, and 5 in Township 3 South, Range 3 East to the northeast corner of Section 5.

(17) Then proceed west along the northern border of Section 5 to the northwest corner of Section 5.

(18) Then north along the eastern boundaries of Sections 31, 30, 19, and 18 in Township 2 South, Range 3 East to the northeast corner of Section 18 on the Byron Hot Springs Quadrangle.

(19) Then proceed due west along the northern boundaries of Section 18 and Section 13 (Township 2 South, Range 2 East) to a point approximately 400 feet due south of Brushy Peak on the Byron Hot Springs Quadrangle.

(20) Then proceed due north to Brushy Peak (elevation 1,702) on the Byron Hot Springs Quadrangle.

- (21) Then proceed in a northwesterly direction in a straight line (across the Tassajara and Diablo Quadrangles) to Mt. Diablo (elevation 3,849) on the Clayton Quadrangle.**
- (22) Then proceed in a northwesterly direction in a straight line to Mulligan Hill (elevation 1,438) on the Clayton Quadrangle.**
- (23) Then proceed in a northwesterly direction in a straight line (across the Honker Bay Quadrangle) to a point marked BM 15 on the shoreline of Contra Costa County on the Vine Hill Quadrangle.**
- (24) Then proceed west along the shoreline of Contra Costa County and Alameda County (across the Quadrangles of Benicia, Mare Island, Richmond, and San Quentin) to the San Francisco/Oakland Bay Bridge on the Oakland West Quadrangle.**
- (25) Then proceed west on the San Francisco/Oakland Bay Bridge to the San Francisco County shoreline on the San Francisco North Quadrangle.**
- (26) Then proceed along the San Francisco, San Mateo, and Santa Cruz County shoreline (across the Quadrangles of San Francisco South, Montara Mountain, Half Moon Bay, San Gregorio, Pigeon Point, Franklin Point, Año Nuevo and Davenport) to the place where Majors Creek flows into the Pacific Ocean on the Santa Cruz Quadrangle.**
- (27) Then proceed northeasterly along Majors Creek to its intersection with the 400 foot contour line on the Felton Quadrangle.**
- (28) Then proceed along the 400 foot contour line in a generally easterly/northeasterly direction to its intersection with Bull Creek on the Felton Quadrangle.**
- (29) Then proceed along Bull Creek to its intersection with Highway 9 on the Felton Quadrangle.**

(30) Then proceed along Highway 9 in a northerly direction to its intersection with Felton Empire Road.

(31) Then proceed along Felton Empire Road in a westerly direction to its intersection with the 400 foot contour line on the Felton Quadrangle.

(32) Then proceed along the 400 foot contour line (across the Laurel, Soquel, Watsonville West and Loma Prieta Quadrangles) to its intersection with Highway 152 on the Watsonville East Quadrangle.

(33) Then proceed along Highway 152 in a northeasterly direction to its intersection with the 600 foot contour line just west of Bodfish Creek on the Watsonville East Quadrangle.

(34) Then proceed in a generally east/southeasterly direction along the 600 foot contour line (across the Mt. Madonna and Gilroy Quadrangles), approximately 7.3 miles, to the first intersection of the western section line of Section 30, Township 11 South, Range 4 East on the Chittenden Quadrangle.

(35) Then proceed south along the section line approximately 1.9 miles to the south township line at Section 31, Township 11 South, Range 4 East on the Chittenden Quadrangle.

(36) Then proceed in an easterly direction along the township line (across the San Felipe Quadrangle), approximately 12.4 miles to the intersection of Township 11 South and Township 12 South and Range 5 East and Range 6 East on the Three Sisters Quadrangle.

(37) Then proceed north along the Range 5 East and Range 6 East range line approximately 5.5 miles to Pacheco Creek on the Pacheco Creek Quadrangle.

(38) Then proceed northeast along Pacheco Creek approximately

.5 mile to the beginning point.

Signed: November 19, 1998.

John W. Magaw,

Director

Approved: December 24, 1998.

John P. Simpson,

***Deputy Assistant Secretary (Regulatory, Tariff and Trade
Enforcement)***

[FR Doc. 99-1209 Filed 1-19-99; 8:45 am]

TITLE 27 ¼ ALCOHOL, TOBACCO

PRODUCTS AND FIREARMS ¼ CHAPTER

I ¾ BUREAU OF ALCOHOL, TOBACCO

AND FIREARMS, DEPARTMENT OF THE TREASURY

TD ATF-408

27 CFR Part 9

Chiles Valley Viticultural Area

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

Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision will establish a viticultural area in Napa County, California, to be known as "Chiles Valley". This viticultural area is the result of a petition submitted by Mr. Volker Eisele, owner of the Volker Eisele Vineyard and Winery.

EFFECTIVE DATE: April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas B. Busey, Specialist, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, 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 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 4.25a(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 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 Chiles Valley viticultural

area is located entirely within the Napa Valley. The 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 viticultural area.

Comments

A Notice of Proposed Rulemaking, Notice No. 858 (63 FR 13583) was published in the Federal Register on March 20, 1998, requesting comments from all interested persons concerning the proposed viticultural area. Specific comments were requested on the use of the term "District" as part of the viticultural area name as proposed in the original petition. ATF noticed the proposed area as "Chiles Valley" because ATF did not find that the petitioner submitted sufficient evidence to support the use of the term "District" with Chiles Valley.

Six comments were received in response to this notice. All six comments favored the addition of "District" to the viticultural name, but no additional evidence was submitted to support this change. The six comments only reiterated the petitioner's original argument that the use of the term "District" was important to distinguish the Chiles Valley from the larger valley, in this case the Napa Valley. None of the comments added any data or historical evidence for the use of the term "District" in conjunction with Chiles Valley.

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.

However, as noted above, ATF has found that neither the petitioner nor the commenters have submitted sufficient evidence to support the use of the term "District" with the name "Chiles Valley."

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

The petitioner provided evidence that 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 that 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 boundaries encompass an area of remarkable uniformity with respect to soils, climate and elevation that produces 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

The geographical features of the 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 800 and 1000 feet 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 is surrounded by hills up to 2200 feet which concentrate 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 temperatures than those 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 colder 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 boundaries, the micro-climate 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 a cooler 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 viticultural area to the areas surrounding it. The 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 stated 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.

Geographical Brand Names

A brand name of viticultural significance may not be used unless the wine meets the appellation of origin requirements for the geographical area named. See 27 CFR 4.39(i). Consequently, establishment of this viticultural area would preclude the use of the term "Chiles Valley" as a brand name for wine, unless the wine can claim "Chiles Valley" as an appellation of origin, or complies with one of the exceptions in the regulation. Proposed

Boundaries The boundaries of the 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). Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, (44 U.S.C. 3507(j)) and its implementing regulations, 5 C.F.R. part 1320, do not apply to this rule because no requirement to collect information is proposed. Regulatory Flexibility Act It is hereby certified that this 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 wine from the region. Accordingly, a regulatory flexibility

analysis is not required. No new requirements are imposed.

Executive Order 12866

It has been determined that this 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 Division, 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 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 Sec. 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 $\frac{1}{4}$ 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 $\frac{1}{4}$ 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: September 30, 1998. John W. Magaw, *Director*.

Approved: January 19, 1999.

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

[FR Doc. 99-3759 Filed 2-16-99;8:45 am]

Announcements – IV

Announcement 99-1

**Major Disaster Areas Proclaimed by the
President**

The President has determined that certain areas of the United States were adversely affected by disasters of sufficient magnitude to warrant Federal assistance under the Disaster Relief Act of 1974. The specific areas adversely affected as identified by the Administrator, Federal Emergency Management Agency (FEMA) are listed below.

Persons in the affected areas holding for sale alcoholic beverages, cigars, cigarettes, or cigarette papers or tubes, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of these disasters, may be paid an amount equal to the internal revenue taxes and customs duties paid on such products, as provided in 26 U.S.C. 564 and 5708. Claims for such payments should be filed with the District Director (Regulatory Enforcement Operations), Bureau of Alcohol, Tobacco and Firearms, for the ATF district in which the alcoholic beverages, cigarettes, etc., were held for sale. Claims may be allowed only if filed within six months after the date the FEMA identifies the specific disaster area.

ARKANSAS 1266 February 8, 1999

Type of Disaster Severe storms, tornadoes and High winds

Counties: Bradley, Chicot, Clay, Columbia, Drew, Faulkner, Grant, Greene, Hempstead, Independence, Jefferson, Lafayette, Lonoke, Miller, Monroe, Pulaski, Saline, St. Francis, White

CALIFORNIA 1267 March 1, 1999

Type of Disaster: Severe freeze

Counties: Fresno, Kern, Kings, Madera, Monterey, Tulare

ILLINOIS 3134 January 29, 1999

Type of Disaster: Record/Near record snow

**Counties: Adams, Brown, Bureau, Calhoun, Cass, Champaign,
Cook, Dewitt, DuPage, Ford, Fulton, Greene, Grundy, Hancock,
Henderson, Henry, Iroquois, Kane, Kankakee, Kendall, Knox, Lake,
La Salle, Livingston, Logan, Marshall, Macon, Mason, McDonough,
McHenry, McLean, Menard, Mercer, Morgan, Moultrie, Peoria, Piatt,
Pike, Putnam, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell,
Warren, Will, Woodford**

INDIANA 3135 February 8, 1999

Type of Disaster: Record/Near record snow

**Counties: Adams, Allen, Benton, Blackford, Boone, Carroll,
Cass, Clay, Clinton, Dekalb, Delaware, Elkhart, Fayette, Fountain,
Fulton, Grant, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington,
Jasper, Jay, Johnson, Kosciusko, Lagrange, Lake, LaPorte, Madison,
Marion, Marshall, Miami, Montgomery, Morgan, Newton, Noble, Parke,
Porter, Pulaski, Putnam, Randolph, Rush, St. Joseph, Shelby,
Starke, Steuben, Tipton, Tipton, Tipton, Vermillion, Vigo, Wabash,
Warren, Wayne, Wells, White, Whitley**

LOUISIANA 1264 February 8, 1999

Type of Disaster: Severe ice storm

**Parishes: Bienville, Catahoula, Claiborne, DeSoto, East Carroll,
Franklin, Grant, Lincoln, Morehouse, Natchitoches, Ouachita,**

Red River, Richland, Sabine, Union, Webster, West Carroll, Winn

MAINE 1263 February 8, 1999

**Type of Disaster: Severe storms, heavy rains,
high winds and inland and coastal flooding and erosion**

Counties: Cumberland, York

MICHIGAN 3137 February 8, 1999

Type of Disaster: Near record snow

**Counties: Alcona, Allegan, Arenac, Barry, Berrien, Cass, Crawford,
Ionia, Iosco, Jackson, Kalamazoo, Kent, Lenawee, Macomb, Marquette,
Mecosta, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw,
Osceola, Oscoda, Otsego, Ottawa, St. Joseph, Van Buren, Washtenaw**

MISSISSIPPI 1265 February 8, 1999

**Type of Disaster: Severe winter storms, ice and
freezing rain**

**Counties: Attala, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw,
Clay, Grenada, Humphreys, Issaquena, Itawamba, Kemper, Leake,
Lee, Leflore, Lowndes, Monroe, Montgomery, Neshoba, Noxubee,
Oktibbeha, Pontotoc, Prentiss, Sharkey, Sunflower, Tallahatchie,
Tishomingo, Union, Warren, Washington, Webster, Winston, Yazoo**

NEW YORK 3136 February 8, 1999

Type of Disaster: Near record snow

**Counties: Cattaraugus, Chautauqua, Erie, Genesee, Jefferson,
Lewis, Orleans, Niagara, Orleans, Wyoming**

TENNESSEE 1260 February 5, 1999

**Type of Disaster: Severe winter storms, ice and
freezing rain**

**Counties: Anderson, Bedford, Bledsoe, Campbell, Cannon, Claiborne,
Coffee, Cumberland, DeKalb, Fentress, Franklin, Giles, Grundy,
Hamilton, Hancock, Lawrence, Lewis, Lincoln, Loudon, Marion,
Marshall, Monroe, Moore, Morgan, Roane, Scott, Sequatchie, Sevier,
Union, Van Buren, Warren, Wayne, White**

Amendments to Previously Declared Disasters

ALABAMA 1261 Amendment

Counties: Fayette, Lamar, Winston

KANSAS 1258 Amendment

Counties: Woodson

TENNESSEE 1262 Amendment

**Counties: Benton, Carroll, Crockett, Decatur, Dickson, Giles,
Hardeman, Haywood, Henderson, Humphreys, Jackson, Lauderdale,
Lawrence, Lewis, Madison, Maury, Montgomery, Perry, Stewart,
Wayne**

TEXAS 1257 Amendment

**Counties: Grimes, Jim Wells, Kendall, Lavaca, Liberty, Matagorda,
Nueces, Polk, San Jacinto, Trinity, Walker**

Announcement 99-2

Realignment of Field Offices

On December 11, 1998, the Director signed Industry Circular

No. 99-1. It read as follows:

**TO: All Alcohol and Tobacco Permittees, Taxpayers and Claimants,
Federal Firearms Licensees and Permittees, and Firearms and Ammunition
Excise Taxpayers and Registrants**

**Effective October 1, 1998, the Bureau of Alcohol, Tobacco
and Firearms (ATF) is realigning its field offices. Historically,
ATF has been organized under separate regulatory and criminal
enforcement functions that operated under separate planning and
implementing structures. By not encouraging a broad approach
to deal with issues involving ATF's criminal, regulatory
and tax responsibilities, the division along regulatory and criminal
lines has hampered ATF's ability to use all its authorities
for maximum benefit.**

**In 1997, ATF began addressing these problems by unifying regulatory
and criminal enforcement activities at the Headquarters level.
A team approach was developed to combine programs and manage
operations. This approach will be extended to field offices nationwide.**

**As of October 1, 1998, the five (5) regulatory district offices
will be merged with the 23 criminal enforcement division offices.**

The merging of these offices creates new, unified structures in 23 locations. Each field division will be headed by a Division Director/Special Agent in Charge (DD/SAC), who will report directly to Headquarters and have overall responsibility for the combined operations in each geographic area. Reporting to each DD/SAC will be one or more Assistant Special Agents in Charge (ASA, who will have oversight of the criminal enforcement function; and a Director of Industry Operations (DIO), who will oversee industry and taxation operations. The ASAC will provide secondary supervision to field agents, and the DIO will provide secondary supervision to field inspectors.

The DIO will replace the existing District Director and Assistant District Director positions. The primary focus of the DIO will be to ensure that industry operations and tax collection activities are carried out in the most efficient and effective manner, and to resolve issues at the local level. To facilitate decision making, authority for administrative regulatory activities now residing at the District Director level will be transferred to the DIO. Examples of these administrative actions include offers-in-compromise, permit suspensions and revocations, firearms and explosives denials and revocations, and tax assessments.

Included with this Industry Circular is a listing of all ATF field offices, including the names of the DD/SAC, DIO and ASAC, the address, telephone number and fax number for each office.

John W. Magaw,
Director

The following listing identifies people and offices to contact for Federal alcohol, tobacco, firearms, explosives and arson matters. The overall manager for each location is the Division Director/Special Agent in Charge (DD/SAC). The primary contact for industry matters is the Director of Industry Operations (DIO). The primary contact for criminal enforcement matters is the Assistant Special Agent in Charge (ASAC).

Addresses and phone numbers change are subject to change.(1/14/99)

ATLANTA FIELD DIVISION

States Covered: Georgia DD/SAC: John C. Killorin Address:

2600 Century Parkway DIO: William K. Davis

Atlanta, GA 30345 ASAC: Mark W. Potter

Telephone: 404-679-5170 Vanessa C. McLemore

Fax: 404-679-5134

BALTIMORE FIELD DIVISION

States Covered: Delaware, Maryland DD/SAC: Larry D. Stewart

Address: Rombro Building DIO: Mary Jo Hughes

22 South Howard St., 6th Floor ASAC: John Jensen

Baltimore, MD 21201

Telephone: 410-962-0897

Fax: 410-962-2382

BOSTON FIELD DIVISION

States Covered: Connecticut, Maine, Massachusetts, DD/SAC:

Charles R. Thomson

North New York, New Hampshire, DIO: Bruce R. Medd

Rhode Island, Vermont ASAC: Stephen J. Raber

Address: Federal Building Thomas J. Lambert

10 Causeway ST., RM 253

Boston, MA 02222

Telephone: 617-565-7042

Fax: 617-565-7003

CHARLOTTE FIELD DIVISION

States Covered: North Carolina, South Carolina DD/SAC: Richard

C. Fox

Address: 4530 Park Road, STE, 400 DIO: James A. Fowler

Charlotte, NC 28209 ASAC: Louis A. Iliano

Telephone: 704-344-6125 Dondi O. Albritton

Fax: 704-344-6722

CHICAGO FIELD DIVISION

States Covered: Illinois DD/SAC: Kathleen L. Kiernan

Address: 300 South Riverside Plaza DIO: Arthur W. Herbert

Suite 350 South ASAC: Mark S. Rusin

Chicago, IL 60606 Kenneth Massey

Telephone: 312-353-6935

Fax: 312-353-7668

COLUMBUS FIELD DIVISION

States Covered: Ohio, Indiana DD/SAC: Richard A. Rawlins

Address: 78 E. Chestnut, Rm. 417 DIO: Norris L. Alford

Columbus, OH 43215 ASAC: John E. Pasaka

Telephone: 614-469-7617 Mark C. Trimble

Fax: 614-469-2267

DALLAS FIELD DIVISION

States Covered: North Texas, Oklahoma DD/SAC: Karl Stankovic

Address: 1200 Main Tower Building DIO: John H. Brooks

Suite 2550 ASAC: Robert H. Valdez

Dallas, TX 75250 Jimmy D. Adamcik

Telephone: 214-767-2250

Fax: 214-767-2229

DETROIT FIELD DIVISION

States Covered: Michigan DD/SAC: Michael W. Morrissey

Address: 1155 Brewery Park BLVD. DIO: Jacqueline M. Darrah

Suite 300 ASAC: Vacant

Detroit, MI 48207

Telephone: 313-393-6000

Fax: 313-393-6054

HOUSTON FIELD DIVISION

States Covered: South Texas DD/SAC: George Hopgood

Address: 15355 Vantage PKWY West DIO: Angelita M. Quinones

Suite 210 ASAC: Hugo Barrera

Houston, TX 77032 James Webb

Telephone: 281-449-2073

Fax: 281-449-2049

KANSAS CITY FIELD DIVISION

States Covered: Iowa, Kansas, Missouri, Nebraska DD/SAC: James

R. Switzer

Address: 2600 Grand Ave., Suite 200 DIO: Robert P. Mosley

Kansas City, MO 64108 ASAC: Darrell C. Dryer

Telephone: 816-421-3440

Fax: 816-421-6511

LOS ANGELES FIELD DIVISION

States Covered: South California DD/SAC: Richard A. Curd

Address: 350 S. Figueroa ST., STE.800 DIO: Earl T. Kleckley

Los Angeles, CA 90071 ASAC: Virginia T. O'Brien

Telephone: 213-894-4812 John A. Torres

Fax: 213-894-0105

LOUISVILLE FIELD DIVISION

States Covered: Kentucky, West Virginia DD/SAC: James L. Brown

Address: 600 Dr. Martin Luther King DIO: Marcia F. Lambert

Jr. Place, Suite 322 ASAC: Richard E. Chase

Louisville, KY 40202

Telephone: 502-582-5211

Fax: 502-582-5634

MIAMI FIELD DIVISION

States Covered: South Florida, Puerto Rico DD/SAC: Patricia

L. Galupo

Address: 5225 NW 87th Avenue DIO: James P. Windau

3rd Floor ASAC: Hamilton Bobb

Miami, FL 33178 Roger G. Parker

Telephone: 305-597-4800

Fax: 305-597-4797

NASHVILLE FIELD DIVISION

States Covered: Alabama, Tennessee DD/SAC: James M. Cavanaugh

Address: Nashville Koger Center DIO: Harry McCabe

215 Centerview Dr., STE.215 ASAC: Vacant

Brentwood, TN 37027

Telephone: 615-781-5364

Fax: 615-781-6371

NEW ORLEANS FIELD DIVISION

States Covered: Arkansas, Louisiana, Mississippi DD/SAC: Guy

K. Hummel

Address: Heritage Plaza, Suite 1050 DIO: Nereida W. Levine

111 Veterans Boulevard ASAC: David L. Neiman

Metairie, LA 70005

Telephone: 504-589-2048

Fax: 504-589-2049

NEW YORK FIELD DIVISION

States Covered: New York (Metro), North New Jersey DD/SAC:

Peter L. Gagliardi

Address: 6 World Trade Center DIO: Lilia M. Vannett

Suite 600 ASAC: Edgar A. Dommenech

New York, NY 10048

Telephone: 212-466-5145

Fax: 212-466-5160

PHILADELPHIA FIELD DIVISION

States Covered: Pennsylvania, South New Jersey DD/SAC: Lawrence

L. Duchnowski

Address: US Custom House, RM 607 DIO: Audrey Stucko

2nd and Chestnut Streets ASAC: Robert F. Graham

Philadelphia, PA 19106 Gladys O. Jones

Telephone: 215-597-7266

Fax: 215-597-6116

PHOENIX FIELD DIVISION

States Covered: Arizona, Colorado, New Mexico, DD/SAC: Chris

P. Sadowski

Wyoming, Utah DIO: Thomas R. Crone

Address: 3003 North Central Ave., STE 1010 ASAC: Dale G. Joesting

Phoenix, AZ 85012 Tommy L. Wittman

Telephone: 602-640-2840

Fax: 602-640-2858

SAN FRANCISCO FIELD DIVISION

States Covered: North California, Nevada DD/SAC: John P. Malone

Address: 221 Main Street, Ste.125 DIO: Victoria J. Renneckar

Suite 1250 ASAC: Vacant

San Francisco, CA 94105

Telephone: 415-744-7013

Fax: 415-744-9443

SEATTLE FIELD DIVISION

States Covered: Alaska, Guam, Hawaii, Idaho, Oregon, DD/SAC:

John C. Ross

Washington DIO: John F. Daffron

Address: 915 2nd Avenue, RM. 806 ASAC: Gary L. Thomas

Seattle, WA 98174

Telephone: 206-220-6440

Fax: 206-220-6446

ST.PAUL FIELD DIVISION

States Covered: Minnesota, Montana, North Dakota DD/SAC: Craig

W. Valentik

South Dakota, Wisconsin DIO: John V. Jarowski

Address: 1870 Minnesota World Trade Center ASAC: Gerald A.

Nunziato

30 East Seventh Street

St. Paul, MN 55101

Telephone: 612-290-3092

Fax: 612-290-3363

TAMPA FIELD DIVISION

States Covered: North Florida DD/SAC: Ralph Ostrowski

Address: 500 Zack St., Suite 400 DIO: Raymond F. Conrad

Tampa, FL 33602 ASAC: Alexander J. D'Atri

Telephone: 813-228-2021

Fax: 813-228-2111

WASHINGTON FIELD DIVISION

States Covered: Virginia, Washington, DC DD/SAC: Patrick Hynes

Address: 607 14th ST. NW., STE 620 DIO: Gerard LaRusso

Washington, DC 20005 ASAC: Lewis P. Raden

Telephone: 202-927-4011 ASAC: Robert Whitney

Fax: 202-927-4024

Announcement 99-3

Offers in Compromise

Company/Individual

Location Amount Alleged

Premium Beverage Co., Inc. \$7,500 Violated Title 27, United

Opelika, AL States Code (U.S.C.),

§ 203 (c) and Title 27,

Code of Federal Regulations (CFR), §§ 1.40 and 1.42

**by purchasing malt beverages for resale at wholesale without
a basic permit.**

Announcement 99-4

Revocations

Permittees not engaged in the operations authorized by their permit for a period of more than (2) years are subject to revocation.

The following permit(s) have been revoked for this reason.

Company/Location Company/Location

**Balkan Import Corp. New York Thai International, Inc.
Brooklyn, NY Garden City Park, NY**

**Damon Biotech, Inc. Parkchester Beer Distributors, Inc.
Needham Heights, MA Bronx, NY**

**Danny's Beer and Soda, Inc. Ernest Steiner
New York, NY T/A Tap-A-Keg Beer Distributors
Elmhurst, NY**

**Distilled Trading International, Inc.
New York, NY Sullivan Beer Distributors, Inc.**

T/A Oasis Beverage

Eliezer Weingarten Brooklyn, NY

Brooklyn, NY

Syncap, Inc.

Knickerbocker Liquor Corporation Cambridge, MA

Syosset, NY

Louis St. Clair and Valerie Annette W & L Beverages, Corp.

Vaughn Massapequa, NY

Jamaica, NY

This was last updated on June 21, 1999