the mid-19th century. ''Dornfelder'' was approved as a varietal name under German wine regulations in 1980.

In the United States, the breeders have obtained plant variety protection through the Plant Variety Protection Act, 7 U.S.C. Chapter 57, until 2009. The petitioners planted 600 vines of this variety in 1997, which will bear a commercial crop in 2000. In addition, three other growers in the states of Virginia, Pennsylvania, and Michigan have planted this variety. Dornfelder plants have been offered for sale by American Nursery, located in California and Virginia, since 1996.

Notice No. 883

In Notice 883, published March 9, 2000, ATF proposed to add the name ''Dornfelder'' to the list of approved prime names in § 4.91. No comments were received. Because sufficient evidence was provided to satisfy the requirements under § 4.93, ATF is amending § 4.91 to include ''Dornfelder'' in the list of approved prime names for grape varieties.

3. Regulatory Analyses and Notices

Does the Paperwork Reduction Act Apply to This Final Rule?

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no requirement to collect information is proposed.

How Does the Regulatory Flexibility Act Apply to This Final Rule?

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will permit the use of the grape varietal name Dornfelder. No negative impact on small entities is expected. No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

Is This a Significant Regulatory Action as Defined by Executive Order 12866?

This is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

4. Drafting Information

The principal author of this document is Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer Protection, Customs duties and inspections, Imports, Labeling, Packaging and containers, and Wine.

Authority and Issuance

Accordingly, 27 CFR part 4, Labeling and Advertising of Wine, is amended as follows:

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

Authority: 27 U.S.C. 205.

Par. 2. Section 4.91 is amended by adding the name ''Dornfelder,'' in alphabetical order, to the list of prime grape names, to read as follows:

§ 4.91 List of approved prime names.

* * * * *

Dornfelder

* * * * *

Bradley A. Buckles,

Director.

Approved: August 11, 2000.

John P. Simpson,

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

[FR Doc. 00–31486 Filed 12–13–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–434; Re: Notice No. 874]

RIN 1512–AA07

Applegate Valley Viticultural Area [99R–112P]

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

ACTION: Final rule, Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is establishing a viticultural area located within the State of Oregon, to be known as ''Applegate Valley.'' The petition for this viticultural area was filed by Mr. Barnard E. Smith, President, The Academy of Wine of Oregon Inc. ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

EFFECTIVE DATE: February 12, 2001.

FOR FURTHER INFORMATION CONTACT: Tim DeVanney, Regulations Division, (202–927–8210), Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American viticultural areas (AVAs). The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

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 AVAs. Section 4.25a(e)(1), title 27, CFR, defines an AVA as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an AVA. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

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

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

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

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

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

Petition

ATF has received a petition from Mr. Barnard E. Smith, President, The Academy of Wine of Oregon Inc., proposing to establish a viticultural area within the State of Oregon, to be known as ''Applegate Valley.'' The viticultural area is located entirely within the Rogue Valley AVA. The viticultural area is in Josephine and Jackson Counties. Mr. Smith believes that Applegate Valley is a widely known name for the petitioned area, that the area is well defined, and

that the area is distinguished from other areas by its soil and climate.

The Applegate Valley has been a grape-growing region since 1870 when A. H. Carson began planting 30 acres of grapes along North Applegate Road. There are now 23 vineyards in the valley. In the original petition, Mr. Smith noted there were six bonded wineries and 235 acres of grapes in the proposed area. Since the publication of the notice, the petitioner amended his statement regarding the number of bonded wineries: there are four bonded wineries in the Applegate Valley. One commentor provided an acreage update by stating that there are now over 340 acres that have been planted to grapes within the Applegate Valley.

Notice of Proposed Rulemaking

In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 874, in the **Federal Register** on May 6, 1999 [64 FR 24308], proposing the establishment of the Applegate Valley viticultural area. The notice requested comments from interested persons by July 6, 1999.

Name Evidence

ATF found that usage of the name Applegate Valley is well established. There are many businesses, organizations and at least one community event (the Applegate Valley Harvest Festival), that employ the use of this name. The Applegate River was named for one or more of the Applegate brothers who explored the area in 1846. The U.S.G.S. map used to show the boundaries of the area (Medford, Oregon; California 1955, Revised 1976, (NK 10–5), scale 1:250,000) uses the name Applegate River and shows the town of Applegate within the Applegate Valley viticultural area. The following are evidence of Applegate Valley's name recognition.

- ''The Wine Appellations of Oregon'' map published by the Oregon Wine Marketing Coalition shows the Applegate Valley and mentions it in its notes.
- The Oxford Companion to Wine (first edition) mentions the Applegate Valley on page 693.
- The Oregon Winegrape Growers' Guide devotes several paragraphs to a discussion of the Applegate Valley as one of Oregon's grape-growing areas.
- Treasury Decision ATF–310 (The Rogue Valley Viticultural Area) refers to the Applegate Valley within the Rogue Valley viticultural area.

Geographical Features

Evidence of Boundaries and Topography

The boundaries of the viticultural area are within Jackson and Josephine Counties in the State of Oregon. The area is entirely within the Rogue Valley viticultural area. The Rogue Valley viticultural area has three distinct subregions: Applegate Valley and two other valleys that have not been designated as AVAs, Illinois Valley and Bear Creek Valley. The Illinois Valley lies to the west of the Applegate Valley and Bear Creek Valley lies directly to the east of the AVA.

The Applegate Valley is approximately 50 miles long, running from its southeast origins near the California border, in a generally northwest direction, to where it joins the Rogue River, just west of Grants Pass.

Applegate Valley is surrounded by the Siskiyou Mountains. The Siskiyou Mountains are believed to have been created in the Jurassic period by up-thrusts of the ocean floor as a plate forced its way under the continental shelf. To Applegate Valley's east and south is the Rogue River National Forest. To its west is the Siskiyou National Forest. Both of the National Forests' boundaries have been identified by the U.S. Forest Service and were used to identify the boundaries of the Applegate Valley AVA where appropriate. A portion of the western boundaries, and most of the northern boundaries, are established by straight-line segments drawn between prominent physical features of the terrain, mostly mountaintops. The boundaries of the Applegate Valley AVA are more particularly discussed in § 9.165(c) of the regulations, as identified at the end of this Treasury Decision.

Soil

The petitioner submitted a soil analysis listing the principal soil series from Applegate Valley, Bear Creek Valley and Illinois Valley vineyards. As indicated earlier, these three subregions are located in the Rogue Valley viticultural area. The principal soil series from vineyards located in each of these subregions are: (1) Applegate Valley: Central Point, Cove, Kerby, Manita, Ruch and Shefflein; (2) Bear Creek Valley: Agate-Winlow Complex, Brockman, Carney, Central Point, Coleman, Darrow, Evans, Holland, Medford, Provig-Agate Complex, Ruch, Selmac, Shefflein, Vannoy and Wapato; (3) Illinois Valley: Brockman, Cornutt-Dubakella Complex, Foehlin, Kerby, Pollard and Takilma. Based on this soil analysis, the Applegate Valley and Bear Creek Valley vineyards have three principal soil series in common: Central Point, Ruch and Shefflein. It is also apparent that Illinois Valley and Applegate Valley vineyards have one principal soil series in common, Kerby.

Soil types in the Applegate Valley are generally granite in origin as opposed to the volcanic origin of the Cascade Mountains to the east. Most of the Applegate Valley vineyards are planted on stream terraces or alluvial fans providing deep well-drained soils. The leaching of the more basic soil components found in the Illinois Valley have left the soil slightly more acidic than the soils in the Applegate Valley. The soils to the east of Applegate Valley near Bear Creek Valley tend to be less acidic than the soils in the Applegate Valley. Applegate Valley soils have a pH of between 6.1 and 6.5. In The Oregon Winegrape Growers' Guide, Ken Browning writes that a pH of 6.0 to 6.5 is ideal for desirable microbiological activity, nutrient availability, and nutrient balance.

Climate

The natural geographic boundaries of the Applegate Valley provide for its distinct climate in terms of rainfall, degree-days and temperature. Specifically, the Siskiyou Mountains separate the Applegate Valley's western side from the Illinois Valley and its eastern side from Bear Creek Valley. This further accentuates climatic differences between the three valleys, coupled with a lessening of the marine influence, when moving from a west to east direction.

According to The Oregon Winegrape Growers' Guide, ''As one moves from west to east, or from the Illinois River Valley including Selma to the Applegate Valley and into the Rogue Valley, good grape-growing sites generally become warmer due to the lessening of the marine air influence.'' The Oregon Winegrape Growers' Guide goes on to point out that earlier ripening varieties such as Pinot noir, Early Muscat, and Gewurztraminer, do well in the Illinois Valley. In contrast, the Applegate Valley with its Region II temperature range can ripen Cabernet Sauvignon, Merlot, and Chardonnay two to three weeks earlier than is possible in the Illinois Valley.

As mentioned earlier, Applegate Valley AVA is located in Jackson and Josephine Counties. The USDA Natural Resources Conservation Service, National Water and Climate Center, has climate data for Jackson and Josephine Counties, which is available from the USDA web site at *http://wcc.nrcs.*

usda.gov/water/climate/. Temperature and precipitation differences in Applegate Valley and surrounding areas are illustrated by the data collected during 1961 through 1990 at five weather stations. The Ruch weather station is located inside the Applegate Valley AVA boundaries and data from that site is used to approximate the climate conditions of this viticultural area. The four other weather stations located outside the AVA, are: (1) Cave Junction, located in the Illinois Valley, in Josephine County, which is in close proximity to the AVA's southwest boundaries; (2) Grants Pass, in Josephine County, which is in close proximity the AVA's northwest boundaries; (3) Medford, located in the Bear Creek Valley in Jackson County, which is in close proximity to the AVA's northeast boundaries; and (4) Ashland, also in Jackson County, which is in close proximity to the AVA's southeast boundaries.

Climatological statistics are as follows: Cave Junction (Illinois Valley) has an average annual precipitation of 59.57 inches. Average annual precipitation declines steadily, when proceeding in a generally eastern direction: starting with Grants Pass at 30.89 inches, into Applegate Valley at Ruch with 26.01 inches, then Medford, in Bear Creek Valley, with 20.56 inches and finally, Ashland reporting 19.26 inches. This illustrates the following precipitation differences when comparing each of the four weather sites with the Ruch (Applegate Valley) site: Cave Junction had the highest precipitation with 33.56 inches more than Ruch; Grants Pass had 4.9 inches more; Medford had 5.5 inches less; and Ashland with 6.8 inches less than Ruch. This shows that Applegate Valley has a distinct and measurable climatic difference from its surrounding areas in terms of average annual precipitation.

The growing degree-days records (from the same source as the precipitation records presented above) provide another climatic difference between the Applegate Valley and the surrounding areas. A growing degree-day is defined as a unit of heat available for plant growth. It is calculated by taking the average daily temperature (adding the maximum and minimum daily temperatures, then dividing by two) and subtracting the temperature below which growth is minimal for the principal crops in the area. The temperature threshold used for determining minimal growth was 40 degrees Fahrenheit. The temperature data places the average yearly degree-days at the Ruch site (Applegate Valley) at 5108. The average yearly degree-days, beginning with the stations outside of the Applegate Valley boundaries are as follows: Southwest at Cave Junction (Illinois Valley) registers 5008 degree-days; northwest at Grants Pass reported 5689; northeast at Medford (Bear Creek Valley) measured 5086, and southeast at Ashland had 4836. In comparing the degree-days of Ruch (Applegate Valley) with the four others, it is clear that a measurable difference in degree-days exists between Applegate Valley and the surrounding areas: The largest temperature variation was at Grants Pass, which had 583 more degree-days than Applegate Valley, and the smallest difference was at Medford (Bear Creek Valley), which had 20 degree-days less than Applegate Valley.

Comments on Notice of Proposed Rulemaking

ATF received 28 letters of comment in response to Notice No. 874. Of the 28 comments ATF received, 22 (with a total of 27 signatures) favored creating the Applegate Valley viticultural area; six (with a total of seven signatures) were opposed. The petitioner submitted additional supporting documentation about soil and climate for areas within and outside of the viticultural area, which was included in the rulemaking record. This information included soil maps, precipitation and temperature records. All of these comments were given careful consideration in the preparation of the final rule.

Commentors who supported the establishment of an Applegate Valley AVA confirmed that Applegate Valley has distinct weather and growing conditions. One respondent, Mr. Robert Kerivan, President of Bridgeview Vineyards, stated that the Applegate Valley is known for Bordeaux style grapes—merlot, syrah and cabernet sauvignon—specifically due to its warmer climate. Four of the commentors specifically noted the distinct soils of Applegate Valley along with six who cited the unique geographic features of the AVA. Climate was the most common basis for support with 16 commentors in favor of Applegate Valley's AVA approval.

The respondents opposed to establishing Applegate Valley viticultural area challenge the existence of significant differences between Applegate Valley and the surrounding Rogue Valley viticultural area. The majority of the opposition based their objection on the overall similarity of the climate and soils of the Rogue Valley viticultural area and the Applegate Valley. One commentor noted that the different soils of the Rogue Valley viticultural area are ''a jigsaw puzzle of soils which occur repeatedly in all parts of the region.'' Opponents want the Rogue Valley left as one area. Three of the six opposing commentors expressed concerns about the fragmenting of the Rogue Valley viticultural area. Two of these commentors stated that there should not be an Applegate Valley AVA since the quality of the wine is not distinct from those produced in the surrounding areas. Yet, both commentors describe the wine from Applegate Valley as ''bland'' and ''brash.'' One of the commentors voiced concerns about having ''a noticeable negative financial impact on the other established wineries and growers'' outside the Applegate Valley AVA.

ATF's Decision

ATF believes that the evidence supports the establishment of an Applegate Valley AVA. While ATF agrees there are similarities associated with Applegate Valley and the surrounding Rogue Valley, we believe that the confluence of distinctions, in soil, climate and name recognition, are sufficient to demarcate the Applegate Valley as an AVA. As evidenced above, the petition clearly satisfies the criteria in 27 CFR 4.25(a)(e)(2) with respect to name recognition, boundaries and geographical features. As set forth above, Applegate Valley is also recognized as having a distinct climate from the areas that surround it.

The Applegate Valley is encompassed by the Rogue Valley and, therefore, is considered a sub-appellation of the Rogue Valley. (A sub-appellation is the smaller delimited grape-growing region that is bounded by the larger delimited grape-growing region.) As with many sub-appellations, the similarities are implicitly recognized by the approval of the primary appellation. Rogue Valley, the primary appellation, and Applegate Valley, the sub-appellation, are not exceptions to this situation.

Marketing materials for Rogue Valley wineries, along with viticultural reference books, cite the Applegate Valley as a distinct sub-appellation. Ted Jordan Meredith, in his book Northwest Wine Companion, specifically describes the Applegate Valley as being ''one of the warmest grape-growing areas in western Oregon * * *''. A web page titled TOUR WINE COUNTRY by The Oregon Pinot Noir Club (http://www.oregonpinotnoir.com/Merchant/tourrgsm.htm) states that Rogue Valley has three distinct sub-appellations. Of these three areas, ''the Applegate Valley with a warmer climate is known for Cabernet Sauvignon, Cabernet franc, and Merlot.'' Another web site, WINES NORTHWEST—A GUIDE TO THE

WINE COUNTRY OF THE PACIFIC NORTHWEST (*http://www.winesnw.com/rogue.html*), mentions Applegate Valley as the smallest of Rogue Valley's sub regions. They state that Applegate Valley is ''drier and warmer than the Illinois Valley subregion to its west, yet not as warm and dry as Bear Creek Valley to the east.''

With respect to concerns about breaking up the Rogue Valley, as previously stated, Rogue Valley AVA encompasses Applegate Valley. In accordance with ATF regulations, an overlapping area is entitled to more than one viticultural designation. Wine that meets the criteria described in 27 CFR 4.25a(e)(4), may be labeled with Rogue Valley or Applegate Valley or with both viticultural areas as the appellation(s) of origin. Therefore, ATF does not view this as a fragmentation of the existing Rogue Valley, but as an option for wineries to provide consumers with more specific information about the origin of the wine.

Moreover, to the extent certain commentors opposed the establishment of the Applegate Valley AVA on the basis that the wine made from grapes produced in that area is not distinct or that the establishment of the Applegate Valley AVA will present an adverse financial impact on the area, these concerns are not criteria for denying a petition to establish an AVA under 27 CFR 4.27a(e)(2). Moreover, approval of an AVA does not, in any manner, constitute the endorsement of a particular wine. Rather, 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 a particular area.

Boundary

The boundaries of the Applegate Valley viticultural area may be found on one U.S.G.S. map titled ''Medford, Oregon; California'' (NK 10–5) scale 1:250,000 (1955, revised 1976). The boundaries are described in § 9.165.

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.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. 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 a particular area. No new requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

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 final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Tim DeVanney, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, 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. In subpart C is amended by adding § 9.165 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.165 Applegate Valley.

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

(b) *Approved maps.* The appropriate map for determining the boundaries of the Applegate Valley viticultural area is one U.S.G.S. map titled ''Medford, Oregon; California'' (NK 10–5) scale 1:250,000 (1955, revised 1976).

(c) *Boundaries.* The Applegate Valley viticultural area is located in the State of Oregon within Jackson and Josephine Counties, and entirely within the existing Rogue Valley viticultural area. The boundaries are as follows:

(1) Beginning at the confluence of the Applegate River with the Rogue River approximately 5 miles west of Grants Pass, the boundary proceeds due west to the boundary of the Siskiyou National Forest north of Dutcher Creek;

(2) Then in a straight line in a southerly and westerly direction along the boundary of the Siskiyou National Forest to Highway 199;

(3) Then in a straight line easterly to the peak of Roundtop Mountain (4693 feet);

(4) Then in a straight line easterly and southerly to the peak of Mungers Butte;

(5) Then in a straight line southerly and westerly to Holcomb Peak;

(6) Then in a generally southeasterly direction along the eastern boundary of the Siskiyou National Forest until it joins the northern boundary of the Rogue River National Forest;

(7) Then easterly along the northern boundary of the Rogue River National forest to a point due south of the peak of Bald Mountain;

(8) Then due north to the peak of Bald Mountain (5635 feet);

(9) Then in a straight-line northerly and westerly to the lookout tower on Anderson Butte;

(10) Then in a straight line northerly and westerly to the peak of an unnamed mountain with an elevation of 3181 feet;

(11) Then in a straight line northerly and westerly to the peak of Timber Mountain;

(12) Then in a straight line westerly and southerly to the middle peak of Billy Mountain;

(13) Then, northerly and westerly by straight lines connecting a series of five unnamed peaks with elevations of approximately 3600, 4000, 3800, 3400, and 3800 feet, respectively;

(14) Then in a straight line northerly and easterly to Grants Pass Peak;

(15) Then in a straight line westerly to Jerome Prairie;

(16) Then in a straight line northwesterly to the confluence of the Applegate River and the Rogue River and the point of the beginning.

Dated: October 16, 2000.

Bradley A. Buckles,

Director.

Approved: November 1, 2000.

John P. Simpson,

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

[FR Doc. 00–31595 Filed 12–13–00; 8:45 am]

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