

copies of the comments on this rulemaking, visit <http://www.atf.treas.gov/>, and select "Regulations," then "Notices of Proposed Rulemaking (Alcohol)," and then this notice. Then click on the "view comments" link.

### Paperwork Reduction Act

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.

### Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from that area.

No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

### Executive Order 12866

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

### Drafting Information

The principal author of this document is N. A. Sutton, Regulations Division (San Francisco), Bureau of Alcohol, Tobacco and Firearms.

### List of Subjects in 27 CFR Part 9

Wine.

### Authority and Issuance

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

### PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

### Subpart C—Approved American Viticultural Areas

*Par. 2.* Section 9.50 is amended by revising paragraph (a) and the introductory text of paragraphs (b) and (c) to read as follows:

#### § 9.50 Temecula Valley.

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

(b) *Approved map.* The approved maps for determining the boundary of the Temecula Valley viticultural area are seven U.S.G.S. quadrangle maps in the 7.5 minute series, as follows:

\* \* \* \* \*

(c) *Boundary.* The Temecula Valley viticultural area is located in Riverside County, California. The boundary is as follows:

\* \* \* \* \*

Signed: September 26, 2002.

Bradley A. Buckles,  
Director.

[FR Doc. 02-26677 Filed 10-18-02; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 9

[Notice No. 957]

RIN 1512-AC70

#### Proposal to Establish the Seneca Lake Viticultural Area (99R-260P)

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms is requesting comments from any interested party concerning the proposed establishment of the "Seneca Lake" viticultural area. The proposed Seneca Lake viticultural area encompasses about 204,600 acres of land surrounding Seneca Lake in upstate New York. The proposed area is located within the approved Finger Lakes viticultural area. The Bureau is taking this action under its Labeling and Advertising of Wine regulations.

**DATES:** Written comments must be received by December 20, 2002.

**ADDRESSES:** Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; (ATTN: Notice No. 957). To

submit comments by e-mail or fax, see the "Public Participation" section below.

A copy of the petition, the proposed regulations, the appropriate maps, and any written comments received in response to this notice of proposed rulemaking will be available for public inspection by appointment during normal business hours at the ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927-7890.

#### FOR FURTHER INFORMATION CONTACT:

Kristy Colón, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927-8210.

#### SUPPLEMENTARY INFORMATION:

#### Background on Viticultural Areas

*What Is ATF's Authority To Establish a Viticultural Area?*

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of deceptive information on such labels. The FAA Act also authorizes the Bureau of Alcohol, Tobacco and Firearms (ATF) to issue regulations to carry out the Act's provisions.

Regulations in 27 CFR part 4, Labeling and Advertising of Wine, 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. A list of approved viticultural areas is contained in 27 CFR, part 9, American Viticultural Areas.

*What Is the Definition of an American Viticultural Area?*

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Viticultural features such as soil, climate, elevation, topography, etc., distinguish it from surrounding areas.

*What Is Required To Establish a Viticultural Area?*

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 must include:

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;
- Evidence relating to the geographical features (climate, soil, elevation physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;
- 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
- A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

### Seneca Lake Petition

ATF has received a petition from Ms. Beverly Stamp of Lakewood Vineyards in Watkins Glen, New York proposing to establish the "Seneca Lake" viticultural area. The proposed area includes portions of Schuyler, Yates, Ontario, and Seneca counties in upstate New York and covers approximately 204,600 acres of primarily rural agricultural and forestland. Of that total, 3,756 acres are planted to grapes. There are currently 33 wineries on or near Seneca Lake, one of New York's eleven Finger Lakes. The Cayuga Lake viticultural area lies to the east of proposed area, and both are entirely within the established Finger Lakes viticultural area.

#### *What Evidence Was Provided To Show the Name "Seneca Lake" Is Locally or Nationally Known?*

According to the petitioner, Seneca Lake was named after the Seneca people of the Iroquois Nation who lived along its shores hundreds of years ago. Many local places and geographic features are named after the Seneca people. These include, for example, Seneca Lake, Seneca County, the Seneca River, Seneca Castle, Seneca Army Depot, and Seneca Lake State Park. An organization known as the Seneca Lake Winery Association includes many of the proposed area's wineries.

To demonstrate that the proposed area is locally and nationally known as "Seneca Lake," the petition included several newspaper and magazine articles as evidence of the name's use. In an article from the Rochester, New York Democrat and Chronicle newspaper of November 15, 1999, entitled "Your Land, Our Land: Finger Lakes in the Fast Lane," Ray Spencer, vice president of operations of Glenora

Wine Cellars, stated that many "already refer to Seneca Lake as 'the Napa Valley of the East.'" In the February 1997 issue of *Wines & Vines*, a California based magazine, author Philip Hiaring described his visit to the Seneca Lake region and his interviews with winery owners and winemakers.

In addition, Seneca Lake is mentioned in "The Oxford Companion to the Wines of North America." The book states that Seneca Lake is encircled by more than two dozen wineries, is one of the two largest Finger Lakes, and is the deepest with the greatest heat storing capacity, offering the surrounding hillsides the strongest mesoclimatic benefit. While the lake's first winery was built in 1866, the book notes that the 1980s saw a wave of winery openings when the appearance of vinifera varieties brought new momentum to the region's grape-growing industry.

#### *What Boundary Evidence Was Provided?*

The boundaries of the proposed Seneca Lake viticultural area encompass about 204,600 acres of largely rural land surrounding Seneca Lake, the largest of upstate New York's eleven Finger Lakes. While some of the road names used in the boundary description do not appear on the submitted U.S.G.S. maps, the petitioner provided the locally known names of these roads, as well as a more detailed map of the town of Watkins Glen indicating minor roads.

Using roads and streams, the petitioner drew the proposed Seneca Lake viticultural area's boundaries to contain the vineyards influenced by the lake's climatic effect. In addition, the petition notes, distinct ridges divide Seneca Lake from its closest neighbor, Cayuga Lake, and the nearly 800-foot elevation change within the 7.5 miles between them gives the two lakes their own microclimates.

#### *What Evidence Relating to Geographical Features Was Provided?*

The "lake effect" weather phenomenon makes the proposed Seneca Lake viticultural area a "unique and superb" wine-growing region, according to the petitioner. The "Oxford Companion to Wine", published by the Oxford University Press, Inc., New York, describes the lake effect as "the year-round influence on vineyards from nearby large lakes which permits vine-growing in the northeast United States and Ontario in Canada despite their high latitude."

The "Oxford Companion" also notes that the lake effect's influence on grape vines changes with the seasons. While

the lakes provide moisture to the prevailing westerly winds in winter and prevent vines from freezing even in very low temperatures, in spring:

\* \* \* the westerly winds blow across the frozen lake and become cooler. These cooler breezes blowing on the vines retard bud-break until the danger of frost has passed. In summer the lake warms up. By autumn/fall, the westerly winds are warmed as they blow across the lake. The warm breezes on the vines lengthen the growing season (balancing the late start to the growing season) by delaying the first frost.

The petitioner also provided an extract from Richard Figiel's book "Culture in a Glass," that describes how the lake effect phenomenon affects the Finger Lakes region. Noting that both Seneca and Cayuga Lakes drop well below sea level, Figiel states that since the lakes are "(n)arrow slices of water with relatively little surface area, they tend to maintain a stable temperature throughout the year." This causes the lakes to act as a large radiator for the surrounding area during the winter months. "Not only do the lakes take the edge off frigid upstate winters, often keeping vineyards 10–15° warmer than locations just a half mile away," the book adds, "but they also cushion the transitions of spring and fall." Figiel also points out that the "(d)istinct microclimates along the hillsides rising from the lakeshores make it possible to reliably ripen grapes in a region that is generally too cold for viticulture

\* \* \*."

The petitioner states that it is the size and depth of Seneca Lake that gives the lake its ability to influence the local climate. Seneca Lake is the largest of the Finger Lakes, covering 67.7 square miles, is 35.1 miles long, and is an average of 1.9 miles wide with a shoreline of 75.4 miles. It has a volume of 4.2 trillion gallons with a maximum depth of 635 feet. Below 150 feet, the lake's water temperature remains 39 °F (4 °C) year around. Above that depth, the water temperature varies seasonally. While Seneca Lake chills down, the petition adds, it rarely freezes during the winter months. The petition also notes that the Seneca region has the longest frost-free period in the Finger Lakes, with a growing season of about 190 days. In contrast, neighboring Cayuga Lake's growing season is only 165 to 170 days long.

Seneca Lake's latent heat storage capacity alters the local climate to such an extent, the petition states, that grapes can be grown in an area where they otherwise would not survive the cold temperatures of early spring, or the late

autumn frosts. Together with the good air drainage offered by the slopes leading to its shore, the lake's water temperature provides cool breezes in the spring, preventing early bud break in the fruit. In the fall, the lake's warmth delays early frosts, and in the winter it raises temperatures so that bud damage is lessened.

It is this ability to protect a crop from extreme temperatures, during both the growing and dormant seasons that makes the proposed Seneca Lake viticultural area distinct from surrounding areas, according to the petitioner. This lake effect is strongest within about one-half mile of Seneca Lake. For this reason, the more tender vinifera varieties are planted within this zone, while hardier American varieties and hybrids can be planted higher on the slopes. The petitioner adds that smaller lakes, even those the size of Cayuga Lake, do not have the same level of latent heat capacity and, therefore, do not modify the local climate to the same extent as Seneca Lake.

#### Regulatory Analyses and Notices

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

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

##### *How Does the Regulatory Flexibility Act Apply to This Proposed Rule?*

ATF certifies that the proposed regulations will not have a significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of a grape-growing 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 area.

No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

##### *Does the Paperwork Reduction Act Apply to This Proposed Rule?*

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 of proposed rulemaking because no new or revised record keeping or reporting requirements is proposed.

#### Public Participation and Request for Comments

##### *Who May Comment on This Notice?*

ATF requests comments from all interested parties. In addition, ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so. However, assurance of consideration can only be given to comments received on or before the closing date.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

##### *Can I Review Comments Received?*

Copies of the petition, the proposed regulations, the appropriate maps, and any written comments received will be available for public inspection by appointment at the ATF Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226. To make an appointment, telephone 202-927-7890. You may request copies (at 20 cents per page) of the comments received in response to this notice by writing to the ATF Reference Librarian at the address shown above.

For the convenience of the public, ATF will post comments received in response to this notice on the ATF web site. All comments posted on our web site will show the name of the commenter, but will have street addresses, telephone numbers and e-mail addresses removed. We may also omit voluminous attachments or material that we do not consider suitable for posting. In all cases, the full comment will be available in the ATF Library as noted above. To access online copies of the comments on this rulemaking, visit <http://www.atf.treas.gov/>, and select "Regulations," then "Proposed rules (alcohol)" and this notice. Click on the "view comments" link.

##### *Will ATF Keep My Comments Confidential?*

ATF will not recognize any comment as confidential. All comments and

materials may be disclosed to the public. If you consider your material to be confidential or inappropriate for disclosure to the public, you should not include it in your comments. We may also disclose the name of any person who submits a comment.

##### *How Do I Send Facsimile Comments?*

You may submit comments by facsimile transmission to (202) 927-8525. Facsimile comments must:

- Be legible.
- Reference this notice number.
- Contain a legible written signature.
- Be on not more than five 8½ by 11" pages.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

##### *How Do I Send Electronic Mail (E-Mail) Comments?*

You may submit comments by e-mail by sending the comments to [nprm@atfhq.atf.treas.gov](mailto:nprm@atfhq.atf.treas.gov). You must follow these instructions. E-mail comments must:

- Contain your name, mailing address, and e-mail address.
- Reference this notice number.
- Be legible when printed.

We will not acknowledge receipt of e-mail. We will treat comments submitted by e-mail as originals.

##### *How Do I Send Comments to the ATF Internet Web Site?*

You may also submit comments using the comment form provided with the online copy of the proposed rule on the ATF Internet web site at <http://www.atf.treas.gov>.

#### Drafting Information

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

#### List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Alcohol and alcoholic beverages, Consumer protection, and Wine.

#### Authority and Issuance

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

#### PART 9—AMERICAN VITICULTURAL AREAS

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

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

### Subpart C—Approved American Viticultural Areas

**Par. 2.** Subpart C is amended by adding § 9.xxx to read as follows:

#### § 9.xxx Seneca Lake.

(a) *Name.* The name of the viticultural area described in this section is “Seneca Lake”.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Seneca Lake viticultural area are 13 United States Geological Survey (U.S.G.S.) topographic maps (Scale: 1:24,000). The maps are titled:

(1) Burdett Quadrangle (New York-Schuyler Co. 1950 (photoinspected 1976));

(2) Montour Falls Quadrangle (New York 1978 (photorevised));

(3) Bever Dams Quadrangle (New York 1953);

(4) Reading Center Quadrangle (New York 1950 (photorevised 1978));

(5) Dundee Quadrangle (New York 1942 (photoinspected 1976));

(6) Dresden Quadrangle (New York 1943 (photorevised 1978));

(7) Penn Yan Quadrangle (New York-Yates Co. 1942 (photoinspected 1976));

(8) Stanley Quadrangle (New York 1952);

(9) Phelps Quadrangle (New York-Ontario Co. 1953);

(10) Geneva North Quadrangle (New York 1953 (photorevised 1976));

(11) Geneva South Quadrangle (New York 1953 (photorevised 1978));

(12) Ovid Quadrangle (New York-Seneca Co. 1970); and

(13) Lodi Quadrangle (New York 1942).

(c) *Boundaries.* The Seneca Lake viticultural area is located in portions of Schuyler, Yates, Ontario, and Seneca counties in New York. The boundaries are as follows: Beginning in the town of Watkins Glen at the State Route 414 bridge over the New York State Barge Canal:

(1) Follow the New York State Barge Canal south approximately 0.2 miles to the mouth of Glen Creek, on the Burdette, N.Y. map;

(2) Follow Glen Creek upstream (west), crossing the Montour Falls, N.Y. map and continuing to the Van Zandt Hollow Road bridge on the Beaver Dams, N.Y. map;

(3) Proceed north on Van Zandt Hollow Road to Cross Road;

(4) Continue north on Cross Road, which changes to Cretsley Road, to its intersection with Mud Lake Road (County Road 23) on the Reading Center, N.Y. map;

(5) Proceed west approximately 0.7 miles on County Road 23 to the intersection with Pre-emption Road;

(6) Then continue north on Pre-emption Road along the Dundee, N.Y., Penn Yan, N.Y. and Dresden, N.Y. maps, for approximately 18 miles to its junction with an unnamed light duty road just east of Keuka Lake Outlet on the Penn Yan, N.Y. map;

(7) Follow the unnamed light duty road across the Keuka Outlet, traveling approximately 0.3 miles to its junction with an unnamed light duty road, known locally as Outlet Road, in Seneca Mills;

(8) Follow Outlet Road west along the north bank of the Keuka Outlet approximately 0.6 miles, until the road forks;

(9) At the fork, continue north approximately 1 mile, on an unnamed light duty road known locally as Stiles Road, to its junction with Pre-emption Road.

(10) Then proceed north 14.6 miles on Pre-emption Road across the Stanley, N.Y. map, to an unnamed medium duty road (known locally as County Road 4), on the Phelps, N.Y. map;

(11) Then proceed west approximately 4.5 miles on County Road 4 to its intersection with Orleans Road in Seneca Castle;

(12) Then proceed north on Orleans Road, which becomes Seneca Castle Road, for 2.1 miles, to Warner Corners where the name of the road changes to Wheat Road;

(13) Continue north from Warner Corners on Wheat Road approximately 1.9 miles to its intersection with State Route 88;

(14) Continue north on State Route 88 approximately 1.4 miles, to its intersection with State Route 96 at Knickerbocker Corner;

(15) Continue east on State Route 96 approximately 10.4 miles, to the intersection with Brewer Road on the Geneva North, N.Y. map;

(16) Follow Brewer Road south approximately 1.8 miles to the intersection with U.S. Route 20/State Route 5;

(17) At the intersection of Brewer Road and U.S. Route 20/State Route 5, continue south approximately 0.1 miles, following an imaginary line to the south bank of the Seneca River;

(18) Follow the south bank of the Seneca River east approximately 0.1 miles to the mouth of the Kendig Creek;

(19) Continue south following the Kending Creek approximately 3.3 miles to the Creek's intersection with Yellow Tavern Road on the Geneva South, N.Y. map;

(20) Follow Yellow Tavern Road west approximately 0.1 miles, to its intersection with Post Road;

(21) Follow Post Road south approximately 1.4 miles to the junction with State Route 96A;

(22) Then follow State Route 96A south 17.5 miles across the Dresden, N.Y., Ovid, N.Y., and Lodi, N.Y. maps to the village of Lodi;

(23) In Lodi, continue south where State Route 96A changes to S. Main Street and then changes to an unnamed medium duty road (known locally as Center Road-Country Road 137);

(24) Continue south on Center Road-Country Road 137 for approximately 4.9 miles to the Seneca/Schuyler County Line;

(25) Then proceed west 0.5 miles on the county line to Logan Road;

(26) Then proceed 8.6 miles south on Logan Road to State Route 227 (identified by the petitioner as State Route 79) on the Burdette, N.Y. map;

(27) Then proceed approximately 800 feet east on Route 227 to Skyline Drive;

(28) Then proceed south on Skyline Drive for 2.5 miles to an unnamed stream;

(29) Follow the unnamed stream west approximately 0.6 miles to its intersection with State Route 414;

(30) Continue west on State Route 414 approximately 0.5 miles to the beginning point on the bridge over the New York State Barge Canal.

Signed: September 24, 2002.

**Bradley A. Buckles,**

*Director.*

[FR Doc. 02-26678 Filed 10-18-02; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-02-023]

RIN 2115-AE47

### Drawbridge Operation Regulation; Houma Navigation Canal, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to modify the existing drawbridge operation regulation for the draw of the SR661 bridge across the Houma Navigation Canal, mile 36.0, at Houma, Terrebonne Parish, Louisiana. The modification will allow for the morning closure period to be increased by 30 minutes to facilitate the movement of