

DEPARTMENT OF THE TREASURY**Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

RIN 1512-AC60

[TTB Notice No. 8]**San Bernabe and San Lucas Viticultural Areas (2001R-170P)****AGENCY:** Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes the establishment of the San Bernabe viticultural area (the proposed area) and the realignment of the adjacent San Lucas viticultural area. Both viticultural areas exist entirely within the Central Coast and Monterey viticultural areas and within Monterey County, California. The proposed San Bernabe viticultural area consists of 24,796 acres that the petitioner states are predominantly rolling hills of sandy soils. The realignment would transfer 1,281 acres of rolling, sandy land from the northwest San Lucas area to the south San Bernabe area. This proposed realignment would avoid splitting a large vineyard between two viticultural areas and prevent overlapping of viticultural areas. Claude Hoover of Delicato Family Vineyards, Monterey, California, filed both petitions.

DATES: We must receive written comments by July 14, 2003.

ADDRESSES: You may send comments to any of the following addresses—

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, PO Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 8);
- 202-927-8525 (facsimile);
- nprm@ttb.gov (e-mail); or
- <http://www.ttb.gov> (An online comment form is posted with this notice on our Web site).

You may view copies of this notice and any comments received at <http://www.ttb.gov> or by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226; phone 202-927-7890.

See the Public Participation section of this notice for specific instructions and requirements, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Specialist, Regulations and Procedures Division (California), TTB,

PO Box 4644, Petaluma, California 94955-4644; telephone 415-271-1254.

SUPPLEMENTARY INFORMATION:**TTB Background***What Is the Impact of the Homeland Security Act on Rulemaking?*

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms (ATF) into two new agencies, the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. Regulation of wine labeling, including viticultural area designations, is the responsibility of the new TTB. References to ATF in this document relate to events that occurred prior to January 24, 2003, or to functions that the Bureau of Alcohol, Tobacco, Firearms and Explosives continues to perform.

Background on Viticultural Areas*What Is TTB'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, while prohibiting the use of deceptive information on such labels. The FAA Act also authorizes TTB 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 and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR Part 9, American Viticultural Areas, contains the list of approved viticultural areas.

What Is the Definition of an American Viticultural Area?

Title 27 CFR 4.25a(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundaries have been delineated in subpart C of part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of wine made from grapes grown in an area to its geographical origin.

What Is Required To Establish a Viticultural Area?

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Anyone interested may petition TTB to establish a grape-

growing region as a viticultural area. The petition must include—

- Evidence of local and/or national name recognition of the proposed viticultural area as the area specified in the petition;
- Historical or current evidence that the proposed viticultural area's boundaries are as specified in the petition;
- Evidence of geographical characteristics, such as climate, soil, elevation, physical features, etc., that distinguish the proposed area from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features reflected on United States Geological Survey (USGS) approved maps of the largest applicable scale; and
- A copy (or copies) of the USGS-approved map(s) with the boundaries prominently marked.

Will This Proposal Impact on Current Wine Labels?

If this proposed viticultural area is established, bottlers who use brand names like the name of the viticultural area may be affected. If you do use a brand name like San Bernabe, you must ensure that your existing products are eligible to use the name of the viticultural area as an appellation of origin. For a wine to be eligible, at least 85 percent of the grapes in the wine must have been grown within the viticultural area.

If the wine is not eligible to use the appellation, you must change the brand name of that wine and obtain approval of a new label. Different rules apply if you label a wine in this category with a label approved before July 7, 1986. See 27 CFR 4.39(i) for details. Additionally, where the name of a viticultural area is presented on a wine label in a context other than as the claimed appellation of origin, then the use of such a viticultural area name is subject to the general prohibitions against misleading representation in part 4 of the regulations.

San Bernabe and San Lucas Petitions

We received two petitions proposing (1) the establishment of a new viticultural area to be named San Bernabe and (2) a realignment of the adjacent, established San Lucas viticultural area. Both areas are located in central Monterey County, California. The proposed San Bernabe viticultural area encompasses 24,796 acres, of which 7,636 acres are vineyard. The petitioned realignment of the San Lucas viticultural area would transfer 1,281 acres to the proposed San Bernabe

viticultural area, create a common boundary line between the two areas, and avoid overlapping of the viticultural areas. Claude Hoover of Delicato Family Vineyards, Monterey, California, filed both petitions.

What Name Evidence Related to San Bernabe Has Been Provided?

According to the 1991 publication of "Monterey County Place Names, A Geographical Dictionary," by Donald Thomas Clark, Father Pedro Font, a member of the California expedition of Spanish explorer DeAnza, documented the initial reference to San Bernabe on March 8, 1776. He wrote in his diary, "we had passed a spur of the Sierra de Santa Lucia * * * The road at first runs through a spur of mountains, until it descends to a wide valley called the Cañada de San Bernabe." Eventually the area became known as "Rancho San Bernabe."

The Thompson Canyon and San Lucas USGS quadrangle maps prominently identify the area as San Bernabe. The relevant Thomas Guide labels this area Rancho San Bernabe. The TopoZone map Web site identifies this rural area as San Bernabe.

The 13,000-acre San Bernabe vineyard, with 7,636 acres planted to grapes, sits almost entirely within the proposed new and realignment viticultural areas. The petitioner explains that the small portion of the vineyard estate outside these proposed boundaries is unplanted and unsuitable for grape cultivation. The San Bernabe vineyard estate is recognized as the largest continuous vineyard estate under a single ownership in the free world, according to the petitioner.

What Historical/Current Evidence Supports the Boundaries as Specified?

According to the 1991 "Monterey County Place Names, A Geographical Dictionary," the San Bernabe area land grants were given to Jesus Molina in 1841 and in 1842 to Petronillo Rios. In 1842 Rios bought the Molina land grant and the Rios family began raising cattle and crops on this land and producing wine from their own grapes. The Rios ranch, known as Rancho San Bernabe, eventually became a successful vineyard and wine producing property.

According to the petitioner, in the 1970s Prudential-Southdown purchased the San Bernabe acreage for vineyard development. The petitioner explains that in 1988 the Delicato family bought the San Bernabe vineyard for its premium and super-premium wine market potential. The San Bernabe vineyard estate occupies 52 percent of

the proposed viticultural area of the same name.

The petitioner defines the proposed San Bernabe viticultural area boundaries on USGS maps by connecting benchmarks, mountain peaks, and other geographical features with straight lines and by using several existing roads that follow the hilly terrain and soil changes.

The proposed San Bernabe viticultural area shares portions of its west and southwest boundary lines with the surrounding Monterey viticultural area, which is also surrounded by the Central Coast viticultural area. If the petitioned realignment is approved, the proposed San Bernabe area will share its southeast boundary with the San Lucas viticultural area. According to the petitioner, the transfer of 1,281 acres of the San Lucas viticultural area to the San Bernabe proposed viticultural area would better define the geographical differences between the established San Lucas and the proposed San Bernabe viticultural areas and avoid splitting an existing vineyard between viticultural areas.

What Geographical Features Distinguish San Bernabe From Other Areas?

The proposed San Bernabe viticultural area is located immediately south of King City in the long Salinas Valley. The approximately 9-mile-long and 7-mile-wide proposed viticultural area occupies the valley floor and rolling foothills from the Salinas River west to the Santa Lucia Mountains. The petitioner explains the unique qualities of the San Bernabe area include its climate, water quality, wind-produced eolian soils, and rolling hills. The petitioner claims that the 1,281 acres proposed for realignment possess the similar eolian soils, rolling hills topography, and the same irrigation water quality of the petitioned San Bernabe viticultural area.

Soil

Grapes grow below the 700-foot elevation level on rolling hills in wind-produced eolian soils, according to the petition. The Oceano, Garey, and Garey-Oceano complex eolian soil types, which are well to excessively well-drained, dominate the petitioned San Bernabe viticultural area. The petitioner states that small niches of alluvial soils, derived from the shale-based Santa Lucia Mountains, lie within the petitioned area and immediately to the north and south of the proposed boundary lines.

The surrounding, larger Monterey viticultural area consists of only 1.6 percent eolian soils, and the alluvial

Lockwood series soils dominate the adjacent San Lucas viticultural area, according to the petitioner. The proposed realignment area possesses a predominance of the wind-produced eolian soils that contrast to the alluvial type soils of the San Lucas area. Above and west of the 700-foot contour line, the soils are derived from the shale-based Santa Lucia Mountains. The bench soils along the east boundary are common to the Salinas River area. East of the proposed viticultural area, the Gabilan Mountain Range includes calcareous sandstone, shale, and siltstone, which come from a different source material, according to the petitioner.

Climate

The petitioner explains that the Salinas Valley forms a broad funnel for the strong, cool, afternoon marine winds coming off Monterey Bay during the warm months. The winds are drawn inland and south through the Salinas Valley by rising, warm air and moderate the valley's high and low temperatures to varying degrees, which produces a graduated effect within the Salinas Valley. As a result, the proposed San Bernabe area is warmer than viticultural areas to the north and that are closer to Monterey Bay and cooler than the adjoining San Lucas viticultural area to the immediate south, according to the petition.

The moderating effect dissipates as the winds travel inland, creating a series of temperature-unique, grape-growing areas within the long Salinas Valley. San Bernabe, at 60 miles south of the Monterey Bay, averages a 30-degree daily temperature variation, while Salinas, at 17 miles from the Monterey Bay, averages an 18-degree daily temperature variation, according to the petition.

The cool night air helps retain the grapes' acid and color, while the daily heat encourages ripeness and flavor. The petition states that the San Bernabe area averages 30 frost-days annually, while Salinas, closer to Monterey Bay, averages only four frost-days.

According to the petitioner, most rain falls at the Salinas Valley's extreme north and south ends. Less rain falls in between, including the proposed viticultural area. The petition states that the San Bernabe area averages 13 inches annual rainfall, while Salinas at the north end averages 17.5 inches, and Paso Robles at the south end averages 19 inches.

Water Resources

The petitioner explains that irrigation water is used extensively in the

vineyards. The water comes from area reservoirs and contains small amounts of carbonates and nitrates, which benefits the grapevines and soil. Toward the Monterey Bay, water quality declines as nitrate and carbonate levels increase, according to the petitioner.

What San Lucas Boundary Descriptions Have Been Provided?

We are considering the San Bernabe petition and a revision of the north boundary of the San Lucas viticultural area as defined in 27 CFR 9.56 at the same time. The proposed revision would reduce the San Lucas viticultural area from 34,642 to 33,361 acres, a loss of 3.5 percent, or 1,281 acres, which would be incorporated into the proposed San Bernabe viticultural area. A series of high elevation boundary points establishes the San Lucas area north border and currently overlaps the south boundary line of the proposed San Bernabe viticultural area. The San Lucas north boundary line bisects seven of the petitioner's vineyard blocks. Ninety percent of the large San Bernabe vineyard estate is within the proposed San Bernabe viticultural area, and ten percent is within the San Lucas viticultural area, according to the petitioner. Approval of the San Lucas realignment would avoid a division of this vineyard.

In support of the San Lucas boundary revision, the petitioner indicates that the soils in this area closely reflect the sandy loam soils of the San Bernabe area. The 1972 U.S. Department of Agriculture, Soil Conservation Service, Soil Survey of Monterey County map documents a change from the Oceano loamy sand and Garey sandy loam soils that dominate the San Bernabe area to the Greenfield, Lockwood, and Metz soils that dominate the San Lucas area. The petitioner explains that the same climate and irrigation factors exist in the proposed 1,281-acre realignment area and the proposed new San Bernabe viticultural area, as is demonstrated by the petitioner's uniform viticulture practices within the 13,000-acre vineyard estate.

What Maps Reflect the Boundaries of the Proposed San Bernabe Viticultural Area and the Boundary Revision of the San Lucas Viticultural Area?

The petitioned new San Bernabe viticultural area and the established San Lucas viticultural area are located in Monterey County, California. Four USGS-published, 1:24,000 scale topographic maps define the boundaries of the proposed San Bernabe viticultural area. The maps are—

(1) Thompson Canyon Quadrangle, California-Monterey County, 7.5 Minute Series, 1949 edition (photorevised 1984);

(2) San Lucas Quadrangle, California-Monterey County, 7.5 Minute Series, 1949 edition (photorevised 1984);

(3) Espinosa Canyon Quadrangle, California-Monterey County, 7.5 Minute Series, 1949 edition (photorevised 1979); and

(4) Cosio Knob Quadrangle, California-Monterey County, 7.5 Minute Series, 1949 edition (photorevised 1984).

The USGS publishes the two maps used to mark the boundaries of the San Lucas viticultural area's proposed realignment. The scale is 1:24,000, and the maps are—

(1) Espinosa Canyon Quadrangle, California-Monterey County, 7.5 Minute Series, 1949 edition (photorevised 1979); and

(2) San Lucas Quadrangle, California-Monterey County, 7.5 Minute Series, 1949 edition (photorevised 1984).

This proposed realignment area is an angular strip of land in the northwest San Lucas viticultural area, adjacent to the proposed San Bernabe viticultural area.

Public Participation

Who May Comment on This Notice?

We request comments from anyone interested. TTB is particularly interested in whether the adjustment of the San Lucas viticultural area boundaries will impact other vineyards or wineries. Please support your comments with specific information about the proposed area's name, growing conditions, or boundaries. All comments must include your name and mailing address, reference this notice number, and be legible and written in language acceptable for public disclosure.

Although we do not acknowledge receipt, we will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if we can. We regard all comments as originals.

Will TTB Keep My Comments Confidential?

We do not recognize any submitted material as confidential. All comments are part of the public record and subject to disclosure. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

How Can I Get Information About This Notice?

You may view copies of the petition, the proposed regulation, the appropriate maps, and any comments received by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226. You may also obtain copies at 20 cents per 8.5 11-inch page. Contact the ATF Librarian at the above address or telephone 202-927-7890 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and the comments received on the TTB Web site. All posted comments will show the names of commenters but not street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the ATF Reference Library. To access the online copy of this notice, visit <http://www.ttb.gov> and select "Alcohol," then "Rules and Regulations," then "Notices of proposed rulemaking (Alcohol)." Select the "View Comments" link under this notice number to view the posted comments.

How Should I Submit Comments?

You may submit comments in any of four ways.

- *By mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.

- *By facsimile:* You may submit comments by facsimile transmission to 202-927-8525. Faxed comments must—

- (1) Be on 8.5-by 11-inch paper;

- (2) Contain a legible, written signature; and

- (3) Be five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *By e-mail:* You may e-mail comments to nprm@ttb.gov. Comments transmitted by electronic-mail must—

- (1) Contain your e-mail address;

- (2) Reference this notice number on the subject line; and

- (3) Be legible when printed on 8.5-by 11-inch paper.

- *By online form:* We provide a comment form with the online copy of this notice on our Web site at <http://www.ttb.gov>. Select "Alcohol," then "Rules and Regulations," then Notices of proposed rulemaking (Alcohol)." Select the "Send comments via email" link under this notice number.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to

determine, in light of all circumstances, whether a public hearing will be held.

Regulatory Analyses and Notices

Does the Paperwork Reduction Act Apply to This Proposed Rule?

We propose no requirement to collect information. Therefore, 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.

Does the Regulatory Flexibility Act Apply to This Proposed Rule?

We certify that this regulation, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses. The proposal imposes no new reporting, recordkeeping, or other administrative requirements.

The establishment of viticultural areas represents neither our endorsement nor approval of the quality of wine made from grapes grown in the areas. Rather, it is a system that identifies areas distinct from one another. In turn, identifying viticultural areas lets wineries describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Thus, any benefit derived from using a viticultural area name results from the proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Is This Proposed Rule a Significant Regulatory Action?

This proposed rule is not a "significant regulatory action" as defined by Executive Order 12866. Therefore, no regulatory assessment is required.

Drafting Information

The principal author of this document is N. A. Sutton (California), and the editor is Jane R. Stefanik (Washington, DC), Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

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

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

Authority: 27 U.S.C. 205.

2. Subpart C is amended by adding Section 9.11 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.11 San Bernabe

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

(b) *Approved Maps.* The appropriate maps for determining the boundary of the San Bernabe viticultural area are four 1:24,000 scale, USGS-published topographic maps. They are titled:

(1) Thompson Canyon Quadrangle, California-Monterey County, 1949 (photorevised 1984).

(2) San Lucas Quadrangle, California-Monterey County, 1949 (photorevised 1984).

(3) Espinosa Canyon Quadrangle, California-Monterey County, 1949 (photorevised 1979).

(4) Cosio Knob Quadrangle, California-Monterey County, 1949 (photorevised 1984).

(c) *Boundary.* The proposed viticultural area is located in central Monterey County, south of King City, California, and west of highway 101. The point of beginning is benchmark 304, located one-half mile southwest of King City, along the Salinas River, in Township 20 South (T20S) and Range 8 East (R8E) (Thompson Canyon Quadrangle); then

(1) Proceed southeast in a straight line for 2.35 miles to benchmark 304, at the intersection of a trail and the 300-foot contour line, between highway 101 and the Salinas River, in T20S and R8E (San Lucas Quadrangle); then

(2) Proceed southeast in a straight line for 2.9 miles to benchmark 336, between highway 101 and the Salinas River, in T20S and R8E (San Lucas Quadrangle); then

(3) Proceed southeast in a straight line for 3 miles to benchmark 340, between U.S. highway 101 and the Salinas River, in T21S and R9E (San Lucas Quadrangle); then

(4) Proceed south in a straight line for 0.8 mile to the intersection of the Salinas River and the highway 198 bridge, in T21S and R9E (Espinosa Canyon Quadrangle); then

(5) Proceed southwest along highway 198 for 0.6 mile to its intersection with an unnamed light duty road, in T21S and R9E (Espinosa Canyon Quadrangle); then

(6) Proceed northwest, followed by southwest, about 1.2 miles along the meandering, unnamed, light duty road to its intersection with the fork of an intermittent stream, in T21S and R8E (Espinosa Canyon Quadrangle); then

(7) Proceed southwest in a straight line for 0.6 mile to the 595-foot peak, Section 13, in T21S and R8E (Espinosa Canyon Quadrangle); then

(8) Proceed southwest in a straight line for 1.3 miles to the 788-foot peak, section 23, in T21S and R8E (Espinosa Canyon Quadrangle); then

(9) Proceed southwest in a straight line for 0.7 mile to the intersection of the unimproved road and jeep trail, east of the 73-degree longitudinal line, section 26, in T21S and R8E (Espinosa Canyon Quadrangle); then

(10) Proceed northwest in a straight line for 3.2 miles to the northwest corner of section 16, in T21S and R8E (Espinosa Canyon Quadrangle); then

(11) Proceed southwest in a straight line for 1.5 miles to the northeast corner of section 19, in T21S and R8E (Cosio Knob Quadrangle); then

(12) Proceed southwest in a straight line for 2.2 miles to the southwest corner of section 24, in T21S and R7E (Cosio Knob Quadrangle); then

(13) Proceed north in a straight line for 2 miles to the northwest corner of section 13, in T21S and R7E (Cosio Knob Quadrangle); then

(14) Proceed east in a straight line for 1 mile to the northeast corner of section 13, in T21S and R7E (Cosio Knob Quadrangle); then

(15) Proceed north in a straight line for 2 miles, along the R7E and R8E common boundary line, to the northwest corner of section 6, in T21S and R8E (Thompson Canyon Quadrangle); then

(16) Proceed east in a straight line for 0.1 mile to the southwest corner of section 31 and continue diagonally to the northeast corner of section 31, in T20S and R8E (Thompson Canyon Quadrangle); then

(17) Proceed west in a straight line for 2 miles to the southwest corner of section 25, in T20S and R7E (Thompson Canyon Quadrangle); then

(18) Proceed due north in a straight line for 0.1 mile to the intersection with a light duty road, named Pine Canyon Road, in section 25, and continue northeast along that road for 3.2 miles to its intersection with an unnamed secondary highway, north of benchmark 337, section 18, in T20S and R8E (Thompson Canyon Quadrangle); then

(19) Proceed northwest along the unnamed secondary highway for 0.3 mile to its intersection with highway 101, in T20S and R8E (Thompson Canyon Quadrangle); then

(20) Proceed northeast along highway 101 for 0.7 mile to benchmark 304, returning to the point of beginning (Thompson Canyon Quadrangle).

3. Amend section 9.56, San Lucas viticultural area, to revise paragraphs (c)(24) and (c)(25) and add paragraphs (c)(26) and (c)(27) to read as follows:

§ 9.56 San Lucas

* * * * *

(c) *Boundary.* * * *

(24) Then northeasterly approximately 1.3 miles to the 595-foot promontory, section 13, T. 21 S., R. 8 E. (Espinosa Canyon Quadrangle);

(25) Then northeasterly approximately 0.6 mile to the intersection of a meandering, unnamed, light duty road and the fork of an intermittent stream, then continues meandering northeasterly, followed by southeasterly, approximately 1.1 miles to its intersection with an unnamed, light duty road south of the windmill, T. 21 S., R. 8 E. (Espinosa Canyon Quadrangle);

(26) Then northeasterly along the unnamed road approximately 0.6 mile to its intersection with the Salinas River, then continues 0.8 mile north in a straight line to benchmark 340, between highway 101 and the Salinas River, in T. 21 S., R. 9 E. (San Lucas Quadrangle);

(27) Then approximately 0.4 mile northwesterly in a straight line to the intersection with a water tank, then continues northeasterly in a straight line approximately 0.7 mile, and returns to the point of beginning in the northwest corner of section 5, in T. 21 S., R. 9 E. (San Lucas Quadrangle).

Signed: April 29, 2003.

Arthur J. Libertucci,

Administrator.

[FR Doc. 03-11970 Filed 5-13-03; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 62, 66, 67, and 72

[USCG-2001-10714]

RIN 1625-AA34 (Formerly RIN 2115-AG25)

Update of Rules on Aids to Navigation Affecting Buoys, Sound Signals, International Rules at Sea, Communications Procedures, and Large Navigational Buoys

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise its aids to navigation and maritime information regulations by updating technical information

concerning buoys, sound signals, international rules at sea, communications procedures, and large navigational buoys, and by rewriting some regulations to make them clearer and gender-neutral. The proposed changes would update existing rules to reflect current practices and make them easier to understand.

DATES: Comments and related material must reach the Docket Management Facility on or before August 12, 2003.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2001-10714), U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, contact Mr. Dan Andrusiak, Project Manager, Program Management Division, Office of Short-Range Aids to Navigation (G-OPN), Coast Guard, telephone 202-267-0327 (email: dandrusiak@comdt.uscg.mil).

If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you

do so, please include your name and address, identify the docket number for this rulemaking (USCG-2001-10714), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard's Office of Short-Range Aids to Navigation frequently reviews the rules on Aids to Navigation. During our most recent review, we found that many rules do not reflect current technologies and practices. For example, what we formerly called "fog signals," we now call "sound signals." Also, we want to inform users that certain safety information, such as "Notice to Mariners" can now be found on the World Wide Web. Therefore, the Assistant Commandant for Operations proposes to update our aids to navigation rules and to eliminate any ambiguous or confusing language in them.

Discussion of Proposed Rule

The regulations we propose to revise are in 33 CFR parts 62, 66, 67 and 72. Our discussion of our proposed revisions are presented below under the four corresponding subject area headings: United States Aids to Navigation System, Private Aids to Navigation, Aids to Navigation on Artificial Islands and Fixed Structures, and Marine Information.