

responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

#### VI. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

#### List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

#### PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Section 866.3940 is added to subpart D to read as follows:

#### § 866.3940 West Nile virus serological reagents.

(a) *Identification.* West Nile virus serological reagents are devices that consist of antigens and antisera for the detection of anti-West Nile virus IgM antibodies, in human serum, from individuals who have signs and symptoms consistent with viral meningitis/encephalitis. The detection aids in the clinical laboratory diagnosis of viral meningitis/encephalitis caused by West Nile virus.

(b) *Classification.* Class II (special controls). The special control is FDA's guidance entitled "Class II Special Controls Guidance Document: Serological Reagents for the Laboratory Diagnosis of West Nile Virus." See § 866.1(e) for the availability of this guidance document.

Dated: October 8, 2003.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. 03-27294 Filed 10-29-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[T.D. TTB-6; Notice No. 963]

RIN 1513-AA36

#### Bennett Valley Viticultural Area (2002R-009T)

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

**ACTION:** Treasury decision, final rule.

**SUMMARY:** This Treasury decision establishes the Bennett Valley viticultural area in Sonoma County, California. It is entirely within the North Coast viticultural area and predominantly in the Sonoma Valley viticultural area, except for a small overlap into the Sonoma Coast viticultural area. The Alcohol and Tobacco Tax and Trade Bureau believes the use of viticultural area names as appellations of origin in wine labeling and advertising helps consumers identify the wines they may purchase. It also allows wineries to better designate the specific grape-growing area in which their wine grapes were grown.

**EFFECTIVE DATE:** December 29, 2003.

**FOR FURTHER INFORMATION CONTACT:** N. A. Sutton, Specialist, Regulations and Procedures Division (Oregon), Alcohol and Tobacco Tax and Trade Bureau, 946 Northwest Circle Blvd., #286, Corvallis, OR 97330; telephone: 415-271-1254.

#### SUPPLEMENTARY INFORMATION:

##### Background on Viticultural Areas

##### TTB Authority

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 the Secretary of the Treasury to issue regulations to carry out the Act's provisions. The Secretary has delegated this authority to the Alcohol and Tobacco Tax and Trade Bureau (TTB).

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.

##### Definition

Title 27 CFR, section 4.25(e)(1), defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundary has been delineated in subpart C of part 9. The establishment of viticultural areas allows the identification of regions where a given quality, reputation, or other characteristics of the wine is essentially attributable to its geographic origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced there.

##### Requirements

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 that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that the boundaries of the proposed viticultural area are as specified in the petition;
- Evidence that the proposed area's growing conditions, such as climate, soils, elevation, physical features, etc., distinguish it from surrounding areas;
- A description of the proposed viticultural area's specific boundaries, based on features found on maps approved by the United States Geological Survey (USGS); and
- A copy of the appropriate USGS-approved map(s) with the boundaries prominently marked.

##### Impact on Current Wine Labels

With this viticultural area's establishment, bottlers who use brand names like Bennett Valley may be affected. If you fall in this category, 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 for the appellation, you must change the brand name and obtain approval of a new label. Different rules apply if you label a wine in this category with a brand name traceable to a label approved prior

to July 7, 1986. See 27 CFR 4.39(i) for details. Additionally, if you use the viticultural area name on a wine label in a context other than appellation of origin, the general prohibitions against misleading representation in part 4 of the regulations apply.

#### *Homeland Security Act of 2002*

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 (TTB) in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms, and Explosives in the Department of Justice. Regulation of alcohol beverage labels, including viticultural area designations, is the responsibility of the new TTB. References to ATF and TTB in this document reflect the time frame, before or after January 24, 2003, of the viticultural area establishment process.

#### **Bennett Valley Petition**

ATF received a petition from Matanzas Creek Winery of Santa Rosa, California, proposing a new viticultural area to be called "Bennett Valley." The 8,140-acre viticultural area currently has 650 acres of planted vineyards. It is located in Sonoma County, California, just southeast of the city of Santa Rosa and approximately 45 miles northeast of San Francisco. The Bennett Valley viticultural area is entirely within the North Coast viticultural area, is almost completely within the Sonoma Valley viticultural area, and has a small 281-acre overlap into the Sonoma Coast viticultural area to the west. It also partially overlaps the Sonoma Mountain viticultural area, which is entirely within the larger Sonoma Valley viticultural area.

The Bennett Valley viticultural area is about 5.5 miles long, northwest to southeast, 3.15 miles across at its widest point, and resembles the shape of a downward-pointing bullet. The floor of Bennett Valley runs the petitioned area's length, and Bennett Valley Road meanders from its northwest to southeast boundaries. The Bennett Valley viticultural area, including the surrounding hills and mountains, comprises the Matanzas Creek watershed. This creek flows west into the Russian River drainage system and eventually to the Pacific Ocean. Differences in topography, soils, and climate distinguish the Bennett Valley viticultural area from the surrounding areas.

#### *Name Evidence*

The area is locally known as Bennett Valley. It is named after James N. Bennett, an 1849 immigrant settler who arrived by wagon train. His arrival coincided with the 1849 Gold Rush that brought settlers to California, helping Bennett Valley grow as an agricultural region known for grapes, apples, hay, wheat, oats, barley, and livestock. The Bennett Valley Grange Hall was built in 1873 and it still stands on Grange Road in Bennett Valley, as noted on the USGS Santa Rosa quadrangle map. An excerpt from the 1877 "Historical Atlas Map of Sonoma County" states that if Bennett Valley "has any specialty, it is for fruit and grape culture."

Evidence for the current use of the Bennett Valley name includes references from a book by Don Edwards, "Making the Most of Sonoma County, A California Guide," which states, "Bennett Valley—squeezed between Taylor Mountain and the Sonoma Mountains on the west, Bennett Peak (Yulupa to the Indians) and Bennett Ridge to the east—has been ranching and farming country since the days when Missourian William Bennett settled here." The Bennett Valley Homeowner's Association's web site includes a boundary description similar to that of the Bennett Valley viticultural area. The Sonoma County telephone book has 24 business listings using the Bennett Valley name, including the Bennett Valley Union School District. The Bennett Valley School is identified on the USGS Santa Rosa quadrangle map just inside the area's northwest boundary line. The Sonoma County government's Bennett Valley Area Plan includes all but the northern-most portion of the viticultural area.

#### *Boundary Evidence*

The Bennett Valley viticultural area's boundaries are based on historical and current viticulture, the physical limits of the Matanzas Creek watershed, and the area's growing conditions, including its soil, terrain, and a unique microclimate with a strong coastal influence in a sheltered, inland location. Historically, 24 grape growers are linked with Bennett Valley agriculture. In 1862, early settler Isaac DeTurk planted a 30-acre vineyard at the base of Bennett Mountain. By 1878 he was producing 100,000 gallons of wine from his own and purchased grapes at his winery located within this viticultural area on Grange and Bennett Valley roads.

Modern accounts indicate that, around the turn of the century, phylloxera disease killed some of Bennett Valley's estimated 2,000

vineyard acres, while Prohibition ended the balance of the Valley's wine grape industry. A resurgence of wine grape growing in Bennett Valley started in 1975 when the Matanzas Creek Winery planted 20 acres of grapes, and the Valley now has approximately 650 vineyard-acres.

#### *Physical Features*

Bennett Valley is surrounded on three sides by the Sonoma Mountain Range and on the north side by the city of Santa Rosa. The mountainous boundaries, generally defined by ridgelines, indicate the outer limits of the Matanzas Creek watershed. Taylor and Bennett Mountains provide anchors for the area's western and eastern boundary, respectively, while the 1,600-foot elevation line on Sonoma Mountain defines the southern boundary. Elevations within the area range from 250 to 1,850 feet, with most vineyards between the 500- and 600-foot level.

The Bennett Valley viticultural area boundary starts at Taylor Mountain's peak and continues straight northeast, coinciding with a portion of the Sonoma Valley viticultural area boundary line. The lower northern elevations open to the Santa Rosa Valley and the city of Santa Rosa, where, at the northernmost point, the boundary line turns southeast at a 65-degree angle. The northeastern and eastern boundaries, primarily a series of straight lines connecting elevation points, follow the ridgelines through the peak of Bennett Mountain that outline the eastern side of the Matanzas Creek watershed.

The Bennett Valley area's southern boundary follows the 1,600-foot elevation line along Sonoma Mountain's north side and then a westerly straight line to a 900-foot elevation point. The southwestern boundary uses intersections and markers, within the Matanzas Creek watershed, to close the boundary line at Taylor Mountain. Crane Canyon, on the area's southwestern side, provides an opening in the mountains for the cooling coastal fogs and breezes from the Pacific coast, which moderate the Bennett Valley's climate.

#### *Growing Conditions*

#### *Soils*

The Bennett Valley viticultural area's soils vary from the surrounding areas, due to the different composition percentages of its predominant Goulding-Toomes-Guenoc Association. There are differences in the distribution of Spreckels, Laniger, Haire, and Red Hill clay loam soils between the Bennett Valley viticultural area and nearby

portions of the Sonoma Valley viticultural area. Soils in the Sonoma Mountain viticultural area, other than the overlapping portion, vary from those within the Bennett Valley area.

The foothills soils, comprised primarily of the Goulding-Toomes-Guenoc Association, are of a volcanic origin that include lava flows, tuff beds, sandstone, gravel, and some conglomerate. The lower slopes and valley floor soils have more variety, including some of alluvial origin. The distribution of Spreckels loam, a well-drained loam with clay subsoil is about 24 percent in the Bennett Valley area, 27 percent in the Sonoma Mountain viticultural area, and almost 42 percent in the common area that overlaps the two areas.

**Climate**

The Bennett Valley viticultural area has a unique microclimate, resulting

from its sheltered inland location and access to cooling coastal fogs and breezes. The broad and tall Sonoma Mountain diverts the foggy, south-to-north coastal breezes of the Petaluma gap to the north and into the Crane Canyon gap. This gap, between Sonoma Mountain and Taylor Mountain, funnels the coastal fog and winds east into the Bennett Valley. Rainfall amounts in the Bennett Valley area are 17 to 25 percent higher than in the areas to the immediate north and east. Valley residents indicate that rainfall amounts vary with elevation and proximity to the mountains and wind patterns.

*Overlaps With the Sonoma Mountain and Sonoma Coast Viticultural Areas*

The Bennett Valley area is almost entirely within the Sonoma Valley viticultural area. The Sonoma Mountain viticultural area, which is totally within

the larger Sonoma Valley viticultural area, overlaps 13.1 percent of the Bennett Valley area. A small part, 3.4 percent, of the Bennett Valley viticultural area overlaps into the Sonoma Coast viticultural area. The Sonoma Coast and the interior Sonoma Valley viticultural areas, both within the larger North Coast viticultural area, share a common boundary line along Sonoma Valley's western border. This common boundary line is the site of the boundary's small overlap into the Sonoma Coast area.

The following table summarizes the 8,140-acre Bennett Valley viticultural area's overlaps with other, established viticultural areas:

Viticultural area	Acres within the Bennett Valley area	Percent of the Bennett Valley area in overlap (percent)
Sonoma Valley only .....	6,796	83.5
Sonoma Mountain (within Sonoma Valley area) .....	1,063	13.1
Total within Sonoma Valley .....	7,859	96.6
Sonoma Coast .....	281	3.4
Grand Total .....	8,140	100.0

**Sonoma Valley Viticultural Area (27 CFR 9.29)**

The Bennett Valley viticultural area is primarily within the Sonoma Valley viticultural area. The Bennett Valley area occupies 7,859 acres, or approximately 7 percent, of the larger Sonoma Valley viticultural area's acreage. The Sonoma Valley viticultural area petition included the Bennett Valley due to its similar soil and climate. The Sonoma Mountain viticultural area is totally within, and located in the western portion of, the Sonoma Valley viticultural area.

**Sonoma Mountain Viticultural Area (27 CFR 9.102)**

The Bennett Valley viticultural area overlaps 1,063 acres (13.1 percent of its territory) of the Sonoma Mountain viticultural area, which is itself totally within the Sonoma Valley viticultural area. The overlap is in the southeast corner of the Bennett Valley area and the northwestern portion of the Sonoma Mountain area. The overlap is seen on the Glen Ellen and Kenwood USGS maps in Sections 11 through 14, T6N, R7W. The overlap is mainly that portion of the Bennett Valley viticultural area

north of the 1,600-foot elevation line on Sonoma Mountain in Sections 13, 14, and 23, and the land east of the common line between Sections 15 and 14, as shown on the Glen Ellen map. The northern limit of the overlap is the 800-foot elevation line from its southern most intersection with the common line between Sections 10 and 11 to its intersection with Bennett Valley Road, as shown on the Kenwood map.

The overlap area between the Bennett Valley and the Sonoma Mountain viticultural areas contains common geographic features, including the Matanzas Creek watershed, similar vineyard elevations, and the "thermal belt" phenomenon. This thermal phenomenon drains cold air and fog from the upper mountain slopes to the lower elevations, which moderates temperatures at the lower levels. The overlapping area is within the Crane Canyon wind gap range, which delivers the Pacific Ocean's cooling marine influence to the Bennett Valley area.

Strong soil similarities, within the Bennett Valley and Sonoma Mountain overlapping boundary area, include Goulding clay loam that covers 30.2 percent of the Bennett Valley area, 33.4

percent of this overlapping area, and from 7.4 to 49.8 percent of other sections of Sonoma Valley viticultural areas. Goulding cobbly clay loam covers 18.5 percent of the Bennett Valley area, 19.0 percent of the Sonoma Mountain overlap, and covers 10.8 to 43.1 percent of other areas.

Several Sonoma Mountain area grape growers state that diverse growing conditions exist on different sides, and at various elevations, on Sonoma Mountain. Specifically, they explain that the overlapping area benefits from the coastal influence and wind, which contrasts to the protected, warmer, eastern side of the mountain.

**Sonoma Coast Viticultural Area (27 CFR 9.116)**

The Bennett Valley viticultural area overlaps approximately 281 acres (3.4 percent of its territory) of the established Sonoma Coast viticultural area. This overlapping area is in two portions on the Bennett Valley's west boundary side. The first is located north of Crane Canyon Road and can be found in Sections 9 and 8, T6N, R7W, on the Cotati and Santa Rosa USGS maps. The second is located in Sections 15 and 16,

T6N, R7W, on the Cotati map. This section of the Sonoma Valley and Sonoma Coast viticultural areas common boundary line spans a remote section of the Sonoma Mountains, where determining the exact limits of the Matanzas Creek watershed might have challenged previous viticultural area petitioners in drawing boundary lines.

The original intent of the Bennett Valley viticultural area petitioners was to follow the Sonoma Valley area's western border and not overlap into the Sonoma Coast viticultural area. However, in the overlap north of Crane Canyon Road, the petitioners discovered that the former George N. Whitaker vineyard, a historically significant Bennett Valley vineyard, straddles the common boundary line between the Sonoma Coast and Sonoma Valley viticultural areas. The vineyard, and the immediately surrounding land, is similar to the Bennett Valley viticultural area due to its drainage into the Matanzas Creek watershed, its direct receipt of the cooling marine influence from the Crane Canyon gap, and terrain and soils that are consistent with Bennett Valley viticultural area. To avoid again dividing this vineyard between two viticultural areas, the petitioners extended their boundary line about a quarter-mile west into the Sonoma Coast viticultural area, creating the small, 281-acre overlap.

The terrain, soils, and microclimate of this Sonoma Coast overlap are consistent with the Bennett Valley viticultural area. The area is totally within the Matanzas Creek watershed and on the Sonoma Valley side of the dividing ridge. The elevations, from 680 to 960 feet, are consistent with the surrounding Bennett Valley areas. The Goulding soils predominate the overlapping area and are similar to the rest of the Bennett Valley area. The Crane Canyon gap gives this overlap area the same cooling marine influence as the rest of the Bennett Valley viticultural area.

#### Notice of Proposed Rulemaking

ATF published a notice of proposed rulemaking regarding the establishment of the Bennett Valley viticultural area in the November 22, 2002, **Federal Register** as Notice No. 963 (67 FR 70352). In that notice, ATF requested comments by January 21, 2003, from all interested persons. No comments were received concerning the establishment of the Bennett Valley viticultural area. Therefore, under the provisions of the Federal Alcohol Administration Act and our regulations, we accept the petition and establish the Bennett Valley

viticultural area in Sonoma County, California.

#### Regulatory Analyses and Notices

##### *Paperwork Reduction Act*

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.

##### *Regulatory Flexibility Act*

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

##### *Executive Order 12866*

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

#### Drafting Information

The principal author of this document is N.A. Sutton (Oregon), Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

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

Wine.

#### Authority and Issuance

■ For the reasons discussed in the preamble, we amend title 27, Code of Federal Regulations, part 9, American Viticultural Areas, 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.

#### Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.142 to read as follows:

##### § 9.142 Bennett Valley.

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

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

(1) Santa Rosa Quadrangle, CA—Sonoma Co. 1994

(2) Kenwood Quadrangle, CA 1954, photorevised 1980

(3) Glen Ellen Quadrangle, CA—Sonoma Co. 1954, photorevised 1980

(4) Cotati Quadrangle, CA—Sonoma Co. 1954, photorevised 1980

(c) *Boundary.* The Bennett Valley viticultural area is entirely within Sonoma County, California, and is located northwest of the peak of Sonoma Mountain and southeast of the city of Santa Rosa.

(1) Beginning at the peak of Taylor Mountain (BM 1401), Section 6, T6N, R7W, proceed straight northeast to the intersection of the common line between Sections 31 and 32 and the 560-foot elevation line, T7N, R7W; continue straight northeast at the same angle, crossing the Bennett Valley Golf Course and Matanzas Creek, to a point on the 500-foot elevation line approximately 400 feet north of the southern boundary of Section 20, T7N, R7W (Santa Rosa Quadrangle); then

(2) Proceed straight southeast to the center peak of the three unnamed peaks above the 1,100-foot elevation line, located approximately 1,600 feet southwest of Hunter Spring, in Section 28, T7N, R7W (Santa Rosa Quadrangle); then

(3) Proceed straight east-southeast to a 1,527-foot peak in the southeast corner of Section 28, T7N, R7W (Santa Rosa Quadrangle); then

(4) Proceed straight southeast to Bennett Mountain's 1,887-foot peak, Section 34, T7N, R7W (Kenwood Quadrangle); then

(5) Proceed straight southeast to the 1,309-foot peak located northwest of a water tank and approximately 400 feet north of the southern boundary of Section 35, T7N, R7W (Kenwood Quadrangle); then

(6) Proceed straight south-southeast to the 978-foot peak in the northeast quadrant of Section 11, T6N, R7W, and continue straight south-southeast approximately 600 feet to the "T" intersection of two unimproved roads located on the common boundary line between Sections 11 and 12, T6N, R7W (Kenwood Quadrangle); then

(7) Proceed south along the north-south unimproved road to its intersection with Sonoma Mountain Road, Section 13, T6N, R7W, and continue straight south to the 1,600-foot elevation line, Section 13, T6N, R7W (Glen Ellen Quadrangle); then

(8) Proceed west along the meandering 1,600-foot elevation line to the point where it crosses the common line between Sections 22 and 23, T6N, R7W (Glen Ellen Quadrangle); then

(9) Proceed straight west-northwest to the point where the 900-foot elevation line crosses the common line between Sections 15 and 16, T6N, R7W, approximately 500 feet north of the southwest corner of Section 15 (Cotati Quadrangle); then

(10) Proceed straight northwest to the intersection of Grange Road (known as Crane Canyon Road to the west) and the southern boundary of Section 9, and continue straight west along that section boundary to the southwest corner of Section 9, T6N, R7W (Cotati Quadrangle); then

(11) Proceed straight north-northwest to the 961-foot peak on the east side of Section 8, T6N, R7W (Santa Rosa Quadrangle); and then

(12) Proceed straight northwest to the peak of Taylor Mountain, returning to the point of beginning.

Signed: September 17, 2003.

**Arthur J. Libertucci,**  
Administrator.

Dated: October 6, 2003.

**Timothy E. Skud,**

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 03-27316 Filed 10-29-03; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR 165

[COTP Mobile-03-022]

RIN 1625-AA00

#### Security Zone; Bayou Casotte, Chevron Pascagoula Refinery, Pascagoula, MS

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing all waters of Bayou Casotte east of a line drawn from position 30°19'54" N, 088°30'37" W to position 30°20'42" N, 088°30'28" W at the Chevron Pascagoula Refinery. This security zone is necessary to protect the Chevron Pascagoula refinery, persons, and vessels from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry of persons or vessels into this security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

**DATES:** This rule is effective from 5 p.m. on September 24, 2003, until 5 p.m. on March 24, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP Mobile-03-022] and are available for inspection or copying at Marine Safety Office Mobile, Brookley Complex, Bldg 102, South Broad Street, Mobile, AL 36615-1390 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (LT) Carolyn Beatty, Operations Department, Marine Safety Office Mobile, AL, at (251) 441-5771.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On May 5, 2003, we published a temporary final rule (TFR) entitled "Security Zone; Bayou Casotte, Pascagoula, MS" in the **Federal Register** (68 FR 23594) that expired at 5 p.m. on September 22, 2003. On July 7, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; Bayou Casotte, Pascagoula, MS" in the **Federal Register** (68 FR 40231). The geographic coordinates that defined the boundary of the proposed security zone were incorrect.

We did not publish a notice of proposed rulemaking for this temporary final rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because national security and intelligence officials warn that future terrorist attacks against United States interests are likely. Current advisories of terrorist threats and the nature of the material handled at the Chevron Pascagoula refinery make this rulemaking necessary for the protection of national security interests. Any delay in making this regulation effective would be contrary to the public interest because action is necessary to protect against the possible loss of life, injury, or damage to property.

During the effective period of this temporary rule, the Coast Guard intends to publish a supplemental NPRM and provide sufficient time for public comments to be submitted. This SNPRM with corrected geographic coordinates for the proposed permanent security zone will be published in the **Federal Register** and all comments received will be considered before the Coast Guard imposes a final rule.

#### Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. The President has continued the national emergencies he declared following those attacks (68 FR 53665, Sep. 10, 2003) (continuing the emergency declared with respect to terrorist attacks); (68 FR 55189, Sep. 18, 2003) (continuing emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the terrorist attacks (E.O. 13,273, 67 FR 56215, Sep. 3, 2002) (security of U.S. endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations). In response to these terrorist acts and warnings, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary.

The Captain of the Port Mobile is establishing a temporary security zone encompassing all waters of Bayou Casotte east of a line drawn from position 30°19'54" N, 088°30'37" W to position 30°20'42" N, 088°30'28" W at the Chevron Pascagoula Refinery. These coordinates are based upon [NAD 83].

This security zone is necessary to protect the Chevron Pascagoula refinery, persons, and vessels from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry of persons or vessels into this security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. Vessels may be permitted to enter the security zone on a case-by-case basis with permission from the Captain of the Port Mobile or a designated representative.