

notice of public hearing (REG-146893-02, REG-115037-00), that was the subject of FR Doc. 03-22550, are corrected as follows:

1. On page 53448, column 1, in the preamble under the paragraph heading "DATES", second line of the paragraph, the language "must be received December 9, 2003." is corrected to read "must be received by December 9, 2003."

2. On page 53449, column 2, in the preamble under the paragraph heading "2. Income Attributable to Intangibles", fifth line of the paragraph, the language, "property. The Taxpayers and other" is corrected to read "property. Taxpayers and other".

3. On page 53455, column 3, in the preamble under the paragraph heading "10. Total Services Costs—§ 1.482-9(j)", the last line of the paragraph, the language, "analysis of the result expressed as ration" is corrected to read "analysis of the result expressed as the ratio".

4. On page 53464, column 3, following § 1.482-6(c)(3)(i)(B)(2), paragraph (c)(3)(ii) is added to read as follows:

§ 1.482-6 Profit split method.

* * * * *

(c) * * *

(3) * * * (i) * * *

(ii) * * *

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5. On page 53473, columns 2 and 3, § 1.482-9(f)(2)(iv)(A) through (C) introductory text are corrected to read as follows:

§ 1.482-9 Methods to determine taxable income in connection with a controlled services transaction.

* * * * *

(f) * * *

(2) * * *

(iv) Measurement of limitation on allocations: The rules of paragraphs (f)(2)(i) and (ii) of this section are expressed in this paragraph (f)(2)(iv) in equations and a table.

(A) The minimum arm's length markup necessary for an allocation by the Commissioner (Z) is the sum of the markup charged by the taxpayer (X) and the applicable number of percentage points determined under paragraph (f)(2)(ii) of this section (Y). Where the markup charged by the taxpayer is not less than zero, the minimum arm's length markup necessary for allocation by the Commissioner (Z) also equals the lesser of—

(1) The sum of six percentage points and half of the markup charged by the taxpayer (X); and

(2) Ten percentage points.

(B) The equations in paragraph (f)(2)(iv)(A) of this section may also be expressed as follows:

$$Z = X + Y = \min((6\% + 0.5 \times X), 10\%)$$

where $X \geq 0$.

(C) The following table illustrates the results of these calculations in representative cases:

* * * * *

6. On page 53480, column 1, § 1.482-9(l)(4), *Example 12*, the last line of the paragraph, the language, "therefore Company Y is considered to obtain." is corrected to read "therefore Company Y is considered to obtain a benefit from the activities."

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 03-31034 Filed 12-16-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

RIN: 1512-AC62

[Notice No. 24]

Proposed Trinity Lakes Viticultural Area (2001R-32P)

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 to establish the "Trinity Lakes" viticultural area in Trinity County, California. The proposed viticultural area consists of approximately 96,000 acres surrounding Trinity and Lewiston lakes and a portion of the Trinity River basin below Lewiston Dam. We invite comments on this proposal.

DATES: We must receive written comments on or before February 17, 2004.

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. 24);
- 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/alcohol/rules/index.htm or by appointment at our library, 1310 G Street, NW., Washington, DC 20005; phone 202-927-8210.

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: Tim DeVanney, Specialist, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone 202-927-8210.

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 misleading 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 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 4.25(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

Under our 27 CFR part 4 regulations, viticultural area names have geographic significance. The regulations prohibit the use of a brand name with geographic significance on a wine unless the wine meets the appellation of origin requirements for the named area. Our regulations also prohibit any other label references that suggest an origin other than the true place of origin of the wine.

If we establish this proposed viticultural area, bottlers who use brand names, including trademarks like Trinity Lakes, must ensure that their existing products are eligible to use the viticultural area's name 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, and the wine must meet the other requirements of 27 CFR 4.25(e)(3). If a wine is not eligible for the appellation, the bottler must change the brand name or other label reference and obtain approval of a new label.

Different rules apply to wines in this category that have brand names traceable to labels approved prior to July 7, 1986. See 27 CFR 4.39(i) for details. In addition, if you use the viticultural area name on a wine label in a context other than an appellation of origin, the general prohibitions against misleading representation in 27 CFR part 4 apply.

Trinity Lakes Petition

TTB has received a petition from Keith Groves of Alpen Cellars proposing a new American viticultural area to be called "Trinity Lakes." The proposed viticultural area is in Trinity County, in northwest California. It encompasses two man-made reservoirs, Trinity Lake

and the adjoining but smaller Lewiston Lake to its south, and a portion of the Trinity River basin below Lewiston Dam. According to the petition, the proposed area covers about 96,000 acres, of which 18%, or 17,285 acres, is lake surface water, while 1.5%, or 1,440 acres, is land suitable for viticulture. Currently, 30 acres are planted vineyards. Rugged, steep, timbered ridges and narrow agricultural valleys characterize the proposed area. The lakes' daytime cooling and nighttime warming influences moderate the agricultural valleys' climate.

Name Evidence

The majority of the proposed Trinity Lakes viticultural area is located within the Trinity Lake unit of the Whiskeytown-Shasta-Trinity National Recreation Area. This unit includes both Trinity Lake and the smaller Lewiston Lake and, according to the petitioner, the region surrounding both lakes is commonly known as the Trinity Lakes area. The petitioner provided current photographs of road signs displaying the Trinity Lakes name as a reference for both Trinity and Lewiston Lakes. In Weaverville, Trinity Lakes Boulevard is the name used for California 3, a major highway.

A letter, dated December 13, 2002, from Mr. David Steinhauer, president of the Trinity County Chamber of Commerce, fully supports this viticultural proposal. He writes that the name "Trinity Lakes" is used to refer to the lake areas of Trinity and Lewiston Lakes.

Created in the early 1960s, the larger man-made lake was originally named Clair Engle Lake. The petitioner states, however, that area residents have historically referred to the lake as, and prefer the name of, Trinity Lake. The petitioner notes that a grassroots movement sought to change the lake's name and mentions that Clair Engle Lake road signs often disappeared shortly after being posted. A 1997 Trinity Journal news article, included in the petition, spoke of U.S. Senator Barbara Boxer's support for the effort to have the lake re-named. Congress and the President made the change official in September 1997, with the passage and approval of Public Law 105-44, which renamed the reservoir Trinity Lake. The current California AAA road map and USGS topographic maps use the Trinity Lakes name.

Boundary Evidence

The proposed Trinity Lakes viticultural area was viticulturally developed only after the completion of the two man-made lakes in the early

1960s as the climate-moderating lake effect on the surrounding valleys provided an opportunity to grow wine grapes. The petitioner states that in 1981 a small vineyard was planted at the north end of Trinity Lake. It became a bonded winery in 1984. There are currently four vineyards, encompassing 30 acres, producing wine grapes within the proposed viticultural area.

The proposed Trinity Lakes viticultural area is in Trinity County, California. The proposed area is irregular in shape, generally running from northeast to southwest, and surrounds Trinity Lake, the smaller Lewiston Lake to the south of Trinity Dam, and a portion of the Trinity River basin downstream of Lewiston Dam. The majority of the proposed area is within the Trinity Lake unit of the Whiskeytown-Shasta-Trinity National Recreation Area.

The boundary of the proposed viticultural area begins north of Carrville at Derrick Flat, runs east across the Trinity River, continues south and southwest past Trinity and Lewiston dams and the town of Lewiston, and crosses the Trinity River near the mouth of Neaman Gulch. The boundary then runs north and northeast back past the two dams and the town of Trinity Center, returning to the beginning point at Derrick Flat. A list of the approved U.S.G.S. maps, used for determining the boundary of the proposed area, is located in paragraph (b) of the proposed rule below.

The boundaries of the proposed Trinity Lakes viticultural area are discussed in detail in paragraph (c) of the proposed rule shown below in this notice.

Growing Conditions/Geographical Features

The petitioner indicates that rugged, steep, timbered ridges dropping into Trinity and Lewiston lakes and the Trinity River basin characterize the area's topography. The Bureau of Land Reclamation states that Trinity Lake's surface covers 16,535 acres while Lewiston Lake covers 750 acres, for a total of 17,285 acres of lake surface water. The filling of the lakes has left small, narrow valleys around the lakes, which are suitable for viticulture.

The large surface area of the two lakes moderates the proposed viticultural area's climate, bringing cooler days and warmer nights to the narrow valleys and the Trinity River basin. The petition cites a 70-year local resident's claim that there is less snow and sub-freezing weather and more fog than before the lakes' creation. This provides, according to the petitioner, a uniquely situated

and moderated grape-growing region. Other potential grape growing areas, located further from the lakes and outside the proposed area, have a similar mountainous climate, but no moderating lake influence.

The petition indicates the agricultural soils of the proposed viticultural area are on well-drained alluvial fans in narrow valleys on stream terraces. The petitioner states that this contrasts with surrounding Trinity County areas, which have wider valley floors and deeper soils with higher clay content.

Boundary Description

The proposed viticultural area is located in Trinity County in northwest California. The boundary encompasses Trinity Lake and Lewiston Lake, both within the Trinity Lake unit of the Whiskeytown-Shasta-Trinity National Recreation Area, and a portion of the Trinity River basin below Lewiston Dam.

Maps

The petitioner submitted the required United States Geological Survey (USGS)-approved required maps. See the list of maps in the proposed regulation below.

Public Participation

Comments Sought

We request comments from anyone interested. 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.

Confidentiality

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.

Submitting 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/alcohol/rules/index.htm>. Select "Send comments via e-mail" 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.

Disclosure

You may view copies of the petition, the proposed regulation, the appropriate maps, and any comments received by appointment at our library, 1310 G Street, NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5-x 11-inch page. Contact our librarian at the above address or telephone 202-927-8210 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. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Reference Library. To access the online copy of this notice, visit <http://www.ttb.gov/alcohol/rules/index.htm> and select the "View Comments" link under this notice number to view the posted comments.

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 proposed regulation, if adopted, will not have a

significant economic impact on a substantial number of small entities. This proposed 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 proposed 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 Tim DeVanney, 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 propose to 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.

2. Subpart C is amended by adding § 9. __ to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9. __ Trinity Lakes.

(a) The name of the viticultural area described in this section is "Trinity Lakes".

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Trinity Lakes viticultural area are eleven 1:24,000 Scale USGS topographic maps. They are titled:

- (1) Carrville, Calif. Provisional Edition 1986;
- (2) Whisky Bill Peak, Calif. Provisional Edition 1986;
- (3) Damnation Peak, Calif. Provisional Edition 1982;
- (4) Trinity Center, Calif. Provisional Edition 1982;
- (5) Papoose Creek, Calif. Provisional Edition 1982;
- (6) Trinity Dam, Calif. Provisional Edition 1982;
- (7) Lewiston, Calif. Provisional Edition 1982;

(8) Weaverville, Calif. Provisional Edition 1982;

(9) Rush Creek Lakes, Calif. Provisional Edition 1982;

(10) Siligo Peak, Calif. Provisional Edition 1982; and

(11) Covington Mill, Calif. Provisional Edition 1982.

(c) *Boundaries.* The proposed viticultural area is located in Trinity County in northern California. The boundary encompasses Trinity Lake and Lewiston Lake, both within the Trinity Lake unit of the Whiskeytown-Shasta-Trinity National Recreation Area, and a portion of the Trinity River basin below Lewiston Dam.

(1) The beginning point is on the Carrville, California quadrangle map on township line T38N/T37N at the northwest corner of section 5, T37N/R7W, near the Trinity River at Derrick Flat;

(2) From the beginning point, follow township line T38N/T37N due east to the northeast corner of section 5, T37N/R7W;

(3) Proceed due south on the eastern boundary of sections 5, 8, 17, and 20 to the northwest corner of section 28, T37N/R7W, near Snow Gulch;

(4) Follow the northern boundary of section 28, T37N/R7W, due east to the section's northeast corner;

(5) Continue due south on the eastern boundary of sections 28 and 33, T37N/R7W, to township line T37N/T36N at the northeast corner of section 4, T36N/R7W;

(6) Proceed due east on township line T37N/T36N onto the Whisky Bill Peak, California quadrangle map to the R7W/R6W range line at the southwest corner of section 31, T37N/R6W, near the East Fork of the Trinity River;

(7) Follow the R7W/R6W range line due north to the northwest corner of section 30, T37N/R6W;

(8) Continue due east along the northern boundary of section 30, T37N/R6W, to the section's northeast corner;

(9) Proceed due south on the eastern boundary of sections 30 and 31, T37N/R6W, and sections 6 and 7, T36N/R6W, and continue onto the Damnation Peak, California quadrangle map to the southeast corner of section 7;

(10) Follow the southern boundary of section 7, T36N/R6W, and section 12, T36N/R7W, due west onto the Trinity Center, California quadrangle map to the northeast corner of section 14, T36N/R7W;

(11) Continue due south along the eastern boundary of sections 14, 23, 26, and 35, T36N/R7W, to the boundary's intersection with township line T36N/T35N at the southeast corner of section 35;

(12) Proceed due west along township line T36N/T35N approximately 0.5 miles to the township line's intersection with the 900-meter contour line;

(13) Follow the meandering 900-meter contour line generally west through sections 35 and 34, T36N/R7W; cross the T36N/T35N township line and continue generally southwest on the contour line around Linton Ridge, through Bridge Gulch, Bragdon Gulch, and around Feeny Ridge; cross onto the Papoose Creek, California quadrangle map and continue southwesterly to the contour line's first intersection with a line marked "NAT RECREATION BDY INDEFINITE," approximately 2000 feet north of Feeny Gulch;

(14) Continue easterly on the 900-meter contour line over Feeny Gulch; then proceed southwesterly on the meandering contour line across Van Ness Creek, both Bear Gulches, Langdon Gulch, Digger Gulch, around Fairview Ridge, along the northern side of Papoose Arm, and over the North, East and South Forks of Papoose Creek; continue westerly on the contour line along the southern side of Papoose Arm to the contour line's intersection with Little Papoose Creek in section 24, T34N/R8W;

(15) Continue generally west along the meandering 900-meter contour line through sections 24, 23, 14, and 15, T34N/R8W; cross onto the Trinity Dam, California quadrangle map and continue on the contour line through sections 15 and 22; pass back onto the Papoose Creek map and follow the contour line through sections 22, 23, and 22 again; then cross back onto the Trinity Dam map and follow the contour line to its intersection with the southern boundary of section 22, T34N/R8W;

(16) Proceed due west along the southern boundary of section 22 to the northeast corner of section 28, T34N/R8W;

(17) Follow the eastern boundary of sections 28 and 33, T34W/R8W, and section 4, T33N/R8W, due south onto the Lewiston, California quadrangle map, and continue due south on the eastern boundary of sections 4, 9, 16, and 21 to the southeast corner of section 21, T33N/R8W;

(18) Then proceed due west along the southern boundary of sections 21 and 20 to the northeast corner of section 30, T33N/R8W;

(19) Follow the eastern boundary of section 30, T33N/R8W, due south to the section's southeast corner;

(20) Continue due west along the southern boundary of section 30, T33N/R8W, and sections 25 and 26, T33N/R9W, to the northeast corner of section 34, T33N/R9W;

(21) Proceed due south on the eastern boundary of section 34, T33N/R9W, and section 3, T32N/R9W, to the southeast corner of section 3 near Tom Lang Gulch;

(22) Follow the southern boundary of section 3, T32N/R9W, due west onto the Weaverville, California quadrangle map, and continue west along the southern boundary of sections 3, 4, and 5, T32N/R9W, to the southwest corner of section 5;

(23) Then proceed due north along the western boundary of section 5, T32N/R9W, for approximately 0.8 miles to its intersection with the 700-meter contour line;

(24) Follow the 700-meter contour line generally northwest through section 5, T32N/R9W, and then through sections 32, 31, 32 again, 29, and 28, T33N/R9W, to the contour line's intersection with the northern boundary of section 28;

(25) Proceed due east along the northern boundary of section 28 across Limekiln Gulch and China Gulch to the southwest corner of section 22, T33N/R9W;

(26) Follow the western boundary of section 22, T33N/R9W, due north to the section's northwest corner;

(27) Then continue due east along the northern boundary of section 22, T33N/R9W, onto the Lewiston map to the section's northeast corner;

(28) Proceed due north on the western boundary of section 14, T33N/R9W, to the section's northwest corner;

(29) Follow the northern boundary of sections 14 and 13, T33N/R9W, due east to the R9W/R8W range line at the northeast corner of section 13;

(30) Then proceed due north along the R9W/R8W range line onto the Trinity Dam map, and continue along the range line to the southeast corner of section 1, R9W/T34N, near Smith Gulch;

(31) Continue due west along the southern boundary of section 1, T34N/R9W, for approximately 0.3 miles to its intersection with the 900-meter contour line;

(32) Follow the meandering 900-meter contour line generally west over Tannery Gulch and around Tannery Ridge, cross onto the Rush Creek Lakes, California quadrangle map, and continue along the 900-meter contour line to its intersection with Slate Creek in section 4, T34N/R9W;

(33) Using the Rush Creek Lakes and Trinity Dam maps, follow the contour line generally northeast from Slate Creek, crossing Irish Gulch in section 3, T34N/R9W, (crossing back and forth between the two maps three times) to the contour line's intersection with township line T34N/T35N at the

northern boundary of section 3, T34N/R9W, on the Trinity Dam map;

(34) Continue generally northwest on the meandering 900-meter contour line and cross onto the Rush Creek Lakes map in section 34, T35N/R9W; continue northwesterly on the contour line over Cummings Creek, Bear Gulch, Snowslide Gulch, Sawmill Creek, and Van Matre Creek; cross onto the Siligo Peak, California quadrangle map and continue generally northwest on the 900-meter contour line over Middle Creek and Owens Creek to the contour line's intersection with Stuart Fork;

(35) Continue generally southeast on the 900-meter contour line over Fire Camp Creek, Lightning Creek, and Sunday Creek; cross onto the Rush Creek Lakes map and continue generally southeast on the contour line over Elk Gulch and Trinity Alps Creek; cross onto the Trinity Dam map in section 27, T35N/R9W, and proceed easterly along the contour line to its intersection with the eastern boundary of section 27, T35N/R9W;

(36) Continue generally north along the 900-meter contour line through sections 26 and 23, T35N/R9W, cross onto the Covington Mill, California quadrangle map in section 23, T35N/R9W, and continue northerly along the contour line to its intersection with Stoney Creek in the same section;

(37) From Stoney Creek, continue generally south on the 900-meter contour line, cross back onto the Trinity Dam map in section 23, T35N/R9W, and continue southerly on the contour line through sections 23, 26, and 35 to the contour line's intersection with the eastern boundary of section 35, T35N/R9W, near that section's northeast corner;

(38) Continue generally northeast on the meandering 900-meter contour line over Telephone Ridge, Buck Gulch, and Buck Ridge; cross onto the Covington Mill map in section 19, T35N/R8W, and continue northwesterly along the contour line across Mule Creek and Snowslide Gulch in section 13, T35N/R9W; continue on the contour line, cross Little Mule Creek in section 18, T35N/R8W, and continue southeasterly on the contour line to its intersection with a line marked "TRANS LINE SINGLE WOOD POLES" in section 20, T35N/R8W;

(39) Continue generally northeast along the 900-meter contour line through sections 20 and 17, T35N/R8W, and cross Strope Creek, Mosquito Gulch, Greenhorn Gulch, Taylor Gulch, Stuart Fork (in section 5, T35N/R8W), and Davis Creek; cross onto the Trinity Center map in section 35, T36/R8W, and continue on the contour line to its

intersection with the northern boundary of that section;

(40) Proceed due east along the northern boundary of sections 35 and 36, T36N/R8W, to the R8W/R7W range line at the northeast corner of section 36;

(41) Follow the R8W/R7W range line due north onto the Carrville map and continue along the range line to its intersection with township line T38N/T37N at the northwest corner of section 6, T37N/R7W; and

(42) Proceed due east along township line T38N/T37N and return to the beginning point at the northwest corner of section 5, T37N/R7W.

Signed: December 3, 2003.

Arthur J. Libertucci,

Administrator.

[FR Doc. 03-31052 Filed 12-16-03; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 031202301-3301-01; I.D. 111403C]

RIN 0648-AR53

Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to prohibit shallow longline sets of the type normally targeting swordfish on the high seas in the Pacific Ocean east of 150° W. long. by vessels that are not already prohibited from making such sets under the current regulations for the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (WesPac FMP). This action is intended to protect endangered and threatened sea turtles from the adverse impacts of shallow longline fishing by U.S. longline fishing vessels in the Pacific Ocean and operating out of the west coast instead of Hawaii. This rule would supplement the regulations proposed to implement the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP) that would prohibit shallow longline sets on the high seas in the Pacific Ocean west of 150° W. long. by vessels that would be managed under

that FMP. The FMP is currently under review by NMFS and will be approved, disapproved or partially approved in early February 2004. Together, these two regulations are expected to conserve leatherback and loggerhead sea turtles as required under the Endangered Species Act (ESA).

DATES: Comments on the proposed rule must be received or transmitted by facsimile by 5 p.m., Pacific Standard Time, on January 16, 2004. Comments transmitted via e-mail or the Internet will not be accepted.

ADDRESSES: Comments should be sent to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, or by fax (562) 980-4027.

Copies of the FMP, which includes an environmental impact statement (EIS) accompanied by a regulatory impact review (RIR) and an initial regulatory flexibility analysis (IRFA) are available on the internet at <http://www.pcouncil.org/hms/hmsfmp.html> or may be obtained from Daniel Waldeck, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, Oregon, 97220-1384, Daniel.Waldeck@noaa.gov, (503) 820-2280. This proposed action corresponds to the High Seas Pelagic Longline Alternative 3 in the Council EIS, RIR, and IRFA.

FOR FURTHER INFORMATION CONTACT: Tim Price, NMFS, Southwest Region, Protected Resources Division, (562) 980-4029.

SUPPLEMENTARY INFORMATION: All species of sea turtles that are known to interact with U.S. longline vessels in the Pacific Ocean are listed as either endangered or threatened under the ESA. The leatherback (*Dermochelys coriacea*) sea turtle is listed as endangered. The loggerhead (*Caretta caretta*), olive ridley (*Lepidochelys olivacea*), and green (*Chelonia mydas*) sea turtles are listed as threatened, except for populations of olive ridleys on the Pacific coast of Mexico and green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. Under the ESA and its implementing regulations (50 CFR 223.205), taking endangered and threatened sea turtles, even incidentally, is prohibited, with exceptions identified in 50 CFR 223.206. The incidental taking of an endangered species of wildlife within the United States, U.S. territorial sea, or high seas is prohibited by section 9(a)(1)(B) and (C) of the ESA. The incidental take of endangered species may be authorized only by an incidental take statement issued under