application but not have it with respect to suspension or revocation.

Mr. DOGGETT. Thank you very much.

Chairman LEWIS. Mr. Thompson is now recognized for his questions.

Mr. THOMPSON. Thank you very much, Mr. Chairman.

Mr. Manfreda, thank you for being here. I want to say that John and I go back a long ways. We have worked together on a lot of things and have a good relationship. I consider him a friend.

Mr. Manfreda, your agency is proposing two new rules that I think are both wrong and if adopted are going to bring great harm to the wine industry and they trouble me a great deal.

The Congress prohibited misleading wine labels when they passed the Federal Alcohol Administration Act, and your agency was charged with enforcing that law, as you mentioned in your opening testimony.

In 1986, your agency concluded, and I will quote, ''A geographic brand name of viticulture significance on a wine label indicates to consumers the origins of that wine.'' That means where those grapes are grown.

In your own manual, and I have a copy of it here, and without objection, Mr. Chairman, I would like to submit this to the record.

Chairman LEWIS. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Mr. THOMPSON. Your manual provides public guidance regarding geographic brand names, what is allowed or what is not allowed under the law and under the regulations.

I would like to quote from this also. It states and I quote ''If the brand name includes the names of a geographic area that actually exists and is described in at least two reference materials as a grape growing area, the wine cannot be labeled with such a brand name.''

I do not want them included, Mr. Chairman, but I would like unanimous consent to get the citations from these reference books included in the record. There are about 15 of them here, Mr. Chairman, that do in fact speak directly to the proposed rule.

Chairman LEWIS. Without objection, you just want the citation?

Mr. THOMPSON. Just the citations.

Chairman LEWIS. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Mr. THOMPSON. They also go on to say that new brand names, ''new'' being after July 7, 1986, cannot be labeled with such a name also. I would like these put in the record and also while we are at it, I have a letter from about 57 members, I think 17 from this committee, opposed to that, and also a letter and statement from the Napa Valley Vintners opposing this as well.

Chairman LEWIS. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Mr. THOMPSON. Mr. Manfreda, I have a couple of questions on this issue that I would like to ask you. If a vintner submitted an application today with a Calistoga brand name on the label, would that label be approved under these standards?

Mr. MANFREDA. Which standards?

Mr. THOMPSON. Your standards.

Mr. MANFREDA. Yes, they would, currently.

Mr. THOMPSON. You would in fact approve a label with the name ''Calistoga'' on it?

Mr. MANFREDA. Yes, sir, because we are now in rulemaking on that point. We probably would approve it subject to an advisory that this matter and the use of the word ''Calistoga'' is subject to rulemaking and your ability to continue to use that may be subject to termination.

UNCORRECTED

Mr. THOMPSON. Your manual states specifically that it cannot be done.

Mr. MANFREDA. That manual, sir, is purely a guidance document. If you look at the regs which controls this particular issue, under 439(i), this reg specifically states as determined by a TTB official.

From our knowledge, there was no determination made at the time, in 1991 or in 1998 when we started approving the Calistoga label, that that term had viticultural significance.

Mr. THOMPSON. Mr. Manfreda, the Federal Government, when they passed the Federal Alcohol Administration Act, prohibited misleading wine labels. How in the world can you sit here and tell me that a wine label with a geographic destination would in fact be approved unless, of course, you can come back somehow and explain how that fruit comes from that specific area?

Mr. MANFREDA. Our laws basically say you cannot use a brand name of geographical significance or viticultural significance, and basically, that is determined by the agency.

Calistoga has not been officially determined to be--

Mr. THOMPSON. That is not what your rule says. As a matter of fact, it gives an example of the Virgin River Valley Serenade white wine, and it states ''Virgin River Valley is the name of a geographic area that actually exists and is described in at least two reference materials as a grape growing area. Therefore, the wine cannot meet the appalachia of origin requirements for the geographic area named in the brand name.''

Mr. MANFREDA. Again, that is a guidance document and it does not address Calistoga specifically. In fact, from our historical files--

Mr. THOMPSON. There are 15 references right here. You sat through the very, very tough hearings in the 1980s on

this issue. You were at the hearings in my district. In those hearings, one of the leading viticulturers in the world, and sadly to say, just passed away this weekend, Robert Mondavi, but he testified before that hearing that since 1937, ''I've been crushing grapes in the Napa Valley. These grapes have come from the various areas of Napa County, Caymus, Yountville, Oakville, St. Helena, Calistoga. The wines have their own characteristics from each of these areas.''

This is something that you know personally, with personal experience.

Mr. MANFREDA. Sir, that is the whole function of the rulemaking, to air this issue entirely to give people the ability to comment. If you remember, this rulemaking involves the application of the reg that is already on the books that basically says a geographical brand name that is the name that has been in existence after 1986 does not fall within the grandfather clause of 430.

What we were trying to do here is see whether or not there are other approaches to this particular labeling issue other than terminating somebody's right to use a brand name that they have been using for over 12 years.

Mr. THOMPSON. You are mixing questions now. There is this very specific provision in the law, a revocation provision, that allows you to remove that if someone does in

fact have a label that is not legitimate and not proper, and that revocation provision is probably what should be used in this particular case.

Mr. MANFREDA. I know that exists there, but we are still in rulemaking. It would be premature to pre-determine the outcome of this before the rulemaking finishes.

Mr. THOMPSON. You told me in my office when we talked about this that there may be some way to deal with this by placing a disclaimer on the Calistoga label, that in fact the grapes were not from Calistoga.

If that were to happen, how would a consumer know that the wine is not from Calistoga?

Mr. MANFREDA. If the disclaimer specifically said the grapes were not--

Mr. THOMPSON. On the wine bottle.

Mr. MANFREDA. Right in the same--

Mr. THOMPSON. What about the consumer who buys his or her wine in a restaurant off a wine list, sees it advertised and somehow draws the conclusion that it is from Calistoga, or in a wine review or for sale in a catalog or on the Internet?

Mr. MANFREDA. I think that is a very good point. You are going to the limitations of our jurisdiction over advertising materials. To the extent it would constitute advertising by an industry member, our rules can address that to make sure

if the brand name is used, you have an appropriate disclaimer also present. We can cover it to the extent that we have jurisdiction over it, and for those areas we cannot reach, it is no more different than other issues that could come up and be treated similarly in those respected forums.

Mr. THOMPSON. Mr. Chairman, thank you for your indulgence, if I could, just one more question.

The label in question, Calistoga Cellars, has never applied to register its wine brand as a trademark with the U.S. Patent and Trademark Office. If it had, it would have been refused registration on the brand on the basis that it was deceptive because consumers associate the term ''Calistoga'' with the wine.

This is the holding of the PTO in the case of trademark applications to register similar marks, Calistoga Ranch and Calistoga Estate Vineyards for wine.

How do you justify TTB's protecting Calistoga Cellars when this position is in direct conflict with the Government's lead agency on trademark matters?

Mr. MANFREDA. Sir, I will have to defer to the PTO. I am not familiar with their rules or regulations. I am familiar with what we are doing and what we are doing is trying to determine whether or not a label with a disclaimer would be not misleading to the consumer with regard to claiming Calistoga where the real source of the grapes are

shown.

Mr. THOMPSON. There are other ways to deal with that, and we have talked about some of them. One would be a grace period whereby the label in question could start sourcing its grapes from the Calistoga area which the label is trying to mislead consumers to believe their wine is from. It could be like a five year period to get those grapes, and as you know, the Calistoga folks said they would get them, the fruit, to do this.

This is an important issue. This has been litigated and litigated and litigated. The California Supreme Court found that the issue that you are trying to protect, the business person who has this label, does not lose anything if they are required to have fruit in their wine that the label leads consumers to believe is in the wine, and it went all the way to the California Supreme Court and twice, it was refused cert at the U.S. Supreme Court.

There is plenty of legal ground to hang your hat on, and I would just strongly advise you to consider these things and consider the harm that is going to be done to an industry that across the board has benefitted not only the industry but the consumers and the Treasury with this success.

We are trying to fix something here that is not broken.

Thank you, Mr. Chairman, for your patience.

Chairman LEWIS. I thank the gentleman from California,