

Dated: November 18, 2004.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug  
Evaluation, Center for Veterinary Medicine.*  
[FR Doc. 04-26380 Filed 11-29-04; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[TTB T.D.-18; Re: Notice No. 14]

RIN: 1513-AA50

#### Establishment of the Dundee Hills Viticultural Area (2002R-218P)

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

ACTION: Final rule; Treasury decision.

**SUMMARY:** This Treasury decision establishes the Dundee Hills viticultural area in Yamhill County, Oregon. This new area is entirely within the existing Willamette Valley viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**EFFECTIVE DATES:** January 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** N. A. Sutton, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., #158, Petaluma, CA 94952; telephone 415-271-1254.

#### SUPPLEMENTARY INFORMATION:

##### Background on Viticultural Areas

###### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

##### Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

##### Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to 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 supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

##### Dundee Hills Petition

###### General Background

In 2002, TTB received a petition from Alex Sokol Blosser, secretary of the North Willamette Valley AVA Group, proposing the establishment of the 6,490-acre "Red Hills" viticultural area in Yamhill County, Oregon. As explained below, the petitioner subsequently amended the area's name to "Dundee Hills." Located in northwest Oregon near the town of Newberg, the Dundee Hills viticultural area is about 28 miles southwest of Portland and 40

miles inland from the Pacific Ocean. The Dundee Hills area is entirely within the established Willamette Valley viticultural area (27 CFR 9.90). At the time of the petition, the Dundee area had 1,264 acres planted to grapes, with another 800 acres available for future vineyard use.

The Dundee Hills rise above the low, flat floors of the surrounding Willamette and Chehalem Valleys. These hills generally have peaks above 700 feet, with the highest peak rising to 1,067 feet. In addition to their higher elevation, warmer nighttime temperatures and less low-elevation fog and frost distinguish the Dundee Hills area from the surrounding valleys.

Below, we summarize the evidence presented in the petition.

##### Name Evidence

The North Willamette Valley AVA Group originally proposed the name "Red Hills," for this area, but after learning of other petitioners proposing the same (or a similar) name for other viticultural areas, the Group amended its petitioned name to "Red Hills of Dundee." The Group later amended its petitioned name to "Dundee Hills" to avoid possible confusion with other domestic and international "Red Hill" or "Red Hills" viticultural regions.

The amended petition included evidence showing that local residents, vintners, and others know the region as the "Dundee Hills." The October 2002 Yamhill County, Oregon, Verizon Super Pages telephone book includes "Dundee Hills Estate," while the "Shop Newberg" Web site lists "Dundee Hills Farm." Ellen McCornack's March 1912, Oregon Historical Society Quarterly article, "A Glimpse into Prehistoric Oregon," explains the Willamette Valley was a large, prehistoric body of water, and that "[a]cross a narrow straight from Chehalem was the island of the Dundee Hills \* \* \*"

"In with the New World," an article in the fall/winter 1998 issue of Wine Press Northwest, lists several pioneer Oregon wine growers, including David Lett, who arrived in 1965 with:

a degree in viticulture from the University of California-Davis and a plan to find a cool climate suitable for planting pinot noir and other varieties from Burgundy. Lett decided on the Dundee Hills in the Willamette Valley \* \* \*. Another early pioneer is Dick Erath of Erath Vineyards, also still producing great wine in the Dundee Hills near Newberg.

Fred Delkin, in a 2002 Oregon Magazine article, "Papa Pinot Still Preaching Gospel That Created an Industry," also notes that, in 1966, Lett planted "Pinot Noir and its cousin, Pinot Gris, in the Dundee hills area." A

November 14, 2002, Seattle Times article, "Wine Is the Main Course this Thanksgiving Celebration," adds, "Erath Vineyards, high in the Dundee hills, is one of the Willamette Valley's pioneer wineries."

The 1989 Parker's Wine Buyer's Guide explains, "Pinot Noir from the Dundee Hills, a subregion of the Willamette Valley, has a more herbaceous, Bing-cherry fruitiness" (page 814). In Marne Coggan's Vineyards and Winery Management article, "Vineyard Land Values Part 2: What's Happening Beyond the North Coast" (Vol. 27, No. 4, 2001), states:

The premier Oregon wine growing area is called the Dundee Hills \* \* \*. Vacant land values in the Dundee Hills have climbed from \$8,000-\$10,000 to \$10,000-\$15,000 per acre. But those prices drop dramatically as you head south toward Salem and the Polk County area, where values are probably half of the Dundee Hills levels.

The October 2001 Oregon Wine Magazine article (page 20) describes a French-owned gravity-fed winery, Domaine Drouhin, which "clings to the heights of the Dundee Hills."

*Boundary Evidence*

The Dundee Hills viticultural area's boundaries are based on a number of distinguishing features, including elevation, terrain, climate, and soils, as well as the modern viticultural history of the area.

The Dundee Hills viticultural area consists of a single, continuous uplifted landmass that rises above the surrounding valley floors. The lower and flatter land along the Willamette River and its tributary, the Yamhill River, defines the Dundee Hills viticultural area to the east and south. Millican Creek, a southward flowing tributary of the Yamhill River, and a smaller drainage flowing north into Chehalem Creek, which empties into the Willamette River, border the hills to the west. The Chehalem Valley defines the northern limits of Dundee Hills.

The viticultural area's boundary is an irregular circle encompassing the Dundee Hills. The 200-foot contour line constitutes most of the boundary, which divides the base of the hills' slopes from the surrounding valley floors. On much of the area's western side, a roadway that varies between 200 and 300 feet in elevation is used in lieu of the 200-foot

elevation line, which meanders far from the logical perimeter of the Dundee Hills viticultural area.

Portions of the towns of Dundee and Lafayette, where the Dundee Hills area's 200-foot elevation boundary crosses the towns' boundaries, are included within the viticultural area. Oregon State Route 99W, a heavy-duty road to the east and south of Dundee Hills, and State Route 240, a medium-duty road to the north, are generally outside the established boundary line, but occasionally cross into the viticultural area. The town of Dundee straddles the area's eastern border, the Yamhill River runs near its southern boundary, Millican Creek and the Trappist Abbey of Our Lady of Guadalupe anchor its west side, and the Chehalem Valley lies beyond its northern boundary.

*Viticultural Growth*

Wine grapes planted in 1969 at Erath Vineyards produced 216 cases of Pinot noir in 1972, and, in 1971, five acres of Pinot noir grapes were planted at the Sokol Blosser vineyard. Statistics from the petition show the viticultural growth of the proposed Dundee Hills area:

VITICULTURAL GROWTH IN DUNDEE HILLS AREA

	Decade ending 1980	Decade ending 1990	Decade ending 2000	As of 2002
Acreage .....	299	577	1,161	1,264
Vineyards .....	13	22	38	44

*Distinguishing Features*

Elevation, terrain, climate, and soil factors distinguish the Dundee Hills viticultural area from the grape-growing regions found on the surrounding valley floors. As noted earlier, the 200-foot contour line is used for most of the boundary between the Dundee Hills viticultural area and the surrounding, lower and flatter valley floors.

*Elevation and Terrain*

The Dundee Hills viticultural area elevation rises from the 200-foot contour line to the highest hill's peak of 1,067 feet. These heights contrast with the lower elevation Chehalem and Willamette Valleys, which flank the north, east, and south sides of the viticultural area. The area's western boundary, along Abbey and Kuehne Roads, is marked by a natural depression with drainage south to the Yamhill River via Millican Creek, while a smaller unnamed drainage flows north into the Chehalem Valley.

The Dundee Hills viticultural area's topography consists of a north-south spine with ridges and small valleys on the east, south and west sides of the landmass. This hilly area is above the Willamette and Chehalem Valleys' flood plains. Numerous small streams originate in the Dundee area's higher elevations and the area is dotted with small reservoirs. Light-duty and unimproved roads service the Dundee Hills area.

The 5th edition of the "Geology of Oregon" by Elizabeth and William Orr explains that the geological history of the Dundee Hills area dates back 66 million years with the uplifting of the North American tectonic plate, which formed the Coast Range mountains and the inland ridges and valleys. Lava flows, dating back 15 million years, pushed into the area from northeast Oregon, depositing Columbia River basalts and restructuring the landscape with hills and broken ridges.

To the west, the huge uplifted mass of the Coast Range parallels the Pacific

Ocean coastline. Between the Coast Range on the west, and the Dundee Hills to the east, is the inland Yamhill-Carlton region, which is also a proposed viticultural area. The Yamhill-Carlton area has small uplifted slopes that drain entirely into the Yamhill River system, while only the west side of the Dundee Hills area drains into this watershed.

To the north, the Chehalem Mountains, with an east to west orientation, have a large footprint and cover more surface area than Dundee Hills. These taller mountains provide the Dundee Hills viticultural area with some protection from the climatic extremes found further to the north.

To the east and immediate south of the Dundee Hills viticultural area, the lower-elevation Willamette Valley floor has different soils and growing conditions, and is subject to standing water in the winter and spring. The Eola Hills, 20 miles south of the Dundee area, have a north-south orientation, a large footprint, and a strongly marine-influenced climate.

## Climate

The Dundee Hills viticultural area, with warmer nights and less frost than the adjacent valley floors, is protected from great climatic variations by surrounding geographic features. To the north, the tall Chehalem Mountains buffer the climatic influence of the Columbia River Gorge, which funnels cold air in the winter and warm air in the summer into the Willamette Valley from the interior of northern Oregon. In addition, the Willamette Valley, located to the east and south of the Dundee Hills area, has spring and fall fog and frost, which is created as cool night air drains from the hillsides onto the valley floor.

The Coast Range, to the west of the Dundee Hills area, lessens the harsh effects of the Pacific Ocean's heavy rains and windstorms, and causes a rain shadow effect in the Dundee Hills area. Annually, the Coast Range receives 90 to 135 inches of rain, while the Dundee Hills area gets about a third that much—30 to 45 inches of rain annually.

The proposed Yamhill-Carlton viticultural area, located between the Coast Range and the Dundee Hills area, has a stronger marine-influenced climate, with more wind and rainfall, than the Dundee Hills viticultural area. The Yamhill-Carlton region averages 60 inches of annual precipitation and has 150 fewer degree-growing days than the Dundee area.

The Eola Hills, 20 miles to the south of the Dundee Hills, receive a strong cooling marine influence that pushes inland from the Pacific Ocean through the Van Duzer Corridor, an opening in the Coast Range. This marine effect loses most of its cooling benefit before reaching the Dundee Hills viticultural area.

## Soils

The "Soil Survey of the Yamhill Area, Oregon," issued by the U.S. Department of Agriculture's Soil Conservation Service in January 1974, documents that the reddish color in the Dundee Hills area's soil is derived from the Columbia River basalt lavas, including the Jory soil series, which cover approximately 80 percent of the area. These lava-based soils decompose quickly with the high rain amounts found in northwestern Oregon, which helps produce the area's Jory series of reddish silt, clay, and loam soils. This soil series, found predominantly on the Dundee Hills' eastern side, is moderately fertile and well drained, with slight to moderate erosion levels.

The sedimentary Willakenzie soil series covers the steeper slopes of the

Dundee Hills area's western side. This soil series is categorized as well drained with moderate to high erosion levels. A smaller amount of the Jory soil series exists on the area's western side where the Columbia River lava flows cover the sedimentary formations.

Outside the Dundee Hills viticultural area's boundary, the soils of the Coast Range, the Yamhill-Carlton area, the Chehalem Mountains, the Willamette Valley floor, and the Eola Hills contrast with the soils found within the Dundee Hills area. The Coast Range to the west has marine volcanic and sedimentary soils, with high water holding capacity silts and basalt layers sandwiched between marine sediments.

The Yamhill-Carlton region, to the Dundee area's west and northwest, has soils derived from marine sediments and ocean floor volcanic basalt with high water holding capacity. The Chehalem Mountains, to the north and northeast, have the Columbia River basalt, ocean sedimentation, and wind-blown loess derivation soil types. The Willamette Valley floor, to the east and south, has deep, alluvial soils with high water holding capacity. In the Eola Hills region to the south, low water holding capacity, slow permeability, and moderate erosion levels characterize the predominant Gelderman and Ritner basalt soil series found there.

## Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this notice.

## Maps

The petitioner(s) provided the required maps, and we list them below in the regulatory text.

## Notice of Proposed Rulemaking and TTB Finding

TTB published a notice of proposed rulemaking regarding the establishment of the Dundee Hills viticultural area in the August 15, 2003, **Federal Register** as Notice No. 14 (68 FR 48839). In that notice, TTB requested comments by October 14, 2003, from all interested persons. TTB received 13 comments in response. All comments supported the Dundee Hills area's establishment, and most noted its distinctive geography, climate, and soils.

After careful review, TTB finds that the evidence submitted with the petition supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the "Dundee Hills" viticultural area in

Yamhill County, Oregon, effective 60-days from this document's publication date.

## Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, "Dundee Hills," is recognized as a name of viticultural significance. Consequently, wine bottlers using "Dundee Hills" in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

## Regulatory Analyses and Notices

### 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 is 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**

N.A. Sutton of the Regulations and Procedures Division drafted this document.

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

Wine.

**The Final Rule**

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter I, part 9 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. Amend subpart C by adding § 9.180 to read as follows:

**§ 9.180 Dundee Hills.**

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Dundee Hills viticultural area are three United States Geological Survey (USGS) 1:24,000 scale maps. They are titled:

(1) Dundee Quadrangle, Oregon, 1956, revised 1993;

(2) Newberg Quadrangle, Oregon, 1961, photorevised 1985; and

(3) Dayton Quadrangle, Oregon, 1957, revised 1992.

(c) *Boundary.* The Dundee Hills viticultural area is located in Yamhill County, Oregon, near the town of Newberg, and is entirely within the Willamette Valley viticultural area. The boundary of the Dundee Hills viticultural area is as described below:

(1) The beginning point is on the Dundee map at the intersection of the 200-foot contour line with Kuehne Road at the common boundary line of sections 47 and 48, T3S, R3W;

(2) From the beginning point, proceed east then south along the meandering 200-foot contour line, crossing over to and back off the Newberg map, and then cutting diagonally southwest through the town of Dundee to the 200-foot contour line's intersection with Hess Creek, section 34, T3S, R3W (Dundee Quadrangle); then

(3) Proceed south, then west, and then northeast, along the meandering 200-foot contour line, twice crossing over to and back off the Dayton map, to the contour line's intersection with Abbey Road after the line passes a quarry and

crosses the two forks of Millican Creek in section 52, T3S, R3W (Dundee Quadrangle); then

(4) Proceed generally north on Abbey Road to Kuehne Road and then follow Kuehne Road northeasterly to the beginning point.

Signed: October 21, 2004.

**Arthur J. Libertucci,**

*Administrator.*

Approved: November 9, 2004.

**Timothy E. Skud,**

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

[FR Doc. 04-26330 Filed 11-29-04; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 110**

[CGD01-03-107]

1625-AA01

**Anchorage Regulations: Yonkers, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the anchorage regulations for the Hudson River, New York by establishing two Special Anchorage areas adjacent to the City of Yonkers. This action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages for vessels not more than 20 meters in length. This action is intended to increase the safety of life and property on the Hudson River, improve the safety of anchored vessels in both anchorages, and provide for the overall safe and efficient flow of recreational vessel traffic and commerce.

**DATES:** This rule is effective December 30, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-03-107), and are available for inspection or copying at Room 628, First Coast Guard District Boston, 408 Atlantic Avenue, Boston, MA 02110, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John J. Mauro, Commander (oan), First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02110; telephone (617) 223-8355; e-mail [jmauro@d1.uscg.mil](mailto:jmauro@d1.uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On June 30, 2004, we published a notice of proposed rulemaking (NPRM) entitled “Anchorage Regulations: Yonkers, New York” in the **Federal Register** (69 FR 39380). We received two comments on the proposed rule. No public hearing was requested and none was held.

**Background and Purpose**

A request was made by the City of Yonkers, New York to establish two special anchorage areas as part of a waterfront revitalization and redevelopment effort. The City of Yonkers is proactively encouraging waterfront use by the general public. This rule is in response to that request to help ensure the safe navigation of increased vessel traffic expected to arrive along the city waterfront due to this revitalization effort.

The Coast Guard is designating the areas as special anchorage areas in accordance with 33 U.S.C. 471. In accordance with that statute, vessels will not be required to sound signals or exhibit anchor lights or shapes which are otherwise required by rule 30 and 35 of the Inland Navigation Rules, codified at 33 U.S.C. 2030 and 2035. The two special anchorage areas will be located on the East side of the Hudson River in the vicinity of Main Street and the JFK Marina, well removed from the channel and located where general navigation will not endanger or be endangered by unlighted vessels. Providing anchorage well removed from the channel and general navigation will greatly increase navigational safety.

While developing this rule, in accordance with 33 CFR 109.05(b), the Coast Guard consulted with the U.S. Army Corps of Engineers, New York District, located at 26 Federal Plaza, New York, NY 10278. The U.S. Army Corps of Engineers has determined that the proposed Special Anchorage Areas would not have an adverse affect on any federally maintained navigation channels in the area, structures the U.S. Army Corps of Engineers has permitted, or any pending permit applications submitted to the U.S. Army Corps of Engineers in this area.

**Discussion of Comments and Changes**

We received a letter from the City of Yonkers requesting that the Main Street Special Anchorage be modified to accommodate the high speed ferry service to the City's Main Street Pier. This final rule incorporates the City's modifications to the Special Anchorage. As requested by the City of Yonkers, the southern boundary of the Main Street