

beginning point at the southeast corner of section 14, T23S, R9E.

Signed: April 26, 2005.

**John J. Manfreda,**  
Administrator.

[FR Doc. 05-10008 Filed 5-18-05; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

RIN 1513-AA55

[Notice No. 44]

#### Proposed Expansion of San Francisco Bay and Central Coast Viticultural Areas (2002R-202P)

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to amend its regulations to expand by approximately 20,000 acres the San Francisco Bay viticultural area and the Central Coast viticultural area in California to match the proposed boundary of an expanded Livermore Valley viticultural area. We designate viticultural areas to allow bottlers to better describe the origin of wines and allow consumers to better identify the wines they may purchase. We invite comments on this proposed amendment to our regulations.

**DATES:** We must receive written comments on or before July 18, 2005.

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

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 44, P.O. Box 14412, Washington, DC 20044-4412.
- 202-927-8525 (facsimile).
- [nprm@ttb.gov](mailto:nprm@ttb.gov) (e-mail).
- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.
- <http://www.regulations.gov> (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this notice by appointment at the Alcohol and Tobacco Tax and Trade Bureau Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400. You may also access copies of the notice and comments online at <http://www.ttb.gov/alcohol/rules/index.htm>.

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

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 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. Petitioners may use the same procedure

to request changes involving existing viticultural areas. 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.

##### San Francisco Bay and Central Coast Expansion Petition

TTB received a petition from the president of the Livermore Valley Winegrowers Association proposing to expand the existing San Francisco Bay viticultural area (27 CFR 9.157) and the existing Central Coast viticultural area (27 CFR 9.75). The Association made this request in conjunction with, and as a consequence of, its proposed expansion of the Livermore Valley viticultural area (27 CFR 9.46), which is the subject of another document published in this issue of the **Federal Register**. The petitioner, Livermore Valley Winegrowers Association, represents most of the vineyards and wineries impacted by this expansion.

The Livermore Valley viticultural area is entirely within the San Francisco Bay viticultural area, which is, in turn, entirely within the Central Coast viticultural area. To retain this configuration, the proposed Livermore Valley expansion would require the minor expansions of the San Francisco Bay and Central Coast viticultural areas proposed in this document.

Below, we summarize the evidence presented in the petition to justify the expansion of the San Francisco Bay and Central Coast viticultural areas.

###### *Rationale for the Proposed Expansion*

As the petitioner notes, in the years since the Bureau of Alcohol, Tobacco and Firearms (ATF), TTB's predecessor agency, established the current Livermore Valley viticultural area in 1982, ATF also established both the Central Coast and San Francisco Bay viticultural areas. Both of these

viticultural areas currently encompass the Livermore Valley viticultural area in its entirety and incorporate some of the Livermore Valley area's eastern boundary line as their own boundaries. (See: Livermore Valley Viticultural Area, Treasury Decision (T.D.) ATF-112, 47 FR 38520, Sept. 1, 1982; Central Coast Viticultural Area, T.D. ATF-216, 50 FR 43130, Oct. 24, 1985, as amended by T.D. ATF-407 64 FR 3023, Jan. 20, 1999; and San Francisco Bay Viticultural Area, T.D. ATF-407, 64 FR 3015, Jan. 20, 1999.)

When ATF established the San Francisco Bay viticultural area and amended the Central Coast viticultural area in 1999, no changes were made to the established boundary line of the Livermore Valley viticultural area. As a result, the Central Coast viticultural area and the San Francisco Bay viticultural area currently share a common boundary line in Alameda County, while the Livermore Valley viticultural area does not—to the detriment of all three viticultural areas, according to the petitioner.

Currently, the central portion of the Livermore Valley viticultural area's eastern boundary line sits to the west of the current San Francisco Bay and Central Coast viticultural areas' eastern boundary line. This portion of the Livermore Valley boundary line is west of the Diablo Range foothills, as noted on the USGS Altamont, Byron Hot Springs, and Mendenhall Springs Quadrangle maps. The common eastern boundary line of the San Francisco Bay and Central Coast viticultural areas is further east, along the western foothills and mountains of the Diablo Range, as defined on the USGS Midway and Cedar Mtn. Quadrangle maps. The preamble to T.D. ATF-407, explains that the mountain elevations block the Pacific Ocean's marine air from continuing eastward and inland. Also, the other side of the Diablo Range, to the east of the Livermore Valley, has higher temperatures, lower humidity, and decreased rainfall, typical of a continental climate.

The concurrent petition to expand the Livermore Valley viticultural area, the petitioner states, provides an opportunity to align the boundaries of all three viticultural areas—Livermore Valley, San Francisco Bay, and Central Coast—into one common boundary line in this region. According to the petitioner, the proposed expansion of the San Francisco Bay and Central Coast viticultural areas would result in eastern boundaries for these two areas that would coincide with the Livermore Valley viticultural area. The petitioner argues that this expansion remains

consistent with the essential elements currently recognized by TTB, such as name, regional identity, and distinguishing geographical features. Moreover, the petitioner states, this expansion would serve consumers by providing clear, unambiguous boundaries that would aid, rather than complicate, their wine buying decisions.

#### *Name and Boundary Evidence*

T.D. ATF-407, 64 FR 3018, which established the San Francisco Bay viticultural area and expanded the Central Coast viticultural area to the north, details evidence for name recognition and regional identity for the San Francisco Bay viticultural area and the Central Coast viticultural area. It explains that the counties of San Francisco, Contra Costa, Alameda, Santa Clara, and San Mateo all border the San Francisco Bay body of water and are consistently considered to be part of the San Francisco Bay region. All, or portions of, the five counties listed above are within the established San Francisco Bay and Central Coast viticultural areas boundary lines.

To support the expansion of the Central Coast viticultural area boundaries, the petitioner cites T.D. ATF-407, which maintains that the general marine climate extends north and northwest beyond the originally established Central Coast viticultural area boundaries. Also, the name recognition of Central Coast, as used by wine writers and in the California State legislature, extends north and west into the five counties surrounding the San Francisco Bay body of water. Thus, the petitioner contends that because the names of both the San Francisco Bay and Central Coast viticultural areas are unaffected by the proposed boundary expansion, the evidence cited in the T.D. ATF-407 remains accurate.

The proposed alignment of the San Francisco Bay and Central Coast boundaries with the expanded Livermore Valley boundary is limited to Alameda and Contra Costa Counties. These counties encompass the Central Coast's northeastern region and the San Francisco Bay's eastern region, as noted on the USGS maps and by the written boundary descriptions. While the aligned boundaries for both the San Francisco Bay and Central Coast viticultural areas would expand eastward, it would be in a limited manner, and the boundaries remain true to the 1999 T.D. ATF-407 regional definitions for both viticultural areas, according to the petitioner.

In sum, the name recognition for the affected portions of Alameda and Contra Costa Counties continue as the San

Francisco Bay area and the larger Central Coast area, as documented in T.D. ATF-407. Also, the distinguishing boundary and climatic characteristics, as described in T.D. ATF-407, including the cooling marine influences from the Pacific Ocean and San Francisco Bay and the natural boundary of the Diablo Range apply equally to the proposed expansion area.

#### *Boundary Description*

See the changes to the narrative boundary descriptions for the petitioned-for viticultural area expansions in the proposed regulatory text amendments published at the end of this notice.

#### *Maps*

The petitioner provided the required maps for the expansions, and we list them below in the proposed regulatory text amendments.

#### **Impact on Current Wine Labels**

The proposed expansion of the San Francisco Bay and Central Coast viticultural areas will not affect currently approved wine labels. The approval of this proposed expansion may allow additional vintners to use "San Francisco Bay" and "Central Coast" as an appellation of origin on their 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. 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). 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.

#### **Public Participation**

##### *Comments Invited*

We invite comments from interested members of the public on whether we should expand the San Francisco Bay and Central Coast viticultural areas as described above. We are especially interested in comments concerning the similarity of the proposed expansion area to the currently existing San Francisco Bay and Central Coast viticultural areas. Please support your comments with specific information about the proposed expansion area's name, proposed boundaries, or distinguishing features.

### Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- **Mail:** You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- **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 no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.
- **E-mail:** You may e-mail comments to [nprm@ttb.gov](mailto: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.

- **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 the "Send comments via e-mail" link under this notice number.

- **Federal e-Rulemaking Portal:** To submit comments to us via the Federal e-rulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

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 to hold a public hearing.

### Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

### Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our librarian at the above address or

telephone 202-927-2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and comments we receive 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 Library. To access the online copy of this notice and the submitted comments, visit <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "View Comments" link under this notice number to view the posted comments.

### Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The 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

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

### List of Subjects in 27 CFR Part 9

Wine.

### Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 9, Code of Federal Regulations, 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. Section 9.75 is amended by revising the introductory text of paragraph (b), removing the word "and" at the end of paragraph (b)(40), replacing the period with a semicolon at the end of paragraph (b)(41), and by adding new paragraphs (b)(42) and (b)(43) and

revising paragraphs (c)(10) through (c)(16) to read as follows:

### § 9.75 Central Coast.

\* \* \* \* \*

(b) *Approved maps.* The approved maps for determining the boundary of the Central Coast viticultural area are the following 43 USGS topographic maps:

\* \* \* \* \*

(42) Midway, California, scale 1:24,000, dated 1953, Photorevised 1980; and

(43) Cedar Mtn., California, scale 1:24,000, dated 1956, Photorevised 1971; Minor Revision 1994.

(c) \* \* \*

\* \* \* \* \*

(10) Then proceed southeast in a straight line approximately 1.8 miles to BM 720 in section 21. (Altamont Quadrangle)

(11) Then proceed south-southeast approximately 1 mile to an unnamed 1,147-foot peak in section 28. (Altamont Quadrangle)

(12) Then proceed south-southwest in a straight line approximately 1.1 miles to the intersection of the eastern boundary of section 32 with Highway 580. (Altamont Quadrangle)

(13) Then proceed south-southeast in a straight line approximately 2.7 miles to BM 1602 in Patterson Pass in section 10, Township 3 South, Range 3 East. (Altamont Quadrangle)

(14) Then proceed south-southeast in a straight line approximately 2.8 miles to BM 1600, adjacent to Tesla Road in section 26. (Midway Quadrangle)

(15) Then proceed south in a straight line approximately 4.2 miles to BM 1878, 40 feet north of Mines Road, in section 14, Township 4 South, Range 3 East. (Cedar Mtn. Quadrangle)

(16) Then proceed west-southwest in a straight line approximately 4.2 miles to the southeast corner of section 19. (Mendenhall Springs Quadrangle)

\* \* \* \* \*

3. Section 9.157 is amended by revising the introductory text of paragraph (b), removing the word "and" at the end of paragraph (b)(41), replacing the period with a semicolon followed by the word "and" at the end of paragraph (b)(42), and by adding a new paragraph (b)(43) and revising paragraphs (c)(13) through (c)(18) to read as follows:

### § 9.157 San Francisco Bay.

\* \* \* \* \*

(b) *Approved Maps.* The appropriate maps for determining the boundary of the San Francisco Bay viticultural area

are 43 1:24,000 Scale USGS topographic maps. They are titled:

\* \* \* \* \*

(43) Cedar Mtn., California, scale 1:24,000, dated 1956, Photorevised 1971; Minor Revision 1994.

(c) \* \* \*

\* \* \* \* \*

(13) Then proceed northeast in a straight line approximately 3.2 miles to BM 1878 in section 14 on the Cedar Mtn. Quadrangle.

(14) Then proceed north in a straight line approximately 4.2 miles to BM 1600 adjacent to Tesla Road in section 26, Township 3 South, Range 3 East on the Midway Quadrangle.

(15) Then proceed north-northwest in a straight line approximately 2.8 miles to Patterson Pass, BM 1602, in section 10 on the Altamont Quadrangle.

(16) Then proceed north-northwest in a straight line approximately 2.7 miles to the intersection of the eastern boundary of section 32 with Highway 580 in Township 2 South, Range 3 East.

(17) Then proceed north-northeast in a straight line approximately 1.1 miles to an unnamed peak, elevation 1147, in section 28.

(18) Then proceed north-northwest in a straight line approximately 1 mile to BM 720 in section 21 and proceed northwest in a straight line approximately 1.8 miles to the northeast corner of section 18 on the Byron Hot Springs Quadrangle.

\* \* \* \* \*

Signed: April 26, 2005.

**John J. Manfreda,**

*Administrator.*

[FR Doc. 05-10007 Filed 5-18-05; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

RIN 1513-AA54

[Notice No. 43]

#### Proposed Expansion of the Livermore Valley Viticultural Area (2002R-202P)

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to amend its regulations to expand the existing 96,000-acre Livermore Valley viticultural area in Alameda County, California. The proposed expansion

would add 163,000 acres to the Livermore Valley viticultural area in northern Alameda and southern Contra Costa Counties. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify the wines they may purchase. We invite comments on this proposed addition to our regulations.

**DATES:** We must receive written comments on or before July 18, 2005.

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

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 43, P.O. Box 14412, Washington, DC 20044-4412.
- 202-927-8525 (facsimile).
- [nprm@ttb.gov](mailto:nprm@ttb.gov) (e-mail).
- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.
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You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this proposal by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400. You may also access copies of the notice and comments online at <http://www.ttb.gov/alcohol/rules/index.htm>.

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

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 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 consumers with adequate information regarding product 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. Petitioners may use the same procedure to request changes involving existing viticultural areas. 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, elevation, physical features, and soils, 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.

##### Livermore Valley Expansion Petition

TTB received a petition from the President of the Livermore Valley Winegrowers Association proposing to expand the existing Livermore Valley