

Dated: October 23, 2008.

**William T. Flynn,**

*Acting Director, Center for Veterinary Medicine.*

[FR Doc. E8-25719 Filed 10-28-08; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB-2007-0066; T.D. TTB-71;  
Re: Notice No. 76]

RIN 1513-AB49

#### Establishment of the Leona Valley Viticultural Area (2007R-281P)

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

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision establishes the 13.4-square mile “Leona Valley” American viticultural area in northeastern Los Angeles County, California. 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.

**DATES:** *Effective Date:* November 28, 2008.

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 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 (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act requires that these regulations, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

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 geographical 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.

##### Leona Valley Petition

Mr. Ralph Jens Carter submitted a petition for establishment of the 13.4-square mile Leona Valley viticultural area on behalf of the Antelope Valley Winegrowers Association, the Leona Valley Winery, and Donato Vineyards. The area currently includes 20 acres of vineyards, and more acreage for wine grape growing is under development. The proposed Leona Valley viticultural

area boundary line does not affect or overlap any other proposed or established viticultural area.

The proposed boundary line defines an area where viticulture is already established or has potential for establishment. Consequently, the area defined is limited to the valley floor and side slopes. The distinguishing features of the proposed viticultural area include the physical characteristics of the San Andreas Fault system, the fault-controlled Leona Valley, and the surrounding, high-elevation mountains. The climate, geology, and soils distinguish the proposed viticultural area from areas outside of the proposed boundary line.

##### Name Evidence

According to the petitioner, the name “Leona” derives from an early rancher named Miguel Leonis, and in the 1880s, a homesteader from Nebraska called the area “Leona Valley.” The “Leona Valley” name identifies a valley, a town within the valley, a ranch (the Leona Valley Ranch), and a festival (the annual Leona Valley Cherry Festival).

The petitioner provides maps that show that the Leona Valley is located in the northeast part of Los Angeles County, California. The “Leona Valley” name appears on the USGS Ritter Ridge, Sleepy Valley, and Del Sur quadrangle maps, which the petitioner uses to define the boundary line of the proposed viticultural area. The Sleepy Valley map also identifies a small town in the valley as “Leona Valley.” A recent atlas identifies both a valley and small town within the proposed viticultural area as “Leona Valley” (The DeLorme Southern and Central California Atlas and Gazetteer, 2005, page 79).

##### Boundary Evidence

According to the petitioner, and as evidenced by the written boundary description and the USGS Sleepy Valley quadrangle map, the proposed viticultural area includes the town and valley which are both named “Leona Valley.” The proposed boundary line borders the Angeles National Forest to the west and the Antelope Valley and the Mojave Desert to the northeast. Mountains and hills surround all sides of the valley. The floor and side slopes of the Leona Valley influence the shape of the proposed viticultural area, which includes vineyards in remote, but suitable, areas, but excludes steep slopes where erosion is a hazard.

According to the petitioner, historically, the Native American Shoshone Tribe lived as hunters and gatherers in the Leona Valley area. In

the mid-1800s, when the Shoshone departed the area, immigrants from Spain and Mexico started cattle ranching. During the 1880s, homesteaders from Nebraska, France, and Germany divided the ranches into smaller parcels for farms.

In the early 1900s the John Ritter family began to plant grapes in the Leona Valley area. The Ritter family winery, Belvino Vineyards, aged wine in a cave for at least 5 years before bottling and selling the wine on national and international markets. During Prohibition, the Ritters ceased producing wine. The petitioner notes that local residents report that zinfandel and mission vines planted in the early 1900s are still growing.

Currently, the proposed Leona Valley viticultural area contains 20 acres of commercial wine grape production on the Reynolds Family Vineyard and an acreage of pinot noir grapes on land owned by Donato Vineyards. At the time of filing the petition, Donato Vineyards, at the southeast end of the Leona Valley, planned to develop another 10 acres for growing wine grapes.

*Distinguishing Features*

The petitioner states that the distinguishing features of the proposed Leona Valley viticultural area consist of climate, physical features, geology, and soils. As evidence of many of the distinguishing features of the proposed viticultural area, the petitioner cites the Soil Survey of the Antelope Valley Area, California (United States Department of Agriculture, Soil Conservation Service,

Physical Features

According to USGS maps of the region, the Leona Valley is a low, sloping landform with elevations between 2,932 and 3,800 feet. It is surrounded by higher hills, Portal Ridge, Ritter Ridge, Sierra Pelona, and the mountains of the Angeles National Forest, the highest of which has an elevation of 4,215 feet. According to the petitioner, the Leona Valley comprises isolated knolls of significantly different elevations and, in places, narrows to a width of a mile.

The petitioner explains that the San Andreas Fault, a major continental fault system, is a significant distinguishing

in cooperation with the University of California Agricultural Experiment Station, 1970).

*Climate*

The petitioner explains that the soil survey designates the southern and western parts of the Antelope Valley and the Leona Valley as Major Land Resource Area (MLRA) 19, Southern California Coastal Plain. MLRA 19 has a distinctive combination of climate, soils, and mild temperatures, including an annual, 210- to 300-day frost-free period. Also, MLRA 19 is hot and dry in summer and cool and moist in winter. It is suitable to a wide variety of field, fruit, and nut crops. Annual precipitation ranges from 9 to 16 inches in MLRA 19, and irrigation use is routine. The soil survey shows that the land management techniques and cropping systems used in MLRA 19 are different from those used in the adjacent MLRA 30, Mojave Basin and Range, and MLRA 20, Southern California Mountains.

The petitioner also cites the Sunset Western Garden Book, which classifies the Leona Valley area as Zone No. 18, Southern California's Interior Valleys (Sunset Publishing Corporation, Menlo Park, California, 1995). In this zone the continental air mass is a major influence on climate, and the Pacific Ocean determines the climate in the valley only about 15 percent of the time.

According to the petitioner, annual precipitation within the proposed Leona Valley viticultural area ranges from 9 to 12 inches. In the Mojave Desert to the east of the Leona Valley, the range is

feature of the proposed Leona Valley viticultural area. As shown on the USGS maps of the region, this fault and its tributary faults in the Leona Valley trend southeast to northwest. The petitioner explains that the Leona Valley formed either when two parallel fault lines lifted mountains beside a drop-down area or when erosion over thousands of years caused a deep dissection in the fault zone. Seismic movement along the fault line has formed ridges and isolated hills and exposed various rocks.

The petitioner states that ground water provides a plentiful supply of water for vineyard irrigation within the

only 4 to 9 inches. In the mountainous areas surrounding Leona Valley to the south, west, and north, the range is between 12 and 20 inches.

The petitioner states that the growing season of the proposed viticultural area consists of warm days and cool nights. The cool nights slow the ripening of the grapes, helping the grapes to retain their natural acidity. Air drainage off the slopes of the hills and mountains helps prevent spring frost damage to grapes.

The petitioner submitted comparative data based on the Winkler Climate Classification System. In the Winkler system, heat accumulation per year defines climatic regions for grape growing. As a measurement of heat accumulation during the growing season, 1 degree day accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, which is the minimum temperature required for grapevine growth (see "General Viticulture," by Albert J. Winkler, University of California Press, 1974.) Climatic region I has less than 2,500 degree days per year; region II, 2,501 to 3,000; region III, 3,001 to 3,500; region IV, 3,501 to 4,000; and region V, 4,001 or more.

The petitioner states that the air temperatures during the growing season in the proposed viticultural area have an average heat summation of 4,060 degree days, which falls into the low range of region V. The annual heat summation totals of the regions in and around the proposed Leona Valley viticultural area are listed in the table below.

Region	Relative position with reference to Leona Valley	Average annual heat summation in degree days/climatic region
Leona Valley .....	Within .....	4,060 (low region V).
Sandberg .....	25 miles west-northwest .....	3,370 (mid region III).
Tehachapi .....	38 miles north-northwest .....	2,900 (high region II).
Lancaster .....	15 miles northeast .....	4,600 (high region V).

proposed Leona Valley viticultural area. As shown on the Ritter Ridge, Sleepy Valley, and Del Sur quadrangle USGS maps, many agricultural wells tap into the ground water.

*Geology*

The petitioner explains that relative displacement and a lack of continuity of the rocks on either side of the San Andreas Fault contribute to the complexity, weakening, and erosion of the parent rock. Near some portions of the fault the varying sedimentary strata determine the geologic formation.

Citing a California Department of Conservation Geologic Map, the

petitioner notes that the mostly nonmarine and unconsolidated alluvium on the Leona Valley floor is from the Quaternary Period, or about 2 million years old or less. The various types of schist, quartz, granite, and a complex of mixed, Precambrian igneous and metamorphic rocks in the valley contrast with the surrounding hills, which formed on Paleozoic or Mesozoic strata, 65 to 280 million years ago.

#### Soils

The petitioner explains that a fault increases the variety of rock exposed on the surface and eventually results in the formation of a greater variety of soil textures. Thus, the San Andreas fault influenced the properties and mineralogy of the soils in the Leona Valley.

The petitioner states that the soils on the Leona Valley floor differ from those beyond the boundary line of the proposed viticultural area. The surface layer of the soils in the Leona Valley formed in mixed decayed organic matter and soil material that originated on the surrounding mountains. Multiple rock types on the valley floor were the parent material of alluvial soils that have diverse mineralogy and texture. The soils on the valley floor are deep and moderately drained; those on the surrounding hills are shallow and excessively well drained.

According to the soil survey, the soils of the proposed Leona Valley viticultural area are mainly the Hanford-Ramona-Greenfield association on alluvial fans and terraces. This association consists of nearly level to moderately steep, well drained, very deep soils that have a surface layer of loamy sand to loam. Hanford soils are well drained. They do not have a hardpan or a compacted clay layer, and are easily worked.

According to the petitioner, Chino loam is in some areas of the proposed Leona Valley AVA. This soil is suited to use as pasture and to seeding to perennial grasses. It is very deep and poorly drained, and has a seasonal high water table. Permeability in this soil is slow. In some places water is ponded on this soil. Growers install drainage systems or manage their crops to counteract the poor drainage of this soil.

The petitioner explains that the Vista-Amagora association is among the dominant soils at higher elevations outside the boundary line of the proposed Leona Valley viticultural area. This association consists of strongly sloping to steep, well drained to excessively drained soils that have a surface layer of coarse sandy loam. South of the valley, in smaller areas, is

the Anaverde-Godde association. It consists of moderately steep or steep, well drained soils that have a surface layer of sandy loam or loam.

#### Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 76 regarding the proposed Leona Valley viticultural area in the **Federal Register** (72 FR 65489) on November 21, 2007. In that notice, TTB invited comments by January 22, 2008, from all interested persons. We expressed particular interest in receiving comments on whether the proposed area name would result in a conflict with currently used brand names. We also solicited comments on the sufficiency and accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. We received 13 comments from individuals and groups, including the Antelope Valley Winegrowers Association and the Antelope Valley Clean Air Group, in response to that notice. All 13 comments supported the establishment of the Leona Valley viticultural area as proposed.

#### TTB Finding

After careful review of the petition and the comments received, TTB finds that the evidence submitted 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 “Leona Valley” American viticultural area in Los Angeles County, California, effective 30 days from the publication date of this document.

#### Boundary Description

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

#### Maps

The maps for determining the boundary of the viticultural area are listed below in the regulatory text.

#### 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, “Leona Valley,” is recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation clarifies this point. Consequently, wine bottlers using “Leona Valley” 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. TTB has determined that only the full name “Leona Valley”, and not “Leona” standing alone, has viticultural significance.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term specified as having viticultural significance in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, 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 or other term of viticultural significance as an appellation of origin and that name or other term 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 or other term of viticultural significance 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 or other term of viticultural significance 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 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 Rulings Division drafted this notice.

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

Wine.

## The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 27 CFR, chapter 1, 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.

■ 2. Amend subpart C by adding § 9.212 to read as follows:

#### Subpart C—Approved American Viticultural Areas

##### § 9.212 Leona Valley.

(a) *Name*. The name of the viticultural area described in this section is “Leona Valley”. For purposes of part 4 of this chapter, “Leona Valley” is a term of viticultural significance.

(b) *Approved maps*. The four United States Geological Survey 1:24,000 scale topographic maps used to determine the boundary of the Leona Valley viticultural area are titled:

(1) Ritter Ridge, Calif., 1958; Photorevised 1974;

(2) Sleepy Valley, CA, 1995;

(3) Del Sur, CA, 1995; and

(4) Lake Hughes, CA, 1995.

(c) *Boundary*. The Leona Valley viticultural area is located in Los Angeles County, California. The boundary of the Leona Valley viticultural area is as described below:

(1) From the beginning point on the Ritter Ridge map at the intersection of Elizabeth Lake Pine Canyon Road and the section 23 east boundary line, T6N, R13W, proceed straight south along the section 23 east boundary line approximately 0.1 mile to its intersection with the 3,000-foot elevation line, T6N, R13W; then

(2) Proceed west along the 3,000-foot elevation line to its intersection with the section 23 west boundary line, T6N, R13W; then

(3) Proceed south along the section 23 west boundary line to the southwest corner of section 23 at the 3,616-foot marked elevation point, T6N, R13W; then

(4) Proceed west along the section 22 south boundary line, crossing onto the Sleepy Valley map, and continuing along the section 21 south boundary line, crossing over Pine Creek, to its intersection with the 3,400-foot elevation line, T6N, R13W; then

(5) Proceed west along the 3,400-foot elevation line to its intersection with the section 19 south boundary line and Bouquet Canyon Road, T6N, R13W; then

(6) Proceed straight west along the section 19 south boundary line to its intersection with the 3,560-foot elevation line, an unimproved road, and a power transmission line, north of Lincoln Crest, T6N, R13W; then

(7) Proceed northeast along the 3,560-foot elevation line across section 19 to its east boundary line, T6N, R13W; then

(8) Proceed in a straight line north-northwest approximately 0.25 mile to its intersection with a trail and the 3,800-foot elevation line, T6N, R13W; then

(9) Proceed northwest along the meandering 3,800-foot elevation line through section 19 to its intersection with the section 13 southeast corner, T6N, R14W; then

(10) Proceed straight west, followed by straight north, along the marked Angeles National Forest border to the section 11 southeast corner; then

(11) Proceed straight north along the section 11 east boundary line to its intersection with the 3,400-foot elevation line south of an unimproved road, T6N, R14W; then

(12) Proceed generally northwest along the 3,400-foot elevation line through section 11, crossing onto the Del Sur map, to its intersection with the section 3 southeast corner, T6N, R14W; then

(13) Proceed straight west to the section 4 southeast corner, T6N, R14W; then

(14) Proceed straight north along the section 4 east boundary line approximately 0.05 mile to its intersection with the 3,600-foot elevation line, T6N, R14W; then

(15) Proceed northwest along the 3,600-foot elevation line, through section 4 and crossing onto the Lake Hughes map, to its intersection with the Angeles National Forest border and the section 4 western boundary line, T6N, R14W; then

(16) Proceed straight north along the section 4 western boundary line to its intersection with BM 3402, south of Andrade Corner, T7N, R14W; then

(17) Proceed in a line straight northeast, crossing onto the Del Sur map, to its intersection with the marked 3,552-foot elevation point, section 33, T7N, R14W; then

(18) Proceed in a line straight east-southeast to its intersection with the marked 3,581-foot elevation point, and continue in a straight line east-southeast to its intersection with the marked 3,637-foot elevation point, T6N, R14W; then

(19) Proceed in a line straight northeast to its intersection with the section 2 northwest corner, T6N, R14W; then

(20) Proceed straight east along the section 2 north boundary line 0.35 mile to its intersection with the 3,600-foot elevation line, T6N, R14W; then

(21) Proceed north and then generally southeast along the 3,600-foot elevation line that runs parallel to and south of the Portal Ridge to the elevation line's intersection with the section 7 east boundary line, T6N, R13W; then

(22) Proceed straight south along the section 7 east boundary line, crossing onto the Sleepy Valley map, to its intersection with the 3,400-foot elevation line north of the terminus of 90th Street, T6N, R13W; then

(23) Proceed generally east-southeast along the 3,400-foot elevation line that runs north of the San Andreas Rift Zone to its intersection with the section 16 east boundary line, T6N, R13W; then

(24) Proceed straight south along the section 16 east boundary line to its intersection with the 3,000-foot elevation line, between Goode Hill Road and Elizabeth Lake Pine Canyon Road, T6N, R13W; then

(25) Proceed generally southeast along the 3,000-foot elevation line, crossing onto the Ritter Ridge map, to its intersection with the section 23 east boundary line, north of the intermittent Amargosa Creek and Elizabeth Lake Pine Canyon Road, T6N, R13W; then

(26) Proceed straight south along the section 23 east boundary line, returning to the beginning point.

Signed: April 7, 2008.

**John J. Manfreda,**  
Administrator.

Approved: August 26, 2008.

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

[FR Doc. E8–25747 Filed 10–28–08; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. S–108C]

RIN 1218–AB95

#### Electrical Standard; Clarifications; Corrections

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Final rule; clarifications; correcting amendments.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA)