

**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[Docket No. TTB-2008-0003; T.D. TTB-73;  
Re: Notice No. 82]

RIN 1513-AB51

**Establishment of the Snipes Mountain Viticultural Area (2007R-300P)**

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

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

**SUMMARY:** This Treasury decision establishes the 4,145-acre "Snipes Mountain" viticultural area in Yakima County, Washington. 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 Dates:* February 20, 2009.

**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; phone 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.

**Snipes Mountain Petition**

Mr. Todd Newhouse, of the Upland Winery in Outlook, Washington, submitted a petition proposing the establishment of the Snipes Mountain viticultural area on behalf of the grape growers in the Snipes Mountain area. The proposed viticultural area covers 4,145 acres, and currently has 535 acres of commercial vineyards. According to USGS maps that the petitioner provided, Snipes Mountain lies north of the Yakima River, between the towns of Granger and Sunnyside, in Yakima County, Washington. [TTB notes that the proposed viticultural area lies entirely within the Yakima Valley viticultural area (27 CFR 9.69) and also entirely within the larger Columbia Valley viticultural area (27 CFR 9.74).]

According to the petitioner, the principal distinguishing features of the proposed viticultural area are Snipes Mountain itself, a singular landform rising from the floor of the Yakima Valley, and its comparatively unique, rocky soils. The proposed viticultural area also includes Harrison Hill, east of Snipes Mountain. Harrison Hill has similar soils, and its topography is contiguous with the elevation lines of Snipes Mountain.

*Name Evidence*

The petition cites "The Pacific Northwestern" (Fall 1959, reprinted as Essay 7265 on <http://www.HistoryLink.org>) in explaining that in the late 1850s, Ben Snipes built a house at the base of a mountain, later known as Snipes Mountain, and developed an expansive cattle operation. Since the early 1900s, the Snipes Mountain Irrigation District has provided water to the region. According to the USGS Sunnyside quadrangle map, the main water canal, the Snipes Mountain Lateral, lies to the north of Snipes Mountain. The USGS Granger and Sunnyside quadrangle maps identify Snipes Mountain as an elevated landform between the Yakima River to the south and a single railroad line and Interstate 82 to the north.

*Boundary Evidence*

The petitioner states that growers began establishing vineyards on Snipes Mountain and adjacent Harrison Hill between 1914 and 1917, citing "The Wine Project: Washington State's Winemaking History" by R. Irvine and W. Clore (Sketch Publications, 1997). The second oldest cabernet sauvignon vines in Washington State have been growing for some 40 years in vineyards on Harrison Hill. These vines have been producing award-winning wines for 15 years. On Snipes Mountain, the Upland Winery, which operated from 1934 to 1972, is being reestablished as a historic winery. Within the current 535 acres of vineyards in the proposed viticultural area, a total of 25 varieties are grown.

According to the written boundary description and USGS maps provided with the petition, the boundary line of the proposed Snipes Mountain viticultural area lies between the 750- to 820-foot elevation lines, thus encompassing the mountain from those elevations to its peak. The USGS maps show that the proposed viticultural area is on elevated terrain, and comprises vineyards, orchards, roads, trails, a reservoir, intermittent streams, gravel pits, buildings, and a winery. The proposed viticultural area is surrounded by generally flat Yakima Valley terrain

that, in areas, dips to approximately 700 feet in elevation. The Yakima River flows adjacent to the southwestern portion of the proposed viticultural area boundary line before turning to the south. The petitioner notes that at elevations below the 750-foot contour line the valley is flatter, and has ponds and other cold air sinks that are unsuitable for viticulture.

According to the written boundary description and USGS maps, Harrison Hill borders Snipes Mountain in the eastern portion of the proposed Snipes Mountain viticultural area. According to the petitioner, the soils on Harrison Hill are similar to the dominant soils in the rest of the proposed viticultural area. The petitioner explains that the 132 acres on the south-facing slopes of Harrison Hill are suitable for successful viticulture and claims that the vineyards on Harrison Hill "are the most important acres we grow." Other portions of Harrison Hill contain residential developments and are thus not suitable for commercial viticulture.

#### *Distinguishing Features*

According to the petitioner, the distinguishing features of the proposed Snipes Mountain viticultural area include an elevated topography that is steep in places and a geologic history that contrasts with that of the surrounding Yakima Valley area. According to USGS and digital maps provided with the petition, Snipes Mountain stands alone in the center of the wide Yakima Valley like the crown of a brimmed hat. The petitioner notes that the Snipes Mountain region comprises the Ellensburg Formation. This formation consists of alluvial outwash, the parent material of the unique soils in the Snipes Mountain region.

#### *Topography*

The petitioner describes Snipes Mountain and adjacent Harrison Hill as rising visibly from the Yakima Valley floor. The USGS Sunnyside and Granger maps show that the 1,301-foot pinnacle of Snipes Mountain contrasts with the 680- to 780-foot elevations of the surrounding valley floor. The petitioner notes that about a third of the Yakima Valley viticultural area is level, and cites the digital elevation maps of the Yakima Valley and Snipes Mountain from Washington State 10m Digital Elevation Model data.

According to the petitioner, the north side slopes of Snipes Mountain gradually increase in elevation but the south side slopes are steeper. As shown on USGS maps, the south side slopes increase from 850 to 1,200 feet in

elevation over a short distance. The petitioner explains that these steeper slopes are suited to viticulture because they have good air drainage, which helps to prevent spring and fall frost damage to the plants in the vineyards.

#### *Geology and Soils*

The petitioner notes that, according to the Washington Division of Geology and Earth Resources, the geology of central Washington consists mainly of a volcanic basalt mantle 10 to 15 million years old ("Late Cenozoic Structure and Stratigraphy of South-Central Washington," by S.P. Reidel, N.P. Campbell, K.R. Fecht, and K.A. Lindsey, Bulletin 80, pp. 159-180, 1994). Further study shows that subsequent alluvial events covered portions of the Yakima Valley, creating the Ellensburg Formation ("Sedimentology of proximal volcanoclastics dispersed across an active foldbelt: Ellensburg formation (late Miocene), central Washington," by G.A. Smith, Sedimentology 35: 953-997, 1988). The Ellensburg Formation consists of a conglomerate of round, river-washed rocks and coarse sediment; tectonic uplift in the Ellensburg Formation created Snipes Mountain (Reidel *et al.*).

The petitioner describes the soils in the proposed viticultural area based on the Soil Survey of the Yakima County Area, Washington (U.S. Department of Agriculture, Soil Conservation Service, 1985). The petitioner also provides a table that compares soil series in the established Yakima Valley viticultural area with those in the proposed Snipes Mountain viticultural area. This comparison, based on parent material of the soils, shows that the soils in each region formed under differing geological events. The petitioner explains that almost all soils on Snipes Mountain, deposited by an ancient flood, now generally are dry. The soils on the mountain also are older and have more rock fragments than those elsewhere in the Yakima Valley region.

According to the petition, one third of the soils in the Yakima Valley viticultural area formed in alluvium and 30 percent of the soils formed in loess over lacustrine deposits. In contrast, within the proposed Snipes Mountain viticultural area only 3.32 percent of the soils formed in alluvium. These soils are of small extent because tectonic uplift exposed the southwest face of Snipes Mountain, lifting it above the influence of additional alluvial deposits. Warden soils formed in loess over lacustrine deposits, and these soils cover 53 percent of the proposed Snipes Mountain viticultural area. Typically, these soils are on the north- and

northeast-facing slopes, in positions where the parent material was in place prior to tectonic uplift. The Harwood-Burke-Wiehl soils comprise 13.6 percent of the soils in the proposed viticultural area, compared to less than 1 percent of the entire Yakima Valley viticultural area.

On Snipes Mountain 82 percent of the soils are classified as Aridisols, which are soils low in organic matter and found in generally dry areas. In the Yakima Valley 47 percent of the soils are classified as Aridisols, but 43 percent are classified as Mollisols, which are soils that have a deep, dark surface horizon and a high organic matter content. Typically, Mollisols are in low lying areas near ground water that supplies moisture to plants ultimately increasing the accumulation of organic matter.

According to the petitioner, vineyards on the south-facing slopes of Harrison Hill have produced highly valued grapes. The soils on Harrison Hill and Snipes Mountain are similar. The steeper, south-facing slopes of Snipes Mountain provide good air drainage to prevent spring and fall frost damage to the grapevines.

#### *Notice of Proposed Rulemaking and Comments Received*

TTB published Notice No. 82 regarding the proposed Snipes Mountain viticultural area in the **Federal Register** (73 FR 22883) on April 28, 2008. In that notice, TTB invited comments by June 27, 2008, from all interested persons. We expressed particular interest in receiving comments on whether the proposed area name, Snipes Mountain, 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 six comments from individuals in response to that notice. Five comments supported the establishment of the Snipes Mountain viticultural area as originally proposed. One commenter expressed concern "with confusion that may be caused by the name, Snipes Mountain, with a premium vineyard that is not in the proposed [viticultural area] but is very close to it \* \* \* Snipes Canyon." TTB notes that in Notice No. 82 we proposed only the full name of the viticultural area, "Snipes Mountain," as a term of viticultural significance. TTB believes "Snipes Mountain" is readily distinguishable from "Snipes Canyon." Further, TTB is not aware of any conflict with existing brand labels that

would occur if the viticultural area is established as proposed.

TTB, with the consent of the petitioner, has made a minor adjustment to the proposed southern boundary of the Snipes Mountain viticultural area. To simplify the boundary description, we have removed from the proposed viticultural area a few acres of non-agricultural land located south of the Union Pacific railroad line in section 27, T10N, R21E, near the town of Granger. We also rewrote other portions of the proposed boundary description for better clarity and conciseness.

#### 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 "Snipes Mountain" viticultural area in Yakima County, Washington, 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, "Snipes Mountain," is recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation clarifies this point by specifying "Snipes Mountain" as a term of viticultural significance for purposes of part 4 of the TTB regulations.

Once this final rule becomes effective, wine bottlers using "Snipes Mountain" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's full name as an appellation of origin.

For a wine to be eligible to use a viticultural area name or other term of viticultural significance as an appellation of origin or in a brand name, 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 for labeling with the viticultural area name or other viticulturally significant term and that name or 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 viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a previously approved label uses the name "Snipes Mountain" for a wine that does not meet the 85 percent standard, the previously approved label will be subject to revocation, upon the effective date of the establishment of the Snipes Mountain viticultural area.

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. 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.

#### Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.213 to read as follows:

##### § 9.213 Snipes Mountain.

(a) *Name*. The name of the viticultural area described in this section is "Snipes Mountain". For purposes of part 4 of this chapter, "Snipes Mountain" is a term of viticultural significance.

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

(1) Sunnyside, Wash., 1965, photo revised 1978; and

(2) Granger, Wash., 1965.

(c) *Boundary*. The Snipes Mountain viticultural area is located in Yakima County, Washington. The boundary of the Snipes Mountain viticultural area is as described below:

(1) The beginning point is on the Sunnyside map, to the southwest of the town of Sunnyside, at the intersection of South Hill Road and the eastern boundary of section 34, T10N, R22E. From the beginning point, proceed south along the eastern boundary of section 34 for less than 0.1 mile to its intersection with the 750-foot elevation line, T10N, R22E; then

(2) Proceed along the 750-foot elevation line, first southeasterly then westerly, to its first intersection with the Union Pacific railroad line in section 31, T10N, R22E; then

(3) Proceed west-northwesterly along the Union Pacific railroad line, crossing onto the Granger map, and continue along the railroad line to its intersection with the northern boundary of section 27, T10N, R21E; then

(4) Proceed north in a straight line for less than 0.1 mile to the line's intersection with the 820-foot elevation line in section 22, T10N, R21E; then

(5) Proceed along the meandering 820-foot elevation line, first northwesterly then easterly, and, returning to the Sunnyside map, continue along the elevation line to its intersection with the northern boundary of section 34, T10N, R22E; then

(6) Proceed east along the northern boundary line of section 34 and then section 35 to its intersection with the 820-foot elevation line, section 35, T10N, R22E; then

(7) Proceed southwesterly along the 820-foot elevation line to its intersection with the eastern boundary of section 34, T10N, R22E; and then

(8) Proceed south along the eastern boundary of section 34 for

approximately 0.2 mile, returning to the point of beginning.

Signed: December 5, 2008.

**John J. Manfreda,**

*Administrator.*

Approved: December 19, 2008.

**Timothy E. Skud,**

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

[FR Doc. E9-990 Filed 1-16-09; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB-2008-0005; T.D. TTB-72; Re: Notice No. 85]

RIN 1513-AB47

#### Expansion of the Paso Robles Viticultural Area (2008R-073P)

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

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

**SUMMARY:** This Treasury decision expands by 2,635 acres the existing 609,673-acre Paso Robles American viticultural area in San Luis Obispo County, California. The expanded Paso Robles viticultural area lies entirely within San Luis Obispo County and the multicounty Central Coast 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.

**DATES:** *Effective Dates:* February 20, 2009.

**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; phone 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. 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 the United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

## Paso Robles Expansion Petition

### *Background*

#### Previous Petitions

On October 4, 1983, the Bureau of Alcohol, Tobacco and Firearms (ATF) published a final rule, T.D. ATF-148 (48 FR 45239), to establish the "Paso Robles" American viticultural area (AVA) in northern San Luis Obispo County, California (see 27 CFR 9.84). As established, the Paso Robles AVA was entirely within the Central Coast AVA (27 CFR 9.75) and, to the west, it bordered the much smaller York Mountain AVA (27 CFR 9.80). In 1983, the Paso Robles AVA contained approximately 5,000 acres of vineyards.

As established, the Paso Robles AVA was defined by the San Luis Obispo-Monterey county line in the north, the Cholame Hills to the east, and the Santa Lucia Mountains to the south and west. According to T.D. ATF-148, the Santa Lucia Mountains largely protect the Paso Robles AVA from the intrusion of marine air and fog from the Pacific Ocean, giving the Paso Robles AVA a drier and warmer summertime climate than regions to the west and south. However, in T.D. ATF-216 establishing the Central Coast AVA, 50 FR 43128 (October 24, 1985), ATF recognized that there was, to a lesser degree, marine influence on the climate in Paso Robles. The Paso Robles AVA also is characterized by day to night temperature changes of 40 to 50 degrees, annual rainfall of 10 to 25 inches, 600 to 1,000 foot elevations, and well-drained, alluvial soils in terrace deposits.

Lacking a feasible way to use physical features, such as ridge lines, to define the boundary of the Paso Robles AVA, the original petitioner largely used a series of township and range lines and point-to-point lines to delineate the AVA's boundary. The southernmost portion of the Paso Robles AVA was delineated to the south by the east-west T29S/T30S township boundary line and to the east by the north-south R13E/R14E range line.

On June 13, 1996, ATF published a final rule, T.D. ATF-377 (61 FR 29952), expanding the Paso Robles AVA along a portion of its western boundary. This expansion added approximately 52,618 acres of land similar to that contained in the original AVA. The expansion added to the AVA seven vineyards containing 235 acres of grapes planted after the 1983 establishment of the Paso Robles AVA. The Paso Robles AVA, as expanded, remained entirely within San Luis Obispo County and the Central Coast AVA, and this westerly expansion