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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB–2020–0007; T.D. TTB–172; Ref: Notice No. 192]

RIN 1513–AC55

#### Modification of the Boundaries of the Santa Lucia Highlands and Arroyo Seco Viticultural Areas

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

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

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) is modifying the boundaries of the “Santa Lucia Highlands” viticultural area and the adjacent “Arroyo Seco” viticultural area in Monterey County, California. The boundary modifications include two separate actions—removing approximately 376 acres from the Santa Lucia Highlands viticultural area, and removing 148 acres from the Arroyo Seco viticultural area and placing them entirely within the Santa Lucia Highlands viticultural area. The Santa Lucia Highlands and Arroyo Seco viticultural areas and the modification areas are located entirely within the existing Monterey and Central Coast viticultural areas. TTB designates 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:** This final rule is effective September 24, 2021.

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

**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 provides that these regulations should, 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 FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate 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) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

### 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 having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established 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 the wine’s geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA 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 (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to modify an AVA must include the following:

- In the case of an expansion in size of an AVA, evidence that the proposed expansion area is nationally or locally known by the name of the AVA into which it would be placed;
- In the case of a reduction in size of an AVA, an explanation of the extent to which the current AVA name does not apply to the excluded area;
- An explanation of the basis for defining the boundary of the proposed areas to be realigned, including an explanation of how the boundary of the existing AVA was incorrectly or incompletely defined or is no longer accurate due to new evidence or changed circumstances;
- In the case of an expansion of an AVA, a narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the AVA into which it would be placed and distinguish it from adjacent areas outside the established AVA;
- In the case of a reduction of an AVA, a narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that differentiate the proposed reduction area from the established AVA and demonstrate a greater similarity to the features of adjacent areas outside the established AVA;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA boundary modifications, with the proposed boundary modifications clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary modifications based on USGS map markings.

### **Santa Lucia Highlands-Arroyo Seco Boundary Modification Petition**

TTB received a petition from Patrick Shabram on behalf of the Santa Lucia Highlands Wine Artisans, proposing to modify the boundary of the Santa Lucia Highlands AVA (27 CFR 9.139) and the adjacent Arroyo Seco AVA (27 CFR 9.59). The Santa Lucia Highlands AVA and the Arroyo Seco AVA are both located within Monterey County, California, and are both located entirely within the established Monterey AVA (27 CFR 9.98) and the Central Coast AVA (27 CFR 9.75). The proposed boundary modifications include two separate actions—removing approximately 376 acres from the Santa Lucia Highlands viticultural area, and removing 148 acres from the Arroyo Seco viticultural area and placing them entirely within the Santa Lucia Highlands viticultural area.

The first proposal would remove approximately 376 acres from the northern part of the Santa Lucia Highlands AVA. The petition states that the proposed reduction area is within the floodplain of the Salinas River and that no vineyards are planted or proposed in this location. The land removed from the Santa Lucia Highlands AVA would remain within the Monterey AVA and the Central Coast AVA.

According to the petition, the topography and soils within the proposed reduction area are more similar to those of the Monterey and Central Coast AVAs than to the Santa Lucia Highlands AVA. For example, the proposed reduction area is located in the floodplain of the Salinas River, has little-to-no slope, and does not have a clear easterly orientation. By contrast, the majority of the established Santa Lucia Highlands AVA is located on a series of alluvial fans and terraces that have a predominately eastern orientation and slope angles ranging from 5 to 30 percent. Additionally, the soils in the proposed reduction area are primarily Psamments and Fluvents, which are suborders of Entisols that are sandy and have little organic material. These soils are uncommon in the remainder of the Santa Lucia Highlands AVA, where Chualar loams are the most common soil, comprising almost 32 percent of the total soils. Chualar loams are described as very deep, well-drained soils formed in alluvial material from mixed rock sources.

The second proposed modification affects a portion of the shared Santa Lucia Highlands-Arroyo Seco AVA boundary. The modification would remove 148 acres of foothills terrain

from the western side of the Arroyo Seco AVA and place them entirely within the southeastern region of the Santa Lucia Highlands. One vineyard containing approximately 135 acres of vines would be affected by this boundary realignment, and the vineyard owner included a letter of support in the petition. The modification would reduce the size of the Arroyo Seco AVA by less than 1 percent and would not have any impact on the boundaries of the Monterey AVA or the Central Coast AVA.

The proposed realignment area is located on an alluvial fan with an easterly orientation and slope angles above 5 percent. The petition states that these topographic features are similar to the alluvial fans found in the Santa Lucia Highlands AVA, whereas the majority of the Arroyo Seco AVA has a gentler slope that gradually becomes nearly flat and lacks an eastern orientation. The soils in the proposed realignment area are mostly Placentia sandy loam, Chualar, and Arroyo Seco soils. All three soils are found in both the Santa Lucia Highlands and Arroyo Seco AVAs. However, the petition states that this combination of soils is more commonly found within the Santa Lucia Highlands AVA, and Placentia sandy loams are not common in the Arroyo Seco AVA outside of the proposed realignment area.

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

TTB published Notice No. 192 in the **Federal Register** on July 20, 2020 (85 FR 43754), proposing to modify the boundaries of the Santa Lucia Highlands and Arroyo Seco AVAs. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed reduction area and the proposed realignment area. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed boundary modification areas, see Notice No. 192.

The comment period for Notice No. 192 closed September 18, 2020. In response to Notice No. 192, TTB received a total of eight comments. However, two of the comments did not contain information related to the proposed boundary modifications, or to the AVA program in general, and were not posted to the public docket. All six comments that were posted to the public docket supported the proposed boundary modifications to the Santa Lucia Highlands and Arroyo Seco AVAs.

### **TTB Determination**

After careful review of the petition and the comments received in response to Notice No. 192, TTB finds that the evidence provided by the petitioner supports the modifications of the boundaries of the Santa Lucia Highlands and Arroyo Seco AVAs. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB modifies the boundaries of both AVAs effective 30 days from the publication date of this document.

### **Boundary Description**

See the narrative description of the boundary modifications of the Santa Lucia Highlands and Arroyo Seco AVAs in the regulatory text published at the end of this final rule.

### **Maps**

The petitioners provided the required maps, and they are listed below in the regulatory text. The modified Santa Lucia Highlands and Arroyo Seco AVA boundaries may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

### **Impact on Current Wine Labels and Transition Period**

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 labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name 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 AVA 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 an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

The approval of the boundary realignments does not affect the Monterey AVA or the Central Coast AVA. Bottlers using “Monterey” or “Central Coast” as an appellation of origin or in a brand name for wines

made from grapes grown within the reduction area or the proposed realignment area may continue to use those appellations of origin if the wines meet the eligibility requirements for the appellation.

The modification of the northern Santa Lucia Highlands AVA boundary means that wines produced mainly from grapes grown in the reduction area may no longer be labeled with “Santa Lucia Highlands” as an appellation of origin. However, TTB does not believe any label holders will be affected by this boundary modification because the petition states that no vineyards exist within the reduction area.

The realignment of the shared Santa Lucia Highlands–Arroyo Seco AVA boundary allows vintners to use “Santa Lucia Highlands,” “Monterey,” and “Central Coast” as appellations of origin for wines made primarily from grapes grown within the realignment area if the wines meet the eligibility requirements for these appellations. For wines whose eligibility for the Arroyo Seco AVA designation depends on the use of grapes grown in the realignment area, a label containing the words “Arroyo Seco” may be used on wine bottled within 2 years from the effective date of the final rule, provided that such label was approved before the effective date of this final rule and that the wine conforms to the standards for use of the label set forth in 27 CFR 4.25 or 4.39(i) in effect prior to this final rule. At the end of this 2-year transition period, if the wine is produced primarily from grapes grown in the realignment area, then a label containing the words “Arroyo Seco” in the brand name or as an appellation of origin would not be permitted on the label. This transition period is described in the regulatory text of this final rule. TTB believes that the 2-year transition period should provide affected label holders with adequate time to use up any old labels.

### Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA 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

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of

September 30, 1993. Therefore, no regulatory assessment is required.

### Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

### List of Subjects in 27 CFR Part 9

Wine.

### The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, 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 9.59 is amended by:
  - a. Removing paragraphs (c)(12) and (13);
  - b. Redesignating paragraphs (c)(14) through (21) as paragraphs (c)(17) through (24); and
  - c. Adding new paragraphs (c)(12) through (16) and (d).

The additions read as follows:

#### § 9.59 Arroyo Seco.

\* \* \* \* \*

(c) \* \* \*

(12) Then south following Paraiso Road to its intersection with an unnamed, light-duty road north of Clark Road in Section 20, T18S/R6E.

(13) Then east-southeast along the unnamed road for 0.3 mile to its intersection with an intermittent stream.

(14) Then southwesterly along the intermittent stream for 0.2 mile to its intersection with the western boundary of Section 21, T18S/R6E.

(15) Then south-southwest in a straight line for approximately 0.3 mile to the intersection of Clark Road and the southern boundary of Section 21, T18S/R6E.

(16) Then west-southwest along Clark Road for 0.2 mile to its intersection with an unnamed, light-duty road.

\* \* \* \* \*

(d) *Transition period.* A label containing the words “Arroyo Seco” in the brand name or as an appellation of origin approved prior to September 24, 2021 may be used on wine bottled before August 25, 2023, if the wine conforms to the standards for use of the label set forth in § 4.25 or § 4.39(i) of this chapter in effect prior to September 24, 2021.

■ 3. Section 9.139 is amended by:

- a. Redesignating paragraphs (c)(10) through (22) as paragraphs (c)(18) through (30);
- b. Revising paragraphs (c)(1) through (9); and
- c. Adding new paragraphs (c)(10) through (17).

The revisions and additions read as follows:

#### § 9.139 Santa Lucia Highlands.

\* \* \* \* \*

(c) \* \* \*

(1) From the beginning point, the boundary follows Limekiln Creek for approximately 1.2 miles northeast to the 120-foot elevation contour.

(2) Then following the 120-foot elevation contour in a general southeasterly direction for approximately 0.9 mile to where it intersects with River Road.

(3) Then following River Road in a southeasterly direction for 0.3 mile to its intersection with an unimproved road near the marked 130-foot elevation.

(4) Then follow a straight line southeast to the terminus of the 110-foot elevation contour.

(5) Then follow a straight line southeast 0.9 mile, crossing onto the Gonzales map, to the Salinas River.

(6) Then follow the Salinas River in a south-southeast direction 0.7 mile, crossing onto the Palo Escrito map, to the intersection of the Salinas River and the 120-foot elevation contour.

(7) Then follow the 120-foot contour south for 1 mile, then southeast to its intersection with River Road.

(8) Then follow River Road east for 0.1 mile to its intersection with an unnamed, light-duty road.

(9) Then follow the unnamed road southeast for 0.2 mile to its intersection with the 160-foot elevation contour.

(10) Then follow the 160-foot elevation contour southeasterly for approximately 5.9 miles to its intersection with River Road.

(11) Then follow River Road southeasterly for approximately 1 mile to the intersection of River, Fort Romie, and Foothill Roads.

(12) Then following Foothill Road in a southeasterly direction for approximately 4 miles to the junction of Foothill Road and Paraiso Roads on the Soledad map.

(13) Then follow Paraiso Road in a southerly direction, crossing onto the Paraiso Springs map, to its intersection with an unnamed, light-duty road north of Clark Road in Section 20, T18S/R6E.

(14) Then follow the unnamed road east-southeast for 0.3 mile to its intersection with an intermittent stream.

(15) Then follow the intermittent stream in a southwesterly direction for

0.2 mile to its intersection with the western boundary of Section 21, T18S/R6E.

(16) Then follow a straight line southwest for 0.3 mile to the intersection of Clark Road and the southern boundary of Section 21, T18S/R6E.

(17) Then follow Clark Road west-southwest for 0.2 mile to its intersection with an unnamed, light-duty road.

\* \* \* \* \*

Signed: May 24, 2021.

**Mary G. Ryan,**  
*Administrator.*

Approved: May 28, 2021.

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

[FR Doc. 2021-18208 Filed 8-24-21; 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-2020-0010; T.D. TTB-173; Ref: Notice No. 195]

RIN 1513-AC71

#### Establishment of the Virginia Peninsula Viticultural Area

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

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

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the 673,059-acre “Virginia Peninsula” viticultural area (AVA) in southeastern Virginia. The Virginia Peninsula viticultural area is not located within, nor does it contain, any other established viticultural area. TTB designates 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:** This final rule is effective September 24, 2021.

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

#### 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 provides that these regulations should, 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 FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120-01, dated December 10, 2013 (superseding Treasury Order 120-01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate 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) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

##### 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 having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified 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 the wine’s geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA 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 (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to

establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

#### Virginia Peninsula AVA Petition

TTB received a petition from the Williamsburg Winery proposing the establishment of the “Virginia Peninsula” AVA in southeastern Virginia. The proposed AVA covers 673,059 acres and includes the counties of James City, York, New Kent, and Charles City, as well as the independent cities of Poquoson, Hampton, Newport News, and Williamsburg. The proposed Virginia Peninsula is not located within any other AVA. At the time the petition was submitted, the proposed AVA contained five commercial vineyards covering a total of approximately 112 acres. The petition states that vineyard owners plan to plant an additional 61 acres of vineyards in the next few years. There are also five wineries within the proposed AVA. The petition identifies the distinguishing features of the proposed Virginia Peninsula AVA as its geology and climate.

The proposed Virginia Peninsula AVA, along with the regions to the north and south, is located on the Atlantic Coastal Plain, a region of low topographic relief with elevations ranging from sea level to approximately 250 feet. The York River, along with the Pamunkey River that feeds it, forms the northern boundary of the proposed AVA, and the James River forms the southern boundary. The Atlantic Coastal Plain is underlain by Cenozoic-era sand, mud, and gravel that were deposited during periods of higher sea levels. According to the petition, the geological formations of the proposed AVA are ideal for viticulture, as the bedrock tends to be fractured, allowing for greater root depth and greater rainfall