

§ 9.2

27 CFR Ch. I (4–1–23 Edition)

§ 9.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

§ 9.3 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. Those TTB officers are specified in TTB Order 1135.9, Delegation of the Administrator's Authorities in 27 CFR Part 9, American Viticultural Areas. You may obtain a copy of this order by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

Subpart B—AVA Petitions

SOURCE: T.D. TTB-90, 76 FR 3500, Jan. 20, 2011, unless otherwise noted.

§ 9.11 Submission of AVA petitions.

(a) *Procedure for petitioner.* Any person may submit an AVA petition to TTB to establish a grape-growing region as a new AVA, to change the boundary of an existing AVA, or to change the name of an existing AVA. The petitioner is responsible for including with the petition all of the information specified in § 9.12. The person submitting the petition is also responsible for providing timely and complete responses to TTB requests for additional information to support the petition.

(b) *How and where to submit an AVA petition.* The AVA petition may be sent to TTB using the U.S. Postal Service or a private delivery service. A petition sent through the U.S. Postal Service should be addressed to: Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220. A petition sent via a private delivery service should be directed to: Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Suite 200E, 1310 G Street, NW., Washington, DC 20005.

(c) *Purpose and effect of submission of AVA petitions.* The submission of a peti-

tion under this subpart is intended to provide TTB with sufficient documentation to propose the establishment of a new AVA or to propose changing the name or boundary of an existing AVA. After considering the petition evidence and any other relevant information, TTB shall decide what action to take in response to a petition and shall so advise the petitioner. Nothing in this chapter shall, or shall be interpreted to, compel any Department of the Treasury official to proceed to rulemaking in response to a submitted petition.

§ 9.12 AVA petition requirements.

(a) *Establishment of an AVA in general.* A petition for the establishment of a new AVA must include all of the evidentiary materials and other information specified in this section. The petition must contain sufficient information, data, and evidence such that no independent verification or research is required by TTB.

(1) *Name evidence.* The name identified for the proposed AVA must be currently and directly associated with an area in which viticulture exists. All of the area within the proposed AVA boundary must be nationally or locally known by the name specified in the petition, although the use of that name may extend beyond the proposed AVA boundary. The name evidence must conform to the following rules:

(i) *Name usage.* The petition must completely explain, in narrative form, the manner in which the name is used for the area covered by the proposed AVA.

(ii) *Source of name and name evidence.* The name and the evidence in support of it must come from sources independent of the petitioner. Appropriate name evidence sources include, but are not limited to, historical and modern government or commercial maps, books, newspapers, magazines, tourist and other promotional materials, local business or school names, and road names. Whenever practicable, the petitioner must include with the petition copies of the name evidence materials, appropriately cross-referenced in the petition narrative. Although anecdotal information by itself is not sufficient, statements taken from local residents

with knowledge of the name and its use may also be included to support other name evidence.

(2) *Boundary evidence.* The petition must explain in detail the basis for defining the boundary of the proposed AVA as set forth in the petition. This explanation must have reference to the name evidence and other distinguishing features information required under this section. In support of the proposed boundary, the petition must outline the commonalities or similarities within that boundary and must explain with specificity how those elements are different in the adjacent areas outside that boundary.

(3) *Distinguishing features.* The petition must provide, in narrative form, a description of the common or similar features of the proposed AVA affecting viticulture that make it distinctive. The petition must also explain with specificity in what way these features affect viticulture and how they are distinguished viticulturally from features associated with adjacent areas outside the proposed AVA boundary. For purposes of this section, information relating to distinguishing features affecting viticulture includes the following:

(i) *Climate.* Temperature, precipitation, wind, fog, solar orientation and radiation, and other climate information;

(ii) *Geology.* Underlying formations, landforms, and such geophysical events as earthquakes, eruptions, and major floods;

(iii) *Soils.* Soil series or phases of a soil series, denoting parent material, texture, slope, permeability, soil reaction, drainage, and fertility;

(iv) *Physical features.* Flat, hilly, or mountainous topography, geographical formations, bodies of water, watersheds, irrigation resources, and other physical features; and

(v) *Elevation.* Minimum and maximum elevations.

(4) *Maps and boundary description.* —(i) *Maps.* The petitioner must submit with the petition, in an appropriate scale, the U.S.G.S. map(s) showing the location of the proposed AVA. The exact boundary of the AVA must be prominently and clearly drawn on the maps without obscuring the underlying features that define the boundary line.

U.S.G.S. maps may be obtained from the U.S. Geological Survey, Branch of Distribution. If the map name is not known, the petitioner may request a map index by State.

(ii) *Boundary description.* The petition must include a detailed narrative description of the proposed AVA boundary based on U.S.G.S. map markings. This description must have a specific beginning point, must proceed unbroken from that point in a clockwise direction, and must return to that beginning point to complete the boundary description. The boundary description must refer to easily discernable reference points on the U.S.G.S. maps. The proposed AVA boundary description may rely on any of the following map features:

(A) State, county, township, forest, and other political entity lines;

(B) Highways, roads (including unimproved roads), and trails;

(C) Contour or elevation lines;

(D) Natural geographical features, including rivers, streams, creeks, ridges, and marked elevation points (such as summits or benchmarks);

(E) Human-made features (such as bridges, buildings, windmills, or water tanks); and

(F) Straight lines between marked intersections, human-made features, or other map points.

(b) *AVAs within AVAs.* If the petition proposes the establishment of a new AVA entirely within, or overlapping, an existing AVA, the evidence submitted under paragraph (a) of this section must include information that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition. If the petition proposes the establishment of a new AVA that is larger than, and encompasses, all of one or more existing AVAs, the evidence submitted under paragraph (a) of this section must include information addressing whether, and to what extent, the attributes of the proposed AVA are consistent with those of the existing AVA(s). In any case in which an AVA

would be created entirely within another AVA, whether by the establishment of a new, larger AVA or by the establishment of a new AVA within an existing one, the petition must explain why establishment of the AVA is acceptable. When a smaller AVA has name recognition and features that so clearly distinguish it from a larger AVA that surrounds it, TTB may determine in the course of the rulemaking that it is not part of the larger AVA and that wine produced from grapes grown within the smaller AVA would not be entitled to use the name of the larger AVA as an appellation of origin or in a brand name.

(c) *Modification of an existing AVA*—(1) *Boundary change.* If a petition seeks to change the boundary of an existing AVA, the petitioner must include with the petition all relevant evidence and other information specified for a new AVA petition in paragraphs (a) and (b) of this section. This evidence or information must include, at a minimum, the following:

(i) *Name evidence.* If the proposed change involves an expansion of the existing boundary, the petition must show how the name of the existing AVA also applies to the expansion area. If the proposed change would result in a decrease in the size of an existing AVA, the petition must explain, if so, the extent to which the AVA name does not apply to the excluded area.

(ii) *Distinguishing features.* The petition must demonstrate that the area covered by the proposed change has, or does not have, distinguishing features affecting viticulture that are essentially the same as those of the existing AVA. If the proposed change involves an expansion of the existing AVA, the petition must demonstrate that the area covered by the expansion has the same distinguishing features as those of the existing AVA and has different features from those of the area outside the proposed, new boundary. If the proposed change would result in a decrease in the size of an existing AVA, the petition must explain how the distinguishing features of the excluded area are different from those within the boundary of the smaller AVA. In all

cases the distinguishing features must affect viticulture.

(iii) *Boundary evidence and description.* The petition must explain how the boundary of the existing AVA was incorrectly or incompletely defined or is no longer accurate due to new evidence or changed circumstances, with reference to the name evidence and distinguishing features of the existing AVA and of the area affected by the proposed boundary change. The petition must include the appropriate U.S.G.S. maps with the proposed boundary change drawn on them and must provide a detailed narrative description of the changed boundary.

(2) *Name change.* If a petition seeks to change the name of an existing AVA, the petition must establish the suitability of that name change by providing the name evidence specified in paragraph (a)(1) of this section.

§9.13 Initial processing of AVA petitions.

(a) *TTB notification to petitioner of petition receipt.* The appropriate TTB officer will acknowledge receipt of a submitted petition. This notification will be in a letter sent to the petitioner within 30 days of receipt of the petition.

(b) *Acceptance of a perfected petition or return of a deficient petition to the petitioner.* The appropriate TTB officer will perform an initial review of the petition to determine whether it is a perfected petition. If the petition is not perfected, the appropriate TTB officer will return it to the petitioner without prejudice to resubmission in perfected form. If the petition is perfected, TTB will decide whether to proceed with rulemaking under §9.14 and will advise the petitioner in writing of that decision. If TTB decides to proceed with rulemaking, TTB will advise the petitioner of the date of receipt of the perfected petition. If TTB decides not to proceed with rulemaking, TTB will advise the petitioner of the reasons for that decision.

(c) *Notice of pending petition.* When a perfected petition is accepted for rulemaking, TTB will place a notice to that effect on the TTB Web site.