

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 61]

RIN 1513-AB23

Proposed Expansion of the Alexander Valley Viticultural Area (2005R-501P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to expand the Alexander Valley viticultural area in Sonoma County, California, by 1,300 acres along its northwestern boundary line. 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. We invite comments on this proposed amendment to our regulations.

DATES: We must receive written comments on or before September 15, 2006.

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

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 61, P.O. Box 14412, Washington, DC 20044-4412.
- 202-927-8525 (facsimile).
- nprm@ttb.gov (e-mail).
- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.
- <http://www.regulations.gov> (Federal e-rulemaking portal; follow instructions for submitting comments).

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

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

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and 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 (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its 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 United States Geological Survey (USGS) maps; and

- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Alexander Valley Viticultural Area Expansion Petition

Patrick Shabram of Shabram Consulting, with the support of vineyard owner Anthony Martorana, proposes a 1,300-acre expansion of the Alexander Valley viticultural area (27 CFR 9.53) along the current diagonal northwestern boundary line. The expansion would result in a viticultural area of 67,710 acres.

The proposed expansion area starts 1 mile south-southwest of Cloverdale and continues south for another 2 miles, according to the USGS Cloverdale Quadrangle map and written boundary description submitted by the petitioner. The shape of the proposed expansion area resembles a triangle with one side running along the Alexander Valley viticultural area's existing diagonal northwestern boundary line.

The Seven Arches Vineyards, according to the petitioner, straddles that diagonal northwestern boundary line, with approximately 10 acres outside of the existing Alexander Valley viticultural area. The proposed expansion area, the petitioner continues, would incorporate into the Alexander Valley viticultural area all of Seven Arches Vineyards and the entire 20 acres of Icaria Vineyards, both of which are located along Hiatt Road and Icaria Creek. Another vineyard, Jeke Vineyards, lies immediately inside the existing boundary line, according to a petition map outlining the vineyards of the area. The table below explains the relationship of these three vineyards to the existing diagonal northwestern boundary line of the Alexander Valley viticultural area.

Vineyard name (Icaria Creek and Hiatt Road areas)	Vineyard location
Jeke Vineyards	1/10 mile inside of the boundary line.
Seven Arches Vineyards.	Straddles the boundary line.
Icaria Vineyards	4/10 mile outside of the boundary line.

We summarize below the evidence presented in the petition in support of the proposed expansion of the Alexander Valley viticultural area.

Name Evidence

The proposed expansion area, according to the petitioner, is historically identified with Cloverdale, a town located at the northern end of the Alexander Valley viticultural area. In "History of the Sonoma Viticultural District," by Ernest P. Peninou, Nomis Press, 1998, pages 186–187, it is noted that Parker Vineyards was established in 1890 in the proposed expansion area. Mr. Peninou identifies Parker Vineyards as a part of the viticultural history of Cloverdale. The petitioner explains that vineyards in the Cloverdale area, except for the two vineyards in the proposed expansion area, lie within the original boundaries of the Alexander Valley viticultural area.

An article entitled "The Early Wineries of the Cloverdale Area," by William A. Cordtz, Ph.D., ran in the March/April 1985 edition of *Wine West*; the article states that grape-growing started in Cloverdale before other areas of Alexander Valley. It explains that viticulture in the upper Alexander Valley was centered around Cloverdale and flourished between 1880 and Prohibition. Also, the Cloverdale Reveille, a local area newspaper, ran articles about grape-growing and in 1878 reported prices of local grapes at \$8 per ton.

Shortly after the establishment of the original viticultural area, the petitioner states, some wine industry members erroneously believed that the proposed expansion area already lay inside the Alexander Valley viticultural area boundary. As an example, the petitioner states that Jade Mountain Vineyards labeled a 1985 Icaria Vineyards wine with the Alexander Valley viticultural area name, while a map submitted with the petition shows Icaria Vineyards as lying within the proposed expansion area.

Boundary Evidence

The established Alexander Valley viticultural area's diagonal, northwestern boundary line trends northwest-southeast. The line connects section 24, T. 11 N., R. 11 W. to the map point at 38°45' latitude and 123°00' longitude in section 5, T. 10 N., R. 10 W., of the USGS Cloverdale Quadrangle map.

When the original Alexander Valley viticultural area was proposed (see T.D. ATF-187, 49 FR 42724, October 24, 1984), several petitioning groups proposed differing boundaries for the

proposed viticultural area. Ultimately, the Bureau of Alcohol, Tobacco and Firearms (ATF), TTB's predecessor, determined that the Alexander Valley viticultural area's boundary should encompass the area from southeast of Healdsburg to north of Cloverdale in Sonoma County. The proposed westerly expansion area, according to the USGS Cloverdale Quadrangle map, is approximately 1 mile south-southwest of Cloverdale.

The petitioner provided a map of the Alexander Valley viticultural area published by the Sonoma County Grape Growers Association in 1998. The map shows the current viticultural area boundaries and displays the vineyards within the proposed expansion area with the same shade of dark green used for the vineyards within the current viticultural area boundary. In contrast, the vineyards outside the existing boundary carry a significantly lighter shade of green. The petitioner contends that the wine industry used the map as a geographic analytical tool to group all vineyards on the floor and the lower slopes of the Alexander Valley.

Icaria Creek and several of its tributaries, as part of the Alexander Valley watershed, run through the proposed expansion area and drain into the Russian River. In an interview in the Healdsburg Tribune of December 7, 1979, Robert Young observed that there is only one watershed in the entire Alexander Valley. His observation, according to the petitioner, supports the expansion petition because the expansion area also falls within that watershed.

Distinguishing Features

The petitioner provides information about distinguishing features and evidence to document that the proposed expansion area is similar in topography, elevation, soils, and climate to the northwestern region of the Alexander Valley viticultural area, inside the existing boundary line along Hiatt Road and Icaria Creek.

The petitioner explains that the existing Alexander Valley viticultural area and the proposed expansion area, located on opposite sides of the diagonal boundary line, have similar distinguishing features. The topography, including range in elevation and the flood plains along Icaria Creek, water resources, soils, and climate combine to create a similar viticultural environment on both sides of the diagonal boundary line, according to the petitioner.

Topography

The petitioner describes the similar topographic features scattered

throughout the Icaria Creek area on both sides of the existing Alexander Valley viticultural area's diagonal northwestern boundary line. The proposed expansion area is at elevations of 360 feet on the flood plain along Icaria Creek to 874 feet, according to the USGS Cloverdale Quadrangle map. Similar topography exists immediately east and inside the Alexander Valley viticultural area's diagonal boundary line. Elevations there, as noted on the USGS Cloverdale Quadrangle map, range from a low of 320 feet on the flood plain along Icaria Creek to a high of 884 feet.

Icaria Creek, and its tributaries, run through both the east and the west sides of the Alexander Valley viticultural area's diagonal boundary line to the Russian River, as shown on the USGS Cloverdale Quadrangle map. Also, Hiatt Road meanders along Icaria Creek and some of its tributaries on both sides of the diagonal boundary line.

The petitioner explains that the terrain west of the proposed expansion area becomes increasingly steep and mountainous and that elevations climb to some 1,600 feet, as shown on the USGS Cloverdale Quadrangle map. The mountainous terrain contrasts with the lower elevations and the gentle valley landscape of the Alexander Valley region shown on the map. The petitioner adds that the westerly mountainous terrain creates an unsuitable environment for viticulture.

The vineyards in the proposed expansion area generally lie on the lower, flatter terrain of the flood plain along Icaria Creek, according to the diagrams on the map in the petition. The elevations generally range between 350 and 450 feet, but the southernmost part of the Seven Arches Vineyards reaches 590 feet. Jeke Vineyards, which is within the Alexander Valley viticultural area's western boundary line, lies between 350 and 380 feet of elevation on the flood plain along Icaria Creek, the petitioner states. Thus, Jeke Vineyards, which is immediately inside the east side of the diagonal boundary line, and the Icaria and Seven Arches Vineyards, which are in the proposed expansion area on the west side of the diagonal boundary line, do not vary substantially in their overall elevations and their relative locations on the flood plain.

Soils

The petitioner explains that the distinguishing soils in the Icaria Creek and Hiatt Road areas in the proposed expansion area include the Hugo-Josephine-Laughlin association. According to the Soil Survey of Sonoma County, California, issued in 1972 by

the United States Department of Agriculture, Soil Conservation Service, the soils in this association are well drained, gently sloping to very steep gravelly loam. This soil association, according to the petitioner, is common on the western slopes of the Alexander Valley, including much of the existing viticultural area. The predominant soil associations in the Alexander Valley viticultural area, the petitioner continues, are the Yolo-Cortina-Pleasanton, Goulding-Toomes-Guenoc, and Hugo-Josephine-Laughlin associations, which are also in the proposed expansion area.

Climate

The petitioner states that the climate of the proposed expansion area closely reflects that of the area to its immediate east and inside the viticultural area boundary line. Both areas, the petitioner states, are similar in vegetative cover, elevation, topographic features, and latitudinal coordinates.

The entire Alexander Valley viticultural area has a coastal warm climate type, according to the model Climate Types of Sonoma County, originally developed by Robert Sisson and shown on the 1986 Vossen map, provided with the petition. This model uses the total daily hours of temperatures between 70 and 90 degrees F. The petitioner explains that the temperature range is the most significant factor for photosynthesis in the grapevines.

Climatic variations have not been recorded along Icaria Creek and Hiatt Road between the existing Alexander Valley viticultural area and the proposed expansion area. However, the manager of the Seven Arches Vineyards writes that along Hiatt Road, on both sides of the diagonal boundary line of the existing Alexander Valley viticultural area, the climate is similar, if not identical. The petitioner explains that the climatic variations in inland northern Sonoma County result from coastal, or marine, influences to the west. Thus, in northern Alexander Valley, which is located in inland northern Sonoma County, climatic variations are less because of the diminished coastal influence on the region.

Boundary Description

See the changes to the narrative boundary description for the petitioned-for viticultural area expansion in the proposed regulatory text amendment published at the end of this notice.

Maps

The petitioner provided the required maps, which are already listed in the § 9.53 regulatory text.

Impact on Current Wine Labels

The proposed expansion of the Alexander Valley viticultural area will not affect currently approved wine labels. The approval of this proposed expansion may allow additional vintners to use "Alexander Valley" as an appellation of origin on their wine labels. Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). In addition, regulations regarding the use of a brand name containing a viticultural area name on a label are found in 27 CFR 4.39(i).

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should expand the Alexander Valley viticultural area as described above. We are especially interested in comments concerning the similarity of the proposed expansion area to the currently existing Alexander Valley viticultural area. Please provide any available specific information in your comments about the proposed expansion area's name, proposed boundaries, or distinguishing features.

Submitting Comments

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

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to 202-927-8525. Faxed comments must—
 - (1) Be on 8.5- by 11-inch paper;
 - (2) Contain a legible, written signature; and

(3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *E-mail:* You may e-mail comments to nprm@ttb.gov. Comments transmitted by electronic mail must—

- (1) Contain your e-mail address;
- (2) Reference this notice number on the subject line; and
- (3) Be legible when printed on 8.5- by 11-inch paper.

- *Online form:* We provide a comment form with the online copy of this notice on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "Send comments via e-mail" link under this notice number.

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

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

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

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Information Resource Center at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- by 11-inch page. Contact our information specialist at the above address or by telephone at 202-927-2400 to schedule an appointment or to request copies of comments.

We will post this notice and any comments we receive on this proposal on the TTB Web site. All name and address information submitted with comments will be posted, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Information Resource Center. To access the online copy of this notice and the submitted comments, visit <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "View Comments" link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

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

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter 1, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Section 9.53 is amended by revising paragraph (c)(5), redesignating paragraphs (c)(6) through (c)(44) as (c)(9) through (c)(47), and adding new paragraphs (c)(6) through (c)(8) to read as follows:

§ 9.53 Alexander Valley.

* * * * *

(c) * * *

* * * * *

(5) Then straight south along the eastern boundary line of Section 25, to its intersection with Kelly Road, a medium-duty road, T. 11 N., R. 11 W.;

(6) Then southwest along Kelly Road to its intersection with the northern boundary line of Section 36, T. 11 N., R. 11 W.;

(7) Then straight south to its intersection with 38°45' N. latitude along the southern border of the Cloverdale Quadrangle map, T. 10 N., R. 11 W. and R. 10 W.;

(8) Then straight east to its intersection with the 123°00' E. longitude at the southeastern corner of the Cloverdale Quadrangle map, T. 10 N., R. 10 W.;

* * * * *

Signed: June 28, 2006.

John J. Manfreda,
Administrator.

[FR Doc. E6-11080 Filed 7-14-06; 8:45 am]

BILLING CODE 4810-31-P