

northeast quadrant of section 22, and continue straight northeast 1.5 miles to BM 2210 in the northeast quadrant of section 14, T23N, R13W, Covelo West map; then

(7) Proceed straight east-southeast 1.75 miles to the 2,792-foot peak in the southwest quadrant of section 18, T23, R12W, Covelo East map; then

(8) Proceed straight north-northeasterly 0.9 mile to the 2,430-foot elevation point in the southeast quadrant of section 7, T23N, R12W, Covelo East map; then

(9) Proceed straight east-northeast 1.6 miles to the peak of Coyote Rock in section 9, T23N, R12W, Covelo East map; then

(10) Proceed straight east-southeast 1.55 miles to the 2,435-foot elevation point in the northern half of section 15, and continue straight southeast 2.3 miles to the 2,066-foot peak in the southwest quadrant of section 24, T23N, R12W, Covelo East map; then

(11) Proceed straight south-southwest 0.6 mile to the 2,024-foot peak near the section 26 eastern boundary line, T23N, R12W, Covelo East map; then

(12) Proceed straight west-southwest 1.9 miles to the 2,183-foot peak in the northwest quadrant of section 34, T23N, R12W, Covelo East map; then

(13) Proceed straight south-southeast 1.2 miles to the 1,953-foot peak in the northeast quadrant of section 3, T22N, R12W, Covelo East map; then

(14) Proceed straight southerly 0.9 mile to the 2,012-foot peak in the northeast quadrant of section 10, T22N, R12W, Covelo East map; then

(15) Proceed straight south-southeast 1.4 miles along Dingman Ridge to the 2,228-foot peak along the section 14 and 15 boundary line, T22N, R12W, Covelo East map; then

(16) Proceed straight southeast 0.95 mile to the 2,398-foot peak in the northeast quadrant of section 23, T22N, R12W, Covelo East map; then

(17) Proceed straight south-southeast 1.75 miles to the 2,474-foot elevation point along the section 25 and 26 boundary line, T22N, R12W, Jamison Ridge map; then

(18) Proceed straight west-southwest 0.9 mile to BM 2217 in the southwest quadrant of section 26, and continue straight westerly 1.5 miles to the 2,230-foot peak northwest of Iron Spring, in the southeast quadrant of section 28, T22N, R12W, Jamison Ridge map; then

(19) Proceed straight southwest 0.65 mile to the 2,022-foot peak very near an unimproved road in section 33, T22N, R12W, Jamison Ridge map; then

(20) Proceed straight west-northwest 1.5 miles to the 1,762-foot peak in the northeast quadrant of section 31, T22N,

R12W, Jamison Ridge map, and continue in the same line of direction 1.1 miles to the beginning point at the intersection of State Highway 162 and the southern boundary of section 25, T22N, R13W (labeled Inspiration Point), on the Dos Rios map.

Signed: December 15, 2005.

**John J. Manfreda,**  
*Administrator.*

Approved: January 19, 2006.

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

[FR Doc. 06-1457 Filed 2-15-06; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[T.D. TTB-43; Re: Notice No. 47]

RIN: 1513-AA77

#### Establishment of the Rattlesnake Hills Viticultural Area (2004R-678P)

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

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

**SUMMARY:** This Treasury decision establishes the Rattlesnake Hills viticultural area in Yakima County in south-central Washington State. The 68,500-acre area is entirely within the established Yakima Valley and Columbia Valley viticultural areas. 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.

**EFFECTIVE DATE:** March 20, 2006.

**FOR FURTHER INFORMATION CONTACT:** N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 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 the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such 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. 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, elevation, physical features, and soils 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.

## Rattlesnake Hills Petition and Rulemaking

### General Background

Mr. Gail Puryear, a vineyard owner, along with 10 other vineyard and winery owners in the Rattlesnake Hills region, submitted a petition to TTB proposing the establishment of the 68,500-acre Rattlesnake Hills viticultural area in eastern Yakima County in south-central Washington State. The proposed viticultural area is within the Yakima Valley viticultural area (27 CFR 9.69), which, in turn, is within the larger Columbia Valley viticultural area (27 CFR 9.74). As of 2005, the proposed Rattlesnake Hills viticultural area has 1,227 acres of vines in commercial production.

The proposed viticultural area encompasses a portion of the Rattlesnake Hills, an east-west chain of hills located north of the Yakima River and south of the Moxee Valley between the Hanford Reservation in the east and Union Gap in the west. The distinguishing features of the proposed viticultural area include its topography, climate, and soils. The evidence submitted in support of the petition is summarized below.

### Name Evidence

The Rattlesnake Hills are well documented on government and commercial maps. The current USGS, 1:24,000 scale, topographic maps for Elephant Mountain, Granger NE, Granger NW, Toppenish, Wapato, and Yakima East all identify the Rattlesnake Hills in Yakima County, Washington. The American Automobile Association (AAA) map of Oregon and Washington State of February 2003 places the Rattlesnake Hills in south-central Washington, between the towns of Yakima and Kennewick. The 1996–1997 Washington State Highways map, published by the Washington State Department of Transportation, shows the Rattlesnake Hills to the east and west of State Highway 241 and south of State Highway 24.

The 1910 USGS Zillah map, reprinted in 1935, identifies the Rattlesnake Hills along the T12N/T11N township line in ranges R21E and R22E. While this historical map shows no settlements within the Rattlesnake Hills, it places the towns of Zillah, Granger, and Sunnyside to the south along or near the Yakima River.

The Rattlesnake Hills are also mentioned in various publications. For example, an article published in the August 1997 edition of *Sunset* magazine, "Bringing Home the Harvest—Pacific Northwest," by Jim

McCausland, describes a tour of the Yakima, Washington region, and includes a description of the Roza Canal at the base of the orchard- and vineyard-covered Rattlesnake Hills.

### Boundary Evidence

The proposed Rattlesnake Hills viticultural area is an isolated grape-growing region with boundaries defined by the area's distinctive topography, climate, and soils. The Rattlesnake Hills name applies to the entire area within the proposed boundaries, as shown on the USGS maps.

Nancy B. Hultquist, Ph.D., professor of Geography and Land Studies at Central Washington University in Ellensburg, and John F. Hultquist, Ph.D., former Adjunct Assistant Professor of Geography, Central Washington University, prepared the boundary documentation and geographical evidence for the Rattlesnake Hills viticultural area petition. This information is described below.

The proposed Rattlesnake Hills viticultural area, within the larger Yakima Fold Belt, includes a series of asymmetrical anticlines separated by basins. The north boundary line of the proposed Rattlesnake Hills viticultural area approximates the range's east-to-west ridgeline, which separates the range's gentler-sloping south side from its steeper north side. The proposed area's east boundary line follows the 120° west longitude line and power lines from the Bonneville Dam. The south boundary line meanders along the Sunnyside Canal, which flows southeast from the Yakima River. The terrain to the north of the Sunnyside Canal, within the proposed viticultural area, is hilly and characterized by ridge spurs. The west boundary line uses a combination of the Sunnyside Canal and Interstate Highway 82, which, in this region, lie just east of the Yakima River.

Rising higher than the surrounding portions of the Yakima Valley region, elevation is a primary distinguishing feature of the proposed Rattlesnake Hills viticultural area. The proposed boundary line is set at a minimum of 850 feet in elevation, which generally corresponds to the upslope of the foothills. With irrigation, viticulture is considered possible at elevations between 850 feet and 2,000 feet.

Regional elevations below the 850-foot contour line are not conducive to successful viticulture based on damaging spring and fall frosts, heavy winterkill conditions, alkali soils, and high water tables. Vineyards planted in the region at elevations below 850 feet generally have failed after years of

struggle. For example, the Thalheimer vineyard project, 2 miles south of Sunnyside Canal and close to the city of Granger, is below 850 feet in elevation and lies outside the proposed boundary. The project lasted 10 years, experiencing consistent vine damage from winterkill conditions. Also, William Pettit planted chardonnay grapes west of Toppenish on the valley floor, seven miles south of the proposed Rattlesnake Hills viticultural area. The vineyard suffered annual winterkill caused by vines reaching down to perennial water. With only three successful vintages in six years, Mr. Pettit removed the vineyard in 1987.

### Distinguishing Features

The proposed Rattlesnake Hills viticultural area's distinguishing features include its topography, moderate microclimate, and soil characteristics.

### Topography

The Rattlesnake Hills rise to 3,000 in elevation, placing the hills' ridgeline up to 2,000 feet above the north flank of the Yakima River Valley. Running east to west, the Hills' ridgeline creates north- and south-facing slopes. While the northern slope falls steeply away from the ridgeline, the more gently sloping south side of the Rattlesnake Hills has dissected canyons, ridges, and terraces running south to the Yakima River.

The proposed Rattlesnake Hills viticultural area, with elevations between 850 feet and 3,085 feet, lies on the south slope of the Rattlesnake Hills in Yakima County, and includes a multitude of landscapes with differing aspects and hill slope positions. Low glacial terraces comprise the balance of the terrain found within the proposed viticultural area. Vineyards are usually located on the southern ridges and terraces in areas with good air drainage, which lessens the potential for frost damage and winterkill conditions. As compared to the proposed Rattlesnake Hills viticultural area, the rest of the established Yakima Valley viticultural area is lower in elevation, with a flatter, more open and consistent landscape.

### Climate

The proposed Rattlesnake Hills viticultural area has a more temperate climate than surrounding regions and is more protected by its topography from damaging winter weather. The Rattlesnake Hills viticultural area petition includes data collected from 11 weather stations in south-central Washington State, operated by Washington State University (WSU) as part of the Public Agricultural Weather

System (PAWS). The Buena station at 900 feet in elevation and the Outlook station at 1,300 feet in elevation are both within the proposed viticultural area boundary. While still in south-central Washington State, the other nine stations are beyond the proposed area's boundary.

The PAWS weather data provides an annual total and a 10-year average of the heat accumulation, as measured in degree days, for each station. (Each degree that a day's mean temperature is above 50 degrees Fahrenheit, which is the minimum temperature required for grapevine growth, is counted as one

degree day. See "General Viticulture," by Albert J. Winkler, University of California Press, 1974.) The chart below shows the 10-year average for the annual growing degree day total for each of the PAWS stations.

Weather station	Degree days, 10-year annual average	Location in relation to Rattlesnake Hills area
Parker .....	3133	1 mile west.
Wapato .....	2540	7 miles west.
Moxee .....	2096	2 miles north.
Sunnyside .....	2498	2.5 miles east.
Port of Sunnyside .....	2554	6 miles southeast.
WSU Roza .....	2552	11 miles southeast.
WSU HQ .....	2588	14 miles southeast.
Benton City .....	3036	30 miles southeast.
Badger Canyon .....	3297	40 miles southeast.
Buena .....	2683	In Rattlesnake Hills.
Outlook .....	2870	In Rattlesnake Hills.

The degree day temperatures within the proposed Rattlesnake Hills viticultural area vary significantly from the surrounding regions, according to PAWS data. Growing season temperatures are especially warmer in the Red Mountain viticultural area (27 CFR 9.167) to the east of the proposed viticultural area around Badger Canyon and Benton City. Also, the portion of the Yakima River Valley located between the Rattlesnake Hills region and Red Mountain generally has a cooler growing season, as documented by the Port of Sunnyside and WSU Roza weather stations.

Topography also affects the proposed area's climate. To the west, the high altitude Cascade Range shields eastern Washington, including the Rattlesnake Hills region, from much of the Pacific Ocean's climatic influence and rainfall. In addition, while polar air from Canada, funneled by strong winds into eastern Washington, can damage or kill grape vines, the proposed Rattlesnake Hills viticultural area is protected from these freezing winds by the Umptanum and Yakima Ridges, which lie to the northeast, and by the main ridgeline of the Hills themselves. These ridges and hills divert the damaging winds eastward toward the Red Mountain and Walla Walla Valley (27 CFR 9.91) viticultural areas.

**Soil**

The soils of the proposed Rattlesnake Hills viticultural area differ from soils in other Washington State viticultural areas and regions. In the rooting zone, or the depth of soil penetrated by plant roots, silt-loam or loam is the predominant soil type found within the

proposed Rattlesnake Hills viticultural area. These finer soils textures contrast to the sandy soils of the nearby Prosser Flats, Red Mountain, and Horse Heaven Hills regions, as well as with the silty soils found in the surrounding Yakima Valley region.

The formation of the soils in the Rattlesnake Hills area was influenced by glacial fluvial (water transported) and eolian (wind transported) soils. The topsoil layer is generally formed by loess and lesser amounts of volcanic ash. When Mount St. Helens erupted in 1980, the Rattlesnake Hills region received between one half-inch and one inch of volcanic ash. Formation influences on deeper soil layers include volcanic cobbles and tuffaceous sands from the Ellensburg Formation. The Rattlesnake Hills, at or above 1,100 feet in elevation, perch beyond the influence of the Missoula Floods. Soils above the flood line developed on older volcanic sediments of the Ellensburg Formation. These soil parent materials weathered in a climate with dry summers and 6 to 12 inches of annual rainfall.

Common soil characteristics within the proposed Rattlesnake Hills viticultural area include a mesic soil regime. The annual soil temperature is between 8 degrees and 15 degrees Celsius (46.4–59 °F). Mean summer soil temperatures vary between 15 degrees and 22 degrees Celsius (59–71.6 °F). Also, the soil pH is consistent, ranging from neutral at pH 6.6 to mildly alkaline at pH 8.4.

The primary soils suitable for viticulture within the proposed Rattlesnake Hills viticultural area include the Warden Series silt loams and a composite of Harwood-Burke-

Wiehl series silt loams. The Warden Series soils, which are very deep and well drained, occupy terraces underlain by glacial fluvial sediments. The Harwood-Burke-Wiehl series, a complex composition of three distinctively different soils, covers the ridge tops and side slopes of the range's steep hills. This three-soil composition forms from loess (wind-blown, silt-sized material) that overlies remnants of the Ellensburg Formation. The composition is common within the proposed Rattlesnake Hills viticultural area but is seldom found elsewhere in the Yakima Valley viticultural area. Also, the soil is shallow, which is in contrast to the uniformly deep, silt-loamy and sandy soils found in the balance of the Yakima Valley viticultural area.

Other soils in the proposed Rattlesnake Hills viticultural area include the Kiona silt loam series in the northwest corner. Also, along the top of the Rattlesnake Ridge, the Licksillet series of stony silt loam and the Starbuck series provide a suitable viticultural environment when irrigation is available.

The steeper north-facing slopes of the Rattlesnake Hills, immediately beyond the proposed viticultural area's northern boundary line, are covered with Licksillet, a very stony silt loam. The very stony soils, steep slopes, and lack of irrigation make this terrain unsuitable for viticulture. The topography east of the proposed boundary line is a large basin with Warden Series silt loams and some Esquatzel silty loam on two to five percent slopes.

Along the southern boundary line of the proposed Rattlesnake Hills viticultural area, and south beyond

Sunnyside Canal, is the Yakima River Valley. The Esquatzel Series of silt loams dominate this large, flat-bottomed valley, according to the "Soil Survey of Yakima County Area, Washington" (Lenfesty and Reedy, 1985). The valley also has Warden Series soils that are more geologically eroded and at a lower elevation than the Warden Series of the Rattlesnake Hills region to the north.

Past the western border of the proposed Rattlesnake Hills viticultural area the hills drop down to the Yakima River. Immediately west of the river, and beyond the proposed boundaries, lies a valley floor with Weirman Association soils. Continuing westward from the boundary line, the Ashue-Naches Association occupies the bottomland of an older Yakima River floodplain. Also, as the Yakima River Valley rises westward to Ahtanum Ridge, the prevalent Warden Series soil creates a common link to the Rattlesnake Hills area. However, the Warden Series soil in the Rattlesnake Hills terrain includes the exposure of the Ellensburg Formation, unlike the Ahtanum Ridge soil.

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

On June 1, 2005, TTB published a notice of proposed rulemaking regarding the establishment of the Rattlesnake Hills viticultural area in the **Federal Register** (70 FR 31396) as Notice No. 47. In that notice, TTB requested comments by August 1, 2005, from all interested persons. TTB received 28 comments in response, including 14 in support, 11 in opposition, and 3 from the petitioner responding to the concerns of the opposing comments.

#### *Comments*

*Name:* Public comments confirm the appropriateness of the "Rattlesnake Hills" name for the proposed viticultural area, with 9 vineyard and winery owners with 15 to 24 years of viticulture experience in the region agreeing with the chosen name. Also, a winery owner holding the Federal trademark for "Rattlesnake Ridge" wholly supports the proposed Rattlesnake Hills name and establishment of the viticultural area.

*Boundary:* Some comments support the proposed viticultural area's boundaries as appropriate, meaningful, and discernible. The Hultquists, who supplied geographic information in the original petition, comment that while USGS topographic maps do not show the boundaries of the region's climates, cold damage, or soil types, they do show nearby roads, power lines, elevation points, and other labeled landmarks that

can be used in defining the boundary lines of a proposed viticultural area.

The two geographers also note that while the "Rattlesnake Hills" name also refers to the hills beyond the proposed viticulture area to the east, that region is devoid of vineyards or wineries. The Hultquists state that the proposed boundary lines were drawn to surround only the region's vineyards and wineries, which start about 10 miles south of the range's north-facing slope at Sagebrush Ridge, a feature shown on the USGS Grandview and Sagebrush Ridge topographical quadrangle maps.

Several vineyard and winery owners with up to 28 years of viticulture experience in the region oppose the proposed Rattlesnake Hills viticultural area boundaries as arbitrary. These commenters state that because the Rattlesnake Hills range stretches beyond the proposed viticultural area boundary, the boundary lines should be extended to include more of the range. One commenter points to the proposed eastern boundary line (along the 120° west longitude line) as particularly random, and describes the distinguishing features of the Rattlesnake Hills range as continuing east for 27 miles to the Red Mountain viticultural area. TTB notes, however, that the commenters do not provide documentation to support their claims of arbitrary boundary lines, and fail to include proposed expanded boundaries and substantive justification.

In response, the petitioner explains that the proposed boundary lines were developed by studying the viticultural feasibility of the Rattlesnake Hills region, including its topography, climate, and soils. The petitioner concludes that the entire Rattlesnake Hills landform would make a poor viticultural area, with three-fourths of its geographical area unsuitable for viticulture. The petitioner states that the northwestern region of the Rattlesnake Hills range suffers from a lack of water, a north-facing mountain slope, and a colder climate. The range's northeastern region is on the Hanford Reservation, a sealed nuclear site that is not conducive to any type of agricultural use.

*Topography:* Supporting commenters confirm that the geographical isolation and higher elevations of the proposed viticultural area set the region apart, even from the topography of other portions of the Rattlesnake Hills range. An opposing commenter notes that the topography of the proposed Rattlesnake Hills viticultural area is not as consistent as described in the petition. However, this commenter does not include documentation to support this claim.

TTB notes that the topography of the proposed Rattlesnake Hills viticultural area, as explained in Notice No. 47 and summarized above, describes numerous geographical variations. The topographical description of the proposed viticultural area includes references to the proposed area's ridges, canyons and terraces, and the petition states that the area has a "multitude of landscapes with differing aspect and hill slope positions."

*Climate:* Offering anecdotal evidence, some supporting commenters emphasize the distinctive milder climate within the proposed Rattlesnake Hills viticultural area, which has more annual degree days of heat accumulation and a more frost-free environment when compared to other portions of the Yakima Valley viticultural area.

Several opposing commenters, however, state that the proposed viticultural area is not distinctive, including the amount of heat accumulated during the growing season as measured in degree days. One commenter notes that the petition's climatic information lacks specific vineyard data and relies solely on PAWS data, while other commenters note that the winter cold damage comparison is based on elevation rather than the proposed boundary lines.

In response, the petitioner states that the PAWS data collected at various stations in the region over a 10-year period is reliable evidence of the climatic differences between the proposed viticultural area and the surrounding regions. Citing PAWS information, the petitioner states that east of the Bonneville power lines cold air flows downward into a large basin at the bottom of Washout Canyon, and notes that the Sunnyside weather station, located within the basin, records the coldest temperatures of the 11 stations in the region.

The petitioner also explains that frost occurs two to three weeks earlier in the large basin area than within the proposed Rattlesnake Hills viticultural area. The colder climate steers agriculture in the basin toward dairy, corn, alfalfa, and grapes for juice rather than wine. For example, the southeast portion of the basin, near Benton City, is used for dry-land agriculture and is characterized by wheat fields and rangelands. The petitioner notes that this region dips toward the Yakima River and is exposed to more frost damage, winterkill, and a higher water table, which makes the region below

850 feet in elevation incompatible with grape growing.

Originally the petitioner considered extending the proposed viticultural area to include the Black Canyon region, located about six miles east of the proposed boundary line toward Red Mountain. However, the petitioner cites a May 2003 freeze at the 1,300-foot elevation of Vineyard del Sol that froze vines to the ground. On the same night, the petitioner states there was no known frost damage within the proposed viticultural area boundary, even in vineyards at 900-foot elevations with no frost protection. Therefore, the petitioner contends that although Black Canyon is part of the Rattlesnake Hills geographical landform, the area's climate is significantly different.

The petitioner claims that the cold air drainage effect is less harsh within the proposed Rattlesnake Hills viticultural area east of the proposed boundary line at the 120° longitude line. Stating that more cold air will drain down higher mountains than lower ones, the petitioner notes that inside the proposed eastern boundary the Rattlesnake Hills average 2,000 feet in elevation while elevations to the east average 3,000 feet. The petitioner also states that the cold air effect causes cold air to accumulate in a narrow valley and disperse in a wide valley, and, therefore, the narrowing of the central Yakima Valley east of the 120th meridian influences the movement of cold air in the region.

*Soil:* Supporting commenters state that the proposed viticultural area is distinguished by superior soils with good drainage compared to surrounding regions. Other commenters claim, however, that the soils of the proposed Rattlesnake Hills viticultural area are common in the surrounding Yakima Valley viticultural area.

The petitioner relies on the expertise of soil scientist Alan Busacca, PhD, to provide geological and soil information for the proposed viticultural area and the areas outside its proposed boundaries. After careful review, TTB believes that the soil facts and data narrative prepared by Dr. Busacca and presented in the petition constitute adequate evidence and documentation to support the conclusions reached in the petition.

*Economic Impact:* Some commenters favor establishing a distinct viticultural area to separate the proposed Rattlesnake Hills viticultural area from the larger, surrounding Yakima Valley area, as well as from the much larger Columbia Valley viticultural areas. A commenter states that Washington State vintners will be able to market wine products with more accuracy,

efficiency, and profitability with establishment of new viticultural areas. In addition, a member of the Yakima County Planning Department believes that establishment of the Rattlesnake Hills viticultural area will assist Yakima County in planning for its economic development.

Several opposing commenters voice concerns about the detrimental effect of establishing the Rattlesnake Hills viticultural area within the larger Yakima Valley viticultural area. One commenter states that the establishment of the Rattlesnake Hills viticultural area will confuse consumers and undermine the success of the Yakima Valley viticultural area, and a second commenter stated that there are no significant differences between the two viticultural areas. TTB notes that neither commenter included evidence or documentation to support these claims.

In response, the petitioner states that the proposed Rattlesnake Hills viticultural area grape-growing industry is characterized by small "artisan estate wineries," while the Yakima Valley viticultural area has some larger commercial vineyard estates.

Overall, TTB notes that, with the proposed Rattlesnake Hills viticultural area entirely inside the larger Yakima Valley viticultural area, the two areas do share some general characteristics. However, the proposed Rattlesnake Hills viticultural area also has separate and significant distinguishing features, as noted above in the summary of the petition evidence. Furthermore, the possible impact of one viticultural area on another one is not, standing alone, a sufficient basis on which to deny a petition for a new viticultural area.

TTB also notes that the issue of consumer confusion normally stems from similarities in the names of viticultural areas or from the similarity of a proposed viticultural area name to a brand name on a wine label. The names "Yakima Valley" and "Rattlesnake Hills" have no apparent similarity that would confuse wine consumers.

#### **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 "Rattlesnake Hills" viticultural area in Yakima County in south-central Washington State, effective 30-days from this document's publication date.

#### *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, "Rattlesnake Hills," is recognized as a name of viticultural significance. Consequently, wine bottlers using "Rattlesnake Hills" 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.

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 grapes used to make the wine must have been grown within the area represented by that name, 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 as an appellation of origin 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 viticultural area 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 a viticultural area name 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**

Nancy Sutton of the Regulations and Rulings Division drafted this document.

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

Wine.

**The Regulatory Amendment**

■ For the reasons discussed in the preamble, we amend 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 § 9.193 to read as follows:

**§ 9.193 Rattlesnake Hills.**

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

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Rattlesnake Hills viticultural area are eight United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Yakima East Quadrangle, Washington—Yakima Co., 1953, photorevised 1985;

(2) Elephant Mountain Quadrangle, Washington—Yakima Co., 1953, photorevised 1985;

(3) Granger NW Quadrangle, Washington—Yakima Co., 1965;

(4) Granger NE Quadrangle, Washington—Yakima Co., 1964;

(5) Sunnyside Quadrangle, Washington—Yakima Co., 1965, photorevised 1978;

(6) Granger Quadrangle, Washington—Yakima Co., 1965;

(7) Toppenish Quadrangle, Washington—Yakima Co., 1958, photorevised 1985; and

(8) Wapato Quadrangle, Washington—Yakima Co., 1958, photorevised 1985.

(c) *Boundary.* The Rattlesnake Hills viticultural area is located in Yakima County, Washington. The area’s boundary is defined as follows:

(1) The beginning point is on the Yakima East map at the point where a line drawn straight east from the west end of the Wapato Dam on the Yakima River intersects Interstate Highway 82, section 17, T12N/R19E. This line coincides with the boundary of the Yakima Valley viticultural area (27 CFR 9.69). From the beginning point, the Rattlesnake Hills viticultural area boundary line—

(2) Proceeds straight eastward, crossing onto the Elephant Mountain map, to the 2,192-foot peak of Elephant Mountain, section 16, T12N/R20E; then

(3) Continues straight east-southeast, crossing over the northeast corner of the Toppenish map, and continuing onto the Granger NW map, to the 2,186-foot pinnacle of Zillah Peak, section 32, T12N/R21E; then

(4) Continues straight eastward, crossing onto the Granger NE map, to the 3,021-foot peak of High Top Mountain, section 32, T12N/R22E; then

(5) Continues straight east-southeast to the 2,879-foot peak in the northeast quadrant of section 3, T11N/R22E, and continues in the same direction in a straight line until the line intersects with the 120°00′ west longitude line in section 1 of T11N/R22E along the east margin of the Granger NE map; then

(6) Proceeds straight south along the 120°00′ west longitude line to its intersection with a set of power lines in section 24, T11N/R22E, on the east margin of the Granger NE map; then

(7) Follows the power lines southwest, crossing onto the Sunnyside map, to their intersection with the Sunnyside Canal, section 8, T10N/R22E; then

(8) Follows the meandering Sunnyside Canal generally northwest, crossing over the northeast corner of the Granger map, and continuing over the Granger NW map, the Toppenish map, and onto the Wapato map to the canal’s intersection with Interstate Highway 82, section 27 west boundary line, T12N/R19E; then

(9) Follows Interstate Highway 82 northwest for 2.75 miles, crosses onto the Yakima East map, and returns to the beginning point.

Signed: December 19, 2005.

**John J. Manfreda,**  
*Administrator.*

Approved: January 19, 2006.

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

[FR Doc. 06–1459 Filed 2–15–06; 8:45 am]

**BILLING CODE 4810–31–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Parts 100, 117 and 165**

[USCG–2006–23919]

**Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations and Drawbridge Operation Regulations**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary rules issued.

**SUMMARY:** This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between April 1, 2005 and September 30, 2005 that were not published in the **Federal Register**. This quarterly notice lists temporary local regulations, temporary drawbridge operation regulations, security zones, and safety zones, all of limited duration and for which timely publication in the **Federal Register** was not possible.

**DATES:** This document lists temporary Coast Guard rules that became effective and were terminated between April 1, 2005 and September 30, 2005.

**ADDRESSES:** The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice contact Ms. Lesley Mose, Office of Regulations and Administrative Law, telephone (202) 267–1477. For questions on viewing, or on submitting material to the docket, contact Ms. Angie Ames, Docket Operations, telephone 202–366–5115.

**SUPPLEMENTARY INFORMATION:** Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit