

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
(TTB)**



**AMERICAN
VITICULTURAL
AREA**

(AVA)

MANUAL

**FOR
PETITIONERS**

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I. INTRODUCTION

The Federal Alcohol Administration Act (FAA Act) authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that any such regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and provide the consumer with adequate information as to the identity and quality of the labeled product. The regulations promulgated under the FAA Act include provisions pertaining to the establishment of American viticultural areas (AVA) and the use of AVA names on wine labels. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations established under the FAA Act.

Under the TTB regulations, an AVA is a defined grape-growing region having distinguishing features as described in part 9 of the TTB regulations, in Title 27 of the Code of Federal Regulations, (27 CFR part 9) and a name and a delineated boundary as established in part 9 of the TTB regulations. The use of an AVA name on a label allows vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in a certain area to its geographical origin. Thus, the establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers, and, in turn, helps consumers to geographically identify wines that they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of a wine that carries that AVA name.

This manual is intended as guidance for persons who wish to petition TTB for the initiation of rulemaking to establish a new AVA or to make a change to an existing AVA. This manual includes outlines to assist petitioners in preparing their AVA petitions, as well as tables to assist petitioners in collecting and evaluating information regarding distinguishing features that support the petitioned-for AVA rulemaking action.

The guidance provided in this manual is based on the terms of the TTB regulations that govern the AVA petition and approval process, the policies of TTB that support those regulations (see, in particular, TTB Notice No. 78 (published at 72 FR 65261) and T.D. TTB-90 (published at 76 FR 3489)), and the experience that TTB personnel have gained over the years in reviewing and acting on AVA petitions. Nothing in this manual should be construed to replace any provision of the TTB regulations governing the AVA petition and approval process. In the case of any conflict between any statement contained in this manual and a TTB regulation, the terms of the regulatory text will prevail.

II. DEFINITIONS

American viticultural area or AVA: A delimited grape-growing region having distinguishing features as described in part 9 of the TTB regulations and a name and a delineated boundary as established in part 9 of the TTB regulations (27 CFR part 9).

Appellation of origin: For American wine, the name of a country, state, county, or an AVA used to identify the geographic origin of the grapes used to produce a wine. (Two or no more than three counties in the same state or two or no more than three states which are all contiguous, may make up a multicounty or multistate appellation.)

Brand name: Name under which a wine or line of wines is marketed that appears on the brand label of the wine.

Expansion petition: A written request to extend the boundary of an existing AVA.

Industry member: For the purposes of this AVA Manual, a person or group that works in or is associated with the wine grape business.

NPRM: Notice of Proposed Rulemaking; for an AVA, a document published in the Federal Register that describes the proposed AVA (or the proposed change to an existing AVA) based on the information contained in the petition, contains the proposed regulatory text with the name and boundary directions for the proposed AVA, and invites the public to comment on the proposed AVA.

Overlapping AVA: An AVA that is located either partially or fully within another AVA.

Petition: A written request for rulemaking to establish a new AVA or to modify an existing AVA, signed by the petitioner or an authorized agent of the petitioner, and submitted in accordance with the TTB regulations.

Perfected petition: A petition containing all of the evidence meeting the requirements of the TTB regulations and containing sufficient supporting information for TTB to decide whether to proceed with rulemaking to establish a new AVA or change an existing AVA.

Petitioner: Any individual or entity, including an industry member, group of industry members, or any person or entity acting on behalf of an industry member, that submits a petition to TTB.

U.S.G.S.: The United States Geological Survey.

III. AVA PROGRAM FREQUENTLY ASKED QUESTIONS

What is the basis for the establishment of an AVA?

Part 4 of the TTB regulations (27 CFR part 4) permits the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines that they may purchase.

How does TTB administer the AVA program?

The FAA Act authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that any such regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and provide the consumer with adequate information as to the identity and quality of the labeled product. The regulations promulgated under the FAA Act include provisions pertaining to the establishment of American viticultural areas (AVA) and the use of AVA names on wine labels.

TTB administers the regulations established under the FAA Act, including reviewing submitted AVA petitions and publishing AVA rulemaking proposals as part of the AVA rulemaking process. TTB has discretion to decide whether a petition should proceed to rulemaking or should be returned to the petitioner without rulemaking action. TTB has three options after receipt of a perfected petition: (1) proceed with a notice of proposed rulemaking to establish or modify the AVA as proposed by the petitioner; (2) proceed with a notice of proposed rulemaking that differs from what was specifically petitioned for (e.g., a different name or boundary); or (3) decide not to proceed with rulemaking. For more information on how TTB processes petitions, see section IV of this manual. If, after publication of the notice of proposed rulemaking and review of the public comments submitted in response to the proposal, TTB determines that the proposal should be adopted, TTB prepares a final rule document for publication in the Federal Register after approval by the Department of the Treasury.

Who may file an AVA petition?

Any individual or entity, including any industry member, or any person or entity on behalf of an industry member, may file a petition to establish a new AVA or to modify an existing AVA.

What AVAs are currently approved?

Subpart C of part 9 of the TTB regulations (27 CFR part 9) lists and describes all approved AVAs.

Where may I access information on previously established AVAs to use as reference?

TTB maintains on its Web site (www.ttb.gov) AVA notices of proposed rulemaking (<http://www.ttb.gov/wine/wine-rulemaking.shtml>) and AVA final rules published from 1997 to the present (<http://www.ttb.gov/rrd/decisions.shtml>). Copies of perfected petitions (including

maps and exhibits) may also be obtained from TTB by submitting a request under the Freedom of Information Act (FOIA) to the following address:

Alcohol and Tobacco Tax and Trade Bureau
FOIA/Disclosure Officer
1310 G Street, NW Box 12
Washington, DC 20005

Information on submitting a FOIA request can be found on the TTB Web site at http://www.ttb.gov/foia/make_request.shtml.

What is required to petition for a new AVA?

The requirements for a petition to establish a new AVA are discussed in section VI of this manual, and outlines for AVA petitions are provided in sections X and XI of this manual.

What must a petitioner use to define a proposed AVA boundary?

A description of an AVA boundary must be based on identifiable features appearing on U.S.G.S. maps. For more information, see section VI of this manual.

Are there any minimum or maximum size requirements for AVAs?

There are no specific size requirements for AVAs. Approved AVAs vary in size from less than one square mile to thousands of square miles. However, the total vineyard acreage and the distribution of viticultural activity within the proposed AVA boundary must be sufficient for the proposed AVA to constitute both a “grape growing region” (see 27 CFR 4.25(e)(1)(i)) and “an area in which viticulture exists” (see 27 CFR 9.12(a)(1)).

What information is required for a petition to establish a new AVA that would be located totally or partially within an existing AVA?

Petitions for overlapping AVAs must meet all the same requirements as a petition for a new AVA, as outlined in section VI of this manual. In addition, as noted in section VII of this manual, if the petitioner does not intend to modify the boundary of the existing AVA and wants the region located within the proposed AVA to continue to be part of the existing AVA, the petition must include information that identifies the attributes of the proposed AVA that are consistent with the existing AVA and also explain how the proposed AVA is sufficiently distinct from the existing AVA to warrant recognition as a separate AVA. The petition should also document the geographical name recognition of the proposed AVA and compare its relationship to the established AVA.

What must I submit to request that TTB modify the boundary of an existing AVA?

Most of the petition requirements for a new AVA also apply to a petition to modify the boundary of an existing AVA. The petition should include the following:

- For an expansion of the boundary, substantive evidence of how the name of the existing AVA also applies to the expansion area;

- For a petition to modify a boundary to expand an existing AVA, substantive evidence that demonstrates how the area affected by the proposed change has distinguishing features affecting viticulture that are the same as those of the existing AVA;
- For a petition to modify a boundary to reduce the size of an existing AVA, substantive evidence that demonstrates how the area affected by the proposed change does not have distinguishing features affecting viticulture that are the same as those of the existing AVA;
- A detailed 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, with reference to the name evidence and distinguishing features for both the existing AVA as well as the area affected by the proposed boundary change;
- Appropriate U.S.G.S. maps with the proposed changed boundary clearly shown on them; and
- A detailed narrative description of the entire proposed new boundary line using U.S.G.S. map markings.

For more information, see sections VIII and XI of this manual.

What evidence must a petition contain when requesting to change the name of an existing AVA?

The petition must contain substantive and convincing evidence to support the name change, that is, evidence demonstrating the appropriateness of the new name together with an explanation of why the current name is inappropriate. No other information is required unless a change to the AVA boundary is also proposed. For more information, see sections VIII and XI of this manual.

Is payment of a fee required to file an AVA petition?

There is no fee for filing a petition.

How long does it take to establish a new AVA?

The AVA petitioning and rulemaking procedure is a deliberate process, which frequently takes multiple years to complete. It takes effort, diligence, and patience from both the petitioner and TTB. Given the uniqueness of each AVA petition, the exact timeframe for the establishment of a new AVA varies widely depending on the specific case. To learn the timeframe needed to establish some existing AVAs, it may be helpful to review the rulemaking documents for those AVAs. The Treasury Decisions for AVAs, which are the final rules that establish an AVA, are available at <http://www.ttb.gov/rrd/decisions.shtml>.

What is the potential impact of the establishment of a new AVA, or of a change to an existing AVA, on current wine labels?

Once an AVA is established by regulations, there are limitations on the use of the AVA name and any related term of viticultural significance. TTB's regulations at 27 CFR part 4 prohibit any reference on a wine label that suggests an origin other than the wine's true origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name or other term identified as being viticulturally significant by TTB (including terms identified 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 or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with the AVA name or other viticulturally significant term and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name or other term of viticultural significance that was used as a brand name on a label approved before July 7, 1986. (See 27 CFR 4.39(i)(2) for details.)

Should a petitioner for a new AVA or a change to an existing AVA be concerned about any adverse impact on existing wine labels?

TTB is concerned about the effect that the establishment of an AVA or a change to an AVA name may have on existing label holders. Before submitting a petition, the petitioner should review existing labels to determine whether the petitioned-for name (or name change) would adversely affect the use of any label. The petitioner should provide an explanation of the effect of the proposed name (or name change) on existing label holders, and how the petitioner mitigated any adverse effect. The petitioner may provide evidence that all of the potential adversely affected label holders have agreed to the proposed name (or name change). The petition should also discuss the efforts to mitigate any potential adverse effect on label holders in the letter of introduction or in the petition itself. Similarly, if the petitioner is seeking to reduce the size of an existing AVA, the petition should include evidence that any label holders who would be newly excluded from the AVA have agreed to the petitioned-for changes. TTB notes that interested parties will be able to publicly comment on any adverse impact on existing wine labels as part of the AVA rulemaking process (described in Section IV).

What terms are considered to be of viticultural significance when an AVA is established?

When a new AVA is established, the regulatory text will identify its entire name, and possibly a portion of the name standing alone, as a term or terms of viticultural significance. For example, in the Lake Chelan AVA (27 CFR 9.215), both the “Lake Chelan” and “Chelan” names carry viticultural significance. In contrast, in the Rattlesnake Hills AVA (27 CFR 9.193), the “Rattlesnake Hills” name alone carries viticultural significance; “Rattlesnake” and “Hills,” both of which are common words, carry no separate viticultural significance. When the part 9 regulatory text does not specify what terms are viticulturally significant, the entire name has viticultural significance pursuant to 27 CFR 4.39(i)(3). Additionally, other names may be determined by TTB to be viticulturally significant on a case-by-case basis under the authority of 27 CFR 4.39(i)(3).

Where can I obtain more information regarding the AVA petition process?

More information regarding the regulatory requirements for AVA petitions is available on the TTB Web site: <http://www.ttb.gov/wine/index.shtml>. Assistance may also be obtained from TTB’s Regulations and Rulings Division:

Telephone: (202) 453-2265

Email: AVAREgs@ttb.gov

IV. AVA PETITION AND REVIEW PROCESS

Where does a petitioner submit a petition?

The petitioner should direct the petition to:

Regulations and Rulings Division—AVA Program
Alcohol and Tobacco Tax and Trade Bureau
1310 G Street, NW., Box 12
Washington, DC 20005

The petitioner may send the petition to TTB using:

- The U.S. Postal Service, or
- Any other delivery service.

TTB recommends using a delivery service that has a tracking system to locate the petition package in the event that it is misdirected.

The petitioner should keep a backup copy of the petition, including copies of the U.S.G.S. maps.

What happens after TTB receives the petition?

TTB sends the petitioner a written acknowledgement within 30 days of receipt of the petition.

TTB then performs an initial review of the petition to determine whether it is perfected, that is, whether it contains all of the basic elements required under 27 CFR 9.12 for AVA rulemaking (name and boundary evidence, information regarding distinguishing features, a boundary description, and USGS maps). If the petition is missing any of these elements, TTB will return it and will take no further action unless the petitioner resubmits the petition with the deficiencies corrected. TTB will work with the petitioner both before and after the petition is submitted to assist the petitioner in submitting a perfected petition.

After a petition is perfected, TTB will further review the petition to determine whether to proceed with rulemaking to propose the establishment of the proposed AVA. TTB will also work with the petitioner to identify any required information that might be needed and to communicate this information to the petitioner so that that the petition has sufficient evidence and other information to warrant initiation of the rulemaking process. If TTB decides not to proceed with rulemaking, TTB will advise the petitioner in writing of the reasons for that decision; the petitioner may choose to submit a revised petition at a later date. If TTB decides to proceed with rulemaking for the proposed AVA, TTB will advise the petitioner in writing of that decision.

What are some of the specific aspects of an AVA petition that might raise concerns?

Problematic issues related to an AVA petition may involve the appropriateness of the proposed name or boundary, the absence of adequate distinguishing features, or the sufficiency of the data submitted with the petition. If any of these issues are evident when TTB reviews the petition, it will be returned to the petitioner, who will be given an opportunity to correct the petition deficiencies. If any such issue arises as a result of initiation of the rulemaking process (for example, in a comment submitted in response to the NPRM), TTB will take it into account when deciding whether to adopt the rulemaking action as proposed. The following are examples of petition problems that TTB has encountered:

- There is insufficient evidence that the geographical area in question is known by the name that is proposed for an AVA.
- Although the geographical area covered by a proposed AVA is known by the name suggested in the petition, that name is already being used as a brand name on labels by a winery that sources grapes from a location outside the proposed AVA, and adopting that name for the AVA could potentially lead to consumer confusion regarding what that name signifies.
- A proposed AVA boundary is drawn in an arbitrary manner. For example, it proceeds along a highway that does not represent a dividing line between different soils types or different climatic conditions, or it runs through the middle of an existing vineyard, resulting in part of that vineyard being outside the AVA.
- In a petition to establish an overlapping AVA, the evidence demonstrates: (1) that the characteristics of the overlapping part of the proposed AVA are not sufficiently distinct from those of the existing AVA to warrant the establishment of the new AVA; or (2) that the characteristics of the proposed AVA are so different from those of the existing AVA that the new AVA should not be considered to be part of the existing AVA. For more guidance on this issue, see the discussion of petitions for overlapping AVAs in section VII of this manual.

What are the steps in the AVA rulemaking process?

Once TTB determines that there is sufficient evidence to proceed with rulemaking, the following takes place:

- TTB drafts a NPRM, which is a narrative document that describes the proposed AVA (or the proposed change to an existing AVA) based on the information contained in the petition and invites the public to comment on the proposed AVA, including the evidence submitted in support of it. The NPRM is reviewed and approved within TTB. After being signed by the TTB Administrator, the NPRM is published in the Federal Register.

- After the close of the public comment period (normally 60 calendar days after the date of publication), TTB reviews and reassesses the petition in the light of the public comments received in response to the NPRM and any other available relevant information.
- TTB carefully reviews all comments received. If they raise significant substantive issues regarding the proposed AVA, TTB will take those comments into consideration when deciding whether to proceed to a final rule. If the comments raise relevant new issues that are appropriate for public comment, TTB may also decide to reopen the comment period. In making a final determination on the petition, TTB will consider all comments and other information provided during the rulemaking process.
- Based on that reassessment, TTB will take one of the following actions:
 - (1) Prepare a final rule document that adopts the proposed AVA, with or without changes to it. This document requires the review and approval of TTB and Treasury officials. If the final rule receives all necessary approvals, the document will be published in the Federal Register. The final rule, including the regulatory amendment adopted in it, normally takes effect 30 calendar days after publication in the Federal Register. This is a common outcome of the publication of an AVA NPRM;
 - (2) Publish a notice in the Federal Register withdrawing the proposal and explaining the reasons for the withdrawal. (See 27 CFR 9.14(b)(2) for examples of reasons for withdrawing a proposal.);
 - (3) Publish a new NPRM in the Federal Register requesting public comment on a modified AVA proposal. This action is most often taken when public comments or other information indicates that the previously published proposal should be changed substantially; or
 - (4) Any other action that TTB deems appropriate, including reopening the public comment period for additional public review of and comments on the proposal.

V. MAPS

What maps are acceptable?

You must submit U.S.G.S. maps with an AVA petition (see 27 CFR 9.12(a)(4)). The scale should be large enough to show adequate geographical detail for the proposed boundary line. For more information on how U.S.G.S. maps relate to the AVA boundary description, see section VI of this manual.

How should I mark the proposed boundary on the map?

Consider using a pencil or a light color highlighter. TTB needs to see both the proposed boundary as well as the underlying geographic features on the map.

Where can I get U.S.G.S. maps?

There are three sources for U.S.G.S. maps:

- Online from the U.S.G.S. at http://ask.usgs.gov/to_order.html
- By mail or telephone;

1-888-ASK-USGS (1-888-275-8747)

USGS Information Services
Box 25286
Denver, CO 80225

- From a local map retailer in your area.

VI. GENERAL REGULATORY REQUIREMENTS FOR A NEW AVA

Section 9.12 of the TTB regulations (27 CFR 9.12) contains the requirements for AVA petitions. An excerpt from the TTB regulations is contained in the Appendix to this Manual.

Paragraph (a) of § 9.12 sets forth general rules that apply for the establishment of a new AVA. These rules describe the name evidence, boundary evidence, distinguishing features, and maps and boundary description that must accompany an AVA petition.

TTB will work with a petitioner both before and after submission of a petition to ensure that it contains all necessary information. TTB assumes that the information provided by the petitioner in a perfected petition is correct. TTB does not conduct a detailed, separate investigation of the validity of the petition evidence submitted; rather, once rulemaking is initiated, TTB relies on public comments submitted in response to the NPRM to confirm or refute the information provided by the petitioner.

Name Evidence

A petitioner should keep the following points in mind regarding a proposed AVA name:

- The proposed name must directly relate to the proposed AVA location, and both the name as well as the exhibits in support of it must derive from sources other than the petitioner. In addition, the name must have a current and direct relationship to the area, even though it may also have a historical basis. The relationship of the proposed name and petitioned-for area should be thoroughly explained in the petition. The petition should also establish that the proposed name applies to the entire region that would be included within the proposed AVA.
- Sources of name evidence include, but are not limited to, maps (U.S.G.S. and other governmental or commercial), newspapers, magazines, historical or modern books, promotional materials, business names listed in the local phone book, school names, and road signs. Written statements from established local residents with knowledge of the area and its name may also be included.
- When proposing an AVA name, a petitioner should avoid a name that applies to multiple locations in the United States because such a name could cause marketplace and consumer confusion, contrary to the intent of the FAA Act. When a widely used name is appropriate for the area, the inclusion of a geographical modifier in the name, such as the county in which the proposed AVA is located, may solve the problem. Examples of such AVA names include “Red Hill Douglas County, Oregon” (27 CFR 9.190), “Red Hills Lake County” (27 CFR 9.169), and “Solano County Green Valley” (27 CFR 9.44).
- TTB recognizes that established brand names have value to label holders, that the recognition of a new AVA name that is similar or identical to a long-established brand name may be confusing to consumers, and that the AVA process may potentially be used as a method of limiting competition from pre-existing brand name holders. TTB will work with a petitioner to amend their petition to limit the adverse impact that the petition might otherwise have on established brand names.

Boundary Evidence

A petition must include an explanation of why the boundary of a proposed AVA is drawn the way it is, with reference to both the name evidence and the similarity of distinguishing features within, as compared to outside, that boundary. The proposed AVA boundary should enclose an area that is most consistent with, and is best supported by, the name, historical, distinguishing features, and boundary evidence contained in the petition. The following points are noted regarding the boundary evidence requirements:

- A proposed boundary delineates the geographical area of the petitioned-for AVA, and therefore the entire proposed AVA must be known by the petitioned-for name. The petition must also explain and document how the area within the proposed boundary differs from the areas beyond it. Evidence in a petition supporting the proposed name and the distinguishing features should substantiate the proposed AVA boundary.
- Any relevant information demonstrating that a proposed AVA is a specific grape-growing region where viticulture currently exists must be included. The petition may also describe historical vineyards and related wine production, early name usage, and other evidence that establishes that the area within the proposed boundary line is known as a specific and delimited grape-growing region. The proposed boundary should be drawn to exclude areas unavailable for viticulture, such as a National Forest or a State recreational area, even if that region shares the same distinguishing features as the proposed AVA.
- Where elevation plays a role in determining the boundary, as in the Mendocino Ridge AVA (27 CFR 9.158), an explanation of why grape-growing occurs above or below a certain elevation line should be included, if available.

Distinguishing Features

A petition must include a narrative description of the distinguishing features of the proposed AVA that supports the proposed name and boundary of the AVA. The narrative description should be supplemented with data and tables setting forth supporting data from within and outside the AVA, if available. The following points are noted regarding this aspect of the petition requirements:

- A petition must explain, and provide substantive evidence of, the distinguishing features of the proposed AVA that differentiate the area from what surrounds it in all directions. Distinguishing features are also referred to or characterized as “geographical features.”
- The regulations mention climate, geology, soils, and physical features as distinguishing features; these examples reflect the types of features most often mentioned in AVA petitions. They are intended to be illustrative only, and other relevant features may be relied on in AVA petitions.
- When comparing the distinguishing features inside the proposed AVA boundary to the different features outside that boundary, the petition should explain how the features in question affect viticulture both within and outside the proposed AVA.

- The discussion of distinguishing features is often the longest and most complex portion of a petition because each feature identified as “distinguishable” must be fully explained and documented.
- A petition must include exhibits containing supporting evidence and/or data substantiating each distinguishing feature.
- For further guidance in gathering and presenting evidence for the distinguishing features portion of the petition, see the AVA Geographical Features Tables in section XII of this document.

Maps and Boundary Description

The petitioner must show the location of the proposed AVA by drawing its boundary on U.S.G.S. maps. The following points are noted regarding the use of maps for this purpose:

- The petitioner should draw the proposed boundary in a way that allows TTB reviewers to see the underlying map features that are being used to delineate the area. Use of a pencil or light-color highlighter to draw the proposed boundary line on the map(s) is recommended.
- The petitioner may prefer to provide hard copies of digitally produced or scanned, customized, or reprinted U.S.G.S. maps. All the following conditions must be met when using digital or scanned maps:
 - The map(s) must be printed and submitted in hard copy. Copies must be clear, easy to read, and contain all pertinent identifying information. The size may be adjusted as long as the necessary features remain legible. At the petitioner’s option, combined maps, in addition to the required individual U.S.G.S. maps, may be submitted.
 - The boundary must be drawn on the map in a way that allows reviewers to see the underlying features being used to delineate the boundary line.
 - The written boundary description in the petition must refer to points or markings that appear on the original U.S.G.S. maps.
 - TTB reserves the right to require original paper maps published by U.S.G.S. if the use of digitally-produced copies of U.S.G.S. maps presents any administrative difficulty or raises questions of accuracy.

In addition to showing the proposed boundary on the submitted U.S.G.S. maps, the petition must include a narrative description of that boundary. The following points are noted regarding the boundary description:

- The description must be based on corresponding U.S.G.S. map markings. The description must start at a designated beginning point, proceed unbroken in a clockwise direction, and conclude by returning to the designated beginning point.
- An AVA boundary description may use all or a combination of any of the map features mentioned in the regulatory text (for example, political entity lines, highways, contour lines, rivers, elevation points, human-made features). All features used for the proposed boundary line description must appear and be easy to find on the relevant U.S.G.S. maps. A proposed boundary line may also include straight lines drawn between two features that appear upon the U.S.G.S. maps. Petitioners should avoid using map survey lines and coordinates unless no other map feature is near the proposed boundary line.

As an example, the boundary description for the Saddle Rock-Malibu AVA (27 CFR 9.203) reads in part as follows:

(1) The beginning point is on the Point Dume map at the intersection of Decker Road and Mulholland Highway, section 3, T1S/R19W;

(2) From the beginning point, proceed north-northeast along Decker Road approximately 0.7 mile to its intersection with the southern boundary of the El Conejo land grant, section 3, T1S/R19W; then

(3) Proceed straight east-southeast along the El Conejo land grant boundary line approximately 0.4 mile to the point where the land grant boundary line changes direction to the northeast, section 2, T1S/R19W; then

* * * * *

(15) Proceed westerly about 0.8 mile on Mulholland Highway and return to the beginning point.

VII. Regulatory Requirements for an Overlapping AVA

A petitioner may propose the establishment of a new AVA that would be located entirely within, would partially overlap, or would contain an existing AVA. In such cases, all of the general requirements for a petition to establish a new AVA, as summarized in section VI, must be met.

In addition, paragraph (b) of § 9.12 includes some special rules that apply in these cases. Please see the Appendix of this Manual for an excerpt from TTB's AVA regulations. The following points are noted regarding the additional paragraph (b) requirements:

- The petition must make a case for the proposed separate recognition of the new AVA. This means that the petition must include information identifying those attributes of the proposed AVA that are consistent with those of the existing AVA (thus demonstrating why the same area should be recognized by two viticultural area names), and it must also explain how they are different from each other.
- If a petition has insufficient evidence to demonstrate the similarities between the proposed AVA and the existing AVA, or if TTB otherwise determines that the new AVA does not exhibit any of the features of the existing AVA, TTB may conclude that: (1) the proposed AVA is so different from the existing AVA that it should be recognized as a completely separate AVA; and (2) the overlapping area (whether consisting of all or only part of the proposed AVA) should no longer be part of the existing AVA.

For further guidance in gathering and presenting evidence for the distinguishing features portion of the petition for overlapping AVAs, see the AVA Geographical Features Tables in section XII of this document.

VIII. Regulatory Requirements to Modify an Existing AVA

Paragraph (c) of § 9.12 contain the rules for petitions that seek to modify an existing AVA by:

1. Changing the boundary; or
2. Changing the name.

Changing an AVA Boundary

A petition to modify an existing AVA boundary must include all relevant evidence and other information specified in paragraphs (a) and (b) of § 9.12 for a new AVA, that is, name evidence, distinguishing features information, and boundary evidence, including appropriate U.S.G.S. maps and a narrative description of the modified boundary. The following additional points are noted regarding the requirements for boundary changes:

- If the petition requests an expansion of the existing boundary, it must include an explanation of how the distinguishing features of the expansion area are the same as those within the existing boundary. If the petition requests a decrease in the size of the existing AVA, it must include an explanation of how the area to be removed from the AVA differs (in terms of name and/or distinguishing features) from the area that will remain part of the AVA.
- When evaluating a petition to modify an AVA boundary, TTB will also consider prior regulatory actions regarding that AVA to determine whether the proposed boundary change is consistent with the prior rulemaking.
 - If the basis for the proposed boundary line change is consistent with the prior rulemaking for that AVA, the petition should explain why that same reasoning applies to the petitioned-for boundary change.
 - On the other hand, if the basis for the proposed change is inconsistent with prior rulemaking for that AVA, then the petition should explain why the prior rulemaking was flawed.

Changing an AVA Name

A petition to change the name of an AVA must include the same name evidence that is required in a petition to establish a new AVA, as described in section VI of this manual.

IX. ONLINE AVA INFORMATION

- The TTB Web site (<http://www.ttb.gov>) contains links to various types of AVA-related information.
 - Link to TTB's AVA regulations: <http://www.ttb.gov/wine/ava.shtml>
 - Link to AVA Treasury Decisions (the final rulemaking document that establishes an AVA) from 1996 to the present: <http://www.ttb.gov/rrd/decisions.shtml>
 - Link to AVA NPRMs from 1999 to the present: <http://www.ttb.gov/wine/wine-rulemaking.shtml>
 - Link to chart of established AVAs: http://www.ttb.gov/appellation/us_by_ava.pdf
- All AVA-related rulemaking documents published by TTB since early 2008 are publicly available online at <http://www.regulations.gov>, including the NPRM, public submissions, and the final rule that established the AVA.

X. OUTLINE OF A PETITION FOR A NEW AVA

This section provides a general outline for preparing a petition to establish a new AVA. When submitting a petition for a new AVA, please note the following:

- Do not submit original or hard-to-replace documents with a petition package as TTB cannot return them. Always make copies of any original documents and submit the copies with the petition.
- TTB recommends sending two full sets of the petition and exhibits and one full set of the original U.S.G.S. maps to the address indicated in section IV of this manual. In addition, although not required, the petitioner may also submit an electronic copy of the petition and/or the supporting exhibits. Maintain a full set of documents and maps for reference.

Letter of Introduction

The petition should include a letter of introduction signed and dated by the petitioner(s). At a minimum, the letter should include:

- The name(s) of the petitioner(s) and the mailing address, telephone number, and e-mail address of the contact person, if different from the petitioner(s).
- The exact name proposed for the AVA and its location by county, state, and any other information about its location (for example, Lake Chelan, located in Chelan County in north-central Washington).
- If any part of the petition, such as the maps, is being mailed under separate cover, a statement to that effect.

Content for a Petition for a New AVA

Overview

The petition should start with an overview section that provides a general description of the proposed AVA, including an overview of current viticultural activity within the proposed AVA. Appropriate information for this part of the petition includes the following:

- The total acreage of the proposed AVA.
- The total acreage within the proposed AVA that is currently occupied by commercial grape-growing vineyards, together with any available information regarding planned increases in vineyard acreage. The petition should also explain the extent to which viticulture is dispersed within the proposed AVA boundary.
 - Information regarding the amount of planted acreage as compared to the total proposed AVA acreage is important because, for example, TTB would find that 5 acres of planted grapes in an area encompassing 10,000 square miles would not be a sufficient amount of viticulture to justify the designation of an AVA. Similarly, a

lack of dispersed viticulture in a proposed AVA could warrant a closer review of the sufficiency of the distinguishing geographical features, boundary, and name evidence provided in the petition.

- The number of commercial vineyards in the proposed AVA.
- The number of known bonded wineries in the proposed AVA.
- To illustrate the extent of viticultural activity in a proposed AVA, it is often helpful to include as exhibits: (1) a map of the proposed AVA with all commercial vineyards and bonded wineries within the proposed boundary line indicated on the map; and (2) a listing of the commercial vineyards and bonded wineries in the proposed AVA, including their ownership and vineyard acreage.

Narrative

The narrative section is the most important part of the petition because it will guide TTB in determining whether the petition is appropriate for rulemaking, and it will form the basis for public comments and for a decision on whether to recognize the new AVA if rulemaking is initiated.

It is important to remember that recognizing the existence of an AVA is based on the idea that the defined area is unique for viticultural purposes as compared to the surrounding regions. It is for this reason that this part of the petition must include the following elements. The standards for each of these elements are set forth in 27 CFR 9.12 (attached in the Appendix) and are discussed in detail in section VI of this manual:

1. Name Evidence
2. Boundary Evidence
3. Distinguishing Features
 - There should be a separate sub-section for each feature identified as “distinguishable,” and each feature should be fully explained, documented with evidence demonstrating the distinctiveness of that feature and how it affects viticulture, and contrasted to the surrounding regions in every direction.
 - For further guidance in gathering evidence for and drafting the distinguishing features section, refer to the AVA Geographical Features Tables in section XII of this manual.
4. Written Boundary Description

Exhibits

- Exhibits provide supporting evidence for and documentation of the statements contained in the narrative portion of the petition.
- Each exhibit submitted in support of the petition should be numbered and cross-referenced to the portion of the petition that mentions it.
- To help illustrate the exact location of the proposed AVA in relation to other nearby AVAs, if any, it is often helpful for the petitioner to submit a map that shows the location of the proposed AVA as well as the location of nearby established AVAs, especially for a proposed AVA that would share a boundary with an established AVA.

U.S.G.S. Maps

The petitioner:

- Must include all U.S.G.S. maps used in defining the proposed boundary line.
- Should list each map name, its location and date of origination, and any revision (for example, Wapato Quadrangle, Washington-Yakima Co., 1958, photorevised 1985).
- Should fold each U.S.G.S. map separately. Do not tape or glue the maps together.

Petitions for Overlapping AVAs

A petition proposing the establishment of an overlapping AVA should contain all of the information required to establish a new AVA, and it should also address in detail the relationship between the existing AVA and the proposed AVA. In particular, the petition should explain how the proposed AVA is sufficiently distinctive from the surrounding area to warrant the establishment of a new AVA. In addition, a petition for an overlapping AVA must also explain how the proposed AVA is similar to the existing surrounding or overlapping AVA so as to justify the continued inclusion of the region located within the proposed AVA as part of the existing AVA.

It is important to note that when a petition proposes the recognition of a new AVA located within an existing AVA, depending on the unique facts presented in each AVA petition, an argument could be made that the smaller AVA is so distinct from the AVA that surrounds it that it should no longer be part of the larger AVA. As a result, wine produced within the smaller AVA could not be labeled with the name of the larger AVA, and grapes produced within the smaller AVA could not count toward meeting the 85 percent grape-sourcing requirement for labeling with the name of the larger AVA. On the other hand, if the smaller AVA shares sufficient characteristics with the larger AVA so that the smaller AVA is not judged to be entirely distinct from the larger one, the wine may be labeled with either or both AVAs as an appellation of origin if 85 percent of the labeled wine is derived from grapes grown in the overlapping area (see 27 CFR 4.25(e)(4)).

TTB also notes that, in the case of a proposed overlapping AVA, the petition in effect could be suggesting that the original boundary of the existing AVA was improperly drawn or that the existing AVA lacks sufficiently consistent distinguishing features to give it a unique and distinctive viticultural identity. In such a case, TTB might consider it appropriate as part of the rulemaking action to solicit public comments on whether the existing AVA should be modified (for example, by redrawing the boundary of the existing AVA to exclude the overlap area).

Some additional points:

- Although not required, it is very helpful to TTB if a petitioner submits a map showing the relationship between the proposed AVA and the existing AVA(s) to depict the extent and location of the overlapping area(s).
- Alternatively, if the proposed AVA would be located entirely within or partially overlap an existing AVA, a petitioner may instead seek to concurrently modify the boundary of the existing AVA to eliminate the potential overlap. A petition proposing to modify an existing AVA must meet the requirements of 27 CFR § 9.12(c), which are described in section VIII of this manual.
- The petition should clearly state whether it is proposing the establishment of a new AVA that would overlap with an existing AVA, or if it instead is concurrently proposing a modification of the existing AVA to eliminate a potential overlap.

XI. OUTLINE OF A PETITION TO MODIFY AN EXISTING AVA

This section provides a general outline for preparing a petition to modify an existing AVA. When submitting a petition to modify an existing AVA, please note the following:

- Do not submit original or hard-to-replace documents with a petition package as TTB cannot return them. Always make copies of any original documents and submit the copies with the petition.
- TTB recommends sending two full sets of the petition and exhibits and one full set of the original U.S.G.S. maps to the address indicated in section IV of this manual. In addition, although not required, the petitioner may also submit an electronic copy of the petition and/or the supporting exhibits. Maintain a full set of documents and maps for reference.

Letter of Introduction

The petition should include a letter of introduction signed and dated by the petitioner(s). At a minimum, the letter should include:

- The name(s) of the petitioner(s) and the mailing address, telephone number, and e-mail address of the contact person, if different from the petitioner(s).
- The exact name proposed for the AVA and its location by county, state, and any other information about its location (for example, Lake Chelan, located in Chelan County in north-central Washington).
- A statement that clearly identifies the proposed change to the AVA. There are four basic types of changes:
 1. A boundary change that does not involve another AVA;
 2. A change to the boundary of an AVA that is entirely within another AVA;
 3. A realignment of a boundary that separates two AVAs; and
 4. A name change.
- If any part of the petition, such as the maps, is being mailed under separate cover, a statement to that effect.

Content for a Petition to Modify an Existing AVA

The content of a petition to modify an existing AVA depends on the change being sought by the petitioner. For each aspect of the AVA that the petitioner is seeking to change, the appropriate narrative justification and supporting evidence must be provided.

1. Change of name. The petition must include an explanation as to why the currently approved name is inaccurate or otherwise inappropriate. The petition also must include: (1) a narrative justification for the proposed name change; and (2) supporting evidence and

documentation for the name change that is equivalent to what is necessary to support the choice of a name for a new AVA.

2. Boundary change. The petition must: (1) explain the need for the change to the established boundary; (2) justify the proposed new boundary with supporting boundary evidence, distinguishing features evidence, and boundary description; and (3) provide a new total acreage for the AVA. The narrative must contain the following sections:
 - i) Name evidence: To establish that the existing AVA name is appropriate for the area within the proposed new boundary; or, in the case of a modification that would reduce the size of the AVA, that the existing name is not appropriate for the area affected by the modification.
 - ii) Boundary evidence: To demonstrate that the current boundary is incorrect and why the proposed new boundary line is more appropriate for the AVA.
 - iii) Distinguishing features: To demonstrate the extent to which the area within the changed boundary shares (or, on the contrary, does not share) the same distinguishing features affecting viticulture with the existing AVA. The same type of information required to petition for a new AVA is required here.
 - iv) Boundary description: A narrative description of the changed boundary.

Exhibits

- Exhibits provide supporting evidence for and documentation of the statements contained in the narrative portion of the petition.
- Each exhibit submitted in support of the petition should be numbered and cross-referenced to the portion of the petition that mentions it.
- Although not required, it is recommended that petitioners submit one map showing both the existing AVA boundary and the proposed boundary change (in a different color) so that TTB can see the extent and location of the areas that would be affected by the change.

U.S.G.S. Maps

The petitioner:

- Must include all U.S.G.S. maps used in defining the proposed change to an AVA boundary line.
- Should list each map name, its location and date of origination, and any revision (for example, Wapato Quadrangle, Washington-Yakima Co., 1958, photorevised 1985).
- Should fold each U.S.G.S. map separately. Do not tape or glue the maps together.

XII. AVA DISTINGUISHING FEATURES TABLES

The following tables are intended to assist potential AVA petitioners in identifying and organizing data and other information relating to the distinguishing features for a proposed AVA. The petition information reflected in the tables will also assist TTB in reviewing and evaluating the distinguishing features of a proposed AVA, both during the initial review of the petition and throughout the rulemaking process.

These tables are designed to provide a brief summary of the distinguishing features described in the petition; they are not intended to replace the lengthier and more detailed narrative description of distinguishing features that should be contained in the AVA petition. The first table is intended for petitioners who are seeking the recognition of a new AVA that does not involve an existing AVA; the second table is intended for petitioners who are proposing a new AVA that is located within, or that overlaps, an existing AVA.

These tables are provided to petitioners only as a tool for the completion of an AVA petition. There is no requirement that a petitioner submit the table to TTB with the petition; however, petitioners have the option to do so as it might facilitate TTB review of the petition.

A perfected AVA petition does not have to contain contrasting data and other information for every feature listed in the attached tables. A proposed AVA may have some significant distinguishing features in some areas while also sharing other features with the surrounding region. It may also be helpful for petitioners to include in the first column of the table citations to the petition page(s) and exhibit(s) that provide the relevant information about those features. If a feature listed in the table is not a distinguishing feature for the proposed AVA and is not otherwise relevant to the petition, those fields may be left blank.

As noted in section VII of this manual, when a petitioner proposes a new AVA that overlaps an existing AVA, the petition must include evidence that shows the features of the proposed AVA that are consistent with the existing AVA, if any, in addition to the features of the proposed AVA that differ from those of the existing AVA and that warrant the recognition of a separate AVA. Accordingly, the second table is designed to assist petitioners in highlighting the similarities and differences in distinguishing features in the overlapping area(s) of a proposed AVA.

TTB recognizes that not every potential distinguishing feature is listed in these tables or can be summarized adequately in the space provided. In such cases, petitioners should feel free to revise or expand the tables as needed to best present an overview of the distinguishing features of the proposed AVA.

GEOGRAPHICAL FEATURES TABLE FOR A NEW AVA

Features	In Proposed AVA	To the North	To the East	To the South	To the West
Climate: Temperature (°F) Petition page(s): Exhibit(s):					
Climate: Precipitation (in.) Petition page(s): Exhibit(s):					
Climate: Wind (mph) Petition page(s): Exhibit(s):					
Climate: Fog/Marine Influence Petition page(s): Exhibit(s):					
Other Climate Data (e.g., Degree Days) Petition page(s): Exhibit(s):					
Geology Petition page(s): Exhibit(s):					
Soils Petition page(s): Exhibit(s):					
Physical Features/ Elevation Petition page(s): Exhibit(s):					
Other Petition page(s): Exhibit(s):					

GEOGRAPHICAL FEATURES TABLE FOR A NEW AVA WITHIN AN EXISTING AVA

Features	In Proposed AVA	In Existing AVA	New or Shared Distinguishing Feature?
Climate: Temperature (°F) Petition page(s): Exhibit(s):			
Climate: Precipitation (in.) Petition page(s): Exhibit(s):			
Climate: Wind (mph) Petition page(s): Exhibit(s):			
Climate: Fog/Marine Influence Petition page(s): Exhibit(s):			
Other Climate Data (e.g., Degree Days) Petition page(s): Exhibit(s):			
Geology Petition page(s): Exhibit(s):			
Soils Petition page(s): Exhibit(s):			
Physical Features/ Elevation Petition page(s): Exhibit(s):			
Other Petition page(s): Exhibit(s):			

APPENDIX

Excerpts from 27 CFR part 9 Relating to the Submission and Processing of AVA Petitions and the AVA Rulemaking Process

§ 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 20220.¹ 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 petition 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.

¹ The mailing address listed in the regulations has changed. Please refer to the TTB website for the current mailing address.

(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.

§ 9.14 AVA rulemaking process.

(a) *Notice of proposed rulemaking.* If TTB determines that rulemaking in response to a petition is appropriate, TTB will prepare and publish a notice of proposed rulemaking (NPRM) in the Federal Register to solicit public comments on the petitioned-for AVA action.

(b) *Final action.* Following the close of the NPRM comment period, TTB will review any submitted comments and any other available relevant information and will take one of the following actions:

(1) Prepare a final rule for publication in the Federal Register adopting the proposed AVA action, with or without changes;

(2) Prepare a notice for publication in the Federal Register withdrawing the proposal and setting forth the reasons for the withdrawal. Reasons for withdrawal of a proposal must include at least one of the following:

(i) The extent of viticulture within the proposed boundary is not sufficient to constitute a grape-growing region as specified in §9.11(a); or

(ii) The name, boundary, or distinguishing features evidence does not meet the standards for such evidence set forth in §9.12; or

(iii) The petitioned-for action would be inconsistent with one of the purposes of the Federal Alcohol Administration Act or any other Federal statute or regulation or would be otherwise contrary to the public interest;

(3) Prepare a new NPRM for publication in the Federal Register setting forth a modified AVA action for public comment; or

(4) Take any other action deemed appropriate by TTB as authorized by law.