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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2011–0011]

[T.D. TTB–107; Ref: Notice No. 125]

RIN: 1513–AB83

Establishment of the Inwood Valley Viticultural Area

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

ACTION: Final Rule; Treasury Decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the 28,441-acre “Inwood Valley” viticultural area in Shasta County, California. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

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) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American 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 having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic 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 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed viticultural area;

- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make it distinctive and distinguish it from adjacent areas outside the viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

Inwood Valley Petition

TTB received a petition from consulting geographer Patrick Shabram, on behalf of himself and Anselmo Vineyards of Inwood Valley, California, proposing the establishment of the "Inwood Valley" American viticultural area. The original petition proposed a viticultural area containing approximately 32,647 acres, with 60 acres on 4 commercially-producing vineyards and 14 acres planned for further viticultural development. After reviewing the original petition, TTB suggested to the petitioner that the boundary of the proposed viticultural area be modified in order to conform to the requirements of § 9.12 of the TTB regulations (27 CFR 9.12), which requires a petitioned-for viticultural area to be an area in which viticulture exists and to contain features distinguishable from the surrounding area. Acting on this request, Patrick Shabram, the consulting geographer who submitted the original petition on behalf of Anselmo Vineyards, submitted an addendum to the petition, proposing a modified boundary that used lines drawn

between identifiable features on the USGS maps to approximate the limits of the distinguishing soil types of the proposed viticultural area and to exclude portions of the proposed viticultural area that do not contain viticulture. The proposed modifications reduced the size of the proposed viticultural area to 28,298 acres and were not intended to affect any grape growers located within the originally petitioned-for viticultural area.

The proposed Inwood Valley viticultural area, located in rural, southern Shasta County in north-central California, does not overlap, or otherwise involve, any existing or proposed viticultural areas.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 125 in the **Federal Register** on December 5, 2011 (76 FR 75830), proposing to establish the Inwood Valley viticultural area, based on the modified boundary as discussed above. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed viticultural area. The distinguishing features of the proposed viticultural area include geology, topography, climate, native vegetation, and soil. The notice also included a comparison of the distinguishing features to the surrounding area. For a description of the evidence relating to the name, boundary, and distinguishing features of the proposed viticultural area, see Notice No. 125.

In Notice No. 125, TTB solicited comments on the accuracy of the name, boundary, climactic, and other required information submitted in support of the petition. The comment period closed on February 3, 2012.

During the comment period, TTB received four comments in response to Notice No. 125. The commenters included two self-identified wine industry members and two commenters who did not list any affiliation. Three of the comments support the establishment of the proposed Inwood Valley viticultural area. TTB also received one comment outside of the comment period, as discussed later in this section.

One of the three supporting comments, comment 2, also states that the main purpose of the American viticultural area program is not to provide more information to consumers, but instead to boost the local economy and provide vintners with a more competitive advantage in the marketplace. TTB notes that its regulations regarding the approval of American viticultural areas and their use on labels are intended to ensure that such statements provide adequate information about the identity and origin of the product and are not misleading. Whether or not, and to what extent, there is any economic benefit from the approval of a viticultural area is not a factor that TTB considers in determining whether or not to approve a petition for a viticultural area.

The fourth comment objects to the proposed “Inwood Valley” name, stating that people do not correlate the name “Inwood” with Northern California, and that the word “valley” is “nongeographical.” Rather, the comment contends that the word “valley” is often used as a marketing tool to promote the idea of nature and fresh produce, and that making the name “Inwood Valley” viticulturally significant would prohibit wine bottlers outside the proposed viticultural area that currently use the name “Inwood” on their labels from later adding “valley” to their

labels or brand name if they believed it would be in their best marketing interest to do so. The comment cites Inwood Estates Vineyard and Winery in Dallas, Texas, as an example of a winery that would be prohibited from adding "valley" to its name if "Inwood Valley" becomes a term of viticultural significance. The commenter did not claim any association with Inwood Estates Vineyard and Winery and did not comment on any other aspect of the petition.

Section 9.12(a)(1) of the TTB regulations requires that the area within the proposed viticultural area "must be nationally or locally known by the name specified in the petition." As stated in Notice No. 125, TTB has determined the name evidence submitted by the petitioner shows that the region within the proposed viticultural area is known locally as "Inwood Valley." The evidence provided with the petition indicates that local residents and businesses within the proposed viticultural area use the name "Inwood Valley," and that the name "Inwood Valley" accurately describes the region in which the proposed viticultural area is located. TTB further adds that "Inwood," by itself, is not recognized as having viticultural significance, and that the word "valley" is commonly used in American viticultural area names; there are 40 American viticultural area names containing the word "valley" in California alone.

TTB is not aware of any current label holder that will be adversely affected by the establishment of the Inwood Valley viticultural area and the designation of the full name "Inwood Valley" as a term of viticultural significance. Such establishment also will not affect any current or future label holders using the word "Inwood," standing alone, on wine labels. For example, the ability of

Inwood Estates Vineyard and Winery to use “Inwood Estates” or “Inwood Winery” on a wine label would not be affected by the publication of this final rule. With regard to the restriction on the use of the term “Inwood Valley” on future labels, TTB specifically noted in Notice No. 125 that any current or future label holder wishing to use the term on a wine label must ensure that the wine meets the eligibility requirements for the appellation.

After the close of the comment period, TTB received a comment from a vineyard owner requesting that the southern boundary of the proposed viticultural area be modified in order to include his vineyard. The commenter stated that his vineyard was within the boundary of the viticultural area as originally proposed in the petition, and that he became aware of the boundary line modification and the resultant exclusion of his vineyard only after the comment period had closed. According to the vineyard owner, his property is located immediately adjacent to the viticultural area boundary proposed in Notice No. 125 and currently has 2.5 acres of planted vineyards, with 4 more acres of vineyards planned in the near future. After being informed of the commenter's request, Mr. Shabram sent a letter to TTB acknowledging that the exclusion of the vineyard was inadvertent and stating that the geographical features of the vineyard are similar to those of the viticultural area proposed in Notice No. 125.

TTB notes that, as stated in Notice No. 125, the proposed boundary was based on marked features on USGS maps that approximately follow the distinguishing features of elevation and soil types. TTB believes a slight modification to the boundary to include the vineyard at issue is consistent with

the distinguishing features evidence submitted with the petition and discussed in Notice No. 125. Also, although the comment period had already closed when the comment was received, TTB specifically noted in the proposed rule its interest in comments relating to the appropriateness of the proposed boundary.

Accordingly, given the circumstances of the exclusion of the commenter's vineyard from the proposed viticultural area and the potential impact of the rulemaking on the commenter, TTB concludes that the boundary should be modified so that the additional vineyard is included within the Inwood Valley viticultural area. Mr. Shabram provided TTB with the modifications to the boundary description based on markings appearing on the applicable USGS maps, and the letters from the vineyard owner and Mr. Shabram are included in the rulemaking docket. The boundary modification adds 143 acres to the Inwood Valley viticultural area, for a total of 28,441 acres, with approximately 62.5 acres dedicated to 5 commercially-producing vineyards.

TTB Determination

After careful review of the petition and the comments received, TTB finds that the evidence provided by the petitioner supports the establishment of the 28,441-acre Inwood Valley viticultural area as proposed in Notice No. 125 and modified by the alteration to the boundary description discussed below. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and part 4 of the TTB regulations, TTB establishes the "Inwood Valley" viticultural area in Shasta County, California, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this final rule. Paragraphs (c)(17) and (18) of the final boundary description of the viticultural area differ from the description in the proposed rule, consistent with the modification of the southern portion of the boundary line discussed above. In addition, TTB clarified the wording of other boundary descriptions within paragraph (c) but the location of the boundary as described in those sections did not change from that proposed in Notice No. 125.

Maps

The petitioner provided the required maps, and TTB lists them 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, its name, "Inwood Valley," is recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the new regulation clarifies this point. Once this final rule becomes effective, wine bottlers using "Inwood Valley" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area name as an appellation of origin.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being

viticulturally significant 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 viticultural area 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 viticultural area 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 a viticultural area 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.

Regulatory Flexibility Act

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

Executive Order 12866

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

Drafting Information

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

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.226 to read as follows:

§ 9.226 Inwood Valley.

(a) Name. The name of the viticultural area described in this section is "Inwood Valley". For purposes of part 4 of this chapter, "Inwood Valley" is a term of viticultural significance.

(b) Approved maps. The five United States Geological Survey 1:24,000 scale topographic maps used to determine the boundary of the Inwood Valley viticultural area are titled:

(1) Clough Gulch, California–Shasta County, Provisional edition 1985;

(2) Inwood, California–Shasta County, Provisional edition 1985;

(3) Hagaman Gulch, California–Shasta County, Provisional edition 1985;

(4) Shingletown, California–Shasta County, Provisional edition 1985; and

(5) Tuscan Buttes NE, California, 1965, Photoinspected 1976.

(c) Boundary. The Inwood Valley viticultural area is located in Shasta County, California. The boundary of the Inwood Valley viticultural area is as described below:

(1) The beginning point is on the Clough Gulch map at BM (Benchmark) 1254.4 located along State Route 44 in T31N/R2W. From the beginning point, proceed east-northeasterly in a straight line approximately 4.1 miles, onto the Inwood map, to the 1,786-foot elevation point, section 17, T31N/R1W; then

(2) Proceed east-northeasterly in a straight line approximately 2.1 miles to the 2,086-foot elevation point, section 15, T31N/R1W; then

(3) Proceed north-northeasterly in a straight line approximately 0.7 mile to the marked 1,648-foot elevation point (which should be marked as 2,648 feet based on its two adjacent elevation lines) on Bear Creek Ridge, section 10, T31N/R1W; then

(4) Proceed east-northeasterly in a straight line approximately 0.8 mile to the 2,952-foot elevation point (located between two transmission lines), section 11, T31N/R1W; then

(5) Proceed east-northeasterly in a straight line approximately 1.2 miles to the 3,042-foot summit of Blue Mountain, section 1, T31N/R1W; then

(6) Proceed easterly in a straight line approximately 0.7 mile, crossing over the R1W/R1E “Mt. Diablo Meridian” line, to the 3,104-foot elevation point, section 6, T31N/R1E; then

(7) Proceed east-northeasterly in a straight line approximately 2.2 miles to the summit of Alamine Peak, section 32, T32N/R1E; then

(8) Proceed southeasterly in a straight line approximately 2.1 miles, onto the Hagaman Gulch map, to Bear Pen Springs, section 10, T31N/R1E; then

(9) Proceed west-southwesterly in a straight line approximately 0.8 mile to the 3,373-foot summit of Chalk Mountain, section 9, T31N/R1E; then

(10) Proceed south-southwesterly in a straight line approximately 1 mile, returning to the Inwood map, to 2,756-foot elevation point, section 17, T31N/R1E; then

(11) Proceed south in a straight line approximately 0.6 mile to the intersection of that line with an improved road marked “Private” at the southern boundary of section 17, T31N/R1E; then

(12) Proceed south-southwesterly along that “Private” road approximately 1.6 miles to the marked gate of the “Private” road at the road’s intersection with unnamed improved and unimproved roads, section 29, T31N/R1E; then

(13) Proceed southwesterly in a straight line approximately 1.6 miles, onto the Shingletown map, to the intersection of that line with State Route 44 and an unnamed improved road (known locally as Ash Creek Road), section 31, T31N/R1E; then

(14) Proceed southwesterly in a straight line approximately 0.2 miles to the 3,334-foot elevation point, section 31, T31N/R1E; then

(15) Proceed southwesterly in a straight line approximately 1.5 miles, crossing over the R1W/R1E “Mt. Diablo Meridian” line, to the 3,029-foot elevation point on Shingletown Ridge, section 1, T30N/R1W; then

(16) Proceed westerly in a straight line approximately 1.6 miles to the 2,435-foot elevation point, section 3, T30N/R1W; then

(17) Proceed west-southwesterly in a straight line approximately 1.7 miles to the 2,065-foot elevation point (southeast of a marked Borrow Pit), section 8, T30N/R1W; then

(18) Proceed west-northwesterly in a straight line approximately 5.2 miles, onto the Tuscan Buttes NE map, to the 956-foot elevation point near an unnamed spring in section 33, T31N/R2W; then

(19) Proceed north in a straight line approximately 1.7 miles, onto the Clough Gulch map, to BM 1048.1 on State Route 44, section 28, T31N/R2W; then

(20) Proceed east along State Route 44 approximately 1.1 miles, returning to the beginning point.

Signed: July 26, 2012.

John J. Manfreda,

Administrator.

Approved: August 2, 2012.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).

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