



This document is scheduled to be published in the Federal Register on 10/02/2013 and available online at <http://federalregister.gov/a/2013-23942>, and on [FDsys.gov](http://FDsys.gov)

[Billing Code: 4810-31-P]

## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB-2013-0002; T.D. TTB-117; Ref: Notice No. 133]**

**RIN: 1513-AC00**

### **Establishment of the Moon Mountain District Sonoma County 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 approximately 17,633-acre “Moon Mountain District Sonoma County” viticultural area in Sonoma County, California. The viticultural area lies entirely within the larger Sonoma Valley viticultural area and the multicounty North Coast viticultural area. 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.

**DATES:** This final rule is effective [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 of American viticultural areas. Petitions to establish a viticultural area 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 the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed 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.

### **Moon Mountain District Sonoma County Petition**

TTB received a petition from Patrick L. Shabram on behalf of Christian Borchert, a representative of the vintners and grape growers in the proposed viticultural area, proposing the establishment of the “Moon Mountain District Sonoma County” American viticultural area. The proposed viticultural area contains approximately 17,663 acres, of which approximately 1,500 acres are dedicated to commercially producing vineyards. The petition states that there are 40 commercial vineyards and 11 bonded wineries located within the proposed viticultural area. According to the petition, the distinguishing features of the proposed Moon Mountain District Sonoma County viticultural area include its topography, geology, climate, and soils.

TTB notes that the proposed Moon Mountain District Sonoma County viticultural area lies completely within the Sonoma Valley viticultural area (27 CFR 9.29), which, in turn, is entirely within the larger multicounty North Coast viticultural area (27 CFR 9.30). The proposed viticultural area does not overlap any other existing or proposed viticultural area.

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

TTB published Notice No. 133 in the **Federal Register** on March 4, 2013 (78 FR 14046), proposing to establish the Moon Mountain District Sonoma County viticultural area. 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 topography, geology, climate, and soil. The notice also compared the distinguishing features of the proposed viticultural area to the surrounding areas. For a description of the evidence relating to the name, boundary, and distinguishing features of the proposed viticultural area and a comparison of the distinguishing features of the proposed viticultural area to the surrounding areas, see Notice No. 133.

In Notice No. 133, TTB solicited comments on the accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. In addition, given the proposed viticultural area's location within the existing Sonoma Valley and North Coast viticultural areas, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates

the proposed viticultural area from the two existing viticultural areas. TTB also asked for comments on whether the geographical features of the proposed viticultural area are so distinguishable from the surrounding Sonoma Valley or North Coast viticultural areas that the proposed Moon Mountain District Sonoma County viticultural area should no longer be part of the two existing viticultural areas. The comment period closed on May 3, 2013.

In response to Notice No. 133, TTB received a total of 11 comments, all of which supported the establishment of the Moon Mountain District Sonoma County viticultural area. The commenters included local vintners and vineyard owners, the past president of the Sonoma Valley Vintners Association, and the Sonoma Valley Visitors Bureau. None of the comments addressed the question of whether or not the proposed Moon Mountain District Sonoma County viticultural area is so distinguishable from the Sonoma Valley and North Coast viticultural areas that it should no longer be part of either existing viticultural area. TTB received no comments in opposition of the Moon Mountain District Sonoma County viticultural area as proposed.

### **TTB Determination**

After careful review of the petition and the comments received in response to Notice No. 133, TTB finds that the evidence provided by the petitioner supports the establishment of the approximately 17,663-acre Moon Mountain District Sonoma County viticultural area. 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 “Moon Mountain District Sonoma County”

viticultural area in Sonoma County, California, effective 30 days from the publication date of this document. TTB also determines that the land within the Moon Mountain District Sonoma County viticultural area will remain part of both the Sonoma Valley and North Coast viticultural areas.

### **Boundary Description**

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this final rule.

### **Maps**

The petitioner provided the required maps, and they 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, its name, "Moon Mountain District Sonoma County," will be recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the regulation clarifies this point. Once this final rule becomes effective, wine bottlers using the name "Moon Mountain District Sonoma County" 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 name as an appellation of origin.

The establishment of the Moon Mountain District Sonoma County viticultural area will not affect any existing viticultural area, and any bottlers using "Sonoma Valley" or "North Coast" as an appellation of origin or in a brand name

for wines made from grapes grown within the Sonoma Valley or North Coast viticultural areas will not be affected by the establishment of this new viticultural area. The establishment of the Moon Mountain District Sonoma County viticultural area will allow vintners to use “Moon Mountain District Sonoma County,” “Sonoma Valley,” and “North Coast” as appellations of origin for wines made from grapes grown within the Moon Mountain District Sonoma County viticultural area if the wines meet the eligibility requirements for the appellation.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with a viticultural area name 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**

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 of September 30, 1993. Therefore, no regulatory assessment is required.

### **Drafting Information**

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

### **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 § 9.231 to read as follows:

#### **§ 9.231 Moon Mountain District Sonoma County.**

(a) Name. The name of the viticultural area described in this section is “Moon Mountain District Sonoma County”. For purposes of part 4 of this chapter, “Moon Mountain District Sonoma County” is a term of viticultural significance.

(b) Approved maps. The four United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Moon Mountain District Sonoma County viticultural area are titled:

- (1) Rutherford, CA, 1951; photorevised 1968;
- (2) Sonoma, CA, 1951; photorevised 1980
- (3) Glen Ellen, CA, 1954; photorevised 1980; and
- (4) Kenwood, CA, 1954; photorevised 1980.

(c) Boundary. The Moon Mountain District Sonoma County viticultural area is located in Sonoma County, California. The boundary of the Moon Mountain District Sonoma County viticultural area is as described below:

- (1) The beginning point is on the Rutherford map at the 2,188-foot elevation point located on the Sonoma–Napa County boundary line in section 26, T7N/R6W. From the beginning point, proceed southerly along the meandering Sonoma–Napa County boundary line, crossing onto the Sonoma map, to the intersection of the county line and Lovall Valley Road, Huichica Land Grant; then
- (2) Continue along the Sonoma–Napa County boundary line approximately 0.2 mile to the intersection of the county line and the end of an unnamed light-duty road; then

(3) Proceed southwesterly in a straight line approximately 1.2 miles, passing through the marked 692-foot peak, to the intersection of the line with an unnamed light-duty road known locally as Thornsberry Road; then

(4) Proceed north-northwesterly in a straight line approximately 1 mile to the intersection of two unnamed light-duty roads known locally as Castle Road and Bartholomew Road (marked by the 218-foot elevation point); then

(5) Proceed west in a straight line approximately 1.4 miles, passing through the southern-most quarry marked on Schocken Hill, to the intersection of the line with the 400-foot elevation line, Pueblo Lands of Sonoma; then

(6) Proceed northwesterly along the meandering 400-foot elevation line for approximately 7.4 miles, crossing onto the Glen Ellen map and then the Kenwood map, to the intersection of the contour line with Nelligan Road, near the mouth of Nunns Canyon, T6N/R6W; then

(7) Proceed northerly on Nelligan Road approximately 0.6 mile to the intersection of the road with the 600-foot elevation line; then

(8) Proceed northwest along the 600-foot elevation line approximately 1.8 miles to its second intersection with a marked trail (near a marked quarry and approximately 0.2 mile southeasterly of a marked 973-foot peak), Los Guilicos Land Grant; then

(9) Proceed east-northeasterly in a straight line approximately 0.8 miles to the marked 1,483-foot peak; then

(10) Proceed east-southeasterly in a straight line approximately 1.5 miles, crossing onto the Rutherford map, returning to the beginning point.

Signed: August 1, 2013.

**John J. Manfreda,**

Administrator.

Approved: September 25, 2013.

**Timothy E. Skud,**

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

[FR Doc. 2013-23942 Filed 10/01/2013 at 8:45 am; Publication Date: 10/02/2013]