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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2018–0003; Notice No. 172]

RIN: 1513–AC36

Proposed Expansion of the Arroyo Seco Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to expand the approximately 18,240-acre “Arroyo Seco” viticultural area in Monterey County, California, by approximately 90 acres. The established Arroyo Seco viticultural area and the proposed expansion area both lie within the established Monterey viticultural area and the larger, multi-county Central 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. TTB invites comments on this proposed amendment to its regulations.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please send your comments on this notice to one of the following addresses:

- Internet: <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB–2018–0003 at “[Regulations.gov](http://www.regulations.gov),” the Federal e-rulemaking portal);
- U.S. Mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; or
- Hand delivery/courier in lieu of mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or obtain copies of the petition and supporting materials.

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, dated December 10, 2013, (superseding Treasury Order 120-01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate 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 (AVAs) and lists the approved AVAs.

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 the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps

consumers to identify wines they may purchase. Establishment of an AVA 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 (27 CFR 4.25(e)(2)) outlines the procedure for proposing the establishment of an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Petitioners may use the same procedures to request changes involving existing AVAs. Section 9.12(c) of the TTB regulations (27 CFR 9.12(c)) prescribes standards for petitions for modifying established AVAs. Petitions to expand an established AVA must include the following:

- Evidence that the region within the proposed expansion area boundary is nationally or locally known by the name of the established AVA;
- An explanation of the basis for defining the boundary of the proposed expansion area;
- A narrative description of the features of the proposed expansion area affecting viticulture, including climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the established AVA and distinguish it from adjacent areas outside the established AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed expansion area, with the boundary of the proposed expansion area clearly drawn thereon; and

- A detailed narrative description of the proposed expansion area

boundary based on USGS map markings.

Petition to Expand the Arroyo Seco AVA

TTB received a petition from Ann Hougham, owner of the Mesa del Sol Vineyards, proposing to expand the established “Arroyo Seco” AVA. The Arroyo Seco AVA (27 CFR 9.59) was established by T.D. ATF–131, which published in the **Federal Register** on April 15, 1983 (48 FR 16245). The Arroyo Seco AVA covers approximately 18,240 acres in Monterey County, California, and is located within the established Monterey AVA (27 CFR 9.98) and the larger, multi-county Central Coast AVA (27 CFR 9.75).

The proposed expansion area contains approximately 90 acres and is adjacent to the far southwestern corner of the Arroyo Seco AVA. The proposed expansion area is located on an upland terrace on the northern bank of a creek known as the Arroyo Seco, which is Spanish for “dry creek.” There is one vineyard covering a total of approximately 14 acres within the proposed expansion area. The petition included a copy of an e-mail from the Arroyo Seco Winegrowers, stating that the proposed expansion was shared with its members and received no objections. Unless otherwise noted, all information and data pertaining to the proposed expansion area contained in this document come from the petition and its supporting exhibits.

Name Evidence

The petition provides evidence that the proposed expansion area is associated with the name “Arroyo Seco.” The petitioner states that the address

of her vineyard is Arroyo Seco Road, which also runs through the Arroyo Seco AVA. The creek known as the Arroyo Seco forms the southern and eastern boundary of the proposed expansion area and also flows through the established Arroyo Seco AVA. Two maps were included in the petition as evidence that the proposed expansion area is part of the larger region referred to as the “Arroyo Seco.” The first map was created by the State of California and shows proposed dam sites in the “Arroyo Seco watershed.” The confluence of Piney Creek and the Arroyo Seco, which is the location of the proposed expansion area, appears on this map. The second map is a wildlife survey study map that was produced by California State University–Monterey Bay and is titled “Aquatic Life and Habitat in the Arroyo Seco Watershed.” The bend in the Arroyo Seco where the proposed expansion area is located is shown on the map, and symbols on the map indicate that the region was included as part of the Arroyo Seco watershed aquatic life survey.

The petition also includes evidence that the proposed expansion area has historically been associated with the name “Arroyo Seco.” An excerpt from a book that chronicles the history of the region states, “From April 15, 1880, when the first tract of 80 acres was patented to a George M. Moore, until August 22, 1924, * * * a total of 316 homesteads were granted in the Arroyo Seco area.”¹ A second excerpt, from the memoirs of local resident Fred Weybret, Jr., describes his childhood in the region from 1928 to 1933 and notes, “There was no electricity in the Arroyo Seco at that time * * *.”² The petition also included the

¹ Coelho, Al. The Arroyo Seco. 1982.

² Weybret, Fred Jr. (2002). Arroyo Seco. Unpublished memoir manuscript.

ownership history of the petitioner's property, obtained from a title company, which shows that her property was once part of the land mentioned in the book as belonging to Mr. Moore and was owned by the Weybret family from 1928 to 1945.

Boundary Evidence

The Arroyo Seco AVA is located along the sloping bench lands surrounding the Arroyo Seco, which flows into the Salinas River near Soledad. The Arroyo Seco AVA is irregularly shaped, with the main portion of the AVA roughly resembling a triangle with its apex pointing to the southwest. A long, narrow "panhandle" extends from the apex of the triangle and is aligned west to east. The "panhandle" is formed by a series of straight lines that follow the southern boundaries of several sections on the USGS Sycamore Flat quadrangle map. The 90-acre proposed expansion area is a roughly triangular area adjacent to the southern edge of the "panhandle," near the confluence of Piney Creek and the Arroyo Seco.

The proposed expansion area boundary begins at the intersection of Arroyo Seco Road, Carmel Valley Road, and the southwestern corner of section 22 of the USGS Sycamore Flat quadrangle map. This intersection is also the beginning point for southern boundary of the "panhandle" portion of the current AVA boundary. Instead of proceeding east along the southern boundary of section 22, as the current boundary does, the proposed expansion area boundary proceeds southwesterly along Arroyo Seco Road to Piney Creek. The proposed boundary then proceeds southeasterly (downstream) along Piney

Creek to its confluence with the Arroyo Seco. The proposed boundary then proceeds northeasterly (downstream) along the Arroyo Seco and rejoins the current AVA boundary at the intersection of the Arroyo Seco with the southern boundary of section 22.

The proposed expansion area is bordered to the north by the established Arroyo Seco AVA. The petition states that the land surrounding the proposed expansion area in the other directions is mostly unavailable for commercial viticulture. Due south of the proposed expansion area, along the southern bank of the Arroyo Seco, is a large parcel of land owned by the Big Sur Land Trust to be kept as open space in perpetuity. To the west, southwest, and southeast of both the proposed expansion area and the Big Sur Land Trust property is the Ventana Wilderness portion of the Los Padres National Forest. Because of its status as a Federally-protected wilderness within a National Forest, this land is largely unavailable for commercial purposes. Although the Sycamore Flat USGS quadrangle map shows several inholdings (privately-held lands) within the National Forest, the petition describes the forest as a largely roadless, mountainous area with little land suitable for viticulture, even in the inholdings where commercial viticulture might be permitted.

Distinguishing Features

The petition states that the soils and topography of the proposed expansion area are similar to those of the established Arroyo Seco AVA.

Soils

T.D. ATF–131 described the soils of the Arroyo Seco AVA as gravelly and fine sandy loams with low lime content. The principal soil series within the AVA are Mocho, Lockwood, Arroyo Seco, Rincon, Elder, and Chular. The soils are described as well-drained. T.D. ATF–131 did not describe the soils of the regions surrounding the Arroyo Seco AVA.

The proposed expansion petition included a soil report generated from the USDA Natural Resources Conservation Service website, as well as a report from a soil analysis performed on the petitioner's property by an agricultural testing service. The testing service's report shows that the three sample sites from within the proposed expansion area all have low levels of lime, similar to the soils within the Arroyo Seco AVA. The USDA soil report concludes that approximately 96 percent of the soils within the proposed expansion area are from the Lockwood series, and that minor amounts of soils from the Elder and Mocho series are also present. The results from both reports indicate that the soils within the proposed expansion area are very similar to the soils found within the established AVA.

The soils within both the proposed expansion area and the established AVA affect viticulture. Vines planted in soils with low levels of lime are typically slightly acidic and are better able to absorb key nutrients, such as iron and phosphorous, than vines planted in soils with high levels of lime. Well-drained soils reduce the risk of fungal disease and rot.

Topography

T.D. ATF–131 states that the Arroyo Seco AVA consists of sloping bench land surrounding the Arroyo Seco. Slope angles within the AVA are described as between 0 and 9 percent. According to T.D. ATF–131, elevations are highest within the far western portion of the AVA, where elevations can reach over 600 feet in the foothills of the Santa Lucia Mountains. The sloping elevations allow cold air to drain from the vineyards, reducing the risk of frost.

According to the USGS topographic map included in the petition, elevations within the proposed expansion area are similar to those of the adjacent region that is within the Arroyo Seco AVA, which range from approximately 600 feet along the banks of the Arroyo Seco to an unnamed peak with an elevation of 1,110 feet. For comparison, elevations within the proposed expansion area are highest within the northern portion, adjacent to the established AVA's southern boundary, at approximately 700 feet. Elevations in the southern portion of the proposed expansion area, adjacent to the Arroyo Seco, are approximately 600 feet. The USDA soil report included with the proposed expansion petition states that the slope angles within the proposed expansion area are between 0 and 9 percent, which is the same as the range of slope angles attributed to the established AVA in T.D. ATF–131. The USDA soil report also states that the principal landforms of the proposed expansion area are terraces and alluvial fans, which is similar to the topography of the established AVA. Finally, a USGS geologic map of the Salinas River Valley and the Arroyo Seco shows that the terrace formation on which the proposed expansion area is located extends into the Arroyo Seco AVA.

Comparison of the Proposed Arroyo Seco AVA Expansion Area to the Existing Monterey and Central Coast AVAs

Monterey AVA

The Monterey AVA was established by T.D. ATF–177, which was published in the **Federal Register** on June 15, 1984 (49 FR 24714). The Monterey AVA is located in Monterey County, California, south and southeast of the city of Salinas, and covers approximately two-thirds of the county. Elevations within the Monterey AVA are generally below 1,000 feet. The soils of the Monterey AVA are described as having low levels of lime and salt, with pH levels between 5.1 and 8.4, as well as very low levels of organic matter.

The proposed Arroyo Seco AVA expansion area has elevations and soils similar to the Monterey AVA. Within the proposed expansion area, the highest elevations are between 600 and 700 feet. The soils of the proposed expansion area are also low in lime and salt and have pH levels of between 6.2 and 6.6. However, the soil analysis provided in the expansion petition shows that the soils of the proposed expansion area have medium-to-high levels of organic matter, compared to the very low levels of organic matter that characterize the Monterey AVA. Additionally, the expansion petition provided evidence that the proposed expansion area is frequently described as being in an area referred to as the “Arroyo Seco,” rather than being described with the broader County name of “Monterrey.”

Central Coast AVA

The large, 1 million-acre Central Coast AVA was established by T.D. ATF–216, which was published in the **Federal Register** on October 24, 1985 (50

FR 43128). The Central Coast viticultural area encompasses the California counties of Alameda, Contra Costa, Monterey, San Benito, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, and Santa Cruz, and it contains 39 established AVAs. T.D. ATF–216 describes the Central Coast viticultural area as extending from Santa Barbara to the San Francisco Bay area, and east to the California Coastal Ranges. The only distinguishing feature of the California Coast AVA addressed in T.D. ATF–216 is that all of the included counties experience marine climate influence due to their proximity to the Pacific Ocean.

The Arroyo Seco AVA and the proposed expansion area are both located within the Central Coast AVA. Cool marine breezes enter the established AVA and the proposed expansion area from Monterey Bay via the Salinas River and the Arroyo Seco. However, because of their locations east of the Santa Lucas Mountains, neither the Arroyo Seco AVA nor the proposed expansion area are as exposed to the marine air and fog as the more western regions of the Central Coast AVA that are closer to the ocean. Additionally, due to its much smaller size, the topographical features of the proposed expansion area are more uniform than the diverse features of the large, multicounty Central Coast AVA, and are more similar to the topographical features of the Arroyo Seco AVA, which is located on the same sloping bench lands and terraces along the Arroyo Seco as the proposed expansion area.

TTB Determination

TTB concludes that the petition to expand the boundaries of the established Arroyo Seco AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative description of the boundary of the petitioned-for expansion area in the proposed regulatory text published at the end of this proposed rule.

Maps

To document the existing and proposed boundaries of the Arroyo Seco AVA, the petitioner provided a copy of the required map, and it is listed below in the proposed 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. For a wine to be labeled with an AVA 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 § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA 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 AVA 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 an AVA name that

was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

The approval of the proposed expansion of the Arroyo Seco AVA would not affect any other existing viticultural area. The expansion of the Arroyo Seco AVA would allow vintners to use “Arroyo Seco” as an appellation of origin for wines made primarily from grapes grown within the proposed expansion area if the wines meet the eligibility requirements for the appellation.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should expand the Arroyo Seco AVA as proposed. TTB is specifically interested in receiving comments on the similarity of the proposed expansion area to the established Arroyo Seco AVA, as well as the differences between the proposed expansion area and the areas outside the Arroyo Seco AVA. Please provide specific information in support of your comments.

Submitting Comments

You may submit comments on this notice of proposed rulemaking by using one of the following three methods:

- Federal e-Rulemaking Portal: You may send comments via the online comment form posted with this notice within Docket No. TTB-2016-XXXX on “Regulations.gov,” the Federal e-rulemaking portal, at <http://www.regulations.gov>. A direct link to that docket is available under Notice No. XXX on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may

be attached to comments submitted via [Regulations.gov](https://www.regulations.gov). For complete instructions on how to use [Regulations.gov](https://www.regulations.gov), visit the site and click on the “Help” tab.

- U.S. Mail: You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.
- Hand Delivery/Courier: You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference **Notice No. XXX** and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity’s name, as well as your name and position title. If you comment via [Regulations.gov](https://www.regulations.gov), please enter the entity’s name in the “Organization” blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity’s comment on letterhead.

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

Confidentiality

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

Public Disclosure

TTB will post, and you may view, copies of this notice, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2018–0003 on the Federal e-rulemaking portal, Regulations.gov, at <http://www.regulations.gov>. A direct link to that docket is available on the TTB Web site at https://www.ttb.gov/wine/wine_rulemaking.shtml under Notice No. 172. You may also reach the relevant docket through the Regulations.gov search page at <http://www.regulations.gov>. For information on how to use Regulations.gov, click on the Web site’s “Help” tab.

All posted comments will display the commenter’s name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this notice of proposed rulemaking, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the

TTB Information Resource Center, 1310 G Street NW, Washington, DC 20005.

You may also obtain copies at 20 cents per 8.5- x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or other similarly-sized documents that may be included as part of the AVA petition. Contact TTB's information specialist at the above address or by telephone at 202-453-2265 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA 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

It has been determined that this proposed 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 notice of proposed rulemaking.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend 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. Section 9.59 is amended by revising paragraphs (c) introductory text and (c)(1), redesignating paragraphs (c)(2) through (c)(21) as paragraphs (c)(3) through (c)(22), and adding new paragraph (c)(2) to read as follows:

§ 9.59 Arroyo Seco.

* * * * *

(c) Boundaries. The Arroyo Seco viticultural area is located in Monterey County, California. The beginning point is found on the “Sycamore Flat” U.S.G.S. map at the intersection of Jamesburg Road (known locally as Carmel Valley Road) and Arroyo Seco Road, near the intersection of sections 21, 22, 28, and 27, T.19 S., R. 5 E. From the beginning point, proceed southwesterly along Arroyo Seco Road to its intersection with Piney Creek.

(1) Then southeasterly along Piney Creek to its confluence with the Arroyo Seco in section 27, T. 19 S., R. 5 E.

(2) Then northerly along the Arroyo Seco to its intersection with the southern boundary of section 22, T. 19 S., R 5 E.

* * * * *

Signed: November 30, 2017

John J. Manfreda

Administrator.

Approved: March 30, 2018

Timothy E. Skud

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

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