



[Billing Code: 4810–31–P]

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2018–0004; T.D. TTB–154; Ref: Notice No. 173]

RIN 1513–AC37

Expansion of the Monticello 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) is expanding the approximately 1,320-square mile “Monticello” viticultural area in Albemarle, Greene, Nelson, and Orange Counties, in Virginia, by approximately 166 square miles, into Fluvanna County, Virginia. The established viticultural area and the expansion area are not located within any other established 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: Trevar D. Kolodny, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–559–6222.

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 this law.

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 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 process to request changes involving established AVAs. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for modifying established AVAs. Petitions to expand an established AVA must include the following:

- Evidence that the area 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 that affect viticulture, such as 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 Monticello AVA

TTB received a petition from George Cushnie, co-owner of Thistle Gate Vineyard, submitted on behalf of himself and a second vineyard owner, proposing to expand the established Monticello AVA. The Monticello AVA (27 CFR 9.48) was established by T.D. ATF-164, which was published in the **Federal Register** on January 23, 1984 (49 FR 2758). The Monticello AVA covers approximately 1,320 square miles in Albemarle, Greene, Nelson, and Orange Counties in Virginia. The Monticello AVA and the proposed expansion area do not overlap any other established or proposed AVAs.

The proposed expansion area extends beyond the Albemarle County line, which currently serves as the southeastern border of the established AVA, to encompass approximately 166 square miles of Fluvanna County, between the

James and Rivanna Rivers. The petition included a letter from the President of the Jeffersonian Wine Grape Growers Society, an association of over 30 wineries within the existing Monticello AVA, supporting the proposed expansion.

When the petition was filed, there were two commercially-producing vineyards covering a total of approximately 15 acres within the proposed expansion area. Since the petition was filed, an additional vineyard has been established in the proposed expansion area, covering approximately 6.5 acres.

According to the petition, the soils and climate of the proposed expansion area are similar to those of the established Monticello AVA. The soils in Fluvanna County consist of the Nason, Manteo, Tatum, and Louisburg types, which are also the main soil types found in Albemarle County, which forms the heart of the existing AVA, and Orange County, which forms the northeast portion of the existing AVA. The petition further notes that the Nelson and Manteo soils are Virginia soils particularly well-suited to viticulture, given that they are silty loams, characterized by moderate levels of nutritious organic content and good drainage conditions.

The climate of the proposed expansion is similar to the climate of the existing AVA. Gaps in the Blue Ridge Mountains to the east cause “rivers of cold air” to flow through corridors that converge east of the Monticello AVA and the new expansion area. As a result, temperatures in the Monticello AVA and the proposed expansion area are 4–5°F warmer than the climate in the surrounding areas outside the Monticello AVA. This warmer weather allows for a longer growing season and protection from frosts, which can be fatal to ripening grapes.

This warmer weather was an important factor in establishing the Monticello AVA in 1982, and is a point of similarity that the proposed expansion area shares with the existing AVA, in contrast to surrounding areas. The growing season of the proposed expansion area is typically a minimum of 190 or even 200 days, which is similar to the 190–200 day average of the Orange County portion of the Monticello AVA. By contrast, the lands further east and south of the proposed expansion area average 150 days and less.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 173 in the **Federal Register** on April 6, 2018 (83 FR 14787), proposing to expand the Monticello AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed expansion area. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed expansion area, and for a comparison of the distinguishing features of the proposed expansion area to the surrounding areas and to the established Monticello AVA, see Notice No. 173.

Comments Received

In Notice No. 173, TTB solicited comments on the accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. The comment period closed on June 5, 2018.

In response to Notice No. 173, TTB received one comment from Will and Leah Wentz, who have established a vineyard in the proposed expansion area, and who supported the proposed expansion of the Monticello AVA. They claim

that they selected their vineyard site in Fluvanna County based on the various viticultural attributes of the area, especially including its climate and soils, which they said were accurately described in the initial petition. TTB did not receive any comments objecting to the proposed AVA expansion.

TTB Determination

After careful review of the petition, TTB finds that the evidence provided by the petitioner sufficiently demonstrates that the proposed expansion area shares the characteristics of the established Monticello AVA and should also be recognized as part of that AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB expands the 1,320 square mile “Monticello” AVA to include the approximately 166 square mile expansion area as described in Notice No. 173, effective 30 days from the publication date of this document.

Boundary Description

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

Maps

The petitioner provided the required maps, and they are codified 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. For a wine to be labeled with an AVA name or with a brand name that includes 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 expansion of the Monticello AVA will not affect any other existing AVA, and bottlers using “Monticello” as an appellation of origin or in a brand name for wines made from grapes within the “Monticello” AVA will not be affected by this expansion of the Monticello AVA. The expansion of the Monticello AVA will allow vintners to use “Monticello” as an appellation of origin for wines made primarily from grapes grown within the expansion area if the wines meet the eligibility requirements for the appellation.

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 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 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

Trevar D. Kolodny 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. Section 9.48 is amended by revising paragraph (c)(16), redesignating paragraph (c)(17) as (c)(19), and adding new paragraph (c)(17) and paragraph (c)(18) to read as follows:

§ 9.48 Monticello.

* * * * *

(c) * * *

(16) Then continuing southwest along the county line to its intersection with the Rivanna River;

(17) Then southeast along the Rivanna River to its confluence with the James River, near the Fluvanna-Goochland County line;

(18) Then southwest, then northwest along the James River to its intersection with the Albemarle County line;

* * * * *

Signed: September 5, 2018.

John J. Manfreda,

Administrator.

Approved: December 4, 2018.

Timothy E. Skud,

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

[FR Doc. 2018-27125 Filed: 12/13/2018 8:45 am; Publication Date: 12/14/2018]