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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2019–0008; T.D. TTB–162; Ref: Notice No. 186]

RIN: 1513–AC53

Establishment of the Royal Slope 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 156,389-acre “Royal Slope” viticultural area in Adams and Grant Counties, in Washington. The Royal Slope viticultural area is located entirely within the existing Columbia Valley 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 the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

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 to TTB 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. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

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

- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation 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;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Royal Slope Petition

TTB received a petition from Dr. Alan Busacca, a licensed geologist and founder of Vinitas Vineyard Consultants, LLC, on behalf of the Royal Slope Wine Grower's Association, proposing the establishment of the "Royal Slope" AVA in Adams and Grant Counties, in Washington. The proposed Royal Slope AVA lies entirely within the established Columbia Valley AVA (27 CFR 9.74).

Within the 156,389-acre proposed AVA, there are currently 13 producing commercial vineyards which cover a total of approximately 14,100 acres. There is also one winery within the proposed AVA. According to the petition, the

distinguishing features of the proposed Royal Slope AVA are its climate, topography, geology, and soils.

The climate of the proposed Royal Slope AVA is described as warm but not excessively hot, making it a suitable climate for growing a variety of red and white grape varieties, including Cabernet Franc, Merlot, Syrah, Chardonnay, and Riesling. The proposed AVA generally has greater growing degree day¹ accumulations and an average cool-climate viticulture sustainability index² number than all of the surrounding regions except the regions to the south and north. The proposed AVA also has a lower risk of vine-damaging freezes, as it generally has fewer days per year with temperatures below 32 degrees Fahrenheit (F) than all of the surrounding regions except the region to the south. Finally, the proposed AVA has an average of only 9 days a year with temperatures above 95 degrees F, which is fewer than the region to the south, and has fewer very hot days per year than the regions to the north, east, and west. Grape vines shut down photosynthesis at temperatures above 95 degrees F, which can slow or even stop the synthesis of sugars and other ripening factors and may delay harvest.

The topography of the proposed Royal Slope AVA is characterized by the gentle, south-facing slopes of an east-west trending range of hills called the

¹ See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 2nd ed. 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual growing degree days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth.

² The cool-climate viticulture sustainability index represents the number of days between the last temperature below 29 degrees F in the spring and the first temperature below 29 degrees F in the fall.

Frenchman Hills. Slope angles are generally less than 15 percent, with very few slopes having angles of less than 3 percent. The slopes are gentle enough for agricultural purposes and are not as freeze-prone as flatter terrains such as valley floors. To the north of the proposed AVA, the Frenchman Hills fall away to the Quincy Basin, which is a large, flat-floored valley. To the northeast are sand dunes and “pothole” ponds between the dune crests. To the east and south of the proposed AVA is the Crab Creek Coulee, which is described as a “moonscape of bedrock-dominated scabland” unsuitable for agriculture. To the west is the canyon of the Columbia River, which has lower elevations and steeper, rockier terrain than the proposed AVA.

The proposed Royal Slope AVA, like the rest of the Columbia Valley AVA, is underlain with Miocene-era basaltic bedrock and has been affected by Ice Age megafloods. Within the region of the proposed AVA, the floodwaters followed flood channels to the east and northeast. The waters entered the region in a relatively smooth fashion, and the proposed AVA remained largely above the floodwaters. As a result, the proposed AVA was not heavily eroded and remained a landscape of gentle hills with deep soils suitable for cultivation. By contrast, the regions to the east and south of the proposed AVA were eroded by fast-moving floodwaters which cut deeply into the landscape and formed the scablands of Crab Creek Coulee. Similarly strong floodwaters flowed through the region to the west of the proposed AVA, creating the steep canyon of the Columbia River. North of the proposed AVA, the floodwaters were smoother and

gentler and deposited vast amounts of sand in what is now the Quincy Basin, creating a landscape of dunes and “pothole” lakes.

Within the proposed AVA, the soils are a combination of sediments from glacial floods and wind-blown post-glacial sand and silt (loess). The soils are generally deep enough for vines to extend their roots far into the soil before encountering bedrock or other impediments. The predominant soils are Aridosols, which are characterized as well-drained and low in organic material. Major soil series include Warden, Sagemoore, Adkins, and Kennewick, which together comprise approximately 59 percent of the soil in the proposed AVA. By contrast, the regions to the east, west, and immediate south of the proposed AVA are scablands, which have very little, if any, topsoil. Farther south of the proposed AVA, within the established Wahluke Slope AVA (27 CFR 9.192), the soils are deep and fertile but are primarily Entisols, including the Quincy soil series, which comprise less than two percent of the soils in the proposed AVA. The region to the north of the proposed AVA is also primarily composed of Entisols, including the Quincy soil series.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 186 in the **Federal Register** on October 15, 2019 (84 FR 55075), proposing to establish the Royal Slope AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and

distinguishing features of the proposed AVA and boundary modification, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 186.

In Notice No. 186, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. In addition, given the proposed Royal Slope AVA's location within the Columbia Valley AVA, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the established AVA. TTB also requested comments on whether the geographic features of the proposed AVA are so distinguishable from the established Columbia Valley AVA that the proposed AVA should no longer be part of the established AVA. The comment period closed December 16, 2019.

In response to Notice No. 186, TTB received a total of 24 comments. The commenters included individuals from several wineries within Washington State who use grapes grown in the proposed AVA, vineyard owners within the proposed AVA, a sommelier, a contributing editor from a wine magazine, and a wine grape consultant. All of the comments supported the establishment of the proposed Royal Slope AVA and generally state that the proposed AVA has a distinct character due to its soils and microclimate. Three of the comments support creating the proposed Royal Slope AVA so as to distinguish this region from other areas within the established Columbia Valley AVA. However, no commenters state the features within the proposed AVA are so distinguishable

as to result in the proposed Royal Slope AVA no longer being part of the established Columbia Valley AVA.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 186, TTB finds that the evidence provided by the petitioner supports the establishment of the Royal Slope 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 establishes the “Royal Slope” AVA in Adams and Grant Counties, in Washington, effective 30 days from the publication date of this document.

TTB has also determined that the Royal Slope AVA will remain part of the established Columbia Valley AVA. As discussed in Notice No. 186, the Royal Slope AVA shares some broad characteristics with the established AVA. For example, the proposed AVA and the Columbia Valley AVA are both described as treeless regions of undulating hills adjacent to the Columbia River. Additionally, the Royal Slope AVA and Columbia Valley AVA both have growing seasons longer than 150 days and similar annual rainfall amounts. However, the smaller Royal Slope AVA is much more uniform in its climate, topography, geology, and soils than the much larger Columbia Valley AVA. For example, the Royal Slope AVA does not contain any scablands or any other regions with large amounts of exposed bedrock, and it has a more limited variety of soils than the diverse Columbia Valley AVA.

Boundary Description

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

Maps

The petitioners provided the required maps, and they are listed below in the regulatory text. The Royal Slope AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

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 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 27 CFR 4.39(i)(2) for details.

With the establishment of the Royal Slope AVA, its name, “Royal Slope,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name “Royal Slope” 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 AVA name as an appellation of origin.

The establishment of the Royal Slope AVA will not affect the existing Columbia Valley AVA, and any bottlers using “Columbia Valley” as an appellation of origin or in a brand name for wines made from grapes grown within the Columbia Valley will not be affected by the establishment of this new AVA. The establishment of the Royal Slope AVA will allow vintners to use “Royal Slope” and “Columbia Valley” as appellations of origin for wines made primarily from grapes grown within the Royal Slope AVA 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 final 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. Adding § 9.271 to subpart C to read as follows:

§ 9.271 Royal Slope.

(a) *Name.* The name of the viticultural area described in this section is “Royal Slope”. For purposes of part 4 of this chapter, “Royal Slope” is a term of viticultural significance.

(b) *Approved maps.* The one United States Geological Survey (USGS) 1:100,000 scale topographic map used to determine the boundary of the Royal Slope viticultural area is “Priest Rapids, WA,” 2015.

(c) *Boundary.* The Royal Slope viticultural area is located in Grant and Adams Counties in Washington. The boundary of the Royal Slope viticultural area is as described below:

(1) The point of the beginning is on the Priest Rapids map at the intersection of the 250 meter elevation contour and the northern boundary of Section 8, T17N/R23E. From the beginning point, proceed east for approximately 7 miles along the northern boundaries of Sections 8, 9, 10, 11, and 12, T17N/R23E, and Sections 7 and 8, T17N/R24E to the northeast corner of Section 8, T17N/R24E; then

(2) Proceed south for approximately 1 mile along the eastern boundary of Section 8 to the southeast corner of Section 8, T17N/R24 E; then

(3) Proceed east for approximately 4 miles along the southern boundaries of Sections 9, 10, 11, and 12, T17N/R24E, to the southeastern corner of Section 12, T17N/R24E; then

(4) Proceed north for approximately 1.8 miles along the eastern boundaries of Sections 12 and 1, T17N/R24E, to the intersection of the eastern boundary of Section 1 and the southern boundary of the Desert Unit of the Columbia Basin State Wildlife Area; then

(5) Proceed easterly for approximately 20 miles along the boundary of the Desert Unit of the Columbia Basin State Wildlife Area to the intersection of the wildlife area boundary with O'Sullivan Dam Road/State Highway 262; then

(6) Proceed east for approximately 1.5 miles along O'Sullivan Dam Road/State Highway 262 to the intersection of the road with an unnamed road known locally as H Road SE; then

(7) Proceed southeasterly for approximately 1.6 miles along H Road SE to the intersection of the road with the southern boundary of Section 16, T17N/R28E; then

(8) Proceed east for approximately 0.4 mile along the southern boundary of Section 16 to the intersection of the southeastern corner of Section 16, T17N/R28E, and the western boundary of the Columbia National Wildlife Refuge; then

(9) Proceed southerly, then southwesterly, for approximately 8 miles along the western boundary of the Columbia National Wildlife Refuge and the concurrent western boundary of the Goose Lakes Unit of the Columbia Basin State Wildlife Area to the intersection of the wildlife refuge boundary with the eastern boundary of Section 14, T16N/R27E; then

(10) Proceed south along the eastern boundaries of Sections 14, 23, 26, and 35, T16N/R27E, to the intersection of the eastern boundary of Section 35 with State Highway 26; then

(11) Proceed northwesterly for approximately 3 miles along State Highway 26 to the intersection of the highway with the 250-meter elevation contour in the southwest corner of Section 21, T16/R27E; then

(12) Proceed westerly for approximately 28 miles along the 250-meter elevation contour to the intersection of the elevation contour with the eastern boundary of Section 26, T16N/R23E; then

(13) Proceed north for approximately 1,100 feet along the eastern boundary of Section 26 to the northeast corner of Section 26, T16N/R23E; then

(14) Proceed west for 1 mile along the northern boundary of Section 26, T16N/R23E, to the intersection with the eastern boundary of Section 22, T16N/R23E; then

(15) Proceed north for 1 mile along the eastern boundary of Section 22 to the northern boundary of Section 22, T16N/R23E; then

(16) Proceed west for approximately 1.05 miles along the northern boundary of Section 22, T16N/R23E, to the intersection of the section boundary with the 250-meter elevation contour; then

(17) Proceed northerly for approximately 10 miles along the 250-meter elevation contour to return to the beginning point.

Signed: April 15, 2020.

Mary G. Ryan,

Acting Administrator.

Approved: July 1, 2020.

Timothy E. Skud,

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

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