

bank of the Lehigh River to the mouth of Jordan Creek in Allentown; then

(17) Proceed westerly (upstream) along Jordan Creek to the first railroad bridge over the creek, and then, following the Conrail rail line on that bridge, proceed southerly along the Conrail rail line (paralleling Trout Creek at first) through Emmaus, Macungie, and Alburdis, and continue along the rail line to the Lehigh-Berks County line; then

(18) Crossing onto the Berks County map, continue southerly along the Conrail rail line through Mertztown, Topton, Lyons, Fleetwood, Blandon, and Muhlenburg to the Conrail rail bridge across the Schuylkill River in Reading; then

(19) Following the Conrail rail line on the Schuylkill River bridge, proceed southerly along the rail line through Wyomissing to the rail line's junction with a single-track Conrail rail line in Sinking Springs; then

(20) From the Conrail rail line junction in Sinking Springs, follow the single track Conrail rail line through Montello, Fritztown, and Vinemont, and return to the beginning point.

Signed: April 4, 2007.

**John J. Manfreda,**  
Administrator.

Approved: November 16, 2007.

**Timothy E. Skud,**

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

**Editorial Note:** This document was received at the Office of the Federal Register on March 6, 2008.

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[T.D. TTB-65; Re: Notice No. 61]

RIN 1513-AB23

#### Expansion of the Alexander Valley Viticultural Area (2005R-501P)

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

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision expands the Alexander Valley viticultural area in Sonoma County, California, by 1,300 acres along its northwestern boundary line. We designate 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:** *Effective Date:* April 10, 2008.

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415-271-1254.

#### 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 regulations promulgated under the FAA Act.

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) contains the list of approved 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 distinguishable by geographical features, the boundaries of which have been recognized and defined 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 geographical 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. Petitioners may use the same procedure to request changes involving existing viticultural areas. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, elevation, physical features, and soils, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

#### Alexander Valley Viticultural Area Expansion Petition

##### Background

Patrick Shabram of Shabram, Inc., with the support of vineyard owner Anthony Martorana, proposes a 1,300-acre expansion of the Alexander Valley viticultural area (27 CFR 9.53) along the current diagonal northwestern boundary line. The expansion would result in a viticultural area of 67,710 acres.

The proposed expansion area starts 1 mile south-southwest of Cloverdale and continues south for another 2 miles, according to the USGS Cloverdale Quadrangle map and written boundary description submitted by the petitioner. The shape of the proposed expansion area resembles a triangle with one side running along the Alexander Valley viticultural area's existing diagonal northwestern boundary line.

According to the petitioner, Seven Arches Vineyards straddles that diagonal northwestern boundary line, with about 10 acres outside of the existing Alexander Valley viticultural area. The proposed expansion area, the petitioner continues, would incorporate into the Alexander Valley viticultural area all of Seven Arches Vineyards and the entire 20 acres of Icaria Vineyards, both of which are located along Hiatt Road and Icaria Creek. Another vineyard, Jeko Vineyards, lies immediately inside the existing boundary line, according to a petition map outlining the vineyards of the area. The table below explains the relationship of these three vineyards to

the existing diagonal northwestern boundary line of the Alexander Valley viticultural area.

Vineyard name (Icaria Creek and Hiatt Road areas)	Vineyard location
Jeke Vineyards .....	1/10 mile inside of the boundary line.
Seven Arches Vineyards.	Straddles the boundary line.
Icaria Vineyards .....	4/10 mile outside of the boundary line.

Shortly after the establishment of the original viticultural area, the petitioner states, some wine industry members erroneously believed that the proposed expansion area already lay inside the Alexander Valley viticultural area boundary. As an example, the petitioner states that Jade Mountain Vineyards labeled a 1985 Icaria Vineyards wine with the Alexander Valley viticultural area name, while a map submitted with the petition shows Icaria Vineyards as lying within the proposed expansion area.

We summarize below the evidence presented in the petition in support of the proposed expansion of the Alexander Valley viticultural area.

#### *Name Evidence*

The proposed expansion area is historically identified with Cloverdale, a town located at the northern end of the Alexander Valley viticultural area. In his "History of the Sonoma Viticultural District," Nomis Press, 1998, pages 186–187, Ernest P. Peninou notes that in 1890 Parker Vineyards was established in the proposed expansion area. The author identifies Parker Vineyards as a part of the viticultural history of Cloverdale. The petitioner explains that vineyards in the Cloverdale area, except for the two vineyards in the proposed expansion area, lie within the boundaries of the currently established Alexander Valley viticultural area.

An article entitled "The Early Wineries of the Cloverdale Area," by William A. Cordtz, PhD, which ran in the March/April 1985 edition of *Wine West*, states that grape growing started in Cloverdale before it began in other areas of the Alexander Valley. It explains that viticulture in the upper Alexander Valley centered around Cloverdale, flourishing between 1880 and Prohibition. Also, the Cloverdale Reveille, a local area newspaper, ran articles about grape growing, and in 1878 reported prices of local grapes at \$8 per ton.

#### *Boundary Evidence*

On October 24, 1984, the Bureau of Alcohol, Tobacco, and Firearms (ATF), our predecessor agency, published T.D. ATF–187 (49 FR 42724), the final rule establishing the Alexander Valley viticultural area. Several groups of petitioners had proposed differing boundaries for that viticultural area. Ultimately, in the final rule ATF established the boundary of the Alexander Valley viticultural area as encompassing an area from southeast of Healdsburg to north of Cloverdale in Sonoma County.

Since the establishment of the Alexander Valley viticultural area, ATF has published four other final rules, all revising the boundaries of the viticultural area. In T.D. ATF–233 (51 FR 30354, August 26, 1986), ATF expanded the southern boundary of the viticultural area to include an area known as Digger Bend, and extended the northeastern corner boundary to include newly planted vineyards. In T.D. ATF–272 (53 FR 17022, May 13, 1988), ATF adjusted the shared border of the Chalk Hill and Alexander Valley viticultural areas, and expanded the southeastern corner of the Alexander Valley viticultural area to include vineyards previously located immediately within the Chalk Hill viticultural area. In T.D. ATF–300 (55 FR 32402, August 9, 1990), ATF amended the eastern and northeastern boundary of the Alexander Valley viticultural area to encompass a nearby mountainous area. In T.D. ATF–486 (66 FR 50564, October 4, 2001), ATF realigned a small portion of the western boundary of the Alexander Valley viticultural area along the border shared with the Dry Creek viticultural area to encompass the Gill Creek watershed. However, not one of those revisions is related to the boundary of the expansion in this final rule.

The current Alexander Valley viticultural area's western boundary line trends northwest-southeast, connecting section 24, T. 11 N., R. 11 W. to a point on the map at 38°45' latitude and 123°00' longitude in section 5, T. 10 N., R. 10 W., on the USGS Cloverdale Quadrangle map. The expansion area would incorporate into the current viticultural area a triangular-shaped area west of its western boundary line.

The petitioner provided a map of the Alexander Valley viticultural area published by the Sonoma County Grape Growers Association in 1998. The map shows the current viticultural area boundaries and displays the vineyards within the proposed expansion area with the same shade of dark green used

for the vineyards within the current viticultural area boundary. In contrast, the vineyards outside the existing boundary carry a significantly lighter shade of green. The petitioner contends that the wine industry used the map as a geographic analytical tool to group all vineyards on the floor and the lower slopes of the Alexander Valley.

#### *Distinguishing Features*

The petitioner provides geographic data and other evidence to document that the proposed expansion area is similar in topography, elevation, soils, and climate to the northwestern region of the Alexander Valley viticultural area along Hiatt Road and Icaria Creek.

The petitioner explains that the existing Alexander Valley viticultural area and the proposed expansion area, located on opposite sides of the diagonal boundary line, have similar distinguishing features. The topography, including range in elevation and the flood plains along Icaria Creek, water resources, soils, and climate combine to create a similar viticultural environment on both sides of the diagonal boundary line, according to the petitioner.

#### *Topography*

The petitioner describes the similar topographic features scattered throughout the Icaria Creek area on both sides of the existing Alexander Valley viticultural area's diagonal northwestern boundary line. The proposed expansion area is at elevations of 360 feet on the flood plain along Icaria Creek to 874 feet, according to the USGS Cloverdale Quadrangle map. The topography is similar immediately east and inside the Alexander Valley viticultural area's diagonal boundary line. Elevations there, as noted on the USGS Cloverdale Quadrangle map, range from a low of 320 feet on the flood plain along Icaria Creek to a high of 884 feet.

The petitioner explains that the terrain west of the proposed expansion area becomes increasingly steep and mountainous and that elevations climb to 1,600 feet, as shown on the USGS Cloverdale Quadrangle map. The mountainous terrain contrasts with the lower elevations and the gentle valley landscape of the Alexander Valley region shown on the map. The petitioner adds that the westerly mountainous terrain creates an unsuitable environment for viticulture.

Icaria Creek and several of its tributaries, as part of the Alexander Valley watershed, run through the proposed expansion area and drain into the Russian River. In an interview in the Healdsburg Tribune of December 7, 1979, Robert Young observed that there

is only one watershed in the entire Alexander Valley. His observation, according to the petitioner, supports the expansion petition because the expansion area also falls within that watershed.

The vineyards in the proposed expansion area generally lie on the lower, flatter terrain of the flood plain along Icaria Creek, according to the diagrams on the map in the petition. The elevations generally range between 350 and 450 feet, but the southernmost part of the Seven Arches Vineyards reaches 590 feet. Jeke Vineyards, which is within the Alexander Valley viticultural area's western boundary line, lies between 350 and 380 feet of elevation on the flood plain along Icaria Creek, the petitioner states. Thus, Jeke Vineyards, which is immediately inside the east side of the diagonal boundary line, and the Icaria and Seven Arches Vineyards, which are in the proposed expansion area on the west side of the diagonal boundary line, do not vary substantially in their overall elevations and relative locations on the flood plain.

#### Soils

The petitioner explains that the distinguishing soils in the Icaria Creek and Hiatt Road areas in the proposed expansion area include the Hugo-Josephine-Laughlin association. According to the Soil Survey of Sonoma County, California, issued in 1972 by the United States Department of Agriculture, Soil Conservation Service, the soils in this association are well drained, gently sloping to very steep gravelly loam. This soil association, according to the petitioner, is common on the western slopes of the Alexander Valley, including much of the existing viticultural area. The predominant soil associations in the Alexander Valley viticultural area, the petitioner continues, are the Yolo-Cortina-Pleasanton, Goulding-Toomes-Guenoc, and Hugo-Josephine-Laughlin associations, which are also in the proposed expansion area.

#### Climate

The petitioner states that the climate of the proposed expansion area closely reflects that of the area to its immediate east and inside the viticultural area boundary line. Both areas, the petitioner states, are similar in vegetative cover, elevation, topographic features, and latitudinal coordinates.

The entire Alexander Valley viticultural area has a coastal warm climate type, according to the model Climate Types of Sonoma County, originally developed by Robert Sisson, shown on the 1986 Vossen map, and

provided with the petition. This model uses the total daily hours of temperatures between 70 and 90 degrees F. The petitioner explains that the temperature range is the most significant factor for photosynthesis in the grapevines.

Climatic variations have not been recorded along Icaria Creek and Hiatt Road between the existing Alexander Valley viticultural area and the proposed expansion area. However, the manager of the Seven Arches Vineyards writes that along Hiatt Road, on both sides of the diagonal boundary line of the existing Alexander Valley viticultural area, the climate is similar, if not identical. The petitioner explains that the reason for the similar or identical climate in both the existing and proposed expansion areas is that the coastal, or marine, influence is diminished in the inland, northern part of Sonoma County, including the northern part of the Alexander Valley.

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

TTB published Notice No. 61 regarding the proposed expansion of the Alexander Valley viticultural area in the **Federal Register** on July 17, 2006 (71 FR 40465). We received three comments in response to that notice. All three comments, including one from the Alexander Valley Winegrowers, support the proposed expansion of the Alexander Valley viticultural area.

#### **TTB Finding**

After careful review of the petition, TTB finds that the evidence submitted supports the expansion of the Alexander Valley viticultural area as requested in the petition. Therefore, under the authority of the FAA Act and part 4 of our regulations, we amend our regulations to expand the Alexander Valley viticultural area, in Sonoma County, California, effective 30 days from the publication date of this document.

#### *Boundary Description*

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

#### *Maps*

The petitioner(s) provided the required maps, and we list them below in the regulatory text.

#### **Impact on Current Wine Labels**

The expansion of the Alexander Valley viticultural area does not affect any currently approved wine labels. The approval of this expansion may allow

additional vintners to use "Alexander Valley" as an appellation of origin on their 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 a viticultural area name or with a brand name that includes a viticultural area name or other term identified as 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). Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term 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**

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is 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, 58 FR 51735. Therefore, it requires no regulatory assessment.

#### **Drafting Information**

Nancy Sutton of the Regulations and Rulings Division drafted this ruling.

#### **List of Subjects in 27 CFR Part 9**

Wine.

#### **The Regulatory Amendment**

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter I, part 9, 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 9.53 is amended by revising the heading of paragraph (c), revising paragraph (c)(5), redesignating

paragraphs (c)(6) through (c)(44) as (c)(9) through (c)(47), and adding new paragraphs (c)(6) through (c)(8) to read as follows:

### Subpart C—Approved American Viticultural Areas

#### § 9.53 Alexander Valley.

\* \* \* \* \*

(c) Boundary.

\* \* \* \* \*

(5) Then straight south along the eastern boundary line of Section 25, to its intersection with Kelly Road, a medium-duty road, T. 11 N., R. 11 W.;

(6) Then southwest along Kelly Road to its intersection with the northern boundary line of Section 36, T. 11 N., R. 11 W.;

(7) Then straight south to its intersection with 38° 45' N. latitude along the southern border of the Cloverdale Quadrangle map, T. 10 N., R. 11 W. and R. 10 W.;

(8) Then straight east to its intersection with 123° 00' E. longitude at the southeastern corner of the Cloverdale Quadrangle map, T. 10 N., R. 10 W.;

\* \* \* \* \*

Signed: March 1, 2007.

**John J. Manfreda,**

*Administrator.*

Approved: November 16, 2007.

**Timothy E. Skud,**

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

[FR Doc. E8-4789 Filed 3-10-08; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[T.D. TTB-67; Re: Notice No. 70]

RIN 1513-AB21

#### Expansion of the San Francisco Bay Viticultural Area (2005R-413P)

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

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision expands the San Francisco Bay viticultural area in northern California. The expansion adds 88 square miles to the viticultural area to its north in Solano County, California. We designate 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:** *Effective Date:* April 10, 2008.

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 94952; telephone 415-271-1254.

#### 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 regulations promulgated under the FAA Act.

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) contains the list of approved 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 distinguishable by geographical features, the boundaries of which have been recognized and defined 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 geographical 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. Petitioners may use the same procedure to request changes involving existing

viticultural areas. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

#### San Francisco Bay and Central Coast Expansion Petition

Hestan Vineyards, LLC, of Vallejo, California, represented by Holland and Knight LLP of San Francisco, California, submitted a petition for an 88-square-mile boundary expansion that includes portions of Solano County to the north of the Carquinez Strait, and would apply to both the established San Francisco Bay viticultural area (27 CFR 9.157) and the established Central Coast viticultural area (27 CFR 9.75). After reviewing the petition, TTB determined that the evidence submitted in support of the proposed expansion of the San Francisco Bay viticultural area merited rulemaking action. TTB also determined that there was insufficient documentation to proceed with rulemaking for the proposed expansion of the Central Coast viticultural area. Accordingly, TTB notified the petitioner of these determinations, and the petitioner agreed to proceed only with the portion of the petition for the expansion of the San Francisco Bay viticultural area.

##### *San Francisco Bay Expansion Petition Evidence*

The petitioner submitted the following information in support of the expansion of the San Francisco Bay viticultural area.

The petition states that the San Francisco Bay area is a loosely bound region that includes other bodies of water, including San Pablo Bay, the Carquinez Strait, and Suisun Bay. USGS maps of the region show that San Francisco Bay joins San Pablo Bay to its north. Also, the Carquinez Strait