

## DEPARTMENT OF THE TREASURY

## Alcohol and Tobacco Tax and Trade Bureau

## 27 CFR Part 9

[Notice No. 29]

RIN: 1513-AA72

**Proposed Realignment of the Santa Lucia Highlands and Arroyo Seco Viticultural Areas (2003R-083P)****AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to realign a portion of the common boundary line between the established Santa Lucia Highlands and Arroyo Seco viticultural areas in Monterey 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. We invite comments on these proposed amendments to our regulations.

**DATES:** We must receive written comments on or before March 25, 2005.

**ADDRESSES:** You may send comments to any of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 29, P.O. Box 14412, Washington, DC 20044-4412.
- 202-927-8525 (facsimile).
- [nprm@ttb.gov](mailto:nprm@ttb.gov) (e-mail).
- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.
- <http://www.regulations.gov> (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this proposal by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400. You may also access copies of the notice and comments online at <http://www.ttb.gov/alcohol/rules/index.htm>.

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.

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Program Manager, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville Street, #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 (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

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 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. 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.

**Santa Lucia Highlands and Arroyo Seco Realignment Petition***Background*

Paul Thorpe, on behalf of E. & J. Gallo Winery, submitted a petition to TTB requesting the realignment of a portion of the common boundary between the established Santa Lucia Highlands viticultural area (27 CFR 9.139) and the established Arroyo Seco viticultural area (27 CFR 9.59). Both viticultural areas are within the Monterey viticultural area (27 CFR 9.98) in Monterey County, California, which is in turn within the larger multi-county Central Coast viticultural area (27 CFR 9.75).

Currently, the portion of the originally established common boundary in question follows a straight line drawn between the intersection of Paraiso and Clark Roads and the northeast corner of section 5, T19S, R6E, as shown on the United States Geological Survey (USGS) Paraiso Springs, California, quadrangle map.

The proposed realignment would move this portion of the two areas' common boundary line about 1,000 to the east of the Paraiso and Clark Roads intersection and less than 500 feet to the east of the northeast corner of section 5, T19S, R6E. This realignment would transfer about 200 acres of land currently within the Arroyo Seco viticultural area to the Santa Lucia Highlands area.

*Rationale and Evidence for the Proposed Realignment*

According to the petitioner, the proposed realignment of this portion of the common boundary between the Santa Lucia Highlands and Arroyo Seco viticultural areas would serve three purposes: (1) It would bring the western boundary of the Arroyo Seco viticultural area into conformity with the western boundary of the historical Arroyo Seco Land Grant, which lends it name to the Arroyo Seco viticultural area; (2) it would conform the boundary line to land ownership boundaries; and (3) it would end the current division of the

Olsen Ranch vineyards between the two viticultural areas.

Currently, a thin strip of land outside of the Arroyo Seco Land Grant is within the western-most portion of the Arroyo Seco viticultural area. By moving the common Santa Lucia Highlands and Arroyo Seco boundary line to the east, the Arroyo Seco Land Grant and Arroyo Seco viticultural area will have the same western boundary line.

The petitioner owns the Olsen Ranch, the great majority of which lies within the Santa Lucia Highlands viticultural area. Currently, the vineyards on the Olson Ranch, which were planted after the establishment of the two viticultural areas, are divided between the Arroyo Seco and Santa Lucia Highlands viticultural areas. By realigning this portion of common boundary line between the two viticultural areas, the Olson Ranch vineyards will be completely within the Santa Lucia Highlands viticultural area.

The petition also explains that the dominant physical feature of the proposed realignment area is the alluvial terracing that differentiates the highlands along the western edge of the Salinas Valley from the lower elevation valley floor. These terraces, which are above 600 feet in elevation, match the terrain found in the Santa Lucia Highlands viticultural area, the elevation of which is generally between 600 feet and 1,200 feet, as the provided USGS map shows. Also, the terraces and higher elevations of the Santa Lucia Highlands area contrast to the flatter terrain and lower elevation valley floor found in the Arroyo Seco viticultural area.

The primary soils of the proposed realignment area are of the Arroyo Seco and Chualar series, according to the 1978 U.S. Department of Agriculture Soil Survey of Monterey County, California, cited in the petition. These soils are generally loam or gravelly, sandy loam, with underlying very gravelly material, and they coincide with the dominant soils of the Santa Lucia Highlands viticultural area, according to the petition.

The petition states that the climatic conditions of the proposed realignment area are similar to the Santa Lucia Highlands viticultural area. The rainfall in the proposed realignment area and the Santa Lucia Highlands area is 10 to 15 inches a year, according to the petition. In contrast, the lower valley floor found in the Arroyo Seco viticultural area averages less rain at 9.5 inches a year.

### *TTB Finding*

Based on the information provided in the petition, we believe that it is appropriate to propose the boundary realignment between the Arroyo Seco and Santa Lucia Highlands viticultural areas requested in the petition. Accordingly, we set forth below proposed amendments to the boundary descriptions for the two viticultural areas found in §§ 9.59 and 9.139 of the TTB regulations.

### **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. If we realign the boundary between the established Santa Lucia Highlands and Arroyo Seco viticultural areas, wine bottlers using "Santa Lucia Highlands" or "Arroyo Seco" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will still have to ensure that the product is eligible to use the relevant viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been 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 to use the viticultural area name as an appellation of origin 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. Accordingly, if a new label or a previously approved label uses the names "Santa Lucia Highlands" or "Arroyo Seco" for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the boundary change.

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.

### **Public Participation**

#### *Comments Invited*

We invite comments from interested members of the public on whether we

should realign the portion of the common boundary between the Santa Lucia Highlands and Arroyo Seco viticultural areas as described above. We are especially interested in the use of the "Santa Lucia Highlands" and "Arroyo Seco" names as they apply to the land within the proposed realignment zone. We are also interested in comments on the impact, if any, that the proposed viticultural areas' realignment may have on current wine labels. Please support your comments with specific information about the viticultural areas' names, boundaries, distinguishing features, or impact on current wine labels.

#### *Submitting Comments*

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to (202) 927-8525. Faxed comments must—
  - (1) Be on 8.5- by 11-inch paper;
  - (2) Contain a legible, written signature; and
  - (3) Be no more than five pages long.
 This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.
- *E-mail:* You may e-mail comments to [nprm@ttb.gov](mailto:nprm@ttb.gov). Comments transmitted by electronic mail must—
  - (1) Contain your e-mail address;
  - (2) Reference this notice number on the subject line; and
  - (3) Be legible when printed on 8.5- by 11-inch paper.

- *Online form:* We provide a comment form with the online copy of this notice on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "Send comments via e-mail" link under this notice number.

- *Federal e-Rulemaking Portal:* To submit comments to us via the Federal e-rulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

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, in light of all circumstances, whether to hold a public hearing.

**Confidentiality**

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

**Public Disclosure**

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- by 11-inch page. Contact our librarian at the above address or telephone (202) 927-2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online copy of this notice, visit <http://www.ttb.gov/alcobol/rules/index.htm>. Select the "View Comments" link under this notice number to view the posted comments.

**Regulatory Flexibility Act**

We certify 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 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 proposed 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 Procedures Division drafted this notice.

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

Wine.

**Proposed Regulatory Amendment**

For the reasons discussed in the preamble, we propose to amend title 27, chapter 1, 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.

2. Section 9.59 is amended by revising paragraph (c)(13), redesignating paragraphs (c)(14) through (c)(19) as (c)(16) through (c)(21), and adding new paragraphs (c)(14) and (c)(15) to read as follows:

**§ 9.59 Arroyo Seco.**

\* \* \* \* \*

(c) *Boundary.* \* \* \*

\* \* \* \* \*

(13) Then east-northeasterly along Clark Road for approximately 1,000 feet to its intersection with an unnamed light-duty road to the south.

(14) Then in a straight south-southeasterly line for approximately 1.9 miles to the line's intersection with the southeast corner of section 33, T18S, R6E (this line coincides with the unnamed light duty road for approximately 0.4 miles and later with the eastern boundaries of sections 32 and 33, T18S, R6E, which mark the western boundary of the historical Arroyo Seco Land Grant).

(15) Then straight west along the southern boundary of section 33, T18S, R6E, to its southwest corner.

\* \* \* \* \*

3. Section 9.139 is amended by revising paragraphs (c)(9) and (c)(10), redesignating paragraphs (c)(11) through (c)(21) as (c)(12) through (c)(22), and adding new paragraph (c)(11) to read as follows:

**§ 9.139 Santa Lucia Highlands.**

\* \* \* \* \*

(c) *Boundary.* \* \* \*

\* \* \* \* \*

(9) Then east-northeasterly along Clark Road for approximately 1,000 feet to its intersection with an unnamed light-duty road to the south.

(10) Then in a straight south-southeasterly line for approximately 1.9 miles to the line's intersection with the southeast corner of section 33, T18S, R6E (this line coincides with the unnamed light duty road for about 0.4 miles and later with the eastern boundaries of sections 32 and 33, T18S, R6E, which mark the western boundary of the historical Arroyo Seco Land Grant).

(11) Then straight west along the southern boundaries of sections 33, 32, and 31, T18S, R6E, to the southwest corner of section 31.

\* \* \* \* \*

Signed: January 10, 2005.

**John J. Manfreda,**  
*Administrator.*

[FR Doc. 05-1192 Filed 1-21-05; 8:45 am]

**BILLING CODE 4810-31-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[R01-OAR-2004-ME-0004; A-1-FRL-7862-9]

**Approval and Promulgation of Air Quality Implementation Plans; ME; Low Emission Vehicle Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine on February 25, 2004 and December 9, 2004 which includes the Maine Low Emission Vehicle (LEV) Program. The regulations adopted by Maine include the California LEV I light-duty motor vehicle emission standards beginning with model year 2001, California LEV II light-duty motor vehicle emission standards effective in model year 2004, the California LEV I medium-duty standards effective in model year 2003, and the smog index label specification effective model year 2002. The Maine LEV regulation submitted does not include any zero emission vehicle (ZEV) requirements. Maine has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) in accordance with the requirements of the Clean Air Act (CAA). In addition, they have worked to ensure that their program is identical to California's, as required by section 177 of the CAA. The intended effect of this action is to propose approval of the Maine LEV program. This action is being taken under section 110 of the Clean Air Act.

**DATES:** Written comments must be received on or before February 23, 2005.

**ADDRESSES:** Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. Comments may also be submitted electronically, or through hand delivery/courier, please follow the detailed instructions described in part (I)(B)(1)(i) through (iv) of the **SUPPLEMENTARY INFORMATION** section.