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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2013–0001]

[T.D. TTB–116; Ref: Notice No. 132]

RIN: 1513–AB98

Establishment of the Ballard Canyon 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 7,800-acre “Ballard Canyon” viticultural area in Santa Barbara County, California. The viticultural area lies entirely within the larger Santa Ynez Valley viticultural area and the multicounty 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.

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 various authorities through Treasury Department Order 120-01 (Revised), dated January 21, 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) 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) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American 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 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 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. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment of American viticultural areas. Petitions to establish a viticultural area must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;

- An explanation of the basis for defining the boundary of the proposed viticultural area;
- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

Ballard Canyon Petition

TTB received a petition from Wesley D. Hagen, a vineyard manager and winemaker, on behalf of 26 other vintners and grape growers in the Ballard Canyon area of California, proposing the establishment of the “Ballard Canyon” American viticultural area. The proposed viticultural area contains approximately 7,800 acres, of which approximately 565 acres are dedicated to commercially producing vineyards. The petition states that there are 10 commercial vineyards located within the proposed viticultural area, with Syrah being the primary grape variety grown. According to the petition, the distinguishing features of the proposed Ballard Canyon viticultural area include wind, temperature, and soils.

The proposed Ballard Canyon viticultural area is located in Santa Barbara County, California, to the west of the town of Ballard. The proposed viticultural

area lies at the center of the Santa Ynez Valley viticultural area (27 CFR 9.54), which, in turn, is within the larger multicounty Central Coast viticultural area (27 CFR 9.75). The Santa Ynez Valley viticultural area currently contains two smaller, established viticultural areas: Sta. Rita Hills (27 CFR 9.162), which lies to the west of the proposed viticultural area, and Happy Canyon of Santa Barbara (27 CFR 9.217), which lies to the east of the proposed Ballard Canyon viticultural area. The Sta. Rita Hills and the Happy Canyon of Santa Barbara viticultural areas do not share a boundary with or overlap the proposed Ballard Canyon viticultural area.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 132 in the **Federal Register** on January 16, 2013 (78 FR 3370), proposing to establish the Ballard Canyon viticultural area. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed viticultural area. The distinguishing features of the proposed viticultural area include wind, temperature, and soil. The notice also compared the distinguishing features of the proposed viticultural area to the surrounding areas. For a description of the evidence relating to the name, boundary, and distinguishing features of the proposed viticultural area, and for a comparison of the distinguishing features of the proposed viticultural area to the surrounding areas, see Notice No. 132.

In Notice No. 132, TTB solicited comments on the accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. In addition, given the proposed viticultural area's location within the

existing Santa Ynez Valley and Central Coast viticultural areas, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates the proposed viticultural area from the two existing viticultural areas. TTB also asked for comments on whether the geographical features of the proposed viticultural area are so distinguishable from the surrounding Santa Ynez Valley or Central Coast viticultural areas that the proposed Ballard Canyon viticultural area should no longer be part of the two existing viticultural areas. The comment period closed on March 18, 2013.

In response to Notice No. 132, TTB received a total of 3 comments, all of which supported the establishment of the Ballard Canyon viticultural area. Two commenters identified themselves as winery owners within the region of the proposed viticultural area, and the third commenter described himself as a “wine industry professional” who is familiar with wines produced in the Ballard Canyon area. None of the comments addressed the question of whether or not the Ballard Canyon viticultural area is so distinguishable from the Santa Ynez Valley and Central Coast viticultural areas that it should no longer be part of either existing viticultural area. TTB received no comments in opposition of the Ballard Canyon viticultural area as proposed.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 132, TTB finds that the evidence provided by the petitioner supports the establishment of the approximately 7,800-acre Ballard Canyon

viticultural area. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and part 4 of the TTB regulations, TTB establishes the “Ballard Canyon” viticultural area in Santa Barbara County, California, effective 30 days from the publication date of this document. TTB also determines that the land within the Ballard Canyon viticultural area will remain part of both the Santa Ynez Valley and Central Coast viticultural areas.

Boundary Description

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

Maps

The petitioner provided the required maps, and they are listed below 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. With the establishment of this viticultural area, its name, “Ballard Canyon,” will be recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the regulation clarifies this point. Once this final rule becomes effective, wine bottlers using the name “Ballard Canyon” 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 viticultural name as an appellation of origin.

The establishment of the Ballard Canyon viticultural area will not affect any existing viticultural area, and any bottlers using “Santa Ynez Valley” or “Central Coast” as an appellation of origin or in a brand name for wines made from grapes grown within the Santa Ynez Valley or Central Coast viticultural areas will not be affected by the establishment of this new viticultural area. The establishment of the Ballard Canyon viticultural area will allow vintners to use “Ballard Canyon,” “Santa Ynez Valley,” and “Central Coast” as appellations of origin for wines made from grapes grown within the Ballard Canyon viticultural area if the wines meet the eligibility requirements for the appellation.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area 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 a viticultural area 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 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.

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.

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 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 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. Subpart C is amended by adding § 9.230 to read as follows:

§ 9.230 Ballard Canyon.

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

(b) Approved maps. The three United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Ballard Canyon viticultural area are titled:

- (1) Los Olivos, CA, 1995;
- (2) Zaca Creek, Calif., 1959; and
- (3) Solvang, CA, 1995.

(c) Boundary. The Ballard Canyon viticultural area is located in Santa Barbara County, California. The boundary of the Ballard Canyon viticultural area is as described below:

(1) The beginning point is on the Los Olivos map at the intersection of State Route 154 and Foxen Canyon Road, section 23, T7N/R31W.

(2) From the beginning point, proceed southwesterly in a straight line approximately 0.3 mile, crossing onto the Zaca Creek map, to the intersection of Ballard Canyon Road and an unnamed, unimproved road known locally as Los Olivos Meadows Drive, T7N/R31W; then

(3) Proceed south-southeasterly in a straight line approximately 1 mile, crossing onto the Los Olivos map, to a marked, unnamed large structure located

within a circular-shaped 920-foot contour line in the southwest corner of section 26, T7N/R31W; then

(4) Proceed south-southwesterly in a straight line approximately 1.25 miles, crossing onto the Zaca Creek map, to the marked "Ball" 801-foot elevation control point, T6N/R31W; then

(5) Proceed south-southwesterly in a straight line approximately 1.45 miles, crossing onto the Solvang map, to a marked, unnamed 775-foot peak, T6N/R31W; then

(6) Proceed south-southwesterly in a straight line approximately 0.55 mile to a marked communication tower located within the 760-foot contour line, T6N/R31W; then

(7) Proceed west-southwesterly in a straight line approximately 0.25 mile to the intersection of Chalk Hill Road and an unnamed, light-duty road known locally as Mesa Vista Lane, T6N/R31W; then

(8) Proceed west-southwesterly in a straight line approximately 0.6 mile to the southern-most terminus of a marked, unnamed stream known locally as Ballard Creek, T6N/R31W; then

(9) Proceed northerly (upstream) along Ballard Creek approximately 0.35 mile to the creek's intersection with the 400-foot contour line, T6N/R31W; then

(10) Proceed southerly and then northwesterly along the 400-foot contour line approximately 1.5 miles, to the contour line's first intersection with Ballard Canyon Road, T6N/R31W; then

(11) Proceed north-northeasterly in a straight line approximately 1.7 miles, crossing onto the Zaca Creek map, to the western-most intersection of the 800-foot contour line and the T6N/T7N boundary line (approximately 0.9 mile east of U.S Highway 101); then

(12) Proceed west along the T6N/T7N boundary line approximately 0.4 mile to the boundary line's third intersection with the 600-foot contour line (approximately 0.5 mile east of U.S. Highway 101); then

(13) Proceed northerly along the meandering 600-foot elevation contour line to the contour line's intersection with Zaca Creek, T7N/R31W; then

(14) Proceed northeasterly in a straight line for approximately 1.2 miles to the western-most intersection of the southern boundary of the Corral de Quati Land Grant and the 1,000-foot contour line (approximately 0.4 mile east of U.S. Highway 101), T7N/R31W; then

(15) Proceed easterly along the meandering 1,000-foot contour line approximately 1.5 miles to the contour line's third intersection with the southern boundary of the Corral de Quati Land Grant (approximately 0.1 mile west of State Route 154), section 22, T7N/R31W; then

(16) Proceed southeasterly in a straight line approximately 0.8 mile, crossing onto the Los Olivos map, returning to the beginning point.

Signed: August 6, 2013.

Mary G. Ryan,

Acting Administrator.

Approved: September 25, 2013.

Timothy E. Skud,

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

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