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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2013–0007; T.D. TTB–121; Ref: Notice No. 138]

RIN 1513–AC01

Establishment of the Malibu Coast 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 “Malibu Coast” viticultural area, which covers approximately 44,590 acres in portions of Los Angeles County and Ventura County, California. The viticultural area includes the established Saddle Rock–Malibu and Malibu–Newton Canyon viticultural areas. 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 AFTER 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 December 10, 2013, 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 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 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 its 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 the standards for petitions for the establishment 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;

- 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.

Malibu Coast Petition

TTB received a petition from Ralph Jens Carter on behalf of the vintners and grape growers in the Malibu area of California, proposing the establishment of the “Malibu Coast” AVA. The proposed AVA is bordered by the city of Los Angeles to the east, the cities of Oxnard and Camarillo to the west, and the communities of Thousand Oaks, Conejo Valley, Calabasas, and Greenwich Village to the north. The proposed AVA contains approximately 44,590 acres of privately owned land within the rugged terrain of the Santa Monica Mountains National Recreation Area. Within the proposed AVA are 52 commercially producing vineyards covering approximately 198 acres. The steep mountains, valleys, and canyons of the proposed AVA make grape growing difficult and contribute to the small size of the individual vineyards.

The proposed Malibu Coast AVA is located in portions of Ventura County and Los Angeles County, California. The proposed AVA is not located within any established AVA. However, the established Malibu–Newton Canyon (27 CFR

9.152) and Saddle Rock–Malibu (27 CFR 9.203) AVAs are located within the boundaries of the proposed Malibu Coast AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 138 in the **Federal Register** on July 8, 2013 (78 FR 40644), proposing to establish the Malibu Coast AVA. In the document, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The distinguishing features of the proposed AVA include topography, soils, and climate. The document also compared the distinguishing features of the proposed AVA to the surrounding areas, as well as a comparison of the proposed AVA to the established Malibu–Newton Canyon and Saddle Rock–Malibu AVAs. For a description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, as well as a comparison of the distinguishing features of the proposed AVA to the surrounding areas and the established Malibu–Newton Canyon and Malibu–Saddle Rock AVAs, see Notice No. 138.

In Notice No. 138, TTB solicited comments on the accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. In addition, TTB solicited comments on whether the geographic features of the established Saddle Rock–Malibu and Malibu–Newton Canyon AVAs are so distinguishable from the proposed Malibu Coast AVA that one or both of the established AVAs should not be part of the proposed AVA. The comment period closed on September 6, 2013.

In response to Notice No. 138, TTB received a total of 23 comments, all of which supported the establishment of the Malibu Coast AVA. Commenters included vineyard owners, vintners, local residents, and the editorial director of a wine and food blog. TTB received no comments opposing the Malibu Coast AVA, as proposed. TTB also did not receive any comments in response to its question of whether the established Saddle Rock–Malibu and Malibu–Newton Canyon AVAs are so distinguishable from the proposed AVA that one or both of the established AVAs should not be part of the proposed Malibu Coast AVA.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 138, TTB finds that the evidence provided by the petitioner supports the establishment of the Malibu Coast AVA. 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 “Malibu Coast” AVA in portions of Los Angeles County and Ventura County, California, effective 30 days from the publication date of this document.

TTB has also determined that the established Saddle Rock–Malibu and Malibu–Newton Canyon AVAs will be part of the Malibu Coast AVA because all three AVAs share similar characteristics, including high elevations, warm temperatures, marine fog, and well-drained soils that contain volcanic material. However, both the Saddle Rock–Malibu and Malibu–Newton Canyon AVAs have unique features that distinguish them from the larger surrounding Malibu Coast AVA. The two smaller AVAs are located in valleys set within the larger mountain

range that comprises the Malibu Coast AVA and are somewhat sheltered from the marine fog by the high valley rims. As a result, temperatures within the two smaller AVAs are somewhat warmer than those found in the less-sheltered areas of the Malibu Coast AVA.

Boundary Description

See the narrative description of the boundary of the AVA 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 AVA, its name, "Malibu Coast," 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 regulation clarifies this point. Once this final rule becomes effective, wine bottlers using the name "Malibu Coast" 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.

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 approval of the proposed Malibu Coast AVA will not affect any existing AVA, and any bottlers using “Saddle Rock–Malibu” or “Malibu–Newton Canyon” as an appellation of origin or in a brand name for wines made from grapes grown within the Saddle Rock–Malibu or Malibu–Newton Canyon AVAs will not be affected by the establishment of this new AVA. The establishment of the Malibu Coast AVA will allow vintners to use “Malibu Coast” or “Saddle Rock–Malibu” as appellations of origin for wines made primarily from grapes grown within the Saddle Rock–Malibu AVA, if the wines meet the eligibility requirements for the Saddle Rock-Malibu appellation. Similarly, vintners will be allowed to use “Malibu Coast” or “Malibu–Newton Canyon” as appellations of origin for wines made primarily from grapes grown within the Malibu–Newton Canyon AVA, if the wines meet the eligibility requirements for the Malibu-Newton Canyon appellation. Finally, vintners may use both “Malibu Coast” and “Saddle Rock-Malibu” or both “Malibu Coast” and “Malibu-Newton Canyon” on the same label if

the wine meets the eligibility requirements to use either “Saddle-Rock Malibu” or “Malibu-Newton Canyon,” as appropriate, as an appellation of origin. See § 4.25(e)(4) of the TTB regulations (27 CFR 4.25(e)(4)) 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 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

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 § 9.235 to read as follows:

§ 9.235 Malibu Coast.

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

(b) Approved maps. The 10 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Malibu Coast viticultural area are titled:

- (1) Canoga Park, Calif., 1953; photorevised 1967;
- (2) Topanga, CA, 1991;
- (3) Malibu Beach, CA, 1995;
- (4) Point Dume, CA, 1995;
- (5) Triunfo Pass, CA, 1994;
- (6) Point Mugu, Calif., 1949; photorevised 1967; photoinspected 1974;
- (7) Carmarillo, Calif., 1950; photorevised 1967;
- (8) Newbury Park, Calif., 1950; photorevised 1967;
- (9) Thousand Oaks, Calif., 1950; photorevised 1981; and
- (10) Calabasas, Calif., 1952; photorevised 1967.

(c) Boundary. The Malibu Coast viticultural area is located in portions of Los Angeles County and Ventura County, in California. The boundary of the Malibu Coast viticultural area is as described below:

(1) The beginning point is on the Canoga Park map beside Mulholland Drive at the 1,126-foot benchmark (BM 1126), located on the marked Los Angeles city boundary line and the northern boundary line of section 24, T1N/R17W. From the beginning point, proceed east-southeasterly along the Los Angeles city boundary line approximately 3.25 miles to the marked 1,718-foot elevation point; then

(2) Proceed south-southwesterly along the Los Angeles city boundary line approximately 4.35 miles, crossing onto the Topanga map, to the northeast corner of section 19, T1S/R16W; then

(3) Proceed east-southeasterly along the Los Angeles city boundary line approximately 1.7 miles to the point east of Topanga Canyon where the city boundary line turns south, and then continue southerly along the city boundary line approximately 1.9 miles to the boundary line's intersection with State Route 1 (the Pacific Coast Highway); then

(4) Proceed westerly on State Route 1, crossing onto the Malibu Beach map and then the Point Dume map, to the road's intersection with the unnamed intermittent creek located within Walnut Canyon (near the Zuma Fire Station); then

(5) Proceed southeasterly (downstream) along the unnamed intermittent creek located within Walnut Canyon to the Pacific Ocean shoreline; then

(6) Proceed southwesterly along the Pacific Ocean shoreline approximately 1.5 miles to Point Dume and then continue northwesterly along the Pacific Ocean shoreline approximately 1.3 miles to the mouth of an unnamed intermittent stream; then

(7) Proceed northeasterly along the unnamed intermittent stream (upstream) approximately 0.35 mile to the stream's intersection with State Route 1 (at BM 30); then

(8) Proceed westerly on State Route 1 approximately 17.4 miles, crossing onto the Triunfo Pass map and then the Point Mugu map, to the road's intersection with an unnamed light-duty road known locally as Calleguas Creek Road; then

(9) Proceed north-northeasterly approximately 1.2 miles on Calleguas Creek Road, crossing onto the Camarillo map, to the road's intersection with an unnamed, unimproved road known locally as Caryl Drive; then

(10) Encircle an unnamed 350-foot hill by proceeding westerly on Caryl Drive approximately 0.2 mile to the road's intersection with an unnamed, unimproved road, then continuing on that unnamed, unimproved road around the hill in a clock-wise direction for approximately 0.8 mile until the road intersects again with Caryl Drive; then

(11) Proceed easterly on Caryl Drive approximately 0.55 mile to the road's intersection with an unnamed, unimproved road at Broome Ranch; then

(12) Proceed easterly on the unnamed, unimproved road approximately 0.2 mile to the road's intersection with the 80-foot elevation line; then

(13) Proceed initially northeasterly along the meandering 80-foot elevation line, and then continue to follow the meandering 80-foot elevation line westerly, then northeasterly to its intersection with West Potrero Road (near Camarillo State Hospital, now the site of California State University Channel Islands); then

(14) Proceed easterly on West Potrero Road approximately 0.5 mile to the road's third intersection with the 200-foot elevation; then

(15) Proceed northerly along the 200-foot elevation line approximately 0.75 mile, crossing over an unnamed intermittent creek in Long Grade Canyon, to the elevation line's intersection with a second unnamed intermittent stream; then

(16) Proceed westerly (downstream) along the unnamed intermittent stream approximately 0.75 mile to the stream's intersection with an unnamed medium-duty road known locally as Camarillo Street; then

(17) Proceed northerly on Camarillo Street approximately 0.7 mile to the street's intersection with an unnamed light-duty road at the south-bank levee for Calleguas Creek; then

(18) Proceed easterly on the unnamed light-duty road approximately 0.9 mile to the road's intersection with the 100-foot elevation line; then

(19) Proceed initially westerly and then continue easterly and then northerly along the meandering 100-foot elevation line, crossing back and forth between the Camarillo map and the Newbury Park map, to the 100-foot elevation line's intersection with the T1N/T2N boundary line near Conejo Creek on the Newbury Park map; then

(20) Proceed east along the T1N/T2N boundary line approximately 0.7 mile to the line's intersection with U.S. Highway 101 (Ventura Boulevard); then

(21) Proceed easterly on U.S. Highway 101 approximately 1.8 miles to the highway's intersection with Conejo Road (known locally as Old Conejo Road); then

(22) Proceed southerly and then easterly on Conejo Road approximately 0.75 mile to the road's intersection with Borchard Road (also known locally as N. Reino Road); then

(23) Proceed southerly on Borchard Road (also known locally as N. Reino Drive) approximately 0.9 mile to the point where Borchard Road (N. Reino Road) turns eastward, and then continue easterly on Borchard Road approximately 1.75 miles to Borchard Road's intersection with U.S. Highway 101 (Ventura Boulevard); then

(24) Proceed easterly on U.S. Highway 101 (Ventura Boulevard/Freeway) approximately 5 miles, crossing onto the Thousand Oaks map, to the highway's sixth and last intersection with the 920-foot elevation line in section 14, T1N/R19W (approximately 0.2 mile west of the intersection of U.S. Highway 101 and an unnamed road known locally as Hampshire Road); then

(25) Proceed southerly and then southwesterly along the meandering 920-foot elevation line to its intersection with an unnamed medium-duty road known locally as E Potrero Road, section 27, T1N/R19W; then

(26) Proceed easterly on E. Potrero Road approximately 0.55 mile to its intersection with an unnamed heavy-duty road known locally as Westlake Boulevard, section 26, T1N/R19W; then

(27) Proceed northeasterly on Westlake Boulevard approximately 0.4 mile to the road's second intersection with the 900-foot elevation line, section 26, T1N/R19W; then

(28) Proceed easterly along the 900-foot elevation line, crossing the Los Angeles–Ventura County line, to the elevation line's intersection with the boundary line of the Las Virgenes Land Grant (concurrent at this point with the northern boundary line of section 31, T1N/R18W); then

(29) Proceed northeasterly along the Las Virgenes Land Grant boundary line approximately 0.3 mile, crossing Triunfo Canyon, to the boundary line's intersection with the 1,000-foot elevation line; then

(30) Proceed westerly and then east-northeasterly along the 1,000-foot elevation line to the line's intersection with the Las Virgenes Land Grant boundary line, and then continue northeasterly along the Las Virgenes Land Grant boundary line approximately 0.2 mile to the boundary line's intersection with U.S. Highway 101 (Ventura Freeway); then

(31) Proceed easterly on U.S. Highway 101 (Ventura Freeway) approximately 5.7 miles, crossing onto the Calabasas map, to the highway's intersection with the northern boundary line of section 30, T1N/R17, near Brents Junction; then

(32) Proceed west along the northern boundary line of section 30, T1N/R17W approximately 0.5 mile to its intersection with the 1,000-foot elevation line; then

(33) Proceed northerly, southerly, and easterly along the meandering 1,000-foot elevation line, encompassing portions of Las Virgenes, East Las Virgenes, and Gates Canyons, to the elevation line's intersection with the western boundary line of section 21, T1N/R17W; then

(34) Proceed north along the western boundary lines of sections 21 and 16, T1N/R17W, to the section line's intersection with the Los Angeles–Ventura County line; then

(35) Proceed east along the Los Angeles–Ventura County line approximately 0.45 mile, and then proceed north along the county line approximately 0.1 mile to the county line's intersection with Long Valley Road; then

(36) Proceed east-southeasterly on Long Valley Road approximately 1.7 miles to the road's intersection with the Los Angeles city boundary line (approximately 0.1 mile north of U.S. Highway 101 (Ventura Freeway)), section 23, T1N/R17W; then

(37) Proceed south along the Los Angeles city boundary line approximately 0.2 mile, then east-northeasterly approximately 0.2 mile, and then southeasterly approximately 0.9 mile to the city boundary line's intersection with the northern boundary line of section 26, T1N/R17W; then

(38) Proceed east-northeasterly along the Los Angeles city boundary line approximately 0.3 mile, and then continue easterly along the city boundary line approximately 0.5 mile, crossing onto the Canoga Park map, and returning to the beginning point.

Signed: April 15, 2014.

John J. Manfreda,

Administrator.

Approved: May 14, 2014.

Timothy E. Skud,

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

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