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## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB–2016–0003; Notice No. 158]**

**RIN 1513–AC25**

### **Proposed Establishment of the Appalachian High Country Viticultural Area**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 2,400-square mile “Appalachian High Country” viticultural area in all or portions of the following counties: Alleghany, Ashe, Avery, Mitchell, and Watauga Counties in North Carolina; Carter and Johnson Counties in Tennessee; and Grayson County in Virginia. The proposed viticultural area does not lie within, nor does it contain, any other established 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. TTB invites comments on this proposed addition to its regulations.

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Please send your comments on this proposed rule to one of the following addresses (please note that TTB has a new address for comments submitted by U.S. mail):

- Internet: <https://www.regulations.gov> (via the online comment form for this proposed rule as posted within Docket No. TTB–2016–0003 at “Regulations.gov,” the Federal e-rulemaking portal);

- U.S. Mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005; or

- Hand delivery/courier in lieu of mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Suite 400, Washington, DC 20005.

See the **Public Participation** section of this proposed rule for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or request copies of the petition and supporting materials.

**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, dated December 10, 2013 (superseding Treasury Department Order 120-01, (Revised), "Alcohol and Tobacco Tax and Trade Bureau," dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

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 the standards for the preparation and submission 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;

- 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.

### **Appalachian High Country Petition**

TTB received a petition from Johnnie James, owner of Bethel Valley Farms, on behalf of members of the High Country Wine Growers Association, proposing to establish the approximately 2,400-square mile “Appalachian High Country” AVA. Twenty-one commercial vineyards, covering approximately 71 acres, are distributed across the proposed AVA. According to the petition, an additional 8 vineyards comprising approximately 37 acres are planned in the near future. There are also 10 bonded wineries within the proposed AVA.

The distinguishing features of the proposed Appalachian High Country AVA include its topography, climate, and soils. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this proposed rule come from the petition for the proposed Appalachian High Country AVA and its supporting exhibits.

### **Name Evidence**

The region of the proposed Appalachian High Country AVA is often referred to as the “High Country” because of its high elevations, which, according to the petition, are considered to be the highest average elevations east of the Mississippi River. The High Country Wine Growers Association chose to add

“Appalachian” to the proposed AVA name as a reference to the proposed AVA’s location within the Appalachian Mountains, as well as to distinguish the proposed AVA from other regions across the country that are also referred to as “High Country.”

The petition included evidence that the phrase “High Country” applies to the region of the proposed AVA. Several tourism websites that feature the region of the proposed AVA include the phrase “High Country” in their names, including High Country Host,<sup>1</sup> High Country Journey,<sup>2</sup> and GO NC High Country.<sup>3</sup> The High Country Council of Governments<sup>4</sup> is a planning and development association comprised of county and municipal governments in northwestern North Carolina, including Alleghany, Ashe, Avery, Mitchell, and Watauga Counties. The petition also included a listing of over 100 businesses and organizations within the proposed AVA that use the phrase “High Country” in their names, including High Country Wedding and Event Coordinators<sup>5</sup> in Butler, Tennessee (Johnson County); High Country Horse Camp<sup>6</sup> in Troutdale, Virginia (Grayson County); High Country Bottling Company<sup>7</sup> in West Jefferson, North Carolina (Ashe County); High Country Hearth and Chimney<sup>8</sup> in Banner Elk, North Carolina (Avery County); High Country Academy Tutoring Service<sup>9</sup> (Watauga

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<sup>1</sup> [www.highcountryhost.com](http://www.highcountryhost.com)

<sup>2</sup> [www.highcountryjourney.com](http://www.highcountryjourney.com)

<sup>3</sup> [www.youtube.com/user/GoNCHighCountry](https://www.youtube.com/user/GoNCHighCountry)

<sup>4</sup> [www.regiond.org](http://www.regiond.org)

<sup>5</sup> [www.highcountryweddingplanners.com](http://www.highcountryweddingplanners.com)

<sup>6</sup> [www.highcountryhorsecampva.net](http://www.highcountryhorsecampva.net)

<sup>7</sup> [www.highcountrywater.com](http://www.highcountrywater.com)

<sup>8</sup> [www.highcountryhearth.com](http://www.highcountryhearth.com)

<sup>9</sup> [www.highcountryacademync.com](http://www.highcountryacademync.com)

County); and High Country Drywall<sup>10</sup> in Laurel Springs, North Carolina (Alleghany County).

The petition also included a listing of over 40 additional businesses and organizations that routinely use the phrase “High Country” in their printed or radio advertisements. For example, Boone Drug, which has locations in all of the Tennessee and North Carolina counties within the proposed AVA, advertises that the pharmacy chain was established in 1919 and “has proudly been serving the High Country ever since \* \* \*.”<sup>11</sup> Prospect Hill Bed and Breakfast, located in Mountain City, Tennessee and also within the proposed AVA, invites guests to “enjoy the wonders of the Appalachian High Country.”<sup>12</sup> Red Tail Mountain Resort and Golf, which is also located in Mountain City, Tennessee, advertises itself as “the finest mountain golf in the High Country.”<sup>13</sup> Finally, Appalachian Blinds and Closet Company, located in Boone, North Carolina, is advertised as the “High Country’s one-stop shop” for home decorating needs.<sup>14</sup>

### Boundary Evidence

The proposed Appalachian High Country AVA includes all or portions of Alleghany, Ashe, Avery, Mitchell, and Watauga Counties in North Carolina; Carter and Johnson Counties in Tennessee; and Grayson County in Virginia. A portion of the proposed eastern boundary follows the Ashe, Alleghany, and Watauga County lines to separate the proposed Appalachian High Country AVA from the adjacent Yadkin Valley AVA (27 CFR 9.174), which has lower

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<sup>10</sup> No Web site available

<sup>11</sup> [www.boonedrug.com](http://www.boonedrug.com)

<sup>12</sup> [www.prospect-hill.com/activities](http://www.prospect-hill.com/activities)

<sup>13</sup> [www.redtailmountain.com](http://www.redtailmountain.com)

<sup>14</sup> [www.appblinds.com](http://www.appblinds.com)

elevations. The remainder of the proposed eastern boundary follows the Blue Ridge Parkway to separate the proposed AVA from the Pisgah National Forest, which is unavailable for commercial viticulture due to its status as a National Forest. The proposed southern and southwestern boundaries follow the Mitchell County line, to separate the proposed AVA from the steeper slopes of the Black Mountains. Additionally, the petition states that the phrase “High Country” is not commonly used in reference to the region southwest of Mitchell County. A portion of the western boundary follows the 2,000-foot elevation line through Carter County and separates the high elevations of the proposed AVA from the lower elevations to the west. The remainder of the proposed western boundary, along with the proposed northwestern and northern boundary, follows the Johnson and Grayson County lines, to separate the proposed AVA from regions that have shallower slope angles and are not generally referred to as “High Country.”

#### Distinguishing Features

The distinguishing features of the proposed Appalachian High Country AVA include its topography, climate, and soils.

#### *Topography*

The proposed Appalachian High Country is a mountainous region with high elevations and steep slopes. Elevations range from 1,338 feet to over 6,000 feet, with vineyards planted at elevations between 2,290 and 4,630 feet. According to the petition, 12 of the 21 vineyards within the proposed AVA are located at elevations at or above 3,000 feet. The average slope angle within the

proposed AVA is 35.9 degrees, with vineyards planted on slope angles ranging from 9 to 46 degrees. The petition states that 11 of the vineyards within the proposed AVA are planted on slopes with angles of 30 degrees or higher. The following tables compare the elevations and slope angles of the proposed AVA to those of the surrounding areas.

**Table 1: Elevation (in feet)<sup>15</sup>**

<b>Region</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>
Proposed AVA	1,338	6,259	3,127
Northwest	1,069	5,728	2,050
Northeast	774	3,960	2,313
Southeast	177	5,754	1,012
Southwest	961	6,660	2,846

**Table 2: Slope Angle (percent)<sup>16</sup>**

<b>Region</b>	<b>Maximum</b>	<b>Mean</b>
Proposed AVA	78.2	35.9
Northwest	78.4	31
Northeast	77.7	28.1
Southeast	82.3	16.9
Southwest	80.1	37.3

The data in the tables indicates that the proposed Appalachian High Country AVA has higher minimum and mean elevations than all of the surrounding regions, as well as a maximum elevation that is higher than every region except the region to the southwest, within the Black Mountains. The data also indicates that although some of the surrounding areas have greater

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<sup>15</sup> Elevations calculated using the US Geological Survey's Digital Elevation Models.

<sup>16</sup> Slope angles calculated using the US Geological Survey's Digital Elevation Models. All regions in the survey area have a minimum slope angle of 0 degrees.

maximum slope angles, the proposed AVA has a greater mean slope angle than all of the surrounding regions except the southwestern region.

The high elevations and steep slope angles affect viticulture within the proposed Appalachian High Country AVA. Vineyards on the steepest slopes are terraced to reduce erosion. The steep slopes are also unsuitable for large-scale mechanized tilling, harvesting, and spraying. Therefore, instead of planting a single large vineyard, a vineyard owner within the proposed AVA will often plant multiple small vineyards, which can be more easily tended by hand.

The high elevations of the proposed AVA expose the vineyards to greater amounts of solar irradiance than that received by lower surrounding regions. The following table shows the minimum, maximum, and mean amount of solar irradiance received in the proposed AVA and the surrounding regions.

**Table 3: Solar Irradiance (Watt hours per acre)<sup>17</sup>**

<b>Region</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>
Proposed AVA	18.4	395.4	233.6
Northwest	13.7	383.3	221.0
Northeast	17.1	329.0	240.0
Southeast	9.2	372.7	231.9
Southwest	11.3	404.9	219.1

The mean amount of solar irradiance the proposed AVA receives is greater than the amount received in three of the four surrounding areas; only the northeast region receives a higher mean amount of solar irradiance. According to the petition, the high amounts of solar irradiation received in the proposed AVA

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<sup>17</sup> Solar irradiance calculated using ArcGIS software.

compensate for the low temperatures and allow grapes to mature successfully within a short growing season.

*Climate*

According to the petition, temperatures within the proposed Appalachian High Country AVA are cooler than the surrounding regions. The petition included the following tables that show the average annual and growing season temperatures for the proposed AVA and the surrounding regions.

**Table 4: Average Annual Temperatures (in degrees Fahrenheit) <sup>18</sup>**

Location	Maximum	Minimum	Mean
Proposed AVA	62.0	40.9	51.5
Northwest	65.9	43.2	54.6
Northeast	63.6	42.5	53.1
Southeast	70.1	47.1	58.6
Southwest	64.9	42.3	53.6

**Table 5: Average Annual Growing Season Temperatures (in degrees Fahrenheit) <sup>19</sup>**

Location	Maximum	Minimum	Mean
Proposed AVA	72.0	50.5	61.3
Northwest	76.7	53.1	64.9
Northeast	74.2	52.4	63.3
Southeast	80.2	57.2	68.7
Southwest	74.4	51.7	63.1

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<sup>18</sup> Annual climate indices were calculated using the PRISM Spatial Climatic Dataset. The PRISM climate data mapping system combines climate normals gathered from weather stations, along with other factors such as elevation, longitude, slope angles, and solar aspect to estimate the general climate patterns for the proposed AVA and the surrounding regions. Climate normals are only calculated every 10 years, using 30 years of data, and at the time the petition was submitted, the most recent climate normals available were from the period of 1981-2010.

<sup>19</sup> Growing season indices were also calculated using the PRISM Spatial Climatic Dataset and climate normal from 1981-2010. "Growing season" is defined as the period from April 1–October 31.

The petition also included information on the growing degree days (GDDs),<sup>20</sup> Winkler regions,<sup>21</sup> growing season length, and plant hardiness zones of locations both within and outside of the proposed Appalachian High Country AVA. The growing season length, GDDs, and Winkler regions are all based on the 1981-2010 climate normals, which were the most recent climate normals available at the time the petition was submitted. The plant hardiness zone information was gathered from the United States Department of Agriculture’s 2012 Plant Hardiness Zone interactive map.<sup>22</sup> The information is included in the following table.

**Table 6: GDDs, Winkler Regions, Growing Season Length, and Plant Hardiness Zones**

Location	Growing Degree Days	Winkler Region	Growing Season Length (in days)	Plant Hardiness Zone
Proposed AVA	2,635	I/II	139.2	6a/6b (-10 to 0 degrees Fahrenheit)
Northwest	3,507	III/IV	153.6	6b (-5 to 0 degrees Fahrenheit)
Northeast	3,114	III	157.3	6b (-5 to 0 degrees Fahrenheit)

<sup>20</sup> 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. See Albert J. Winkler, General Viticulture (Berkeley: University of California Press, 1974), pages 61–64.

<sup>21</sup> In the Winkler climate classification system, geographical areas are divided into five climate zones based on growing degree days (GDDs), with Region I being the coolest and Region V being the hottest. The zone ranges are as follows: Region I= 2,500 GDDs or less; Region II= 2,501–3,000 GDDs; Region III= 3,001–3,500 GDDs; Region IV= 3,501–4,000 GDDs; Region V= 4,001 GDDs or more. See Albert J. Winkler, General Viticulture (Berkeley: University of California Press, 1974), pages 61–64.

<sup>22</sup> The plant hardiness zone scale is based on average annual minimum winter temperatures, divided into 10-degree Fahrenheit zones ranging from a low of 1 to a high of 13. Each zone is further divided into two 5-degree sub-zones labeled “a” and “b,” with the “a” zone being the colder zone. See [www.planthardiness.ars.usda.gov/PHZMWeb](http://www.planthardiness.ars.usda.gov/PHZMWeb).

				Fahrenheit)
Southeast	3,762	IV/V	161.3	7a/7b (0 to 10 degrees Fahrenheit)
Southwest	3,341	III	148.3	6b/7a (-5 to 5 degrees Fahrenheit)

The climate data presented in the three tables shows that the proposed Appalachian High Country AVA is a cool region with a shorter growing season and fewer GDDs than the surrounding regions. According to the petition, the cool climate, small accumulation of GDDs, and short growing season within the proposed viticulture area have an effect on viticulture. For instance, varieties of grapes that require warm temperatures and a long period of time to mature successfully do not grow well within the proposed AVA. Instead, vineyard owners within the proposed AVA choose to plant cold-hardy hybrid varieties of grapes such as Marquette, traminette, seyval blanc, cabernet franc, vidal blanc, and Frontenac. These varieties require less time to reach full maturity and can withstand the colder winter temperatures of the proposed AVA. The petition also notes that the temperatures of the proposed AVA are well-suited for the production of ice wine, which must be produced from grapes that have been naturally frozen on the vine. According to the petition, temperatures within the proposed AVA can easily drop low enough to freeze the mature grapes before they rot.

The petition also included information about the average annual and growing season precipitation amounts for the proposed Appalachian High

Country AVA and the surrounding areas. The information is included in the following table.

**Table 7: Precipitation (in inches)** <sup>23</sup>

<b>Location</b>	<b>Average Annual Precipitation</b>	<b>Average Growing Season Precipitation</b>
Proposed AVA	48.6	29.5
Northwest	45.3	27.0
Northeast	46.4	28.6
Southeast	47.2	28.2
Southwest	53.0	30.9

The data shows that the proposed AVA receives more rainfall than all the surrounding regions except the region to the southwest. According to the petition, the high rainfall amounts of the proposed AVA affect viticulture. High rainfall amounts, particularly during the growing season, can promote disease and fungus in grapevines. However, the cold-hardy hybrid varieties prevalent within the proposed AVA have also been bred for disease resistance. Therefore, the petition states, the grapes grown in the proposed AVA are well-suited to withstand both cold and wet climates.

### *Soils*

The soils of the proposed Appalachian High Country AVA are derived from igneous and metamorphic rocks such as gneiss and granite. The soils are described as well-drained soils with a fine, loamy texture. In environments with high annual precipitation amounts, such as the proposed AVA, well-drained soils help reduce the risk of fungus and rot in grapevines. The petition states that

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<sup>23</sup> Data collected using the PRISM Spatial Climate Dataset and the 1981-2010 climate normals.

organic matter comprises up to 14 percent of the soils in the proposed AVA, providing an excellent source of nutrients for grapevines. The soils are also considered very deep, with 60 inches or more to bedrock, which provides ample room for root growth.

The petition states that there are 26 soil series associations represented within the proposed AVA. Eight of these soil series associations comprise 82 percent of the total soils of the proposed AVA. The following table sets out the eight major soil series associations and the percentage each series makes up of the total proposed AVA soils.

**Table 8: Major Soil Series Associations within the Proposed AVA<sup>24</sup>**

<b>Soil Series Association</b>	<b>Percentage of Total Proposed AVA Soils</b>
Tusquitee–Edneyville	24
Hayesville	17
Tate–Maymead–Ditney	9
Tusquitee–Porters–Fannin–Evard–Brevard–Ashe	9
Chester–Ashe	7
Watauga–Clifton–Chandler	7
Clifton–Chester	5
Tusquitee–Porters–Codus–Chester	4
<b>Total:</b>	<b>82</b>

The soils of the proposed Appalachian High Country AVA distinguish it from the surrounding regions. According to the petition, two of the eight most prevalent soil series associations within the proposed AVA (Watauga–Clifton–Chandler and Clifton–Chester) are not found in the surrounding regions. Other

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<sup>24</sup> Source: 2013 USDA Natural Resources Conservation Service Web Soil Survey ([www.websoilsurvey.nrcs.usda.gov](http://www.websoilsurvey.nrcs.usda.gov)).

soil series associations found within the proposed AVA are also found in the regions outside the proposed AVA to the northeast and southwest, but in greater amounts. For example, to the northeast of the proposed AVA, the Hayesville soil series association is the most prevalent soil series association, comprising 43 percent of the soils. By contrast, this soil series association makes up only 17 percent of the soils of the proposed AVA. Two other major soil series associations are prevalent to the northeast of the proposed AVA. The Myersville–Catoctin and the Wallen–Lilly–Drypond–DeKalb soil series associations comprise 15 and 12 percent of the soils in those regions, respectively. These two soil series associations combined only account for 3 percent of the soils within the proposed AVA. Southwest of the proposed AVA the Chester–Ashe soil series association is the most prevalent association, comprising 27 percent of the soils, compared to only 7 percent of the soils within the proposed AVA.

The soil series associations that are most prevalent in the areas southeast and northwest of the proposed AVA are present only in miniscule amounts within the proposed AVA. The most common soil series association in the region to the southeast of the proposed AVA is the Hiwassee–Cecil association, which makes up 30 percent of that region’s soils. The region to the northwest of the proposed AVA is dominated by the Frederick–Carbo soil series association, which comprises 22 percent of that region’s soils.

*Summary of Distinguishing Features*

In summary, the evidence provided in the petition indicates that the geographic features of the proposed Appalachian High Country AVA distinguish it from the surrounding regions in each direction. The following table summarizes the distinguishing features of the proposed AVA and the surrounding regions.

<b>Location</b>	<b>Distinguishing Features</b>
Proposed Appalachian High Country AVA	<ul style="list-style-type: none"><li>• Elevations between 1,338 and 6,259 feet.</li><li>• Mean slope angle of 35.9 percent.</li><li>• High levels of solar irradiance.</li><li>• Cool Region I/II climate with short growing season.</li><li>• Average annual precipitation total of 48.6 inches.</li><li>• Soils primarily of the Tusquitee–Edneyville soil series association.</li></ul>
Northwest	<ul style="list-style-type: none"><li>• Elevations between 1,069 and 5,728 feet.</li><li>• Mean slope angle of 31 percent.</li><li>• Lower levels of solar irradiance.</li><li>• Warm Region III/IV climate with long growing season.</li><li>• Average annual precipitation total of 45.3 inches.</li><li>• Soils primarily of the Frederick–Carbo soil series association.</li></ul>
Northeast	<ul style="list-style-type: none"><li>• Elevations between 774 and 3,906 feet.</li><li>• Mean slope angle of 28.1 percent.</li><li>• Lower levels of solar irradiance.</li><li>• Warm Region III climate with long growing season.</li><li>• Average annual precipitation total of 46.4 inches.</li><li>• Soils primarily of the Hayesville soil series association.</li></ul>

Southeast	<ul style="list-style-type: none"><li>• Elevations between 177 and 5,754 feet.</li><li>• Mean slope angle of 16.9 percent.</li><li>• Lower levels of solar irradiance.</li><li>• Hot Region IV/V climate with long growing season.</li><li>• Average annual precipitation total of 47.2 inches.</li><li>• Soils primarily of the Hiwassee–Cecil soil series association.</li></ul>
Southwest	<ul style="list-style-type: none"><li>• Elevations between 961 and 6,660 feet.</li><li>• Mean slope angle of 37.3 percent.</li><li>• Lower levels of solar irradiance.</li><li>• Warm Region III climate with long growing season.</li><li>• Average annual precipitation total of 53 inches.</li><li>• Soils primarily of the Chester–Ashe soil series association.</li></ul>

**TTB Determination**

TTB concludes that the petition to establish the approximately 2,400-square mile Appalachian High Country AVA merits consideration and public comment, as invited in this proposed rule.

**Boundary Description**

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

**Maps**

The petitioner provided the required maps, and they are listed below in the proposed 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. For a wine to be labeled with 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.

If TTB establishes this proposed AVA, its name, "Appalachian High Country," 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 proposed regulation clarifies this point. Consequently, if this proposed rule is adopted as a final rule, wine bottlers using the name "Appalachian High Country" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin.

## **Public Participation**

### Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, soils, climate, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Appalachian High Country AVA on wine labels that include the term “Appalachian High Country,” as discussed above under **Impact on Current Wine Labels**, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the AVA.

### Submitting Comments

You may submit comments on this proposed rule by using one of the following three methods (please note that TTB has a new address for comments submitted by U.S. Mail):

- Federal e-Rulemaking Portal: You may send comments via the online comment form posted with this proposed rule within Docket No. TTB–2016–0003

on “Regulations.gov,” the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 158 on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the “Help” tab.

- U.S. Mail: You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005.

- Hand Delivery/Courier: You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 158 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly indicate if you are commenting on your own behalf or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity’s name, as well as your name and position title. If you comment via Regulations.gov, please enter the entity’s name in the “Organization” blank of the online comment

form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

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 whether to hold a public hearing.

#### Confidentiality

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

#### Public Disclosure

TTB will post, and you may view, copies of this proposed rule, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB-2016-0003 on the Federal e-rulemaking portal, Regulations.gov, at <https://www.regulations.gov>. A direct link to that docket is available on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 158. You may also reach the relevant docket through the Regulations.gov search page at <https://www.regulations.gov>. For information on how to use Regulations.gov, click on the site's "Help" tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this proposed rule, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW, Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or any similarly-sized documents that may be included as part of the AVA petition. Contact TTB's information specialist at the above address or by telephone at 202-453-2265 to schedule an appointment or to request copies of comments or other materials.

### **Regulatory Flexibility Act**

TTB certifies 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 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 proposed 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 proposed rule.

## List of Subjects in 27 CFR Part 9

Wine.

### Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend 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.\_\_\_\_\_ to read as follows:

#### **§ 9.\_\_\_\_\_ Appalachian High Country.**

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

(b) Approved maps. The 46 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Appalachian High Country viticultural area are titled:

- (1) Unicoi, Tenn.–N.C, 1939; photorevised 1978;
- (2) Iron Mountain gap, Tenn.–N.C., 1960; photorevised 1968;
- (3) Johnson City, Tenn., 1959; photorevised 1968;
- (4) Elizabethton, Tenn., 1959; photorevised 1968;
- (5) Watauga Dam, Tenn., 1960;
- (6) Carter, Tenn., 1938; photorevised 1969;

- (7) Keensburg, Tenn., 1960;
- (8) Doe, Tenn., 1938; photorevised 1969;
- (9) Shady Valley, Tenn.–VA., 1960; photorevised 1970; photoinspected 1988;
- (10) Laurel Bloomery, Tenn.–VA., 1938; photorevised 1969;
- (11) Grayson, Tenn.–N.C.–VA., 1959; photoinspected 1976;
- (12) Park, N.C.–VA., 1959; photorevised 1978;
- (13) Whitetop Mountain, VA., 1959; photorevised 1978;
- (14) Trout Dale, VA., 1959; photorevised 1978; photoinspected 1988;
- (15) Middle Fox Creek, VA., 1959; photoinspected 1988;
- (16) Cedar Springs, VA., 1959; photorevised 1978; photoinspected 1988;
- (17) Speedwell, VA., 1968; photorevised 1979;
- (18) Cripple Creek, VA., 1968; photoinspected 1988;
- (19) Austinville, VA., 1965; photorevised 1979; photoinspected 1982;
- (20) Galax, VA., 1965; photorevised 1984;
- (21) Cumberland Knob, N.C.–VA., 1965; photorevised 1977;
- (22) Lamsburg, VA.–N.C., 1965; photorevised 1977;
- (23) Roaring Gap, N.C., 1971;
- (24) Glade Valley, N.C., 1968;
- (25) Traphill, N.C., 1968;
- (26) Whitehead, N.C., 1968;
- (27) McGrady, N.C., 1968; photoinspected 1984;
- (28) Horse Gap, N.C., 1968;

- (29) Laurel Springs, N.C., 1968;
- (30) Glendale Springs, N.C., 1967;
- (31) Maple Springs, N.C., 1966;
- (32) Deep Gap, N.C., 1967;
- (33) Buffalo Cove, N.C., 1967;
- (34) Globe, N.C., 1959;
- (35) Grandfather Mountain, N.C., 1960; photorevised 1978;
- (36) Newland, N.C., 1960; photorevised 1978;
- (37) Linville Falls, N.C., 1994;
- (38) Ashford, N.C., 1994;
- (39) Little Switzerland, N.C., 1994;
- (40) Spruce Pine, N.C., 1994;
- (41) Celo, N.C., 1994;
- (42) Micaville, N.C., 1960; photorevised 1978;
- (43) Bakersville, N.C.–Tenn., 1960; photorevised 1978;
- (44) Burnsville, N.C., 1998;
- (45) Hunt Dale, N.C.–Tenn., 1939; and
- (46) Chestoa, Tenn.–N.C., 1939; photorevised 1978.

(c) Boundary. The Appalachian High Country viticultural area is located in all or portions of Alleghany, Ashe, Avery, Mitchell, and Watauga Counties in North Carolina; Carter and Johnson Counties in Tennessee; and Grayson County in Virginia. The boundary of the Appalachian High Country viticultural area is as described below:

(1) The beginning point is on the Unicoi map, at the point where the Unicoi/Mitchell County line intersects with an unnamed road known locally as Unaka Mountain Road near Beauty Spot Gap, Tennessee. From the beginning point, proceed northeasterly approximately 7.3 miles along the Unicoi/Mitchell County line, crossing onto the Iron Mountain Gap map, to the intersection of the Unicoi/Mitchell County line with the Carter County line; then

(2) Proceed northerly along the Unicoi/Carter County line approximately 9.3 miles, crossing back onto the Unicoi map and then onto the Johnson City map, to the intersection of the Unicoi/Carter County line with the 2,000-foot elevation contour, southeast of an unnamed road known locally as Whispering Pine Road; then

(3) Proceed southeasterly along the meandering 2,000-foot elevation contour, crossing onto the Unicoi map and then back onto the Johnson City map, and continuing onto the Elizabethton map for approximately 19 miles to the intersection of the elevation contour with an unnamed road known locally as Brimer Road near Bremer Hollow; then

(4) Proceed northwesterly approximately 1,500 feet along Brimer Road to an unnamed road known locally as Jenkins Hollow Road; then

(5) Proceed easterly approximately 1.4 miles along Jenkins Hollow Road, crossing the Doe River, to U.S. Route 321 in the town of Valley Forge, Tennessee; then

(6) Proceed north approximately 400 feet along U.S. Route 321 to an unnamed road known locally as Ruby Harmon Road; then

(7) Proceed northeasterly approximately 360 feet along Ruby Harmon Road to an unnamed road known locally as Nanny Goat Hill Road; then

(8) Proceed easterly approximately 0.2 mile along Nanny Goat Hill Road to the 1,800-foot elevation contour, east of an unnamed road known locally as Gene Mathes Road; then

(9) Proceed northeasterly approximately 0.4 mile along the 1,800-foot elevation contour to an unnamed road known locally as Franklin Lane; then

(10) Proceed southerly approximately 0.3 mile along Franklin Lane to the 2,000-foot elevation contour; then

(11) Proceed northeasterly along the meandering 2,000-foot elevation contour, crossing over Hardin Branch, Clover Branch, South Pierce Branch, and North Pierce Branch, to a fifth, unnamed stream; then

(12) Proceed northerly approximately 0.47 mile along the unnamed stream to an unnamed road known locally as Wilbur Dam Road; then

(13) Proceed southeasterly approximately 0.25 mile along Wilbur Dam Road to Wilbur Dam; then

(14) Proceed northeasterly across Wilbur Dam to the marked transmission line; then

(15) Proceed northerly approximately 0.5 mile along the transmission line to the 2,000-foot elevation contour; then

(16) Proceed northeasterly approximately 19 miles along the meandering 2,000-foot elevation contour, crossing over the Watauga Dam map and onto the Carter map, and continuing along the 2,000-foot elevation contour as it crosses

over State Route 91 near Sadie, Tennessee, and turns southwesterly, and continuing southwesterly for approximately 22.2 miles along the 2,000-foot elevation contour, crossing onto the Keenburg map and circling Carter Knob, to the intersection of the 2,000-foot elevation contour with the Carter/Sullivan County line; then

(17) Proceed southeasterly, then northeasterly, approximately 7 miles along the Carter/Sullivan County line to an unnamed road known locally as National Forest Road 56, near Low Gap, Tennessee; then

(18) Proceed easterly approximately 0.75 miles along National Forest Road 56, crossing onto the Carter map, to the Carter/Sullivan County line; then

(19) Proceed easterly approximately 10.4 miles along the Carter/Sullivan County line, crossing over the Doe map (northwestern corner) and onto the Shady Valley Map, to the intersection of the Carter/Sullivan County line with the Johnson County line at Rich Knob, Tennessee; then

(20) Proceed northeasterly approximately 13.4 miles along the Johnson/Sullivan County line, crossing onto the Laurel Bloomery map, to the intersection of the Johnson/Sullivan County line with the Washington County line at the Virginia/Tennessee State line; then

(21) Proceed easterly approximately 10 miles along the Johnson/Washington County line, crossing onto the Grayson map, to the intersection of the Johnson/Washington County line with the Grayson County line; then

(22) Proceed east, then northeasterly, then southeasterly, along the Grayson County line, crossing over the Park, Whitetop Mountain, Trout Dale, Middle Fox Creek, Cedar Springs, Speedwell, Cripple Creek, Austinville, Galax, and Cumberland Knob maps and onto the Lambsburg map, to the intersection of the Grayson County line with the Surry County line and an unnamed road known locally as Fisher's Peak Road, at the Virginia/North Carolina State line; then

(23) Proceed west along the Grayson/Surry County line, crossing back onto the Cumberland Knob map, to Alleghany County line; then

(24) Proceed southerly, then northwesterly, then southwesterly along the Alleghany County line, crossing over the Roaring Gap, Glade Valley, Traphill (northeastern corner), Whitehead, McGrady (northwestern corner), Horse Gap, and Laurel Springs map, then back onto the Horse Gap map and continuing along the Alleghany County line on the Horse Gap map to the Ashe/Wilkes County line at Mulberry Gap, North Carolina; then

(25) Proceed westerly, then southwesterly along the Ashe/Wilkes County line, crossing over the Glendale Springs and onto the Maple Springs map, then back onto the Glendale Springs map, then back onto the Maple Springs map, and continuing along the Ashe/Wilkes County line on the Maple Springs map to the intersection of the Ashe/Wilkes County line and the Watauga County line at Thomkins Knob, North Carolina; then

(26) Proceed southwesterly along the Watauga/Wilkes County line, crossing over the Deep Gap map (southeastern corner) and onto the Buffalo

Cove map, to the intersection of the Watauga/Wilkes County line and the Caldwell County line at White Rock Mountain, North Carolina; then

(27) Proceed west along the Watauga/Caldwell County line, crossing over the Globe map and onto the Grandfather Mountain map, to the intersection of the Watauga/Caldwell County line with the Avery County line at Calloway Peak, North Carolina; then

(28) Proceed southeasterly approximately 1.8 miles along the Caldwell/Avery County line to the boundary of the Blue Ridge Parkway at Pilot Knob, North Carolina; then

(29) Proceed southwesterly approximately 11.6 miles along the Blue Ridge Parkway boundary, crossing over the Newland map (southeastern corner) and onto the Linville Falls map, to the intersection of the parkway boundary with the Avery/Burke County line; then

(30) Proceed northwesterly, then southwesterly, for a total of approximately 4.2 miles along the Avery/Burke County line to the McDowell County line; then

(31) Proceed southerly approximately 5 miles along the Avery/McDowell County line to the Mitchell County line; then

(32) Proceed southerly, then southwesterly, along the McDowell/Mitchell County line, crossing over the Ashford (northwestern corner) and Little Switzerland (northeastern corner) maps and onto the Spruce Pine map, then back onto the Little Switzerland map and continuing along the McDowell/Mitchell County line, crossing onto the Celo map, to the intersection of the McDowell/Mitchell County line with the Yancey County line; then

(33) Proceed west then northerly along the Mitchell/Yancey County line, crossing over the Micaville, Bakersville, Hunt Dale (southeastern corner), and Burnsville maps, then back onto the Hunt Dale map and continuing along the Mitchell/Yancey County line, crossing onto the Chestoa map, to the intersection of the Mitchell/Yancey County line with the Mitchell/Unicoi County line, which is concurrent with the Tennessee/North Carolina State line; then

(34) Proceed northeasterly along the Mitchell/Unicoi County line, crossing back over the Hunt Dale (northwestern corner) map and onto the Unicoi map, and returning to the beginning point.

Signed: April 25, 2016.

**Mary G. Ryan,**

Deputy Administrator.

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