



## **DEPARTMENT OF THE TREASURY**

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

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

**[Docket No. TTB-2022-0014; Notice No. 219A, Ref: Notice No. 219]**

**RIN: 1513-AC84**

### **Proposed Establishment of the Wanapum Village Viticultural Area; Proposed Name Change to Beverly, Washington**

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

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) is soliciting comments on a proposal to change the name of the proposed “Wanapum Village” American viticultural area (AVA) to “Beverly, Washington.” The proposed AVA area is located in Grant County, Washington and is entirely within the existing Columbia Valley AVA. 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 these proposals.

**DATES:** TTB must receive your comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may electronically submit comments to TTB on this proposal and view copies of this document, the original notice of proposed rulemaking, any supporting materials, and any comments TTB receives on this proposal within Docket No. TTB-2022-0014 as posted on Regulations.gov

(<https://www.regulations.gov>), the Federal e-rulemaking portal. Please see the

**“Public Participation”** section of this document below for full details on how to comment on this supplemental proposal via Regulations.gov or U.S. mail, and for full details on how to obtain copies of this document, its supporting materials, and any comments related to this proposal.

**FOR FURTHER INFORMATION CONTACT:** Mimi Torello, 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. 432.

**SUPPLEMENTARY INFORMATION:**

The original petition for the proposed Wanapum Village AVA was submitted by Kevin Pogue, a professor of geology at Whitman College. Dr. Pogue submitted the petition on behalf of Zirkle Fruit Company and local vineyard owners and winemakers. The proposed AVA covers approximately 2,415 acres and is located entirely within the existing Columbia Valley AVA in Grant County, Washington. Notice No. 219, which proposed the AVA, was published in the **Federal Register** on November 28, 2022 (87 FR 72927), and the original comment period closed on January 27, 2023. TTB received no comments in response to Notice No. 219. For a discussion of the distinguishing features and name evidence of the proposed AVA, see Notice No. 219.

## **Petition to Change the Proposed AVA Name**

After the comment period closed, the petitioner requested that TTB change the name of the proposed AVA based on a request from members of the Wanapum tribe who expressed concerns about the use of their tribe's name for an AVA. To address those concerns, the petitioner amended his petition to instead request the AVA be named "Beverly, Washington." No information regarding the proposed AVA other than information related to the name evidence has changed from the information published in Notice No. 219.

Beverly is the name of a small, unincorporated community that lies entirely within the proposed AVA. Name evidence provided in the petitioner's amended request includes a Wikipedia page describing the community of Beverly as established around 1905 by H.R. Williams and named after the city of Beverly, Massachusetts. The 2017 edition of the 1:24,000-scale topographic U.S.G.S. quadrangle map included with the original petition and used to draw the proposed AVA boundary is labeled "Beverly Quadrangle" and contains the community of Beverly. Further current name usage provided by the petitioner includes the name "Beverly" on local road signs along WA Hwy 243 and the intersection of Beverly–Burke Rd and WA Hwy 243. One of the vineyards located within the proposed AVA is named "Beverly Vineyards," in addition to a local apartment complex named Beverly Apartments.

## **TTB Determination**

After reviewing the petitioner's request to change the name of the proposed AVA and the supporting evidence, TTB believes that the request has merit. TTB is issuing this supplemental notice of proposed rulemaking specifically to seek comments on the new proposed name of "Beverly, Washington."

## **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 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 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 27 CFR 4.39(i)(2) for details.

If TTB establishes this proposed AVA, its name, "Beverly, Washington," 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, wine bottlers using "Beverly, Washington" 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 viticultural area's name, "Beverly, Washington." The approval of the proposed Beverly, Washington AVA would not affect any existing AVA, and any bottlers using "Columbia Valley" as an appellation of origin or in a brand name for wines made from grapes grown within the Beverly, Washington AVA would not be affected by the establishment of this new AVA. If approved, the establishment of the proposed Beverly, Washington AVA would allow vintners to use "Beverly,

Washington,” “Columbia Valley,” or both AVA names as appellations of origin for wines made from grapes grown within the proposed AVA, if the wines meet the eligibility requirements for the appellation.

## **Public Participation**

### *Comments Invited*

TTB invites comments from interested members of the public on whether TTB should establish the proposed “Beverly, Washington” AVA, which was originally proposed as the “Wanapum Village” AVA in Notice No. 219. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Beverly, Washington AVA on wine labels that include the term “Beverly, Washington” 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 names 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 proposed AVA.

### *Submitting Comments*

You may submit comments on this document, Notice No. 219A, by using one of the following methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with Notice No. 219A within Docket No. TTB–2022–0014 on “Regulations.gov,” the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice

No. 219A on the TTB Web site at <https://www.ttb.gov/wine/notices-of-proposed-rulemaking>. 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 “About” link.

- *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.

Please submit your comments by the closing date shown above in this document. Your comments must reference Notice No. 219A 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 state if you are commenting for yourself 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 TTB Administrator before the comment closing date to ask for a public hearing. The TTB Administrator reserves the right to determine whether to hold a public hearing.

*Confidentiality and Disclosure of Comments*

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

TTB will post, and you may view, copies of this document, the related petition and selected supporting materials, and any comments TTB receives about this proposal within the related Regulations.gov docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings Division by email using the web form available at <https://www.ttb.gov/contact-rrd>, or by telephone at 202-453-2265, if you have any questions about commenting on this proposal or to request copies of this document, the related petition and its supporting materials, or any comments received.

### **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 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. Therefore, it requires no regulatory assessment.

### **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 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. Section 9.\_\_\_\_, as proposed in notice of proposed rulemaking Notice No. 219, which published in the **Federal Register** on November 28, 2022 (87 FR 72927), is amended by revising the section heading and paragraphs (a) and (c) introductory text to read as follows:

#### **§ 9.\_\_\_\_ Beverly, Washington.**

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

\* \* \* \* \*

(c) *Boundary.* The Beverly, Washington viticultural area is located in Grant County, Washington. The boundary of the Beverly, Washington viticultural area is described as follows:

\* \* \* \* \*

Signed: September 29, 2023.

**Mary G. Ryan,**

*Administrator.*

Approved: September 29, 2023.

**Thomas C. West, Jr.**

*Deputy Assistant Secretary (Tax Policy).*

