



## **DEPARTMENT OF THE TREASURY**

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

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

**[Docket No. TTB-2022-0012; T.D. TTB-190; Ref: Notice No. 217]**

**RIN 1513-AC82**

#### **Expansion of the Red Hills Lake County 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) is expanding the “Red Hills Lake County” American viticultural area in Lake County, California by approximately 679 acres. The established viticultural area and the expansion area are both located entirely within the larger Clear Lake and North Coast 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 FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Kate Bresnahan, 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. 151.

#### **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). In addition, the Secretary of the Treasury has delegated certain administration and enforcement authorities to TTB through Treasury Order 120–01.

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 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, once approved, a name and a delineated boundary codified 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 allows any interested party to petition TTB to establish a grape-growing region as an AVA. Petitioners may use the same process to request changes to established AVAs. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to modify established AVAs. Petitions to expand an established AVA must include the following:

Evidence that the area within the proposed expansion area boundary is nationally or locally known by the name of the established AVA;

An explanation of the basis for defining the boundary of the proposed expansion area;

A narrative description of the features of the proposed expansion area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the established AVA and distinguish it from adjacent areas outside the established AVA boundary;

The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed expansion area, with the boundary of the proposed expansion area clearly drawn thereon; and

A detailed narrative description of the proposed expansion area boundary based on USGS map markings.

### **Petition to Expand the Red Hills Lake County AVA**

TTB received a petition submitted on behalf of local vineyard owners, proposing to expand the established “Red Hills Lake County” AVA by adding three separately owned parcels of land covering a total of approximately 679 acres.

The Red Hills Lake County AVA (27 CFR 9.169) was established by T.D. TTB–15, which was published in the Federal Register on July 12, 2004 (69 FR 41750).

The proposed expansion area and the established AVA are both located within the Clear Lake (27 CFR 9.99) and North Coast AVAs (27 CFR 9.30).

According to the expansion petition, the topography, soils, and climate of the proposed expansion area are similar to those of the established Red Hills Lake County AVA. The original petition noted that within the Red Hills Lake County AVA, slopes range from zero to greater than 30 percent, but that “[n]o one group clearly predominates.” When describing the region west of Bottle Rock Road, which is the location of the proposed expansion area, the original petition stated, “almost all of the terrain shown has slopes of 15% and above.” The expansion petition notes that, while the original AVA petition was correct that a large part of the region to the west of Bottle Rock Road does contain steep slopes, it also contains areas with gentler slopes. Figure 2 in the expansion petition indicates that the proposed expansion area contains regions with slopes from 0 to 20 percent, as well as slopes from 20 to over 30 percent. Additionally, the expansion petition includes a wider view of the slope and terrain map (Figure 6).<sup>1</sup> Both figures show that the slope angles of the proposed expansion area are similar to those within the Red Hills Lake County AVA, as described in T.D. TTB–15. According to the original Red Hills Lake County petition, the major soil groups within the AVA are of volcanic origin and include Glenview–Bottlerock–Arrowhead, Konocti–Benridge, and Collayomi–Aiken–Whispering. The expansion petition claims that 90 percent of the acreage within the proposed expansion area contains soils of the same soil units described in the original petition and are of volcanic origin. By contrast, the expansion petition notes that the region west of the proposed expansion area and the Red Hills Lake County

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<sup>1</sup> Figures 2 and 6 to the expansion petition are both included in Docket TTB–2022–00012 at [www.regulations.gov](http://www.regulations.gov).

AVA contains large levels of serpentine soils, which are not found in the Red Hills Lake County AVA.

According to the brief description of the Red Hills Lake County AVA's climate provided in T.D. TTB-15, the AVA has a climate that is more influenced by Clear Lake than by the Pacific Ocean. The temperature contrasts between the lake and the land create winds that are credited for reducing the risk of frost within the AVA. The proposed expansion petition explains that, today, some growers within the Red Hills Lake County AVA and the expansion area have frost protection measures in place, although those may not be needed every year. By contrast, the expansion petition states that vineyards in the established Big Valley District-Lake County AVA (27 CFR 9.232), located to the northwest of the proposed expansion area and Red Hills Lake County AVA, require the use of frost protection every year. The expansion petition also notes that growers within the Red Hills Lake County AVA and the expansion area rarely harvest grapes before October 1, further suggesting the two regions share a similar climate. Although the proposed expansion area is more similar to the Red Hills Lake County AVA than the surrounding regions, the expansion area still shares some of the features of the surrounding Clear Lake and North Coast AVAs. For example, according to the petition, the Red Hills Lake County AVA, its expansion area, and the Clear Lake AVA are entirely within the Lake County Subwatershed. The Lake County Subwatershed gives both AVAs less fog and warmer temperatures than other parts of the North Coast AVA. The Pacific Ocean largely affects the climate in most parts of the North Coast AVA, while Clear Lake and the Lake County Subwatershed have larger effects on the Clear Lake and Red Hills Lake County AVAs' climate.

According to the petition, while similar to the Clear Lake AVA in some ways, the Red Hills Lake County AVA differs from the larger area as well. For example, the petition states that the Red Hills Lake County AVA and its expansion area have some of the highest elevations in the Clear Lake AVA. The petition also notes that the Red Hills Lake County AVA, including its expansion area, contains mostly red volcanic soils. While the Clear Lake AVA contains these soils as well, the Clear Lake AVA petition cited “the uniform sandy loam and clay loam soils” as a distinguishing feature. The petition also describes the Red Hills Lake County AVA as having higher minimum and median heat summations than the Clear Lake AVA.

#### **Notice of Proposed Rulemaking and Comments Received**

TTB published Notice No. 217 in the Federal Register on November 28, 2022 (87 FR 72937), proposing to expand the Red Hills Lake County AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed expansion area. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed expansion area, and for a comparison of the distinguishing features of the proposed expansion area to the surrounding areas and to the established Red Hills Lake County AVA, see Notice No. 217.

The comment period for Notice No. 217 closed on January 27, 2023. In response to Notice No. 217, TTB received no comments.

#### **TTB Determination**

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the expansion of the Red Hills Lake County. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB modifies the

boundary of the AVA, effective 30 days from the publication date of this document.

### **Boundary Description**

See the narrative description of the boundary modification of the Red Hills Lake County 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. The modified Red Hills Lake County AVA boundaries may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

### **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 § 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 expansion of the Red Hills Lake County AVA will not affect any other existing AVA, and bottlers using “Red Hills Lake County,” “Clear Lake,” or “North Coast” as an appellation of origin or in a brand name for wines made from grapes within the “Red Hills Lake County,” “Clear Lake,” or “North Coast” AVAs will not be affected by this expansion of the Red Hills Lake County AVA. The expansion of the Red Hills Lake County AVA will allow vintners to use “Red Hills Lake County,” “Clear Lake,” “North Coast,” or any combination of the three AVA names as appellations of origin for wines made primarily from grapes grown within the expansion area if the wines meet the eligibility requirements for the appellations.

#### **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 final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993, as amended.

Therefore, no regulatory assessment is required.

#### **Drafting Information**

Kate Bresnahan 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. Section 9.169 is amended by:

- a. Redesignating paragraphs (c)(15) through (22) as paragraphs (c)(31) through (38);
- b. Revising paragraph (c)(14); and
- c. Adding new paragraphs (c)(15) through (30).

The additions and revision read as follows:

**§ 9.169 Red Hills Lake County.**

\* \* \* \* \*

(c) \* \* \*

(14) Proceed about 0.4 mile northwesterly along Harrington Flat Road to its intersection with Bottle Rock Road in section 18, T21N, R8W; then

(15) Proceed southerly along Bottle Rock Road approximately 2,500 feet to its intersection with an unnamed, unimproved dirt road near the marked 2,928-foot elevation; then

(16) Proceed west along the unimproved dirt road to its intersection with the 2,800-foot elevation contour; then

(17) Proceed northwesterly, then northerly along the meandering 2,800-foot elevation contour to its intersection with the northern boundary of section 18, T12N, R8W; then

- (18) Proceed easterly along the northern boundary of section 18 to its intersection with Bottle Rock Road; then
- (19) Proceed north along Bottle Rock Road to its intersection with an unnamed trail in section 7, T12N, R8W; then
- (20) Proceed west in a straight line to the western boundary of section 7, T12N, R8W; then
- (21) Proceed north along the western boundary of section 7 to the southeastern corner of section 1, T12N, R9W; then
- (22) Proceed west along the southern boundary of section 1 to its intersection with the 2,600-foot elevation contour; then
- (23) Proceed north in a straight line to the intersection with an unnamed, unimproved dirt road known locally as Helen Road; then
- (24) Proceed west in a straight line to the fourth intersection with the 2,560-foot elevation contour in section 1, T12N, R9W; then
- (25) Proceed south in a straight line to the southern boundary of section 1; then
- (26) Proceed west along the southern boundary of section 1 to its intersection with the western boundary of section 1; then
- (27) Proceed north along the western boundary of section 1 to its intersection with the northern boundary of section 1; then
- (28) Proceed east along the northern boundary of section 1 to its intersection with the 2,000-foot elevation contour; then
- (29) Proceed southeasterly along the 2,000-foot elevation contour to its intersection with Bottle Rock Road; then
- (30) Proceed northwesterly along Bottle Rock Road to its intersection with Cole Creek Road to the west and an unnamed, unimproved road to the east in section 25, T13N, R9W; then

\* \* \* \* \*

Signed: January 22, 2024.

Mary G. Ryan,

Administrator.

Approved: January 23, 2024.

Thomas C. West, Jr.,

Deputy Assistant Secretary (Tax Policy).

[FR Doc. 2024-01877 Filed: 2/2/2024 8:45 am; Publication Date: 2/5/2024]