



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2023-0003; T.D. TTB-192; Ref: Notice No. 222]

RIN: 1513-AC77

Establishment of the Comptche 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 1,421.8-acre “Comptche” American viticultural area (AVA) in Mendocino County, California. The Comptche AVA is excluded from the surrounding North Coast AVA due to significant differences in distinguishing features. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). 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 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. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify 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;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition;
- 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.

If a smaller proposed AVA is to be established within an existing AVA, the petitioner may request, and TTB may determine, that the proposed AVA should not be part of the larger AVA because the proposed AVA has features that clearly distinguish it from the surrounding AVA. In such instances, wine produced from grapes grown within the proposed AVA would not be entitled to use the name of the larger AVA as an appellation of origin or in a brand name if the proposed AVA is established.

Petition to Establish the Comptche AVA

TTB received a petition on behalf of local vineyard owners proposing the establishment of the “Comptche” AVA. The proposed Comptche AVA is in Mendocino County, California, and covers 1,421.8 acres. There are currently three commercial vineyards covering a total of over 30 acres within the proposed AVA. Although there are no wineries within the proposed AVA, grapes are sold to nearby wineries.

According to the petition, the distinguishing features of the proposed Comptche AVA are its topography, soils, and climate. The proposed Comptche AVA is within a low-elevation valley, a natural opening that is surrounded by heavily forested lands and short, steep ridges. Elevations within the proposed AVA range from 187 to 400 feet, and all vineyards are planted at elevations between 220 and 250 feet. According to the USGS map included with the petition, elevations are higher in each direction outside of the proposed AVA. Further, the petition notes temperature and viticulture in the proposed AVA is affected by the relationship between the low elevations within the proposed AVA and the higher elevations of the areas surrounding the AVA. The petition notes

that at night, cool air sinks from the higher surrounding elevations into the proposed AVA and increases the risk of frosts that can damage vines or delay ripening of the grapes.

According to the petition, the two main soil types within the proposed Comptche AVA are Bearwallow–Wolfey and Perrygulch Loam. Bearwallow–Wolfey soils are described in the petition as well-drained, shallow, and relatively infertile soils over fractured sandstone. These soils are prone to erosion due to their thinness and the fact that they frequently occur on slopes. Therefore, mowing is the preferred method of controlling weeds in the vineyards instead of tilling, which disturbs the soil. Perrygulch Loam is a deep, rich, bottomland soil series that contains a large amount of clay and is not as well drained as Bearwallow–Wolfey soils. According to the petition, vineyard owners who plant on Perrygulch Loam soils prefer to use herbicides to control weeds because the high clay content within the soil is easily compacted by heavy machinery. By contrast, the most common soils surrounding the proposed Comptche AVA are Ornbaun and Zeni soils, which are found in each direction outside the proposed AVA. These soils are described as moderately deep to deep soils that formed from sandstone and typically have a surface that is covered with a mat of leaves and twigs that is one-half inch deep.

The proposed Comptche AVA is generally cooler than other established AVAs within Mendocino County. The average annual temperature and average growing season temperature within the proposed AVA are 67.9 and 74.2 degrees Fahrenheit (F), respectively. By contrast, the temperatures in the established Mendocino AVA (27 CFR 9.93), located to the east and south of the proposed AVA, and the established Mendocino Ridge (27 CFR 9.158) and Anderson Valley (27 CFR 9.86) AVAs, both located south of the proposed AVA, are warmer. The

petition did not include climate data from the regions to the north and west of the proposed AVA.

To further demonstrate the cooler climate of the proposed Comptche AVA, the petition provided information on the average annual growing degree days (GDD) accumulations,¹ Huglin Index numbers,² and Biologically Effective Degree Days (BEDD)³ for the proposed AVA and the established Mendocino, Mendocino Ridge, and Anderson Valley AVAs. The proposed AVA had the lowest numbers of each of the regions, with 2,258.85 GDDs, a Huglin Index number of 1,835.81, and 1,395.05 BEDDs. The petition states that due to its significantly cooler climate, the proposed Comptche AVA is a “borderline” region for growing wine grapes, and that only the most cold-hardy varieties will ripen successfully. Currently, Pinot Noir is the only grape varietal grown for commercial purposes in the proposed AVA.

The proposed AVA is further distinguishable because it is one of the few places in the coastal section of Mendocino County where non-timber related agricultural activity, including viticulture, is permitted. The proposed AVA is surrounded by land designated as a Timberland Production Zone. Such land is zoned only for the growing and harvesting of timber for a period of at least ten years from the time it was so designated.⁴

Although the proposed Comptche AVA is physically located within the established North Coast AVA (27 CFR 9.30), the petitioner asked that the

¹ See Albert J. Winkler et al., *General Viticulture* (Berkeley: University of California Press), pp. 61–64 (1974). In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDDs, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day’s mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth.

² According to the petition, this method uses the period from April 1 through September 30 and sums the mean of the daily mean temperatures above 10 degrees Celsius, multiplied by a coefficient indicative of the latitude to account for increasing day lengths.

³ The BEDD method calculates the growing degree days between April 1 and October 31 and also accounts for day length and diurnal temperature range.

⁴ See CA. GOV. CODE § 51114.

proposed AVA be excluded from the established AVA because the climate and soils of the two regions are so different. The petition includes data showing that the proposed AVA has average annual BEDD and GDD accumulations, Huglin Index numbers, and average growing season and annual temperatures that are lower than those of the North Coast AVA as a whole. Although the established North Coast AVA is a large, multi-county AVA and variations in climate exist within it due to its large size, the proposed Comptche AVA is, as discussed earlier, also cooler than the three closest neighboring AVAs within the North Coast AVA: Mendocino, Mendocino Ridge, and Anderson Valley.

Furthermore, the petition notes that the two main soil series of the proposed Comptche AVA—Bearwallow–Wolfey and Perrygulch Loam—are unique and relatively scarce within the North Coast AVA and within the State of California as a whole. The Bearwallow–Wolfey series is comprised of two soil types: Bearwallow and Wolfey. Bearwallow soils cover a total of 30,050 acres within the State, while Wolfey and Perrygulch Loam cover 4,709 and 580 acres of the State, respectively. By contrast, the two most common soils directly outside the proposed AVA, Zeni and Ornbaun series, cover 96,612 and 115,774 acres of the State, respectively, indicating that they are more commonly found.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 222 in the **Federal Register** on March 29, 2023 (88 FR 18481), proposing to establish the Comptche AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed viticultural area. The notice also compared the distinguishing features of the proposed viticultural area to the surrounding areas. For a description of the evidence relating to the name, boundary, and distinguishing features of the proposed viticultural area, and for a

comparison of the distinguishing features of the proposed viticultural area to the surrounding areas, see Notice No. 222.

In Notice No. 222, TTB solicited comments on the accuracy of the name, boundary, topography, and other required information submitted in support of the petition. In addition, TTB asked for comments on whether the features of the proposed viticultural area are so distinguishable from the surrounding North Coast AVA that proposed Comptche AVA should not be part of this surrounding, existing viticultural area. The comment period on Notice No. 222 closed on May 30, 2023. TTB received no comments on the proposed AVA.

TTB Determination

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the establishment of the 1,421.8-acre Comptche AVA. 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 establishes the “Comptche” AVA in Mendocino County, California.

Furthermore, TTB finds that the evidence provided by the petitioner, as described in Notice No. 222, shows that the features of the North Coast AVA are so distinctive from those of the North Coast AVA that the Comptche AVA should be separate from, and not considered a part of, the North Coast AVA. As a result, TTB establishes the Comptche AVA as separate from, and not within, the North Coast AVA, and wines made primarily from grapes grown within the Comptche AVA will not be eligible to be labeled with “North Coast” as an appellation of origin.

Boundary Description

See the narrative boundary description of the Comptche 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 Comptche AVA boundary 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 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.

With the establishment of the Comptche AVA, its name, "Comptche," 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 regulations clarifies this point. Consequently, wine bottlers using the name "Comptche" in a brand name, including a trademark, or in another label reference 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.

The establishment of the Comptche AVA will allow vintners to use “Comptche” as an appellation of origin for wines made primarily from grapes grown within the Comptche AVA if the wines meet the eligibility requirements for the appellation. The exclusion of the Comptche AVA from the North Coast AVA will also mean that vintners will not be able to use “North Coast” as an appellation of origin for wines made primarily from grapes grown anywhere in the Comptche AVA.

Bottlers who wish to label their wines with “Comptche” as an appellation of origin must obtain a new Certificate of Label Approval (COLA) for the label to do so. (Note that TTB cannot approve a COLA using “Comptche” as an appellation of origin before the effective date shown in the **DATES** section of this document, and TTB must reject such COLA applications if submitted prior to that date.)

Additionally, after **[INSERT DATE TWO YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE]**, bottlers who use “North Coast” as an appellation of origin on wines made primarily from grapes grown in the Comptche AVA will no longer be able to use “North Coast” and would only be eligible to use “Comptche,” “Mendocino County,” or “California,” or a combination of these appellations, as appellations of origin on those wines.

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. Therefore, no regulatory assessment is required.

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. Add § 9.292 to read as follows:

§9.292 Comptche.

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

(b) *Approved maps.* The one United States Geological Survey (USGS) 1:24,000 scale topographic map used to determine the boundary of the viticultural area is titled Comptche, California (provisional edition 1991).

(c) *Boundary.* The Comptche viticultural area is located in Mendocino County, California. The boundary of the Comptche viticultural area is as described as follows:

(1) The beginning point is on the Comptche map at the intersection of a north-south tributary of the Albion River and an unnamed improved road known

locally as Comptche Ukiah Road, section 12, T16N/R16W. From the beginning point, proceed northwest in a straight line, crossing an unnamed, unimproved road known locally as Surprise Valley Road, to the 400-foot elevation contour, section 12, T16N/ R16W; then

(2) Proceed north, then easterly along the 400-foot elevation contour to its intersection with an unnamed, unimproved road southeast of the marked 517-foot peak in section 1, T16N/R16W; then

(3) Proceed southeasterly along the unnamed, unimproved road to its intersection with an unnamed, unimproved road known locally as Surprise Valley Road, section 1, T16N/R16W; then

(4) Proceed northeasterly along Surprise Valley Road to its intersection with an unnamed, unimproved road known locally as North Fork Road, section 1, T16N/R16 W; then

(5) Proceed northwesterly along North Fork Road to its intersection with an unnamed, unimproved road known locally as Docker Hill Road in section 36, T17N/R16W; then

(6) Proceed north along Docker Hill Road to its intersection with the 400-foot elevation contour, section 36, T17N/R16W; then

(7) Proceed easterly along the 400-foot elevation contour to its intersection with the North Fork of the Albion River in section 37, T17N/R15W; then

(8) Continue in a generally southerly direction along the 400-foot elevation contour to its intersection with an unnamed intermittent creek in section 6, T16N/R15W; then

(9) Proceed south in a straight line to the 400-foot elevation contour, section 6, T16N/R15W; then

(10) Proceed southeasterly, then north, then southeasterly along the meandering 400-foot elevation contour to its intersection with the Albion River in section 8, T16N/R15W; then

(11) Proceed westerly along the Albion River to its intersection with a north-south tributary in section 12, T16N/R16W; then

(12) Proceed northeasterly along the tributary, returning to the beginning point.

(d) *Exclusion.* The Comptche viticultural area as described in this section is not included within the North Coast viticultural area as described in § 9.30.

Signed: April 2, 2024.

Mary G. Ryan,

Administrator.

Approved: April 3, 2024.

Aviva R. Aron-Dine

Acting Assistant Secretary for Tax Policy.

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