



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2023-0011; T.D. TTB-202; Re: Notice No. 229]

RIN 1513-AD04

Establishment of the Tryon Foothills 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 approximately 176-square mile “Tryon Foothills” American viticultural area (AVA) in Polk County, North Carolina. The Tryon Foothills AVA is not located within, nor does it contain, any other established viticultural area. TTB designates AVAs to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

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

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

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations

for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative 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.

Petition to Establish Tryon Foothills AVA

TTB received a petition from Cory J. Lillberg, vineyard manager of Parker–Binns Vineyard, proposing the establishment of the “Tryon Foothills” AVA in Polk County, North Carolina. The proposed Tryon Foothills AVA covers approximately 176 square miles and is not located within any other established AVA. There are five commercial vineyards covering a total of approximately 77.70 acres within the proposed AVA, as well as four wineries.

According to the petition, the distinguishing features of the proposed Tryon Foothills AVA are its topography and climate. The proposed AVA is located on the western edge of the Inner Piedmont region of the Blue Ridge Mountains, which is described as a region of low mountains and rolling hills. Within the proposed AVA, the average elevation is 988 feet, while the maximum elevation is 1,656 feet and the minimum is 712 feet. The petition states that the topography of the proposed AVA contributes to the creation of a thermal belt. At night, warm air that has accumulated in the higher elevations becomes cooler and sinks. As the cool air sinks, it displaces warmer air at lower elevations. The warm air settles on the mountain slopes above the cascading cooler air and creates a warmer layer of air above the cooler air. This warmer layer is known as a thermal belt.

Using the Winegrape Climate/Maturity Groupings classification system,¹ the entire proposed Tryon Foothills AVA falls into the “Hot” category, which is defined as a region with an average growing season temperature between 67- and 72-degrees Fahrenheit (F). The average growing season length within the

¹ Jones, G.V., *Climate and Terroir Variability and Change on Wine: Presentation: In Fine Wine and Terroir—The Geoscience Perspective*, McQueen, R.W., and Meinert, L.D. (eds.), Geoscience Canada Reprint Series Number 9, Geological Association of Canada, St. John’s Newfoundland, (2006), p. 247.

proposed AVA is 200–210 days. Ninety-five percent of the proposed AVA has average annual growing degree day (GDD)² accumulations in the very warm Region V category of the Winkler scale, while the remaining 5 percent of the proposed AVA is in the slightly cooler Region IV. According to the petition, the “Hot” region of the proposed AVA makes it suitable for growing grape varietals such as Zinfandel, Grenache, and Cabernet Sauvignon.

The petition states that, in general, the regions to the west, northeast, and northwest of the proposed AVA are cooler and have a greater range of average temperatures than the proposed AVA. The regions to the west and northwest mostly fall into the “Warm” category of the Winegrape Climate/Maturity Groupings classification system, have average growing season lengths of between 180 and 190 days, and have average annual GDD accumulations that place them in Region III of the Winkler scale.

Approximately 68 percent of the region to the northeast of the proposed AVA falls into the “Hot” category of the Winegrape Climate/Maturity Groupings classification system. However, unlike the proposed AVA, approximately 22 percent of the region is also in the cooler “Warm” category. The majority of the region to the northeast has an average growing season length of 190–200 days and average annual GDD accumulations that place it in Region IV of the Winkler scale.

The proposed AVA and the region to the east have approximately the same average annual temperatures, but the region to the east has a lower

² See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pp. 61–64. 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 F, the minimum temperature required for grapevine growth. The Winkler scale regions are as follows: Region Ia: 1,500–2,000 GDDs; Region Ib: 2,000–2,500 GDDs; Region II: 2,500–3,000 GDDs; Region III: 3,000–3,500 GDDs; Region IV: 3,500–4,000 GDDs; Region V: 4,000–4,900 GDDs.

average minimum temperature. While the region to the east is also mostly in the “Hot” category of the Winegrape Climate/Maturity Groupings classification system, similar to the proposed AVA, it does also have some areas that are in the “Warm” category. The average growing season length in the region to the east is 200–210 days, and approximately 82 percent of the region is in Region V of the Winkler scale.

The region south of the proposed AVA is warmer, as temperatures grow progressively warmer the farther south one travels from the proposed AVA. Ninety-seven percent of the region is in the “Hot” category of the Winegrape Climate/Maturity Groupings classification system. While the majority of the region also has a growing season length between 200 and 210 days, the region has some areas with longer growing seasons that range from 210 to 220 days. The majority of the region is in Region V of the Winkler scale, but unlike the proposed AVA, other parts of the region are classified as Regions II and III.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 229 in the **Federal Register** on January 5, 2024 (89 FR 716), proposing to establish the Tryon Foothills AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also included information from the petition comparing the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 229.

In Notice No. 229, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition.

The comment period for Notice No. 229 closed on March 5, 2024. TTB received two identical comments in response to Notice No. 229. However, both comments consisted only of bank statements from a South African bank account and are not relevant to the proposed AVA. Therefore, neither comment was posted to the public docket.

TTB Determination

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the establishment of the Tryon Foothills 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 “Tryon Foothills” AVA in Polk County, North Carolina, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Tryon Foothills 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 Tryon Foothills 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 Tryon Foothills AVA, its name, "Tryon Foothills," 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 "Tryon Foothills" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Tryon Foothills AVA will not affect any existing AVA. The establishment of the Tryon Foothills AVA will allow vintners to use "Tryon Foothills" as an appellation of origin for wines made primarily from grapes grown within the Tryon Foothills AVA if the wines meet the eligibility requirements for the appellation.

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, as amended. 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 27 CFR part 9 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 § 9.298 to read as follows:

§ 9.298 Tryon Foothills.

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

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

- (1) Lake Lure, NC, 1982; photoinspected 1987;
- (2) Shingle Hollow, NC, 1982;
- (3) Pea Ridge, NC, 1982;

- (4) Rutherfordton South, NC, 1966;
- (5) Fingerville East, SC-NC, 1993 (provisional edition);
- (6) Fingerville West, SC-NC, 1983 (provisional edition);
- (7) Landrum, SC-NC, 2020;
- (8) Saluda, NC-SC, 2019;
- (9) Cliffield Mountain, NC, 1997; and
- (10) Mill Spring, NC, 1982; photorevised 1990.

(c) *Boundary.* The Tryon Foothills viticultural area is located in Polk County, North Carolina. The boundary of the viticultural area is described as follows:

- (1) The beginning point is on the Lake Lure map at the intersection of the 1,200-foot elevation contour and the shared Polk–Rutherford County line just west of State Highway 9 and north of an unnamed road known locally as Owl Hollow Road. From the beginning point, proceed clockwise along the shared Polk–Rutherford County line and across the Shingle Hollow, Pea Ridge, and Rutherford South maps and onto the Fingerville East map, to the intersection of the shared Polk–Rutherford County line and the shared North Carolina–South Carolina State line; then
- (2) Proceed west along the shared North Carolina–South Carolina State line across the Fingerville East, Fingerville West, and Landrum maps and onto the Saluda map to the intersection of the North Carolina–South Carolina State line with the 1,200-foot elevation contour north of Dug Hill Road; then
- (3) Proceed generally northerly along the meandering 1,200-foot elevation contour, crossing back and forth onto the Landrum and Saluda maps and onto the Mill Spring map, and continuing along the 1,200-foot elevation contour as it crosses onto the Cliffield Mountain map and then back onto the Mill Spring map

and finally onto the Lake Lure map, returning to the beginning point at the intersection of the 1,200-foot elevation contour and the shared Polk–Rutherford County line just west of State Highway 9.

Signed: September 24, 2025.

Mary G. Ryan,

Administrator.

Approved: September 24, 2025.

Kenneth J. Kies,

Assistant Secretary for Tax Policy.

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