

Application of Certain of the Part 30 Rules. The following citation is added:

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FR date and citation: 70 FR [insert number of page on which this release begins] July 17, 2006.

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Issued in Washington, DC, on July 11, 2006.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. E6-11152 Filed 7-14-06; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB-52; Re: Notice No. 55]

RIN 1513-AB15

Establishment of the Saddle Rock-Malibu Viticultural Area (2003R-110P)

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

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the 2,090-acre Saddle Rock-Malibu viticultural area in Los Angeles County, California. We designate 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: *Effective Date:* August 16, 2006.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415-271-1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of

definitive viticultural areas and 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) contains the list of approved viticultural areas.

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 distinguishable by geographical features, the boundaries of which have been recognized and defined 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 its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area 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 outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Saddle Rock-Malibu Viticultural Area Petition and Rulemaking

Background

Lisa A. Semler and Derek Baugh of Semler Malibu Estate Vineyards in Malibu, California, submitted a petition to establish the Saddle Rock-Malibu

viticultural area. Located in western Los Angeles County, California, the proposed viticultural area covers approximately 2,090 acres in the Santa Monica Mountains, approximately 32 miles west of downtown Los Angeles and 5 miles inland from the Pacific Ocean. The proposed area lies between 1,700 and 2,236 feet in elevation and has 70 acres of vineyards located between 1,800 and 2,000 feet in elevation.

The primary distinguishing viticultural features of the proposed Saddle Rock-Malibu viticultural area include its high elevation and location, as well as its orientation within the Santa Monica Mountains, which limits its exposure to the cooling Pacific marine inversion layer, according to the petition. As a result, the proposed area receives more solar radiation and is warmer than neighboring areas with more marine influence during the growing season.

The information submitted in support of the petition is summarized below.

Name Evidence

The name of the proposed Saddle Rock-Malibu viticultural area combines the name of a high, prominent rock formation within the proposed area, Saddle Rock, with the name of the surrounding region of western Los Angeles County, Malibu. According to the petition, the "Saddle Rock-Malibu" name provides an accurate geographical description of the proposed viticultural area.

Located in the Santa Monica Mountains near the center of the proposed area, Saddle Rock is a prominent saddle-shaped rock formation that rises 2,000 feet above sea level. Saddle Rock is identified on the USGS Point Dume, California, quadrangle map in section 12, T1S/R19W. Saddle Rock Ranch is located within the proposed viticultural area, and the Saddle Rock Pictograph Site, located on the ranch between Saddle Rock and Mitten Rock, is a National Historic Landmark. The pictographs found at the Saddle Rock site are characteristic of the Chumash Indian art style, according to the National Park Service's National Historic Landmark Web site, which also notes that Saddle and Mitten Rocks served as landmarks for prehistoric and early historic travelers (see http://www.cr.nps.gov/nhl/DOE_dedesignations/saddlerock.htm).

The Malibu region, which the petition describes as encompassing western Los Angeles County from the ridge line of the Santa Monica Mountains in the north to the Pacific Ocean in the south

and from Topanga Canyon in the east to the Ventura County line in the west, surrounds the Saddle Rock area. The Malibu region is shown on the July 2001 American Automobile Association map titled, "Coast & Valley Bay Area to Southern California," in section G-12. The USGS Geographic Names Information System lists 30 Malibu name uses within Los Angeles County, including streams, beaches, lakes, a reservoir, parks, towns, buildings, and an airport.

TTB's predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), established the Malibu-Newton Canyon viticultural area (27 CFR 9.152) in T.D. ATF-375, published in the **Federal Register** (61 FR 29952) on June 13, 1996. The preamble of T.D. ATF-375 explained that the "Malibu" name originated with the Chumash Indians as "Mala I Boo," meaning "place of cliffs." The 1805 Topanga Malibu Sequit land grant of 13,315 acres, also referred to as Rancho Malibu, includes the modern day "Malibu" spelling. In the 1930s, with the construction of the Pacific Coast Highway, the petition states that the Malibu region developed into the nationally known community it is today.

Boundary Evidence

The modern history of the proposed Saddle Rock-Malibu viticultural area dates to the era of Spanish colonial land grants, and the proposed area lies between the historic Topanga Malibu Sequit land grant to the south and the El Conejo land grant to the north. Originally known as "El Malibu," the petition states that the ranch surrounding the Saddle Rock formation was, by the 1930s, known as Saddle Rock Ranch. Wine grape production within the proposed Saddle Rock-Malibu viticultural area began in 1997, according to the petition, and as of February 2005 the area had 70 vineyard acres in commercial production.

Roughly centered on the Saddle Rock formation, the proposed Saddle Rock-Malibu viticultural area encompasses a suspended valley within the higher elevations of the Santa Monica Mountains. Beginning at Decker Road, the northern boundary of the proposed area follows a portion of the southern boundary of the El Conejo land grant, and then follows the 1,700-foot contour line southeasterly to Mulholland Highway. Steep mountain terrain lies to the east and south of the proposed Saddle Rock-Malibu area, while the Malibu Country Club lies to its west. The petition uses trails, unimproved roads, and secondary roads to delineate the eastern, southern, and western

portions of the proposed boundary, according to the written boundary description and USGS Point Dume map provided with the petition.

Distinguishing Features

The proposed Saddle Rock-Malibu viticultural area's high elevations, north-facing slope orientation, and geographical location in the Santa Monica Mountains all combine to create a microclimate with limited marine influence, according to the petition. As compared to surrounding areas with more marine influence, the proposed area receives more growing season sunshine and has warmer temperatures. The proposed area's microclimate, the petition continues, creates a distinctive and unique mountainous grape-growing region.

Topography

The proposed Saddle Rock-Malibu viticultural area, according to the petition, is a geographically suspended valley located largely on the leeward side of the crest of the Santa Monica Mountains. From the mountains' crest, elevations drop about 2,000 feet to the Pacific Ocean in the south and, in the north, about 1,000 feet to the Conejo Valley floor. Within the proposed viticultural area, elevations range from a low of 1,700 feet along much of the boundary line to a 2,236-foot peak along its northeast border, as shown on the Point Dume map. Intermittent streams flow from the higher elevations downward toward the Pacific Ocean or toward larger streams in the Conejo Valley to the north. Several secondary highways, light-duty roads, and a number of unimproved roads and jeep trails criss-cross the proposed Saddle Rock area, as shown on the Point Dume USGS map.

Climate

The unique microclimate of the proposed Saddle Rock-Malibu viticultural area is its most distinguishing viticultural feature, according to the petition, which included a climate report prepared by Fox Weather of Fortuna, California. While the larger Malibu regional climate is typical of southern California with mild, rainy winters and warm, dry summers, the petition states that the proposed Saddle Rock-Malibu viticultural area is climatically affected by its geographical location in the Santa Monica Mountains.

The Pacific Ocean, about 5 miles south of the proposed viticultural area, provides an intrusive marine influence that permeates the Santa Monica Mountains area incrementally, based on

elevation, time of year, and other factors, according to Fox Weather. In this region of Los Angeles County, this cool, moist, marine influence funnels northward from the ocean, through the low gaps in the mountain range, reaching various elevations at different times in the growing season. The proposed Saddle Rock-Malibu viticultural area's high elevations, its location on the leeward side of the mountains' crest, and its north-facing mountain slopes are significant factors in limiting the extent of the cooling marine influence received within the proposed area, according to the submitted Fox Weather data.

Summers in the Malibu region are hot and dry at the higher elevations above the marine influence and are cooler and less sunny in the lower coastal areas and beaches, according to Fox Weather. A comparison of growing season heat accumulation as measured by degree-days shows that the proposed Saddle Rock-Malibu viticultural area, at 4,200 degree-days, is somewhat warmer than the nearby Malibu-Newton Canyon viticultural area, which accumulates 4,000 to 4,100 degree days during the growing season. (Degree-days represent a measurement of heat accumulation during the growing season, with one degree-day accumulating for each degree that a day's mean temperature is above 50 degrees Fahrenheit, which is the minimum temperature required for grapevine growth. See "General Viticulture," by Albert J. Winkler, University of California Press, 1975.) Further inland, toward the San Fernando Valley, temperatures are warmer during the day and cooler at night than along the crest of the Santa Monica Mountains.

The temperature and growing condition differences between the proposed Saddle Rock-Malibu viticultural area and the established Malibu-Newton Canyon viticultural area result from the prevailing wind flows of summer (south through west-northwest directions), according to the submitted Fox Weather data. Located on the leeward side of the Santa Monica Mountains' crest, the proposed Saddle Rock-Malibu area receives more sunshine and has higher daytime temperatures than the Malibu-Newton Canyon area, which is located just southeast of the Saddle Rock-Malibu area on the windward side of the mountain crest and is, therefore, more strongly influenced by the cooling Pacific marine air. Also, the warm, down slope wind that affects the Saddle Rock-Malibu area is less evident in the Malibu-Newton Canyon area.

Soils

Predominant soils of the proposed Saddle Rock-Malibu viticultural area include Cropley clay, Gilroy clay loam and rocky clay loam, and Hambright loam, clay loam and rocky clay loam, according to Robert Roche of Roche Vineyard Consulting in his June 5, 2004, letter to the petitioners.

The U.S. Department of Agriculture's Soil Conservation Service (now the Natural Resources Conservation Service) publication, "Soils of the Malibu Area California" (October 1967), states at pages 65 and 66 that Cropley clay is well drained with slow permeability. Cropley clay occupies nearly level to moderately sloping alluvial fans, and bedrock is found more than 5 feet below the surface. According to the 1967 "Soils of the Malibu Area California" publication, Gilroy clays are well drained with slow permeability. They occupy gently rolling to steep upland areas, and bedrock is generally found between 2 feet and 3½ feet below the surface. Hambright clay loams, described on pages 72 and 73 of the 1967 Malibu area soil publication, are well drained with moderate permeability. They occupy moderately steep to very steep upland areas, and bedrock is found from ⅔ foot to 1½ feet below the surface.

A comparison of the soils of the proposed Saddle Rock-Malibu viticultural area to those in the existing Malibu-Newton Canyon viticultural area shows distinct soil differences.

Proposed Saddle Rock-Malibu viticultural area soils	Established Malibu-Newton Canyon viticultural area soils
Gilroy rocky clay loam and clay loams.	Gilroy clay loam.
Hambright loam, clay loam, and rocky clay loam.	Hambright rocky clay loam.
Cropley clay	Castaic silty clay loam. Malibu loam. Malcolm loam. Rincon silty clay loam.

The Hambright rocky clay loam and Gilroy clay loam series dominate the proposed Saddle Rock-Malibu area's northeast region, according to Robert Roche. He explains that although these two series are found throughout California, they contrast to the igneous rock found in the eastern area immediately beyond the proposed Saddle Rock-Malibu viticultural area boundary line. Mr. Roche compares the Malibu-Newton Canyon viticultural area to the proposed Saddle Rock-Malibu viticultural area by describing the

Saddle Rock-Malibu area's soils as "deeper with more clay content overall, leading to more water holding capacity." He explains that the "soil series and descriptions are different enough" between the two areas to conclude that "wine characteristics would be significantly different." The northeast corner of the proposed Saddle Rock-Malibu viticultural area, the petition states, has the most evident differences in soil as compared to the region immediately beyond the boundary line.

The petition, however, emphasizes that soil differences of the proposed Saddle Rock-Malibu area play a lesser role than the climate and physical geography in defining the distinctiveness of the proposed viticultural area.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 55 regarding the proposed Saddle Rock-Malibu viticultural area in the **Federal Register** (71 FR 1500) on January 10, 2006. We received 113 comments in response to that notice. All 113 comments supported the establishment of the Saddle Rock-Malibu viticultural area, and some specifically discussed the unique geography and microclimate of the region.

TTB Finding

After careful review of the petition and the comments received, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the "Saddle Rock-Malibu" viticultural area in Los Angeles County, California, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this document.

Maps

The one map used to determine the boundary of the viticultural area is identified below in the 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. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, "Saddle Rock-

Malibu," is recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation clarifies this point. Consequently, wine bottlers using "Saddle Rock-Malibu" in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other term as an appellation of origin and that name or other term 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 viticultural area name or other term 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 a viticultural area 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.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is 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 rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 27 CFR, chapter 1, 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 a new § 9.203 to read as follows:

§ 9.203 Saddle Rock-Malibu.

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

(b) *Approved Map.* The following United States Geological Survey, 1:24,000 scale, topographic map is used to determine the boundary of the Saddle Rock-Malibu viticultural area: Point Dume Quadrangle California, 7.5-Minute Series (Orthophotoquad), 1995.

(c) *Boundary.* The Saddle Rock-Malibu viticultural area is located in Los Angeles County, California. The boundary of the Saddle Rock-Malibu viticultural area is as described below:

(1) The beginning point is on the Point Dume map at the intersection of Decker Road and Mulholland Highway, section 3, T1S/R19W;

(2) From the beginning point, proceed north-northeast along Decker Road approximately 0.7 mile to its intersection with the southern boundary of the El Conejo land grant, section 3, T1S/R19W; then

(3) Proceed straight east-southeast along the El Conejo land grant boundary line approximately 0.4 mile to the point where the land grant boundary line changes direction to the northeast, section 2, T1S/R19W; then

(4) Proceed straight northeast for approximately 0.5 mile along the El Conejo land grant boundary line to its second intersection with the 1,700-foot contour line in section 2, T1S/R19W; then

(5) Proceed southeasterly along the meandering 1,700-foot contour line, crossing the R19W/R18W range line near the southwest corner of section 6, T1S/R18W, and continue along the 1,700-foot contour line to its intersection with Kanan Road near the southwest corner of section 6, T1S/R18W; then

(6) Proceed south along Kanan Road approximately 0.35 mile to its

intersection with the 1,800-foot contour line (very near the intersection of Kanan Road and an unnamed unimproved road), section 7, T1S/R18W; then

(7) Proceed southeasterly along the meandering 1,800-foot contour line to a point approximately 200 feet due north of the intersection of Mulholland Highway and two unnamed, unimproved roads near the center of section 7, T1S/R18W, and, from that point, proceed due south in a straight line to the intersection of Mulholland Highway and the two unnamed, unimproved roads, section 7, T1S/R18W; then

(8) Following the eastern-most unimproved road, proceed southerly along the meandering unimproved road, passing to the west of a 2,054-foot peak, and continue to the road's intersection with another unnamed, unimproved road immediately south of the section 18 north boundary line and due east of a 2,448-foot peak, section 18, T1S/R18W; then

(9) Proceed southwesterly along the unnamed, unimproved road to its intersection with the Latigo Canyon Road, just east of BM 2125, section 18, T1S/R18W; then

(10) Proceed northerly then westerly along Latigo Canyon Road to its intersection with Kanan Road very near the southeast corner of section 12, T1S/R19W; then

(11) Proceed south along Kanan Road for approximately 0.6 mile to its intersection with the 1,700-foot contour line, located immediately south of the four-way intersection of two unnamed, unimproved roads and Kanan Road, section 13, T1S/R19W; then

(12) Proceed 1.5 miles generally west and northwest along the unnamed, unimproved road that meanders westerly, crossing over several intermittent streams, and continues through Zuma Canyon to its intersection with Encinal Canyon Road at about the 1,806-foot elevation mark, section 11, T1S/R19W; then

(13) Crossing Encinal Canyon Road, proceed northwesterly along the unnamed, unimproved road, which becomes a trail, and continue northerly to the trail's intersection with the 1,900-foot contour line, near the center of section 11, T1S/R19W; then

(14) Proceed northwesterly along the meandering 1,900-foot contour line, circling to the west of the 2,189-foot peak in section 11, to the contour line's intersection with Mulholland Highway at the northern boundary of section 11, T1S/R19W; then

(15) Proceed westerly about 0.8 mile on Mulholland Highway and return to the beginning point.

Signed: May 9, 2006.

John J. Manfreda,
Administrator.

Approved: June 15, 2006.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E6-11076 Filed 7-14-06; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB-51; Re: Notice No. 15]

RIN 1513-AA41

Establishment of the Eola-Amity Hills Viticultural Area (2002R-216P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the Eola-Amity Hills viticultural area in Oregon. The viticultural area is entirely within the existing Willamette Valley viticultural area and encompasses roughly 37,900 acres within Polk and Yamhill Counties. We designate 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: *Effective Date:* August 16, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, P.O. Box 18152, Roanoke, Virginia 24014; telephone 540-344-9333.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin