

DEPARTMENT OF THE TREASURY**Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[T.D. TTB-29; Re: Notice No. ATF-967]

RIN 1513-AA45

Establishment of Alexandria Lakes Viticultural Area (2002R-152P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

ACTION: Final rule; treasury decision.

SUMMARY: This Treasury decision establishes the Alexandria Lakes viticultural area in Douglas County, Minnesota. 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 1, 2005.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser of the Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 128, Morganza, MD 20660; 301-290-1460.

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 the consumer 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 geographic 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.

Alexandria Lakes Petition and Rulemaking

Robert G. Johnson, on behalf of Carlos Creek Winery, filed a petition proposing the establishment of Alexandria Lakes as an American viticultural area. The proposed viticultural area is located in Douglas County, Minnesota, and encompasses approximately 17 square miles. Six freshwater lakes surround the area.

Below, we summarize the evidence presented in the petition.

Name Evidence

The petitioner submitted the following items as evidence that the area is locally and nationally known as Alexandria Lakes.

- The “2002 Official Visitors Guide” for the Alexandria Lakes area, which the Alexandria Lakes Area Chamber of Commerce published. This Guide refers

to the area as the “Alexandria Lakes Area.”

- Several brochures that refer to the area as the “Alexandria Lakes Area.”
- A letter from the Alexandria Lake Area Sanitary District referring to the area as the “Alexandria Lake Area.”

Boundary Evidence

The boundaries of the Alexandria Lakes viticultural area, located in Douglas County, Minnesota, do not encompass the entire land mass known by that name. According to the petitioner, current viticulture and a unique microclimate limit the boundaries to those he proposed. The petitioner also indicates that certain geographical features help define the viticultural area's borders. We discuss these features further below.

Geologic Features

The petitioner states that glacial activity, which occurred 10,000 years ago at the end of the last ice age, formed the proposed Alexandria Lakes viticultural area. The soil is unique, because the glacial activity gouged it from the surrounding areas. The steep glacial erosion produced a geographically isolated area that the region's deepest glacial lakes surround. These lakes are not only the deepest, but also, by volume, the largest in the region.

The petitioner states that the most abundant soils within in the proposed Alexandria Lakes viticultural area are of the Nebish-Beltrami association. This association is unique in that it makes up only 5 percent of the soils in Douglas County. The U.S. Department of Agriculture Soil Conservation Service (USDASCS) defines this soil as deep and well to moderately well drained. The petitioner states that vegetation in the area survives on poorer soils and has broader root systems than vegetation in surrounding regions. As evidence of this, the petitioner refers to the high concentration of hardwood trees in the proposed Alexandria Lakes viticultural area.

By contrast, the USDASCS defines the opposing lakeshores' soil, just west and north of the viticultural area, as belonging to the Waukon-Flom association, which they describe as poorly drained. The petitioner indicates that these are alluvial wash plains containing heavy lomis soils and low wetlands.

The USDASCS defines the soil associations on the opposing shores just south and east of the proposed Alexandria Lakes viticultural area as belonging to the Arvilla-Sverdrup association. These soils formed in sand

or sand and gravel outwash material and are described as excessively drained.

Geographical Features

According to the petitioner, the proposed Alexandria Lakes viticultural area's geographical features further distinguish it from surrounding regions. Six freshwater lakes almost completely surround the area. Lake Miltona, which is the largest lake in Douglas County, lies to the north. Lake Carlos, the largest lake in the Alexandria Lakes chain, according to the Alexandria Lakes Area Chamber of Commerce, lies to the east. Two small lakes, Lakes Louise and Alvin, and a medium-size lake, Lake Darling, are just south of the viticultural area boundary. Lake Ida, one of the largest lakes in the area, lies to the west.

Climate

The petitioner provided climate data for the years 1992 through 2001 from the University of Minnesota Meteorological Department's Web site. The data indicate that the Alexandria Lakes viticultural area averages less precipitation than the surrounding regions. The area's average precipitation is approximately 23.65 inches per year. By contrast, Osakis, Wadena, and Ashby Counties, which are located east, north, and west of the area, respectively, all received between 1 to 3 more inches of precipitation per year. The petitioner states that the difference results from the seasonal southern winds that blow through the area and produce moisture updrafts that result in the formation of rain clouds generally north and east of the area.

The proposed Alexandria Lakes viticultural area receives less annual snowfall than the surrounding regions, according to the petitioner. The area's average snowfall is 47.67 inches per year. By contrast, Osakis, Wadena, and Ashby all receive between 4 to 8 more inches of snowfall per year.

According to the petitioner, "the drier climate and lighter snow cover makes for lowered water tables, but watershed flowing [sic] from areas to the north and east replenish the water and maintain constant lake water levels."

In addition, the petitioner states that the Alexandria Lakes viticultural area has temperature averages that are generally warmer in the winter and cooler in the summer than those of adjacent areas.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and we list them below in the regulatory text.

Notice of Proposed Rulemaking

In response to the petition, our predecessor Agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), published Notice No. 967 regarding the proposed Alexandria Lakes viticultural area in the **Federal Register** on January 23, 2003 (68 FR 3199). ATF received comments from representatives of two Minnesota vineyards that opposed the establishment of the Alexandria Lakes viticultural area. These two commenters provided no substantive support for their opposition to the petition.

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 "Alexandria Lakes" viticultural area as described in this final rule.

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, "Alexandria Lakes," is recognized as a name of viticultural significance. Consequently, wine bottlers using "Alexandria Lakes" 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 the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been 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 to use the viticultural area name as an appellation of origin 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 viticultural area 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 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 final rule will not have a significant economic impact on a substantial number of small entities. This final rule 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 final rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

Lisa M. Gesser of the Regulations and Procedures 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 CFR, chapter I, 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.

■ 2. Amend subpart C by adding § 9.177 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.177 Alexandria Lakes.

(a) *Name.* The name of the viticultural area described in this section is "Alexandria Lakes".

(b) *Approved maps.* The appropriate maps for determining the boundary of the Alexandria Lakes viticultural area are four United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Alexandria West, Minn., 1966, revised 1994.

(2) Alexandria East, Minn., 1966, revised 1994.

(3) Lake Miltona East, Minn., 1969.

(4) Lake Miltona West, Minn., 1969.

(c) *Boundary.* The Alexandria Lakes viticultural area is located in Douglas

County, Minnesota. The boundary of the Alexandria Lakes viticultural area is as described below:

(1) The beginning point is on the Alexandria West, Minn. map between Lake Carlos and Lake Darling at benchmark (BM) 1366, which is an unmarked bridge on County Road 11, known as the Carlos-Darling Bridge. From this point the boundary line continues—

(2) Along the Carlos-Darling bridge and then northeasterly along the western shore of Lake Carlos on to the Alexandria East, Minn. map; then

(3) Along the shoreline until the point where the Lake Carlos shoreline parallels an unlabeled road known as County Road 38; then

(4) North along County Road 38 until it intersects with an unlabeled road known as County Road 62; then

(5) North along County Road 62 on to the Lake Miltona, East, Minn. map and then on to an unlabeled road known as Buckskin Road; then

(6) North on Buckskin Road to the point at BM 1411; then

(7) North from BM 1411 in a straight line to the south shoreline of Lake Miltona; then

(8) Generally west along the south shoreline of Lake Miltona onto the Lake Miltona West, Minn. map until the southern shoreline parallels an unlabeled road known as Krohnfeldt Drive; then

(9) South and then west along Krohnfeldt Drive until it intersects with an unlabeled road known as County Road 34; then

(10) South along County Road 34 until the point where County Road 34 runs parallel to Lake Ida's eastern shoreline; then

(11) South along Lake Ida's eastern shoreline, then onto the Alexandria West, Minn. map to the point where two unlabeled roads known as Burkey's Lane and Sunset Strip Road intersect; then

(12) South along Sunset Strip Road to the point where it intersects with an unlabeled road known as County Road 104; then

(13) Generally east along County Road 104 until it intersects with an unlabeled road known as County Road 34; then

(14) East along County Road 34 until it intersects with an unlabeled road known as County Road 11; then

(15) East along County Road 11 to the beginning point for the area at BM 1366, at the Carlos-Darling Bridge.

Signed: May 17, 2005.

John J. Manfreda,
Administrator.

Approved: May 31, 2005.

Timothy E. Skud,

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

[FR Doc. 05-13040 Filed 6-30-05; 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-28; Re: Notice No. 27]

RIN 1513-AA91

Establishment of the Horse Heaven Hills Viticultural Area (2002R-103P)

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

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the 570,000-acre Horse Heaven Hills viticultural area in south-central Washington State. Located along the Columbia River in portions of Klickitat, Yakima, and Benton counties, the Horse Heaven Hills area is about 115 miles east of Vancouver, Washington, and lies entirely within the established Columbia Valley viticultural area. 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 1, 2005.

FOR FURTHER INFORMATION CONTACT: Nancy Sutton, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 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 the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such 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.

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- 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.

Horse Heaven Hills Petition and Rulemaking

Background

TTB received a petition proposing the establishment of the Horse Heaven Hills