

§ 1.263A-4 [Amended]

■ Par. 3. Section 1.263A-4 is amended by:

- 1. Removing the language “(a)(4)” from the first sentence of paragraph (a)(1) and adding “(a)(5)” in its place,
- 2. Adding the language “(a)(3)” to the first sentence of paragraph (a)(4), after the language “(a)(2),”
- 3. Removing the language “(a)(4)” from paragraph (a)(5)(iii) and adding “(a)(5)” in its place, and
- 4. Removing the last sentence of paragraph (a)(5)(iii) *Example 1*.

■ Par. 4. Section 1.263A-15 is amended by adding paragraph (a)(5) to read as follows:

§ 1.263A-15 Effective dates, transitional rules, and anti-abuse rule.

(a) * * *

(5) The last sentence of each of § 1.263A-8(a)(1) and § 1.263A-9(e)(2) apply to taxable years beginning on or after January 5, 2021. However, for a taxable year beginning after December 31, 2017, and before January 5, 2021, a taxpayer may apply the last sentence of each of § 1.263A-8(a)(1) and § 1.263A-9(e)(2), provided that the taxpayer follows all the applicable rules contained in the regulations under section 263A for such taxable year and all subsequent taxable years.

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§ 1.448-2 [Amended]

- Par. 5. Section 1.448-2 is amended by removing the language “(g)(3)” from the sixth sentence of paragraph (g)(1) and adding “(g)” in its place.
- Par. 6. Section 1.460-0 is amended by revising the entry for § 1.460-3(b)(3) and adding entry (b)(3)(iii) to read as follows:

§ 1.460-0 Outline of regulations under section 460.

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§ 1.460-3 Long-term construction contracts.

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(b) * * *

(3) Gross receipts test.

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(iii) Method of accounting.

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§ 1.460-3 [Amended]

- Par. 7. Section 1.460-3 is amended by removing the language “Example” from the heading of paragraph (b)(3)(ii)(D) and adding “Examples” in its place.
- Par. 8. Section 1.460-6 is amended by revising the second sentence of paragraph (c)(3)(vi) to read as follows:

§ 1.460-6 Look-back method.

* * * * *

(c) * * *

(3) * * *

(vi) * * * Thus, the taxes, if any, imposed under sections 55 and 59A (relating to alternative and base erosion minimum tax, respectively) must be taken into account.* * *

* * * * *

Crystal Pemberton,
Senior Federal Register Liaison, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).
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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2020-0004; T.D. TTB-167; Ref: Notice No. 189]

RIN 1513-AC57

Establishment of the White Bluffs 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 93,738-acre “White Bluffs” viticultural area in Franklin County, Washington. The White Bluffs viticultural area is located entirely within the existing Columbia Valley viticultural area. 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 July 19, 2021.

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). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120-01, dated December 10, 2013 (superseding Treasury Order 120-01, dated January 24, 2003).

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 a name and a delineated boundary, as established 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 provides that any interested party may 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 for the establishment or modification of 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.

White Bluffs Petition

TTB received a petition from Kevin Pogue, on behalf of local winemakers and vineyard owners, proposing to establish the “White Bluffs” AVA. The proposed AVA is located in Franklin County, Washington, and lies entirely within the established Columbia Valley AVA (27 CFR 9.74). Within the 93,738-acre proposed AVA, there are 9 commercial vineyards covering a total of approximately 1,127 acres, along with 1 winery. The distinguishing features of the proposed White Bluffs AVA are its topography, geology, soils, and climate.

The proposed White Bluffs AVA is located on a broad plateau that rises, on average, 200 feet above the surrounding landscape. The Ringold and Koontz Coulees divide the plateau into two distinct areas capped by flat regions with relatively even surfaces and south-facing slope aspects. Elevations within the proposed AVA range from 700 feet in the coulees to approximately 1,200 feet in the northeastern section of the proposed AVA. The majority of the proposed AVA has elevations between 800 and 1,000 feet. By contrast, the regions surrounding the proposed AVA are on the floor of the Columbia Valley and have lower elevations. According to the petition, the relatively flat terrain of the proposed AVA provides gently sloping vineyard sites. Southern aspects allow vines to absorb more solar energy per unit area than regions without a southern aspect. Greater solar energy absorption promotes an earlier onset of bud break, flowering, veraison, and

harvest. The petition also states that vineyards planted on the plateau have a longer growing season than vineyards on the valley floor, where cold air pools and increases the risk of frost.

Beneath the proposed White Bluffs AVA is a thick layer of sedimentary rocks called the Ringold Formation, which was formed in lakes and rivers between 8.5 and 3.4 million years ago. The Ringold Formation overlies Columbia River basalt bedrock. The upper part of the Ringold Formation contains an erosion-resistant layer commonly referred to as caliche. This layer reaches depths of at least 15 feet and limits root penetration and the water-holding capabilities of the soil. As a result, areas with thick layers of caliche must undergo ripping with bulldozers to break up the caliche before planting vineyards. By contrast, the Ringold Formation and the caliche layer are much thinner or entirely absent in the regions surrounding the proposed AVA, allowing roots to come into contact with the basalt bedrock and a variety of minerals including olivine and plagioclase feldspar.

The soils of the proposed AVA derive from wind-deposited silt and fine sand overlying sediment deposited by ice-age floods. Most of the flood sediment is a mixture of silt and sand that settled out of suspension in glacial Lake Lewis. The thickness of the flood sediment gradually increases with decreasing elevation, since there were multiple ice-age floods of varying intensity and the lower elevations were flooded more frequently. As a result, the soil depths on the plateau that comprises the proposed AVA are likely to be thinner than those of the surrounding valley floor. The thinness of the soils in the proposed AVA allows roots to reach the clay-rich Ringold Formation. High clay content allows the soils to release water more slowly than sandier soils, putting less stress on grapevines during dry conditions.

The petition states that the proposed White Bluffs AVA has a longer growing season than the surrounding regions. According to the petition, the longer growing season means that the proposed AVA is less prone to spring frosts that can damage the vines after bud break, and is also less likely to experience fall frosts that halt the ripening process and delay harvest. The growing season within the proposed AVA averages 237.5 days, while the region to the north averages 200 days. The region to the east averages 169 days, and the region to the south averages 191 days. Climate data was not available for the region to the west of the proposed AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 189 in the *Federal Register* on May 27, 2020 (85 FR 31723), proposing to establish the White Bluffs 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 compared 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. 189.

In Notice No. 189, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. In addition, given the proposed White Bluff AVA’s location within the Columbia Valley AVA, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the established AVA. TTB also requested comments on whether the geographic features of the proposed AVA are so distinguishable from the established Columbia Valley AVA that the proposed AVA should no longer be part of the established AVA. The comment period closed on July 27, 2020.

In response to Notice No. 189, TTB received a total of two comments. Both comments were from local wine industry members who supported the proposed AVA. The first comment reiterated the petition’s claims of unique soil, geology, topography, and climate, which the commenter states makes the proposed AVA a “special area in Washington.” The second comment supported the proposed AVA due to its “distinctive micro-climate, soil, and ultimately unique grape growing character.” Neither comment addressed the question of whether the proposed White Bluffs AVA was so distinct that it should be removed from the established Columbia Valley AVA.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 189, TTB finds that the evidence provided by the petitioner supports the establishment of the White Bluffs 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 “White Bluffs” AVA in Franklin County, Washington, effective 30 days from the publication date of this document.

TTB has also determined that the White Bluffs AVA will remain part of the established Columbia Valley AVA. As discussed in Notice No. 189, the White Bluffs AVA shares some broad characteristics with the established AVA. For example, the proposed AVA and the Columbia Valley AVA both have elevations that are generally below 2,000 feet and geologies that contain Columbia River basalt. However, the proposed AVA consists of an elevated plateau, whereas most of the Columbia Valley AVA is described as a broad plain. Within the proposed AVA, the Ringold Formation forms a layer over the basalt bedrock that is generally thinner or not present elsewhere in the Columbia Valley. Finally, because ice-age floods less frequently inundated the proposed AVA than the surrounding regions of the Columbia Valley AVA, the proposed White Bluffs AVA’s soils are generally shallower than the soils in most of the Columbia Valley AVA.

Boundary Description

See the narrative description of the boundary of the White Bluffs AVA in the regulatory text published at the end of this final rule.

Maps

The petitioners provided the required maps, and they are listed below in the regulatory text. You may also view the proposed White Bluffs Valley AVA boundary 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 White Bluffs AVA, its name, “White Bluffs,” 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 “White Bluffs” 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 White Bluffs AVA will not affect the existing Columbia Valley AVA, and any bottlers using “Columbia Valley” as an appellation of origin or in a brand name for wines made from grapes grown within the Columbia Valley will not be affected by the establishment of this new AVA. The establishment of the White Bluffs AVA will allow vintners to use “White Bluffs” and “Columbia Valley” as appellations of origin for wines made primarily from grapes grown within the White Bluffs AVA if the wines meet the eligibility requirements for these 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. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton 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. Subpart C is amended by adding § 9.275 to read as follows:

§ 9.275 White Bluffs.

(a) *Name.* The name of the viticultural area described in this section is “White Bluffs”. For purposes of part 4 of this chapter, “White Bluffs” 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 White Bluffs viticultural area are titled:

- (1) Hanford, NE, Washington, 1986;
- (2) Mesa West, Washington, 1986;
- (3) Wooded Island, Washington, 1992;
- (4) Matthews Corner, Washington, 1992;
- (5) Basin City, Washington, 1986;
- (6) Eltopia, Washington, 1992;
- (7) Eagle Lakes, Washington, 1986;
- (8) Savage Island, Washington, 1986;
- (9) Richland, Washington, 1992; and
- (10) Columbia Point, Washington, 1992.

(c) *Boundary.* The White Bluffs viticultural area is located in Franklin County in Washington. The boundary of the White Bluffs viticultural area is as described below:

(1) The beginning point is on the Richland map at the intersection of Columbia River Road and an unnamed secondary highway known locally as Sagemoor Road. From the beginning point, proceed north along Columbia River Road, crossing onto the Wooded Island map, to the Potholes Canal; then

(2) Proceed west along the Potholes Canal for 150 feet to its intersection with the shoreline of the Columbia River; then

(3) Proceed north along the Columbia River shoreline, crossing onto the Savage Island map, to the intersection of the shoreline with the Wahluke Slope Habitat Management boundary on Ringold Flat; then

(4) Proceed east, then generally northwesterly, along the Wahluke Slope Habitat Management boundary to its intersection with the 950-foot elevation contour along the western boundary of section 16, T13N/R29E; then

(5) Proceed easterly, then generally northeasterly, along the 950-foot elevation contour, passing over the Hanford NE map and onto the Eagle

Lakes map, to the intersection of the elevation contour with an unimproved road in the southeast corner of section 32, T14N/T29E; then

(6) Proceed east along the unimproved road for 100 feet to its intersection with an unnamed light-duty improved road known locally as Albany Road; then

(7) Proceed south along Albany Road, crossing onto the Basin City map, to the road's intersection with an unnamed improved light-duty road known locally as Basin Hill Road along the southern boundary of section 21, T13N/R29E; then

(8) Proceed south in a straight line for 2 miles to an improved light-duty road known locally as W. Klamath Road; then

(9) Proceed east along W. Klamath Road, crossing onto the Mesa West map, to the road's intersection with another improved light-duty road known locally as Drummond Road; then

(10) Proceed north along Drummond Road for 0.75 mile to its intersection with a railroad; then

(11) Proceed easterly along the railroad to its intersection with an improved light-duty road known locally as Langford Road in the northeastern corner of section 4, T12N/R30E; then

(12) Proceed south along Langford Road for 0.5 mile to its intersection with the 800-foot elevation contour; then

(13) Proceed southwesterly along the 800-foot elevation contour, crossing onto the Eltopia map, to the contour's intersection with Eltopia West Road; then

(14) Proceed east along Eltopia West Road to its intersection with the 700-foot elevation contour; then

(15) Proceed southerly, then northerly along the 700-foot elevation contour, circling Jackass Mountain, to the contour's intersection with Dogwood Road; then

(16) Proceed west along Dogwood Road for 1.1 mile, crossing onto the Matthews Corner map, to the road's intersection with the 750-foot elevation contour; then

(17) Proceed southwesterly along the 750-foot elevation contour to its intersection with Taylor Flats Road; then

(18) Proceed south along Taylor Flats Road, crossing onto the Columbia Point map, to the road's intersection with Birch Road; then

(19) Proceed west along Birch Road for 1 mile to its intersection with Alder Road; then

(20) Proceed south along Alder Road for 0.7 mile to its intersection with the 550-foot elevation contour; then

(21) Proceed westerly along the 550-foot elevation contour to its intersection with Sagemoor Road; then

(22) Proceed westerly along Sagemoor Road for 0.7 mile, crossing onto the Richland map and returning to the beginning point.

Signed: January 4, 2021.

Mary G. Ryan,
Administrator.

Approved: January 1, 2021.

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

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2020-0003; T.D. TTB-166; Ref: Notice No. 188]

RIN 1513-AC70

Establishment of the Palos Verdes Peninsula 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 15,900-acre "Palos Verdes Peninsula" viticultural area in the southwestern coastal region of Los Angeles County, California. The Palos Verdes Peninsula viticultural area is not located within, nor does it contain, any established viticultural area. 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 July 19, 2021.

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

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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). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120-01, dated December 10, 2013 (superseding Treasury Order 120-01, dated January 24, 2003).

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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 a name and a delineated boundary, as established 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 provides that any interested party may 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 for the establishment or modification of 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;