

e. Redesignating existing paragraphs (f)(2) through (f)(7) as paragraphs (f)(3) through (f)(8),

f. And adding a new paragraph (f)(2) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7)—7348.

* * *

(29) 1-(3-trifluoromethylphenyl)piperazine (other name: TFMPP)—7494.

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(f) * * *

(2) N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine)—7493.

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Dated: September 2, 2003.

Karen P. Tandy,
Administrator.

[FR Doc. 03-22684 Filed 9-5-03; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 15]

RIN 1513-AA41

Proposed Eola Hills Viticultural Area (2002R-216P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish Eola Hills as a viticultural area in Oregon. The proposed 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 bottlers to better describe the origin of wines and allow consumers to better identify the wines they may purchase. We invite comments on this proposed addition to our regulations, particularly from bottlers who use brand names similar to that of the proposed area.

DATES: We must receive written comments on or before November 7, 2003.

ADDRESSES: You may send comments to any of the following addresses—

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and

Trade Bureau, P.O. Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 15);

- 202-927-8525 (facsimile);
- nprm@ttb.gov (e-mail); or
- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.

You may view copies of the petition, this notice, the appropriate maps, and any comments we receive about this notice by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226; phone 202-927-7890. You may also access copies of the notice and comments on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT:

Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Procedures Division, P.O. Box 18152, Roanoke, Virginia 24014; telephone 540-344-9333.

SUPPLEMENTARY INFORMATION:

TTB Background

Has Passage of the Homeland Security Act Affected Department of Treasury Rulemaking?

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms into two agencies, the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. Regulation of wine labeling, including viticultural area designations, is the responsibility of the new TTB. References to ATF in this document relate to events that occurred prior to January 24, 2003, or to functions that the Bureau of Alcohol, Tobacco, Firearms and Explosives continues to perform.

Background on Viticultural Areas

What Is TTB's Authority To Establish a Viticultural Area?

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity, while prohibiting 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, and the Secretary has delegated this

authority to the Alcohol and Tobacco Tax and Trade Bureau.

Regulations in 27 CFR Part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR part 9, American Viticultural Areas, contains the list of approved viticultural areas.

What Is the Definition of a Viticultural Area?

Title 27 CFR 4.25a(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundaries have been delineated in subpart C of part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of wine made from grapes grown in an area to its geographic origin.

What Is Required To Establish a Viticultural Area?

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Anyone interested may petition TTB to establish a grape-growing region as a viticultural area. The petition must 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 the boundaries of the proposed viticultural area are as specified in the petition;
- Evidence of growing conditions, such as climate, soils, elevation, physical features, etc., that distinguish the proposed area from surrounding areas;
- A description of the specific boundaries of the proposed viticultural area, based on features shown on United States Geological Survey-approved (USGS) maps; and
- Copies of the appropriate USGS-approved map(s) with the boundaries prominently marked.

What Impact May This Notice Have on Current Wine Labels?

As appellations of origin, viticultural area names have geographic significance. Our 27 CFR part 4 label regulations prohibit the use of a brand name with geographic significance on a wine unless the wine meets the appellation of origin requirements for the named area. Our regulations also prohibit any other label references that suggest an origin other than the true place of origin of the wine.

If we establish this proposed viticultural area, bottlers who use brand names, including trademarks, like Eola Hills must ensure that their existing products are eligible to use the viticultural area's name as an appellation of origin. For a wine to be eligible, at least 85 percent of the grapes in the wine must have been grown within the viticultural area, and the wine must meet the other requirements of 27 CFR 4.25a(e)(3).

If a wine is not eligible for the appellation, the bottler must change the brand name or other label reference and obtain approval of a new label. Different rules apply if a wine in this category has a brand name used on a label approved prior to July 7, 1986. See 27 CFR 4.39(i) for details.

Eola Hills Petition

Mr. Russell Raney of Evesham Wood Vineyard, Salem, Oregon, petitioned ATF for the establishment of a viticultural area to be called "Eola Hills." The proposed viticultural area is within the State of Oregon and entirely within the existing Willamette Valley viticultural area described in 27 CFR 9.90. The petitioner estimates that the proposed area encompasses 37,900 acres, with about 1,244 acres planted to vines. Currently 12 wineries operate within the proposed area.

What Name Evidence Has Been Provided?

As historical evidence of the use of the name "Eola Hills," the petitioner submitted an excerpt from "Oregon Geographic Names" (published by the Oregon Historical Society, 5th Edition, 1982, pp. 294–295). This source states that the Eola Hills were named for the village of Eola, which is situated at the southern end of the ridge. On January 17, 1856, the Oregon territorial legislature incorporated the village as "Eola," a name derived from Aeolus, the Greek god of winds. The book further states that the Eola Hills "constitute one of the important groups of isolated hills in the Willamette Valley." It goes on to explain that the hills have been known by other names, but the name "Eola Hills seems firmly established."

For additional name evidence, the petitioner also submitted several maps that identify the proposed area as "Eola Hills." Four of the United States Geological Survey maps used to show the proposed boundaries (Rickreall, Salem West, Mission Bottom, and Amity) identify the area as Eola Hills. The petitioner also submitted two geologic maps of the area that are issued by the State of Oregon's Department of

Geology and Mineral Industries. Both prominently label the area "Eola Hills."

According to the petitioner, Eola Hills has name recognition and a reputation for quality among wine consumers both in and out of Oregon. For this reason, vineyards and wineries within the proposed area utilize the name frequently in their promotional literature. The petitioner submitted two promotional maps demonstrating this. One map, entitled "The Wine Appellations of Oregon," issued by the Oregon Wine Marketing Coalition, portrays the Eola Hills area as a subregion within the Willamette Valley. The other map, entitled "Eola Hills Winegrowing Region, Willamette Valley Oregon," shows the location of all vineyards and wineries in the proposed area.

The petitioner notes that a small portion of the proposed area is sometimes referred to as "Amity Hills." "Oregon Geographic Names" describes Amity Hills as a northern extension of the Eola Hills that is separated from the main ridge by a pass east of the town of Amity. USGS maps for McMinnville and Amity, Oregon, identify this area as Amity Hills. However, the geologic maps issued by Oregon's Department of Geology and Mineral Industries identify it as part of the Eola Hills. The petitioner argues that, for the purpose of wine designation, consumers in Oregon have come to recognize the entire area as a single unit known as "Eola Hills." He also states that vintners in the Amity Hills portion of the proposed area support the designation of Eola Hills for the entire area.

What Boundary Evidence Has Been Provided?

As evidence of the boundaries, the petitioner submitted with the petition six USGS topographic maps on which the Eola Hills are dominant features. The main ridge of the Eola Hills runs north to south, starting approximately 5¾ miles northeast of the town of Amity and extending south for 16 miles to Oregon highway 22, just north of the Willamette River at West Salem. At their widest point, toward the southern end, the Eola Hills are about 6½ miles across, from Wallace Road in the east to U.S. highway 99 in the west.

The petitioner uses the 200-foot contour line as the predominant boundary marker. He notes that he occasionally diverges to use roads or highways where they form a more convenient boundary and to exclude land not deemed suitable for grape cultivation due to soil type, elevation, or urban development.

What Evidence of Distinctive Growing Conditions Has Been Provided?

Soil and Geology

The petitioner states that the soils and geology of the Eola Hills are distinctive from those of the surrounding areas in two regards:

- The prevailing basalt-derived soils are clearly shallower than the soils of other hills of the North Willamette Valley, and
- The well-drained basalt soils are very different from the alluvial soils of the surrounding valley floor.

As evidence of this, Mr. Raney submitted two geologic maps issued by the State of Oregon's Department of Geology and Mineral Industries. One is entitled "Geologic Map of the Rickreall and Salem Quadrangles, Oregon"; the other is entitled "Preliminary Geologic Map of the Amity and Mission Bottom Quadrangles, Oregon." According to these documents, volcanic basalt rock from the lava flows of the Miocene era underlies the Eola Hills, with areas of marine sedimentary rock from the Oligocene era at the lower elevations of the ridge. The soils in the middle and higher elevations of the Eola Hills are largely well-drained, silty-clay loams weathered from basalt, while on the lower slopes, silt loams weathered from sedimentary rock predominate, particularly on the west-facing slopes.

According to soil survey maps published by the Soil Conservation Service of the U.S. Department of Agriculture, the dominant basalt-derived soils in the Eola Hills are Nekia (recently reclassified as "Gelderman" series), Ritner, and Jory series soils. The preponderance of the shallower Nekia-Gelderman soils in the Eola Hills differentiates them from the Red Hills farther north, where the Jory soil series predominates. The Nekia-Gelderman soils have a much lower water capacity than the Jory soil series. The most frequently occurring sedimentary soils in the Eola Hills are the Steiwer, Chehulpum, and Helmick series, especially on the west side of the ridge. The third major soil group in the Eola Hills is comprised of those soils formed from alluvial deposits, the most common of which is the Woodburn silt loam series. Such alluvial soils generally occur only on the lowest elevations of the proposed viticultural area (below 300 feet). Like the above-mentioned soils, this third group, too, can provide suitable conditions for wine grapes if sufficient slope exists for good water drainage.

Finally, the Eola Hills are surrounded on almost all sides by, and are easily distinguished from, Willamette Valley

terrace land. With few exceptions, this terrace land lies below the 200-foot elevation line and is characterized by less well-drained alluvial soils. According to the petitioner, this type of soil is generally not suitable for the cultivation of premium wine grapes. Therefore, land below 200 feet is not included in the proposed Eola Hills boundaries.

Topography

The main ridge of the Eola Hills runs north-south and has numerous lateral ridges that run east-west on both sides. Slopes on the west side of the ridge tend to be somewhat steeper and pocketed, and they fall away below 200 feet more abruptly than those slopes on the east side, which tend to be gentler and more extensive. Both sides, however, provide vineyards sites with very similar soils and growing conditions. The highest point in the south end of the hills is 1,093 feet. In the central area, near the Polk-Yamhill County line, the ridge peaks at around 1,160 feet; in the north, it peaks at 863 feet. The majority of Eola Hills vineyard sites are found in the elevation range of 250–700 feet, although suitable sites exist above this elevation, given proper sun exposure and microclimate. The most common orientation of vineyards here is south, southwestern, and southeastern. However, in gently sloping terrain, due east- and due west-facing sites are also capable of producing high quality wine grapes.

Climate

According to the petitioner, the Eola Hills are blessed with a temperate climate. Summers are warm, but seldom excessively hot, while winters are mild, with temperatures usually above freezing. Annual rainfall ranges from under 40 inches on the southeastern edge of the Eola Hills to more than 45 inches in the higher elevations. More important, only about 15 percent of the total annual rainfall in the mid-Willamette Valley occurs from April through September. Thus, rainfall averages during the growing season are uniform throughout the Eola Hills.

The petitioner states that the Eola Hills are influenced more by their position due east of the Van Duzer Corridor than by their location in the rain-shadow of the Coast Range. Ocean winds vented through this Corridor often cause late-afternoon, summer temperatures to drop dramatically, which further distinguishes the area from the hills further north. During the growing season, average maximum temperatures at the middle elevations range from 62° F in April to 83° F in

July. This contributes to the ideal conditions for the “cool-climate” grape varieties which dominate in Eola Hills vineyards, such as Pinot Noir, Pinot Gris, and Chardonnay.

The petitioner notes that Eola Hills slopes experience greater heat accumulation during the growing season than does the surrounding Willamette Valley floor, due to the effects of thermal inversion. Cool air drains toward the valley floor during the night, which layers warmer air on the lower slopes. To demonstrate the differences between sites in the Eola Hills and the valley floor, the petitioner submitted monthly heat accumulation data that compares a valley floor site, the site of the Salem, Oregon, airport, and an Eola Hills vineyard site, Seven Springs Vineyard, for the years 1992–95. This data showed that the Seven Springs Vineyard site had consistently higher seasonal heat accumulation for the years in question. According to data gathered from the Salem WSO Airport, a typical vineyard site in the Eola Hills has a growing season (April 1 to October 31) heat accumulation range of 2,300–2,500 degree-days, with a base of 60° F. Based on standards for determining climatic regions using temperature summation, this places it high in the Region 1 category (2,500 degree-days or less).

What Boundary Descriptions Have Been Provided?

The proposed Eola Hills viticultural area is located in the northern half of the existing Willamette Valley viticultural area in Oregon. Two-thirds of the area lies within Polk County, while the northern one-third extends into Yamhill County. A detailed description of the proposed boundaries can be found in the proposed regulations below in this notice.

What Maps Were Provided?

The petitioner provided the required maps, and we list them in the proposed regulation.

Public Participation

We request comments from anyone interested. Please support your comments with specific information about the proposed area's name, growing conditions, or boundaries.

Because of the potential impact of an Eola Hills viticultural area on current brand names that include “Eola,” we are particularly interested in comments regarding the proposed area's name. Are there other names for this area that would not conflict with current brand names? We are also interested in suggestions for preventing conflicts between viticultural area names and

brand names of geographic significance, as discussed above under “What impact may this notice have on current wine labels?”

All comments must include your name and mailing address, reference this notice number, and be legible and written in language acceptable for public disclosure.

Although we do not acknowledge receipt, we will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if we can. We regard all comments as originals.

Will TTB Keep My Comments Confidential?

We do not recognize any submitted material as confidential. All comments are part of the public record and subject to disclosure. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

How May I Submit Comments?

You may submit comments in any of four ways.

- *By mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.

- *By facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

- (1) Be on 8.5- by 11-inch paper;
- (2) Contain a legible, written signature; and
- (3) Be five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *By e-mail:* You may e-mail comments to nprm@ttb.gov. Comments transmitted by electronic mail must—

- (1) Contain your e-mail address;
- (2) Reference this notice number on the subject line; and
- (3) Be legible when printed on 8.5- by 11-inch paper

- *By online form:* We provide a comment form with the online copy of this notice on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the “Send comments via email” link under this notice number.

You may also write to the Administrator to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

What Information Will TTB Disclose?

You may view copies of this notice, the petition, the appropriate maps, and any comments received by appointment at the ATF Reference Library in room

6480 at 650 Massachusetts Avenue, NW., Washington, DC 20226. You may also obtain copies at 20 cents per 8.5-x 11-inch page. Contact the ATF Librarian at the above address or telephone 202-927-7890 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and the comments received on the TTB Web site. All posted comments will show the names of commenters, but not street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the ATF Reference Library. To access the online copy of this notice, visit at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "View Comments" link under this notice number to view the posted comments.

Regulatory Analyses and Notices

Does the Paperwork Reduction Act Apply to This Proposed Rule?

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and its implementing regulations, 5 CFR part 1320, do not apply.

Does The Regulatory Flexibility Act Apply to This Proposed Rule?

We certify that this regulation, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses. The proposal imposes no new reporting, recordkeeping, or other administrative requirements.

The establishment of viticultural areas represents neither our endorsement nor approval of the quality of wine made from grapes grown in the designated areas. Rather, the system allows us to identify areas distinct from one another. In turn, identifying viticultural areas lets wineries describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Thus, any benefit derived from using a viticultural area name results from a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Does Executive Order 12866 Define This NPRM as a Significant Regulatory Action?

This proposed rule is not a "significant regulatory action" as defined by Executive Order 12866. Therefore, no regulatory assessment is required.

Drafting Information

Jennifer Berry of the Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Authority and Issuance

For the reasons discussed in the preamble, we propose to amend Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas 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. Subpart C is amended by adding § 9.____ to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.____ Eola Hills.

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

(b) *Approved Maps.* The six USGS, 1:24,000 scale, topographic maps used to determine the boundaries of the Eola Hills viticultural area are titled—

(1) Rickreall, Oregon, 1969, photorevised 1976;

(2) Salem West, Oregon, 1969, photorevised 1986;

(3) Mission Bottom, Oregon, 1957, revised 1993;

(4) Dayton, Oregon, 1957, revised 1992;

(5) McMinnville, Oregon, 1957, revised 1992; and

(6) Amity, Oregon, 1957, revised 1993.

(c) *Boundary.* The Eola Hills viticultural area is located in the State of Oregon, within Polk and Yamhill Counties, and entirely within the Willamette Valley viticultural area. The area's boundary is defined as follows—

(1) Begin on the Rickreall, Oregon, map, at the intersection of State Highways 22 and 223; then

(2) Proceed east on highway 22 to its intersection with Doaks Ferry Road on the Salem West, Oregon, map; then

(3) Proceed northeast on Doaks Ferry Road to its intersection with the 200-foot contour line southeast of Gibson Gulch, in section 65; then

(4) Follow the 200-foot contour line in a westerly loop until it rejoins Doaks Ferry Road; then

(5) Continue north on Doaks Ferry Road to its intersection with highway 221; then

(6) Continue north on State Highway 221 to its intersection with the 200-foot contour line at the point where the contour line departs from highway 221 and runs southwest along the southern edge of Spring Valley (section 53 on the Mission Bottom, Oregon, map); then

(7) Follow the 200-foot contour line first south onto the Salem West, Oregon, map, then northwest around the southern and western edge of Spring Valley and back on to the Mission Bottom, Oregon, map; then

(8) Continue to follow the 200-foot contour line generally north on the Mission Bottom, Oregon, map, crossing onto and back from the Amity, Oregon, map and continue past the Yamhill County line and onto the Dayton, Oregon, map; then

(9) Follow the 200-foot contour line from the Dayton, Oregon, map onto the McMinnville, Oregon, map and back to the Dayton, Oregon, map and continue around the northeast edge of the Amity Hills spur of the Eola Hills; then

(10) Follow the 200-foot contour line onto the McMinnville, Oregon, map as it continues around the northern and western periphery of the Amity Hills spur; then

(11) Follow the 200-foot contour line onto the Amity, Oregon, map as it heads first south, then generally southeast, then generally south, along the western edge of the Eola Hills until it intersects Old Bethel Road at a point just north of the Polk County line; then

(12) Follow Old Bethel Road, which becomes Oak Grove Road, south until it intersects with the 200-foot contour line just northwest of the township of Bethel; then

(13) Follow the 200-foot contour line around in a southeasterly loop until it again intersects Oak Grove Road where Oak Grove and Zena Roads intersect; then

(14) Follow Oak Grove Road south until it intersects with Frizzell Road; then

(15) Follow Frizzell Road west for three-tenths mile until it intersects with the 200-foot contour line; then

(16) Follow the 200-foot contour line generally south until it intersects with the starting point on the Rickreall, Oregon, map.

Signed: August 6, 2003.

Arthur J. Libertucci,

Administrator.

[FR Doc. 03-22762 Filed 9-5-03; 8:45 am]

BILLING CODE 4810-31-P