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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-397; RE: Notice No. 854]

RIN 1512-AA07

Establishment of the Yorkville Highlands Viticultural Area and
Realignment of the Southern Boundary of the Mendocino Viticultural Area
(95F-020P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of
the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in Mendocino County, California, to be known as ``Yorkville Highlands," and extends the southern boundary of the Mendocino Viticultural Area to coincide with the boundary of Yorkville Highlands. These actions are the result of a petition filed by Mr. William J.A. Weir for the Yorkville Highlands Appellation Committee and a related petition filed by Ms. Bernadette A. Byrne, Executive Director of the Mendocino Winegrowers Alliance.

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allow wineries to designate the specific areas where the grapes used to make the wine were grown and enable consumers to better identify the wines they purchase.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American viticultural areas. The

regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

- (a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

- (b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

- (c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

- (d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

- (e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petitions

ATF received a petition from Mr. William J.A. Weir of Weir Vineyards for the Yorkville Highlands Appellation Committee ("Yorkville Highlands petition"). The petition was signed by Mr. Larry W. Martz of Martz Vineyards, Inc., Mr. Frank Souzao of Souzao Cellars, Mr. Michael J. Page, of Mountain House Vineyard, Mr. Robert A. Vidmar of Vidmar Vineyard, and Mr. Edward D. Wallo, of Yorkville Vineyards. The petitioners represent both wineries and growers within the area. The area includes historic vineyards dating from 1914 as well as newly established vineyards. ATF also received a related petition from Ms. Bernadette A. Byrne, Executive Director of the Mendocino Winegrowers Alliance ("Mendocino petition"), requesting that the southern boundary of the previously approved Mendocino Viticultural Area be extended to coincide with the requested southern boundary in the Yorkville Highlands petition. The Mendocino Viticultural Area was established pursuant to T.D. ATF-178 on June 15, 1984 (49 FR 24711). The Mendocino petition incorporated the Yorkville Highlands petition by reference and stated that the proposed Yorkville Highlands southern boundary was appropriate for the Mendocino viticultural area as well.

These two proposals result in the Yorkville Highlands area being entirely within the Mendocino area. Both areas are entirely within Mendocino County, California. The Yorkville Highlands area consists of approximately 40,000 acres, of which approximately 70 are devoted to viticulture. There are seven growers and two wine producers within the area now, with two new growers planning vineyards and some existing growers planning to plant more vineyards. The expansion of the Mendocino viticultural area adds approximately 10,000 acres to that area.

Notice of Proposed Rulemaking

In response to Mr. Weir's and Ms. Byrne's petition, ATF published a notice of proposed rulemaking, Notice No. 854, in the Federal Register on July 25, 1997 (62 FR 39984), proposing the establishment of the Yorkville Highlands viticultural area and the extension of the southern boundary of the Mendocino viticultural area. The notice requested comments from all interested persons by September 23, 1997. ATF received no comments concerning these proposals.

Evidence of Name

The Yorkville Highlands petitioners supplied the following evidence that the name of the proposed new area is locally and/or nationally known as referring to the area specified in the petition:

(a) A brochure published by the Mendocino Winegrowers Alliance entitled "Mendocino. Real Farmers, Real Wine. On California's Redwood Coast" which lists "Yorkville Highlands" among the County's wine growing areas. In the brochure, the area is described as extending northwest from the Mendocino--Sonoma County border along Route 128, a description which fits the area proposed for designation.

(b) A map of "Mendocino Wine Country" published in "Steppin' Out, California's Wine Country Magazine," volume XIII, issue 27, which includes the "Yorkville Highlands" area. Again, the area outlined on the map coincides with the boundaries requested by the petitioner.

Evidence of Boundaries

The Yorkville Highlands area is defined primarily by reference to the Sonoma--Mendocino county line and by straight lines drawn between benchmarks, mountain peaks, and other features found on the U.S.G.S. maps.

The area is within the North Coast viticultural area. It is also entirely within the Mendocino viticultural area which is expanded by this final rule. The Yorkville Highlands area is bounded on the northwest by the Anderson Valley viticultural area, and surrounded by other viticultural areas less than five miles away. McDowell Valley lies to the northeast, Alexander Valley and Northern Sonoma lie to the southeast and south, and the newly established Mendocino Ridge viticultural area lies to the southwest.

Geographical Features

The Yorkville Highlands area, including the area added herein to the previously approved Mendocino viticultural area, shares characteristics of topography, soil composition and climate which distinguish the viticultural area from the surrounding areas. For an overview of the geographical features which set the area apart, Mr. Mark Welch, President of the Mendocino County Farm Bureau, Mr. Glenn McGourty, Viticultural Farm Advisor & County Director, University of California Cooperative Extension, and Mr. Steve Williams, of A.V.V.S. wrote letters describing the area.

Mr. Welch stated that he believes the viticultural area reflects a unique and outstanding grape growing locale. He went on to say:

The soils of the area are different from adjacent, recognized districts like the Anderson Valley, and the distinct micro climate offers warmer days, cool afternoon breezes and a substantial growing season for a low to mid region II.

Similarly, Mr. McGourty stated that the soils and climate of the viticultural area are ``significantly different from surrounding grape growing areas, being high elevation and in an area where the coastal Douglas Fir forests meet the oak woodland forests more typical of interior Mendocino County."

Mr. Williams stated he has been building and managing vineyards in the area for more than ten years. He notes that the Yorkville Highlands viticultural area is different viticulturally from both the Anderson Valley viticultural area and the Hopland area of the Mendocino viticultural area. He gave the following details:

The climate of the * * * area has days warmer than Anderson Valley but cooler than Hopland. The nights are cooler than both Anderson Valley and Hopland. This means many grape varieties can be grown in this area but will have a long ripening period which will greatly enhance fruit flavors and quality.

In regards to soil the area also differs from [Anderson Valley] or Hopland. The * * * soils are thinner then [sic] Hopland but more fertile and varied than [Anderson Valley].

The following evidence was considered in establishing this area:

Topography

The Yorkville Highlands viticultural area lies generally along the headwaters of Dry Creek and Rancheria Creek. The vineyards in the Yorkville Highlands viticultural area are almost entirely above 800 feet in elevation. The area is ``a continuous string of high benches and land troughs bordered by even higher ridges with Highway 128 running down the middle." The U.S.G.S. topographic maps show the area is a valley, with Highway 128 and the Rancheria and Dry Creeks running along the northwest-southeast axis. This center line of the area is the lowest part, at approximately 800 feet, and the highest, in the area near the northern boundary, is over 3,000 feet.

Soil

The soils in the Yorkville Highlands viticultural area are rocky hill soils characterized by gravel and old brittle rock. These generally thin soils found on the high benches and land troughs of the proposed area stand in stark contrast to the generally very loamy clay soils found in the valleys and bottom lands dominating the neighboring approved viticultural areas. Soil types mapped by the U.S. Soil Conservation Service include: Bearwallow, Hellman, Cole Loam, Henneke, Montara, Hopland Loam, Squawrock, Witherell, Yorkville and Boontling. Only one or two of these soil types are found in common with a neighboring viticultural area.

Climate

The climate in the Yorkville Highlands viticultural area is

influenced by marine air well over 50 percent of the time. The petitioner described the climate as follows: ``Almost every morning during the growing season, the moist marine fog is found on the high bench lands and land troughs which comprise the proposed viticulture area and connect the cooler Anderson Valley with the much warmer Alexander Valley. The trees on these bench lands are draped with the moss from this ocean air invasion and cooler climatic condition."

Unofficial heat summation data collected at the Weir Vineyards within the area reflects a four year average of 3,060, compared to approximately 2,500 in Boonville and Philo to the northwest of the viticultural area and 3,650 reported by the University of California Agricultural Extension Service in Cloverdale, to the southeast.

Average annual rainfall within the Yorkville Highlands area from 1961 through 1990, as measured by the Department of Water Resources, Eureka Flood Center at the Yorkville Station, was 50.55 inches. The Anderson Valley, to the northwest, receives an average of only 40.7 inches of rain per year.

Revised Mendocino Boundary

ATF is also revising the southern boundary of the Mendocino viticultural area, as proposed by both the Mendocino Winegrowers Alliance and the Yorkville Highlands petitioners. Prior to this revision, the southern boundary of Mendocino ran through the middle of the Yorkville Highlands area, leaving a large triangular portion of the

new area outside of Mendocino while the remainder of the new area was within Mendocino.

Mr. Bruce E. Bearden, Farm Advisor, Emeritus, University of California Cooperative Exchange, stated that the original Mendocino viticultural area boundary arbitrarily excludes some of the regions naturally associated with existing vineyards. Mr. Bearden further states that the revised boundary would reunite the related soils and climates of the area.

Boundaries

The revised boundary of the Mendocino viticultural area is described in amended Sec. 9.93. In addition, there is a typographical error in 27 CFR 9.93(c)(11), which we corrected as part of this rulemaking.

The boundary of the Yorkville Highlands viticultural area may be found on six United States Geological Survey (U.S.G.S.) maps with a scale of 1:24000. The boundary is described in Sec. 9.159.

Miscellaneous

ATF does not wish to give the impression by approving the Yorkville Highlands viticultural area or by approving the amended boundary of the Mendocino viticultural area that it is approving or endorsing the quality of wine from these area. ATF is approving the areas as being distinct from surrounding areas, not better than other areas. By approving these areas, ATF will allow wine producers to claim a distinction on labels and advertisements as to origin of the grapes.

Any commercial advantage gained can only come from consumer acceptance of wines from Yorkville Highlands or Mendocino.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this Executive Order.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new recordkeeping or reporting requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

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 to this final rule because no requirement to collect information is imposed.

Drafting Information. The principal author of this document is Marjorie D. Ruhf, Regulations Branch, Bureau of Alcohol, Tobacco and

Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection,
Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American
Viticultural Areas, is amended as follows:

PART 9--AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as
follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 9.93 is amended by revising paragraph (c)(11), by
removing paragraphs (c)(17) and (c)(18), and by adding new paragraph
(c)(17), (c)(18) and (c)(19) to read as follows:

Sec. 9.93 Mendocino.

* * * * *

(c) Boundaries. * * *

(11) Thence in a straight line in a northwest direction to the junction of Baily Gulch and the South Branch, North Fork of the Navarro River, located in Section 8, T.15N., R.15W.;

* * * *

(17) Thence continuing in a straight line in a southerly direction to the southwest corner of Section 5, T. 12 N., R. 13 W., and the Mendocino County/Sonoma County line;

(18) Thence continuing in a straight line in a southeasterly direction to the intersection of the southwest corner of Section 32, T. 12 N., R. 11 W., and the Mendocino County/Sonoma County line;

(19) Thence following the Mendocino County/Sonoma County line in an easterly, northerly, and then an easterly direction to the beginning point.

Par. 3. A new Sec. 9.159 is added to subpart C to read as follows:

Sec. 9.159 Yorkville Highlands.

(a) Name. The name of the viticultural area described in this section is ``Yorkville Highlands."

(b) Approved maps. The appropriate maps for determining the boundary of the Yorkville Highlands viticultural area are the following six U.S.G.S. topographical maps (7.5 minute series, 1:24000 scale):

- (1) ``Gube Mountain, Calif.," provisional edition 1991.
- (2) ``Big Foot Mountain, Calif.," provisional edition 1991.
- (3) ``Cloverdale, Calif.," 1960, photoinspected 1975.
- (4) ``Ornbaun Valley Quadrangle, Calif.," provisional edition, 1991.

(5) ``Yorkville, Calif.," provisional edition, 1991.

(6) ``Hopland, Calif.," 1960, photoinspected 1975.

(c) Boundary. The Yorkville Highlands viticultural area is located in Mendocino County, California. The boundary is as follows:

(1) The beginning point is Benchmark 680, located in Section 30, T. 12 N., R. 13 W., on the Ornbaum Valley quadrangle map;

(2) From the beginning point, the boundary proceeds in a straight line in a northeasterly direction to a point intersecting the North Fork of Robinson Creek and the Section 20, T. 13 N., R. 13 W.;

(3) The boundary then proceeds in a straight line in a southeasterly direction to the summit of Sanel Mountain, located at the southeast corner of Section 30, T. 13 N., R. 12 W., on the Yorkville quadrangle map;

(4) The boundary then proceeds in a straight line in a southeasterly direction until it reaches the southeast corner of Section 15, T. 12 N., R 11 W., on the Hopland quadrangle map;

(5) The boundary then proceeds south, following the eastern boundaries of Sections 22 and 27, T. 12 N., R 11 W., until it reaches the Mendocino-Sonoma County line on the Cloverdale quadrangle map;

(6) The boundary then follows the Mendocino-Sonoma county line west, south and west until it reaches the southwest corner of Section 32, T. 12 N., R. 11 W.;

(7) The boundary then diverges from the county line and proceeds in a northwesterly direction, traversing the Big Foot Mountain quadrangle map, until it reaches the southwest corner of Section 5, T. 12 N., R. 13 W. on the Ornbaun Valley quadrangle map;

(8) The boundary proceeds in a straight line in a northerly direction until it reaches the beginning point at Benchmark 680.

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Dated: January 28, 1998.

John W. Magaw,

Director.

Approved: March 13, 1998.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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