

(1) *Plaintiff's burden.* (i) A plaintiff must prove by the preponderance of the evidence, through evidence that is not remote or speculative, each of the elements in paragraphs (b)(2) through (5) of this section; and

(ii) If the defendant rebuts a plaintiff's assertion that the policy or practice is arbitrary, artificial, and unnecessary under paragraph (b)(1) of this section by producing evidence showing that the challenged policy or practice advances a valid interest (or interests), the plaintiff must prove by the preponderance of the evidence that a less discriminatory policy or practice exists that would serve the defendant's identified interest in an equally effective manner without imposing materially greater costs on, or creating other material burdens for, the defendant.

(2) *Defendant's burden.* The defendant may, as a complete defense:

(i) Prove any element identified under paragraph (c)(1) or (2) of this section;

(ii) Demonstrate that the plaintiff has not proven by the preponderance of the evidence an element identified under paragraph (d)(1)(i) of this section; or

(iii) Demonstrate that the alternative policy or practice identified by the plaintiff under paragraph (d)(1)(ii) of this section would not serve the valid interest identified by the defendant in an equally effective manner without imposing materially greater costs on, or creating other material burdens for, the defendant.

(e) *Business of insurance laws.* Nothing in this section is intended to invalidate, impair, or supersede any law enacted by any state for the purpose of regulating the business of insurance.

Dated: July 29, 2019.

**Anna Maria Farias,**  
Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 2019-17542 Filed 8-16-19; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB-2019-0006; Notice No. 184]

RIN 1513-AC42

### Proposed Establishment of the Candy Mountain Viticultural Area and Modification of the Yakima Valley Viticultural Area

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the 815-acre "Candy Mountain" viticultural area in Benton County, Washington. TTB also proposes to expand the boundary of the existing 1,093-acre Yakima Valley viticultural area by approximately 72 acres in order to avoid a partial overlap with the proposed Candy Mountain viticultural area. Both the existing Yakima Valley AVA and the proposed Candy Mountain AVA are located entirely within the existing Columbia Valley AVA. 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. TTB invites comments on these proposals.

**DATES:** TTB must receive your comments on or before October 18, 2019.

**ADDRESSES:** You may electronically submit comments to TTB on this proposal, and view copies of this document, its supporting materials, and any comments TTB receives on it within Docket No. TTB-2019-0006 as posted on *Regulations.gov* (<https://www.regulations.gov>), the Federal e-rulemaking portal. Please see the "Public Participation" section of this document below for full details on how to comment on this proposal via *Regulations.gov*, U.S. mail, or hand delivery, and for full details on how to view or obtain copies of this document, its supporting materials, and any comments related to this proposal.

**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 various authorities through Treasury Department Order 120-01, dated December 10, 2013 (superseding Treasury Order 120-01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

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 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 its 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 that affect 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 boundary;

- 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.

#### **Petition To Establish the Candy Mountain AVA and To Modify the Boundary of the Yakima Valley AVA**

TTB received a petition from Dr. Kevin R. Pogue, a professor of geology at Whitman College, proposing to establish the “Candy Mountain” AVA and to modify the boundary of the existing Yakima Valley AVA (27 CFR 9.69). Dr. Pogue submitted the petition on behalf of the following industry members with wine businesses within the proposed AVA: Ramer Holtan, who is developing a commercial wine grape vineyard on Candy Mountain; Premiere Columbia Partners LLC, owners of Candy Mountain Vineyard; and Paul and Vickie Kitzke, owners of Kitzke Cellars. The proposed Candy Mountain AVA is located in Benton County, Washington, and is entirely within the existing Columbia Valley AVA (27 CFR 9.74), and partially within the existing Yakima Valley AVA. Within the 815-acre proposed AVA, currently there are two producing commercial vineyards, Candy Mountain Vineyard and Kitzke Cellars, which cover a total of approximately fifty-four acres. Additionally, Mr. Holtan has secured long-term leases from the Washington Department of Natural Resources to plant two hundred additional acres of vineyards within the proposed AVA. A copy of the lease was included in the petition as evidence of Mr. Holtan’s intent to grow wine grapes. Currently, Kitzke Cellars is the only winery within the proposed AVA, although the petition notes that other wineries in Washington produce wines from grapes grown within the proposed AVA.

Although most of the proposed Candy Mountain AVA is located within the existing Yakima Valley AVA, a small portion of the proposed AVA would, if established, extend outside the current eastern boundary of the Yakima Valley AVA. To address the potential partial overlap of the two AVAs and account for viticultural similarities between the proposed Candy Mountain AVA and the larger Yakima Valley AVA, the petition also proposes to expand the boundary of the Yakima Valley AVA so that the

entire proposed Candy Mountain AVA would be included within it. The proposed expansion would increase the size of the 1,093-acre Yakima Valley AVA by 72 acres.

The distinguishing features of the proposed Candy Mountain AVA are its soils and topography. Although the petition also included information on the general climate of the proposed AVA, the petition did not include any actual climate data from within the proposed Candy Mountain AVA. Instead, the petition provided climate data from the nearby established Red Mountain AVA (27 CFR 9.167), which the petition asserts has a similar climate. Because the petition did not include evidence from within the proposed AVA to support its climate claims, TTB is unable to determine that climate is a distinguishing feature of the proposed AVA. Therefore, this proposed rule does not include a discussion of the climate of the proposed AVA. Unless otherwise noted, all information and data contained in the following sections are from the petition to establish the proposed AVA and its supporting exhibits.

#### **Proposed Candy Mountain AVA**

##### *Name Evidence*

The proposed Candy Mountain AVA is located on the southwestern slopes of a mountain known as Candy Mountain. The mountain is labeled on the Richland quadrangle USGS map used to form part of the proposed AVA boundary. According to several articles included in the petition, a planned nature preserve that would be located at the summit of the mountain is referred to as the Candy Mountain Preserve. A housing development at the base of the mountain is named Candy Mountain Estates and includes a road called Candy Mountain Avenue.

The region within the proposed AVA is also referred to as “Candy Mountain” by members of the wine industry. Premiere Columbia Partners LLC named its vineyard within the proposed AVA “Candy Mountain Vineyard.”<sup>1</sup> The petition included a page from the website of the L’Ecole No. 41 Winery showing a wine made from grapes from the Premiere Columbia Partners vineyard labeled as “Candy Mountain Vineyard Red Wine.”<sup>2</sup> Additionally, Kitzke Cellars refers to the location of its tasting room as “on Candy Mountain.”<sup>3</sup>

<sup>1</sup> <http://premierewinegrapes.com/about>.

<sup>2</sup> <http://www.lecole.com/2013-candy-mountain-red-wine>.

<sup>3</sup> <http://www.kitzkecellars.com/about>.

##### *Boundary Evidence*

The proposed Candy Mountain AVA is located in Benton County, Washington, just southwest of the city of West Richland, on the southwestern slopes of Candy Mountain. The proposed AVA has a roughly oval shape and is oriented along a northwest-southeast axis. The proposed northern, western, and southern boundaries follow roads and interstate highways that are located along the base of the mountain. Most of the eastern boundary follows a line drawn along the crest of the mountain to separate the proposed AVA from the northeastern-facing side of the mountain. The remainder of the eastern boundary follows roads to encompass land near the base of the mountain that has slope angles and slope aspects that are similar to those on the southwestern side of the mountain.

##### *Distinguishing Features*

According to the petition, the distinguishing features of the proposed Candy Mountain AVA are its soils and topography.

##### *Soils*

The petition states that the soils of the proposed Candy Mountain AVA are developed from wind-deposited silt (loess) and fine sand overlying sediment deposited by ice-age floods. The sediment is a mixture of gravel and sand that was derived directly from the surging ice-age flood waters and also includes silt and fine sand that settled out of suspension when the flood waters pooled behind downstream topographic restrictions. The loess and sediment, in turn, both overlay basalt bedrock.

According to the petition, the thickness of the sediment deposited by ice-age flood waters gradually decreases as elevations increase, since the lower elevations were more frequently and heavily inundated by multiple ice-age floods. The petition states that the maximum elevation reached by the ice-age flood waters in the region of the proposed AVA was approximately 1,250 feet. The thickness of the flood-water sediment within the proposed Candy Mountain AVA gradually decreases as one moves up the mountain, and the sediment is not found within the upper 70 feet of the proposed AVA. By contrast, the regions to the north, south, and west of the mountain and the proposed Candy Mountain AVA are at lower elevations and, therefore, have thicker accumulations of flood sediments.

The petition states that the thickness of the loess and fine sands that form much of the surface soil within the

larger Columbia Basin, including the proposed Candy Mountain AVA, also varies with respect to slope angle and slope aspect. Since the loess and fine sands were deposited by winds, they accumulated to greater depth on shallower slopes, on hillsides that face away from the prevailing winds, and in areas that are at lower elevations relative to their surroundings. The petition states the soils in the proposed AVA are shallower than the surrounding valley soils because the proposed Candy Mountain AVA has higher elevations and steeper slopes than the surrounding valley floor, and also faces into the prevailing winds.

According to the petition, the soils of the proposed AVA have an effect on viticulture. The soils are fairly loose, which allows for root expansion. The soils also do not have a large water holding capacity, meaning that vineyard owners must monitor soil moisture carefully to ensure the vines have adequate access to water. Soils with low water-holding capacities also induce stress for grape vines, which may limit vegetative growth and promote earlier ripening of the grapes. Finally, the thin soils allow roots to come into contact with the underlying basalt bedrock, which is comprised of calcium-rich feldspars and other minerals that are rich in iron and magnesium, such as pyroxene and olivine. The petition states that these minerals and nutrients are only present in the bedrock, so vines planted in the surrounding regions where the soil is thicker do not have the same access to these elements as vines planted within the proposed AVA.

#### Topography

The primary distinguishing topographic features of the proposed Candy Mountain AVA are its elevation, slope angle, and slope aspect.

#### Elevation

The proposed Candy Mountain AVA is located on the southwest slopes of Candy Mountain, one of a series of four small mountains that are aligned over a distance of 10 miles along a northwest-southeast trending axis. Locally, these mountains are known as the “rattles,” due to their segmented nature and their alignment with the much larger Rattlesnake Mountain, which is to the northwest. The four “rattles” rise above the surrounding Yakima Valley. Within the proposed Candy Mountain AVA, elevations range from 640 feet to 1,320 feet. By contrast, much of the land immediately surrounding the proposed AVA is a valley floor with elevations below 640 feet. The exception is the northeastern side of Candy Mountain,

which has similar elevations to the proposed Candy Mountain AVA but was excluded from the proposed AVA due to its different slope angles and slope aspect.

According to the proposed AVA, the elevation of the proposed Candy Mountain AVA affects viticulture. The petition states that vineyards planted at higher elevations, such as those within the proposed AVA, are less susceptible to damage from frosts and freezes associated with cool air drainage than lower elevations, such as the surrounding valley floor. The cool air does not collect in the higher elevation vineyards and instead flows down the hillsides and eventually settles in the valley floor.

#### Slope Angle

According to the petition, Candy Mountain is a geological feature known as an anticline, which is an arch-like structure formed by compressional tectonic forces that bent and uplifted the basalt bedrock. The rock layers in an anticline are folded downward away from the central axis, similar to the roof of a house. The two sides of the anticline are called “limbs.” In the case of Candy Mountain, the inclination, or dip, of the limbs is asymmetric. The limb on the northeast side of the mountain has a much steeper dip than the limb on the southwest side, where the proposed Candy Mountain AVA is located. The northeast side of the mountain has slope angles of up to 60 degrees. According to the petition, slope angles over 20 degrees are difficult to farm and are more susceptible to erosion than shallower angles. By contrast, the slope angles on the southwest side of the mountain, within in the proposed Candy Mountain AVA, are gentle to moderate and range from 2 to 20 degrees. The valley floor surrounding both the entire Candy Mountain and the proposed Candy Mountain AVA is essentially flat, with slope angles of less than 2 degrees, and is susceptible to cold air pooling and the associated frosts and freezes.

#### Slope Aspect

The petition states that in the northern hemisphere, slopes with a southern aspect are favored for viticulture, especially at higher latitudes like the region of the proposed Candy Mountain AVA. A south-facing slope aspect increases the amount per unit area of solar radiation that reaches the surface and promotes photosynthesis in the grape vines, as well as grape development and maturation. The proposed Candy Mountain AVA is located on the southwest-facing slope of

Candy Mountain. The opposite side of the mountain, outside of the proposed AVA, has a northeast slope aspect. Most of the surrounding valley floor is essentially flat, but where slopes exist, they are generally oriented towards the north.

#### Summary of Distinguishing Features

Soils and topography distinguish the proposed Candy Mountain AVA from the surrounding regions. The soils consist mainly of a mixture of wind-deposited loess and fine sands overlying ice-age flood sediments. The topography includes elevations of 640–1,320 feet, slope angles of between 2 and 20 degrees, and a southwestern facing slope aspect.

The proposed Candy Mountain AVA is surrounded by the low, flat valley floor of the Yakima Valley to the north, south, and west. Where slopes do exist in these surrounding regions, they generally have a northerly aspect. Because these regions have shallower slope angles and lower elevations that were more frequently and heavily covered by ice-age floods, the soils are deeper than the soils of the proposed AVA. To the immediate east of the proposed AVA, on the eastern side of Candy Mountain, the elevations are similar to those of the proposed AVA. However, the slope angles to the immediate east of the proposed AVA are steeper, resulting in shallower soil depths. Additionally, the eastern side of the mountain is oriented to the northeast.

#### *Comparison of the Proposed Candy Mountain AVA to the Existing Yakima Valley AVA*

The Yakima Valley AVA was established by T.D. ATF–128, which was published in the **Federal Register** on April 4, 1983 (48 FR 14374). The AVA is located in Yakima and Benton Counties, Washington, and covers approximately 1,093 acres. T.D. ATF–128 states that the Yakima Valley AVA is a valley drained by the Yakima River and surrounded by higher elevations on all sides. The western portion of the AVA is a vast expanse of flat land, while the eastern portion is comprised of gently sloping land. The primary soils of the Yakima Valley AVA that are used for viticulture are the Warden-Shano Association and the Scootenay-Starbuck Association. These soils are silt-loams over basalt bedrock and alluvial deposits. Rainfall within the AVA is sparse, generally averaging less than 10 inches a year.

The proposed Candy Mountain AVA shares some of the general viticultural features of the Yakima Valley AVA. For

example, the proposed AVA is located within the Yakima River drainage basin. Additionally, the soils of the proposed AVA are silts over basalt bedrock and ice-age alluvial deposits. Soils of the Warden, Shano, Scootenay, and Starbuck series are all present within the proposed AVA. The petition also states that a weather station at Benton City, 4 miles northwest of the proposed AVA, averaged 6 inches of rainfall annually between 2008 and 2015. However, TTB notes that no rainfall data was provided from within the proposed AVA.

Although the proposed Candy Mountain AVA shares some general characteristics with the overlapping Yakima Valley AVA, the proposed AVA does have some unique features. For instance, the proposed AVA is located on an isolated mountain, whereas the majority of the Yakima Valley AVA is described as a broad, flat valley. Additionally, the proposed Candy Mountain AVA has a greater diversity of soils than the primary agricultural regions of the Yakima Valley AVA. According to the petition, the proposed AVA was directly in the path of the fast-moving ice-age floodwaters that surrounded Candy Mountain, Red Mountain, and Badger Mountain. A strong back-eddy was created as the floodwaters surrounded these mountains, causing gravel and various other heavier particles to be deposited on the slopes of the mountains. By contrast, the soils in the primary agricultural areas of the Yakima Valley AVA are more homogenous because they were created from finer particles such as sand and silts that were deposited in a slack water environment.

#### **Proposed Modification of the Yakima Valley AVA**

As previously noted, the petition to establish the proposed Candy Mountain AVA also requested an expansion of the established Yakima Valley AVA. The proposed Candy Mountain AVA is located in the northeastern portion of the Yakima Valley AVA. Most of the proposed Candy Mountain AVA would, if established, be located within the current boundary of the Yakima Valley AVA. However, unless the boundary of the Yakima Valley AVA is modified, a small portion of the proposed Candy Mountain AVA would be outside the Yakima Valley AVA.

Currently, the Yakima Valley AVA boundary in the vicinity of the proposed AVA and the proposed expansion area follows a straight line drawn from the summit of Red Mountain, northwest of the proposed AVA, to the summit of Badger Mountain, southeast of the

proposed AVA. The Yakima Valley AVA boundary crosses the summit of Candy Mountain and is concurrent with most of the northern boundary of the proposed Candy Mountain AVA. However, a small portion of the proposed AVA is outside the Yakima Valley AVA. This portion of the proposed Candy Mountain AVA (the “proposed expansion area”) is shaped like a rectangle standing on end and is defined by Arena Road on the west, Dallas Road on the east, Interstate 182 on the south, and the 650-foot elevation contour on the north. The proposed modification of the Yakima Valley AVA boundary would increase the size of the established AVA by 72 acres and would result in the entire proposed Candy Mountain AVA being within the Yakima Valley AVA.

The proposed Candy Mountain AVA petition states that the vineyards within the proposed expansion area lie approximately 600 feet outside of the current boundary of the Yakima Valley AVA and did not exist at the time the Yakima Valley AVA was established. However, the petition states that the proposed expansion area is associated with both the feature known as the Yakima Valley and the Yakima Valley AVA. For example, the proposed expansion area is part of the larger Yakima River drainage basin, which is a characteristic of the Yakima Valley AVA. Additionally, the petition states that the owners of Kitzke Cellars, which manages the seven acres of vineyards within the proposed expansion area, have aligned themselves with the Yakima Valley AVA through their membership in Wine Yakima Valley, which is the Yakima Valley AVA’s marketing organization.

The petition asserts that the proposed expansion area has similar soils, elevation, slope angles, and slope aspect to the remainder of the proposed Candy Mountain AVA, which is within the Yakima Valley AVA. The petition also describes the general similarities that the entire proposed Candy Mountain AVA shares with the established Yakima Valley AVA, such as similar soil series and geology. Therefore, because the petition demonstrates that the proposed expansion area has similar soil and topographic characteristics to the portion of the proposed Candy Mountain AVA that is within the Yakima Valley AVA, and that the proposed Candy Mountain AVA shares some general characteristics of the Yakima Valley AVA, TTB believes the petitioner’s proposal to expand the Yakima Valley AVA to include the proposed expansion area merits consideration and public comment.

#### *Comparison of the Proposed Candy Mountain AVA to the Existing Columbia Valley AVA*

The Columbia Valley AVA was established by T.D. ATF–190, which was published in the **Federal Register** on November 13, 1984 (49 FR 44897). The Columbia Valley AVA covers over 11 million acres in Washington surrounded by the Columbia, Snake, and Yakima Rivers. According to T.D. ATF–190, the AVA is a large, treeless, broadly undulating basin with elevations that are generally below 2,000 feet. In general, the growing season within the Columbia Valley AVA is over 150 days, and growing degree day accumulations generally number over 2,000. Soils generally reach a depth of 2 feet or more and are comprised of silt loam, fine sandy loam, sandy loam, or loamy sand.

The proposed Candy Mountain AVA is located in the south-central portion of the Columbia Valley AVA and shares some broad characteristics of the Columbia Valley AVA. For example, elevations within the proposed Candy Mountain AVA are below 2,000 feet. The petition also states that the proposed AVA has a similar climate to the Columbia Valley AVA, although no data is available from within the proposed AVA to support these claims.

However, the proposed Candy Mountain AVA does have several features that distinguish it from the Columbia Valley AVA. Most notably, the proposed AVA is characterized as an isolated hill, rather than a broad plain. Although the elevations within the proposed AVA are within the range of elevations found within the Columbia Valley AVA, the proposed AVA’s elevations are significantly higher than those of the immediately surrounding regions. The petition states that the proposed AVA also has steeper slope angles than much of the land within the Columbia Valley AVA. Finally, due to the combination of higher elevations and steeper slope angles within the proposed AVA, soil depths within the proposed Candy Mountain AVA are shallower than the soil depths found within the majority of the Columbia Valley AVA.

#### **TTB Determination**

TTB concludes that the petition to establish the 815-acre “Candy Mountain” AVA and to concurrently modify the boundary of the existing Yakima Valley AVA merits consideration and public comment, as invited in this document.

TTB is proposing the establishment of the new AVA and the modification of

the existing AVA as one action. Accordingly, if TTB establishes the proposed Candy Mountain AVA, then the proposed boundary modification of the Yakima Valley would be approved concurrently. If TTB does not establish the proposed Candy Mountain AVA, then the present Yakima Valley AVA boundary would not be modified.

#### *Boundary Description*

See the narrative boundary descriptions of the petitioned-for AVA and the boundary modification of the established AVA in the proposed regulatory text published at the end of this document.

#### *Maps*

The petitioner provided the required maps, and they are listed below in the proposed 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. For a wine to be labeled with 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 § 4.25(e)(3) of the TTB regulations (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 § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, "Candy Mountain," 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 proposed regulation clarifies this point. Consequently, wine bottlers using the name "Candy Mountain" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if this proposed rule is adopted as a final rule.

If approved, the establishment of the proposed Candy Mountain AVA would not affect any existing AVA, and any bottlers using "Columbia Valley" or

"Yakima Valley" as an appellation of origin or in a brand name for wines made from grapes grown within the Columbia Valley or Yakima Valley AVAs would not be affected by the establishment of this new AVA. The establishment of the proposed Candy Mountain AVA and expansion of the Yakima Valley AVA would allow vintners to use "Candy Mountain," "Yakima Valley," and "Columbia Valley" as appellations of origin for wines made from grapes grown within the proposed Candy Mountain AVA if the wines meet the eligibility requirements for the appellation. Additionally, vintners would be allowed to use "Yakima Valley," "Columbia Valley," and "Candy Mountain" as appellations of origin for wines made from grapes grown within the proposed Yakima Valley AVA expansion area if the wines meet the eligibility requirements for the appellation.

#### **Public Participation**

##### *Comments Invited*

TTB invites comments from interested members of the public on whether TTB should establish the proposed Candy Mountain AVA and concurrently modify the boundary of the established Yakima Valley AVA. TTB is interested in receiving comments on the sufficiency and accuracy of the name, boundary, topography, and other required information submitted in support of the Candy Mountain AVA petition. In addition, given the proposed Candy Mountain AVA's location within the existing Columbia Valley AVA and Yakima Valley AVA, TTB is interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the existing AVAs. TTB is also interested in comments on whether the geographic features of the proposed AVA are so distinguishable from either the Columbia Valley AVA or the Yakima Valley AVA that the proposed Candy Mountain AVA should not be part of one or either established AVA. Please provide any available specific information in support of your comments.

TTB also invites comments on the proposed expansion of the existing Yakima Valley AVA. TTB is especially interested in comments on whether the evidence provided in the petition sufficiently demonstrates that the proposed expansion area is similar enough to the Yakima Valley AVA to be included in the established AVA. Comments should address the

boundaries, topography, soils, and any other pertinent information that supports or opposes the proposed Yakima Valley AVA boundary expansion.

Because of the potential impact of the establishment of the proposed Candy Mountain AVA on wine labels that include the term "Candy Mountain" as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the proposed AVA.

##### *Submitting Comments*

You may submit comments on this proposal by using one of the following three methods:

- **Federal e-Rulemaking Portal:** You may send comments via the online comment form posted with this document within Docket No. TTB-2019-0006 on "*Regulations.gov*," the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 184 on the TTB website at <https://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via *Regulations.gov*. For complete instructions on how to use *Regulations.gov*, visit the site and click on the "Help" tab at the top of the page.
- **U.S. Mail:** You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.
- **Hand Delivery/Courier:** You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this document. Your comments must reference Notice No. 184 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge

receipt of comments, and we consider all comments as originals.

Your comment must clearly state if you are commenting on your own behalf or on behalf of an organization, business, or other entity. If you are commenting on behalf of an organization, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via *Regulations.gov*, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

#### Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

#### Public Disclosure

TTB will post, and you may view, copies of this document, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB-2019-0006 on the Federal e-rulemaking portal, *Regulations.gov*, at <https://www.regulations.gov>. A direct link to that docket is available on the TTB website at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 184. You may also reach the relevant docket through the *Regulations.gov* search page at <https://www.regulations.gov>. For instructions on how to use *Regulations.gov*, visit the site and click on the "Help" tab at the top of the page.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that it considers unsuitable for posting.

You also may view copies of this document, all related petitions, maps and other supporting materials, and any electronic or mailed comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW, Suite 400, Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact TTB's

Regulations and Rulings Division at the above address, by email at [https://www.ttb.gov/webforms/contact\\_RRD.shtml](https://www.ttb.gov/webforms/contact_RRD.shtml), or by telephone at 202-453-1039, ext. 175, to schedule an appointment or to request copies of comments or other materials.

#### Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation 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 proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

#### Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this document.

#### List of Subjects in 27 CFR Part 9

Wine.

#### Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 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. Amend § 9.69 by revising paragraphs (b) and (c)(4), redesignating paragraphs (c)(5) through (c)(10) as paragraphs (c)(11) through (16), and by adding new paragraphs (c)(5) through (c)(10) to read as follows:

##### § 9.69 Yakima Valley.

\* \* \* \* \*

(b) *Approved maps.* The four United States Geological Survey (USGS) maps used to determine the boundary of the Yakima Valley viticultural area are titled:

(1) Walla Walla, Washington (1:250,000 scale), 1953; limited revision 1963;

(2) Yakima, Washington (1:250,000 scale), 1958; revised 1971;

(3) Benton City, WA (1:24,000 scale), 2013;

(4) Badger Mountain, Washington (1:24,000 scale), 2013; and

(5) Richland, Washington (1:24,000 scale), 2014.

\* \* \* \* \*

(c) \* \* \*

(4) Then southeast, crossing onto the Benton City map, to the top of Red Mountain;

(5) Then southeast to a point on East Kennedy Road approximately 2,500 feet east of an intermittent stream flowing north into Lost Lake;

(6) Then southeast across the top of Candy Mountain, crossing onto the Badger Mountain map, and continuing to the intersection with the southernmost point of an unnamed road known locally as Arena Road; then

(7) Proceed north for 0.45 mile along Arena Road, crossing onto the Richland map, to the intersection with the 670-foot elevation contour; then

(8) Proceed generally east for 0.4 mile along the elevation contour to the intersection with Dallas Road; then

(9) Proceed south in a straight line for 0.5 mile, crossing onto the Badger Mountain map, to the intersection with Interstate 182; then

(10) Proceed southeast in a straight line, crossing onto the Walla Walla map, to the top of Badger Mountain;

\* \* \* \* \*

■ 3. Add § 9.\_\_\_\_ to read as follows:

##### § 9.\_\_\_\_ Candy Mountain.

(a) *Name.* The name of the viticultural area described in this section is "Candy Mountain". For purposes of part 4 of this chapter, "Candy Mountain" is a term of viticultural significance.

(b) *Approved maps.* The three United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Candy Mountain viticultural area are titled:

(1) Badger Mountain, Washington, 2013;

(2) Benton City, Washington, 2013; and

(3) Richland, Washington, 2014.

(c) *Boundary.* The Candy Mountain viticultural area is located in Benton County in Washington. The boundary of the Candy Mountain viticultural area is as described below:

(1) The beginning point is on the Badger Mountain map at the southernmost point of an unnamed road known locally as Arena Road. From the beginning point, proceed northwest in a straight line for approximately 1.85 miles, crossing onto the Benton City

map, to the intersection with East Kennedy Road NE; then

(2) Proceed westerly along East Kennedy Road NE for approximately 2,500 feet to the intersection with an intermittent creek approximately 0.8 mile south of Lost Lake; then

(3) Proceed southeasterly along the easternmost fork of the intermittent creek to the intersection with Interstate 82; then

(4) Proceed southeast along Interstate 82 for 2.25 miles, crossing over the Richland map and onto the Badger Mountain map, and continuing along the ramp onto Interstate 182 to a point due south of the intersection of Dallas Road and an unnamed road known locally as East 260 Private Road NE; then

(5) Proceed north in a straight line for 0.5 mile, crossing onto the Richland map, to the intersection of Dallas Road and the 670-foot elevation contour; then

(6) Proceed west along the 670-foot elevation contour for 0.4 mile to the intersection with Arena Road; then

(7) Proceed southerly along Arena Road for approximately 0.45 miles, returning to the beginning point.

Signed: June 18, 2019.

**Mary G. Ryan,**

*Acting Administrator.*

Approved: June 27, 2019.

**Timothy E. Skud,**

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

[FR Doc. 2019-17688 Filed 8-16-19; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2019-0023]

RIN 1625-AA00

#### Safety Zone, MBTA Railroad Bridge Replacement Project—Annisquam River, Gloucester, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone for the navigable waters within 100 yards of the Massachusetts Bay Transportation Authority (MBTA) Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts, from November 1, 2019 through June 30, 2023. The temporary safety zone is necessary to protect personnel, vessels

and the marine environment from potential hazards created during the replacement project of the MBTA Railroad Bridge. When enforced, this proposed rule would prohibit vessels and persons from being in the safety zone unless authorized by the Captain of the Port Boston or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before September 18, 2019.

**ADDRESSES:** You may submit comments identified by docket number USCG-2019-0023 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Mark Cutter, Waterways Management Division, U.S. Coast Guard Sector Boston, telephone 617-223-4000, email [Mark.E.Cutter@uscg.mil](mailto:Mark.E.Cutter@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
NAD 83 North American Datum 1983  
§ Section  
U.S.C. United States Code  
MBTA Massachusetts Bay Transportation Authority

##### II. Background, Purpose, and Legal Basis

The MBTA notified Sector Boston that there will be times in which the narrow navigable channel underneath the MBTA Railroad Bridge, Annisquam River, Gloucester, Massachusetts, will need to be closed for the replacement of submarine cables, abutment construction, and span replacement. The exact times are unknown. However, every effort is being made by the MBTA and contractor to schedule these closures during the winter months when boating traffic is minimal.

The replacement project started in the fall of 2018 and is expected to be completed in December 2022. The COTP Boston determined that the potential hazards associated with the replacement of the submarine cables, abutment construction, and span replacement will be a safety concern for anyone within the work area. The proposed temporary safety zone would

be enforced during the replacement of the submarine cables, abutment construction, and span replacement or when other hazards to navigation arise. No vessel or person will be permitted to enter the proposed temporary safety zone without obtaining permission from the COTP or a designated representative.

The Coast Guard will notify the public of closures through the Massachusetts Bay Harbor Safety Committee meetings, Boston's Port Operators Group meetings, Local Notice to Mariners and through the Gloucester Harbormaster's network. The Coast Guard will issue a Safety Marine Information Broadcast (SMIB) via marine channel 16 (VHF-FM) seven days in advance of the enforcement of the proposed safety zones.

The purpose of this rulemaking is to protect personnel, vessels, and the marine environment from potential hazards created during the replacement project of the MBTA Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

##### III. Discussion of Proposed Rule

The Coast Guard is proposing to establish a safety zone starting at 12:01 a.m. on November 1, 2019, to 11:59 p.m. on June 30, 2023. The safety zone would cover all navigable waters within 100 yards of the MBTA Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts. The safety zone will only be enforced during periods when work barges and cranes will be placed in the navigable channel or when other hazards to navigation exist. Any closure is expected to last less than two weeks. The duration of the zone is intended to ensure the safety of vessels, the maritime public, construction workers, and the marine environment during periods of replacement of the MBTA Railroad Bridge over the main channel of the Annisquam River, Gloucester, Massachusetts. During the enforcement period, all vessels and persons must obtain permission from the COTP Boston or a designated representative before entering the safety zone.

##### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.