

138°12'21.25" W., thence southeast along the offshore airspace 12 nautical miles west of and parallel to the shoreline to the point of intersection with the Alaska/Canada Border, thence along the Alaska/Canada Border to the point of beginning excluding that airspace designated for federal airways.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

*Paragraph 6006 En Route Domestic Airspace Areas.*

\* \* \* \* \*

**AAL AK E6 Southeast, AK [New]**

That airspace extending upward from 1,200 feet AGL to the base of overlying Class E airspace above 14,500 feet MSL, within an area beginning at lat. 58°54'25.2" N. long. 137°31'55.3" W. to lat. 58°38'33.2" N. long.

138°12'21.25" W., thence southeast along the offshore airspace 12 nautical miles west of and parallel to the shoreline to the point of intersection with the Alaska, United States/Canada Border, thence along the Alaska, United States/Canada Border to the point of beginning excluding that airspace designated for federal airways and excluding that airspace within the Ketchikan, AK Class E5, the Klawock, AK Class E5, the Wrangell, AK Class E5, the Petersburg, AK Class E5, the Kake, AK Class E5, the Sitka, AK Class E5, and the Juneau, AK Class E5 airspace areas.

\* \* \* \* \*

Issued in Anchorage, AK, on February 13, 2004.

**Judith G. Heckl,**  
*Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 04–4175 Filed 2–24–04; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF THE TREASURY**

**Alcohol and Tobacco Tax and Trade Bureau**

**27 CFR Part 9**

[T.D. TTB–9; Re: ATF Notice No. 947]

**RIN 1513–AA48**

**Oak Knoll District of Napa Valley Viticultural Area (2002R–046P)**

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

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This final rule establishes the “Oak Knoll District of Napa Valley” viticultural area in Napa County, California. This new viticultural area is entirely within the established Napa Valley viticultural area and covers approximately 8,300 acres, of which about 3,500 acres are plantable to vines. The establishment of viticultural areas allows wineries to describe more accurately where their wines come from and enables consumers to better identify the wines they purchase.

**EFFECTIVE DATE:** This final rule is effective on April 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Joanne C. Brady, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 45797, Philadelphia, PA 19149; telephone (215) 333–7050.

**SUPPLEMENTARY INFORMATION:**

**Impact of the Homeland Security Act on Rulemaking**

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms (ATF) into two new agencies,

the Alcohol and Tobacco Tax and Trade Bureau (TTB) in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. Regulation of alcohol beverage labels, 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.

**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 and prohibits the use of deceptive information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out the Act’s provisions. 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. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. A list of approved viticultural areas is contained in 27 CFR part 9, American Viticultural Areas.

*What Is the Definition of an American Viticultural Area?*

Section 4.25(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. The establishment of viticultural areas allows the identification of regions where a given quality, reputation, or other characteristic of a wine is essentially attributable to its geographic origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced there.

*What Is Required To Establish a Viticultural Area?*

Section 4.25a(e)(2), title 27 CFR, outlines the procedure for proposing an American viticultural area. Any interested person 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 viticultural area are as specified in the petition;
- Evidence that the proposed area's growing conditions, such as climate, soils, elevation, physical features, etc., distinguish it from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features that can be found on United States Geological Survey (USGS)-approved maps; and
- A copy of the appropriate USGS-approved map(s) with the boundaries prominently marked.

#### *Impact on Current Wine Labels*

With the establishment of this viticultural area, bottlers who use brand names similar to or containing part of the name of the viticultural area must ensure that their existing products are eligible to use the name of the viticultural area 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 named viticultural area. If the wine is not eligible to use the appellation, bottlers must change the brand name of that wine and obtain approval of a new label. Different rules apply if you label a wine in this category with a brand name approved before July 7, 1986. See 27 CFR 4.39(i) for details.

#### **Rulemaking Proceeding**

##### *Oak Knoll District Petition*

The Oak Knoll District Committee petitioned ATF to establish the "Oak Knoll District" viticultural area in the southern end of the Napa Valley in Napa County, California. Situated entirely within the established Napa Valley viticultural area, the Oak Knoll District area lies between the established Yountville viticultural area and the city of Napa. The petitioned viticultural area covers approximately 8,300 acres, of which about 3,500 acres are plantable to vines.

##### *Comments on the Notice of Proposed Rulemaking*

ATF published Notice No. 947, a notice of proposed rulemaking, in the **Federal Register** on July 9, 2002 (67 FR 45437). The comment period for the proposed rule closed on September 9, 2002. During this 60-day time period, ATF requested comments concerning

the proposed Oak Knoll District viticultural area from all interested persons. ATF received seven written comments.

Two commenters, Mary Ann Tsai, president of Luna Vineyards, and Mr. James Verhey, president of UCC Vineyards Group, supported the Oak Knoll District's establishment, but sought to expand the area to include a vineyard just outside its eastern boundary along the Silverado Trail. Both Mr. Verhey and Ms. Tsai, in second comments, withdrew their first comments and supported the area's proposed boundaries. Ms. Dawnine Dyer, president of the Napa Valley Vintners Association, also wrote to express the group's support of the viticultural area as originally proposed.

Two comments opposed the area's establishment because the commenters believed the public would confuse the Oak Knoll District with the name and reputation of the Oak Knoll Winery in the Willamette Valley in Oregon. Mr. Ronald Vuylsteke and Ms. Marjorie Vuylsteke, founders of the Oak Knoll Winery, and Mr. Thomas Burton, the winery's general manager, expressed their opposition to the Oak Knoll District name in a jointly signed comment. They stated that use of this name would create significant consumer confusion, infringe upon their Oak Knoll brand name, and allow California winemakers to capitalize on their 30 years of work in the wine trade. They did suggest, however, that the alternative name "Oak Knoll District of the Napa Valley" might help differentiate the California wines from the Oregon wines.

Mr. Hugh Thacher, president, and Mr. James Faber, vice president of the San Francisco Wine Exchange, the marketing and sales agent for the Oak Knoll Winery in Oregon, also opposed the Oak Knoll District's establishment. They stated that an Oak Knoll District viticultural area would impact their ability to effectively market the Oak Knoll brand as an Oregon winery.

The petitioner recently advised TTB that they are willing to revise the name of the viticultural area to "Oak Knoll District of Napa Valley." They have also corrected the amount of acreage in the petition from approximately 9,940 acres, of which 4,040 are plantable to vines, to approximately 8,300 acres, with 3,500 acres plantable to vines. This correction is to the amount of acres listed only. The boundaries in Notice No. 947 are accurate and have not changed.

##### *TTB Decision*

The petitioner provided substantial historical and current name evidence for

the proposed Oak Knoll District viticultural area. After evaluating the petition, and the comments received, TTB has decided that the name "Napa Valley" should be made a part of the viticultural area name in order to distinguish the name of this area from the Oak Knoll Winery located in Willamette Valley, Oregon, which must continue to comply with the provisions of 27 CFR 4.39(i). The regulatory text contained in this final rule has been modified accordingly, and the new viticultural area will be formally known as the "Oak Knoll District of Napa Valley."

#### **Supporting Evidence for the Oak Knoll District of Napa Valley**

##### *What Name Evidence Has Been Provided?*

The petitioners supplied name evidence in the form of articles from various publications and trade magazines that make reference to the "Oak Knoll District" in Napa Valley. An excerpt from the article "Dances with Cows" by Richard Paul Hinkle in the Lifestyle section of the August/September 1999 issue of Wine News states that the Trefethen family bought the Eshcol estate, a 600-acre walnut, wheat, grape and prune ranch, "in the Oak Knoll District of Napa" in 1968. An article from the July 16, 1997, Los Angeles Times states, "Trefethen's 600 acres of vines are in the (not yet legally designated) Oak Knoll District at the cool southern end of Napa Valley, not far from the city of Napa."

The petition included historical evidence for the Oak Knoll name in a report submitted by historian Charles L. Sullivan, which included newspaper articles that extend back to the 1800s. According to the report, the viticultural area is the site of the historic Oak Knoll Ranch, which dates from the early days of American settlement in the Napa Valley. Also within the viticultural area are the former Oak Knoll School District, the historic Oak Knoll train station, the Oak Knoll Inn, and the Oak Knoll Cellars vineyard.

The petitioner also offers some modern evidence of the area's name recognition, noting that Oak Knoll Avenue traverses the viticultural area from Highway 29 on its western side to the Silverado Trail on its eastern side.

##### *What Boundary Evidence Has Been Provided?*

The Oak Knoll District of Napa Valley viticultural area is located in the southern end of Napa Valley in Napa County, California, and is completely within the established Napa Valley

viticultural area. The northern boundary of Oak Knoll District of Napa Valley is the same as the southern boundary of the Yountville viticultural area, and the Mt. Veeder viticultural area boundary line to Redwood Road defines part of its western boundary. Professor Deborah L. Elliott-Fisk, in her climate and soil report included with the petition, states that the area's southern boundary approximates the southern edge of the Dry Creek alluvial fan. She also concludes the most logical west-east line to follow for this boundary is Redwood Road, which becomes Trancas Road to the east of Highway 29, and states the area's logical eastern boundary is the Silverado Trail.

The petitioner submitted two USGS maps. See the narrative boundary descriptions and the listing of maps for the viticultural area in the final rule published at the end of this notice.

#### *What Evidence Relating to Growing Conditions Was Provided?*

#### Soil

According to the reports and studies cited by Dr. Elliott-Fisk, the soils in the Oak Knoll District of Napa Valley viticultural area are "more uniform than in other approved Napa Valley viticultural areas, due principally to the dominance of the large Dry Creek alluvial fan." Dr. Elliott-Fisk notes that across the large Dry Creek fan, soils include fine, gravelly clay loam, silt loam, and loam soils. The alluvial deposits from Dry Creek and the Napa River have buried the Diablo clays and Haire clay loams within this viticultural area. This contrasts with the land south of this viticultural area where Diablo and Haire soils are common at the surface.

Bedrock, seen in the hillsides along the western edge of the Oak Knoll District of Napa Valley area is diverse and primarily volcanic in origin. Serpentine, sandstone and shale are found on the hillsides. The toeslope soils are unusually rich in clay and are found in many different colors.

#### Topography

According to reports cited by Dr. Elliott-Fisk, the Oak Knoll District of Napa Valley viticultural area lies at relatively low elevations along the valley floor, with the Dry Creek Fan spreading out across the valley floor as sea-level dropped and San Pablo Bay regressed south and west many years ago. Valley floor elevations and the valley floor gradient increase just south of Yountville. This is the most abrupt topographic change along the entire Napa Valley floor.

#### Climate

The petitioners state that, outside of the Los Carneros viticultural area, one of the coolest regions in the Napa Valley is the Oak Knoll District of Napa Valley viticultural area, which has a long cool growing season for grapevines lasting approximately eight months of the year. This uniform climate is due to the broad, flat valley floor's topography. Along the western and eastern edges of the Oak Knoll District of Napa Valley area, small pockets of an even cooler climate are found in the immediate Napa River floodplain and in the small stream tributaries on the lower foothills.

The petitioner also states the proximity of this area to San Pablo Bay results in a maritime influence, with cool breezes coming off the bay. Coastal fog is common in the mornings, especially in the summer. The petitioner adds that the area is sub-humid and receives approximately 28 to 30 inches of precipitation in a normal year. Annual precipitation can reach 60 inches in an abnormally wet year.

#### Regulatory Analyses and Notices

##### *Is This a Significant Regulatory Action as Defined by Executive Order 12866?*

TTB has determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

##### *How Does the Regulatory Flexibility Act Apply to This Proposed Rule?*

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirements. The establishment of a viticultural area is neither an endorsement nor approval by TTB of the quality of wine produced in the area. Any benefit derived from the use of a viticultural area name is the result of a proprietor's own efforts and consumer acceptance of wines from that area. Accordingly, a regulatory flexibility analysis is not required.

#### Drafting Information

The principal author of this document is Joanne Brady, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

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

Administrative practice and procedure, Alcohol and alcoholic beverages, Consumer protection, and Wine.

#### Authority and Issuance

■ For the reasons set forth in the preamble, Title 27, Code of Federal Regulations, part 9, American Viticultural Areas, is amended as follows:

#### PART 9—AMERICAN VITICULTURAL AREAS

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

*Authority:* 27 U.S.C. 205.

#### Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.161 to read as follows:

##### **§ 9.161 Oak Knoll District of Napa Valley.**

(a) *Name.* The name of the viticultural area described in this section is "Oak Knoll District of Napa Valley".

(b) *Approved maps.* The appropriate maps for determining the boundary of the Oak Knoll District of Napa Valley viticultural area are the following United States Geological Survey Quadrangle maps (7.5 Minute Series):

- (1) Napa, California, 1951 (Photo revised 1980); and
- (2) Yountville, California, 1951 (Photo revised 1968).

(c) *Boundaries.* The Oak Knoll District of Napa Valley viticultural area is located entirely within Napa County, California. The boundaries of the Oak Knoll District of Napa Valley viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows:

- (1) Beginning at the intersection of State Highway 29 and Trancas Road in the city of Napa on the Napa, CA quadrangle map;
- (2) Proceed easterly along Trancas Road until it meets the Napa River;
- (3) Proceed southerly along the Napa River approximately 3,500 feet to its confluence with Milliken Creek;
- (4) Continue northerly up Milliken Creek to its intersection with Monticello Road;
- (5) Then proceed westerly along Monticello Road to its intersection with Silverado Trail;
- (6) Then proceed northerly and then northeasterly along Silverado Trail to its intersection with an unimproved dirt road located approximately 1,300 feet north of the intersection of Silverado Trail and Oak Knoll Avenue;
- (7) From that point, proceed west in a straight line to the confluence of Dry Creek and the Napa River;
- (8) Then proceed northwesterly along Dry Creek onto the Yountville map to

the fork in the creek; then northwesterly along the north fork of Dry Creek to its intersection with the easterly end of the light-duty road labeled Ragatz Lane;

(9) Proceed southwesterly along Ragatz Lane to the west side of State Highway 29;

(10) Then proceed southerly along the west side of State Highway 29 for 982 feet to a point marking the easterly extension of the northern boundary of Napa County Assessor's parcel number 034-170-015 (marked in part by a fence along the southern edge of the orchard shown along the west side of State Highway 29 just above the bottom of the Yountville map);

(11) Then proceed westerly for 3,550 feet along the northern boundary of Napa County Assessor's parcel number 034-170-015 and its westerly extension to the dividing line between Range 5 West and Range 4 West on the Napa, CA map;

(12) Then proceed southwest in a straight line to the peak marked with an elevation of 564 feet; then south-southwest in a straight line to the peak marked with an elevation of 835 feet;

(13) Then proceed southwest in a straight line approximately 1,300 feet to the reservoir gauging station located on Dry Creek; then proceed west in a straight line across Dry Creek to the 400 foot contour line;

(14) Proceed along the 400-foot contour line in a generally southeasterly direction to its intersection with the line dividing Range 5 West and Range 4 West; then proceed south along that dividing line approximately 2,400 feet to the center of Redwood Road;

(15) Then proceed southerly and then easterly along Redwood Road to the point of beginning at Highway 29.

Dated: January 5, 2004.

**Arthur J. Libertucci,**  
Administrator.

Approved: January 28, 2004.

**Timothy E. Skud,**

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

[FR Doc. 04-4087 Filed 2-24-04; 8:45 am]

BILLING CODE 4810-31-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 147

[FRL-7623-1]

#### Revision to the Texas Underground Injection Control Program Approved Under Section 1422 of the Safe Drinking Water Act and Administered by the Texas Commission on Environmental Quality

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Today, EPA is amending the Code of Federal Regulations (CFR), and incorporating by reference (IBR), the revised Underground Injection Control (UIC) Program for the Texas Commission on Environmental Quality (TCEQ, formerly the Texas Natural Resources Conservation Commission). EPA initially approved the Texas UIC program, which is the subject of this rule, on January 6, 1982. Since approval, the State has had primary authority to implement the UIC program. The State has made changes to its EPA approved program and submitted them to EPA for review. Those changes are the subject of this rule. EPA, after conducting a thorough review, is hereby approving and codifying the State program revisions. As required in the Federal UIC regulations, substantial State UIC program revisions must be approved and codified in the CFR by a rule signed by the EPA Administrator. The intended effect of this action is to approve, update and codify the revisions to the authorized Texas UIC Program and to incorporate by reference the relevant portions of the revisions in the Code of Federal Regulations.

**DATES:** This rule is effective on March 26, 2004. The Director of the Federal Register approves the incorporation by reference contained in this rule as of March 26, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Mario Salazar, ([salazar.mario@epa.gov](mailto:salazar.mario@epa.gov)), Mail Code 4606M, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460, voice (202) 564-3894, fax (202) 564-3756. For technical information, contact Ray Leissner, ([leissner.ray@epa.gov](mailto:leissner.ray@epa.gov)) Ground Water/UIC Section (6WQ-SG), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, TX, 75202-2733, voice (214) 665-7183, fax (214) 665-2191.

#### SUPPLEMENTARY INFORMATION:

## I. Regulated Entities

This action does not impose any regulation on the public, and in fact there are no entities affected. This action merely approves, codifies, and incorporates by reference into the Code of Federal Regulations the revisions to the Texas UIC program previously adopted by the TCEQ. The rules that are the subject of this codification are already in effect in Texas under Texas law. The IBR allows EPA to enforce the State authorized UIC program, if necessary, and to intervene effectively in case of an imminent and substantial endangerment to public health and/or USDWs in the State.

## II. Background

Section 1421 of the Safe Drinking Water Act (SDWA) requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection activities which endanger underground sources of drinking water (USDWs). Section 1422 of SDWA allows States to apply to the EPA Administrator for authorization of primary enforcement and permitting authority (primacy) over injection wells within the State. Section 1422(b)(1)(A) provides that States shall submit to the Administrator an application that: (1) contains a showing satisfactory to the Administrator that the State has adopted and will implement an underground injection control program that meets the requirements of regulations in effect under Section 1421 of SDWA, and (2) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation. Section 1422(b)(1)(B)(2) requires, after reasonable opportunity for public comment, the Administrator by rule to approve, disapprove, or approve in part, the State UIC program.

EPA's approval of primacy for the State of Texas for underground injection into Class I, III, IV, and V wells, to be implemented by the Texas Water Commission, was published on January 6, 1982 (47 FR 618), and became effective on February 7, 1982.

On January 26, 1982, the Governor of the State of Texas requested approval of a complimentary program for Class II (oil and gas related) wells, under Section 1425 of SDWA, to be implemented by the Texas Railroad Commission (RRC). In addition to wells commonly classified as Class II in the UIC program, the request included two well types considered Class V wells: geothermal return and *in situ*