

THE EVOLUTION OF WINE APPELLATIONS IN THE UNITED STATES

L'EVOLUTION DES APPELLATIONS D'ORIGINE AUX ETATS-UNIS

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ABSTRACT

The wine appellation system in the United States was adopted in 1978 and first took effect in 1983. Since that time, 146 American viticultural areas (AVAs) have been established in 26 states. The appellation system today is evolving in new directions, which are the subject of this presentation: multiple, ordinal AVA establishment; boundary realignment; privatization toward varietal specificity; and brand name-appellation confusion.

RESUME

Le système des appellations d'origine aux Etats-Unis était adopté en 1978 et a entré en vigueur en 1983. Jusqu'à présent, 146 aires viticoles avaient été établies dans 26 états. Ce système des appellations aujourd'hui évolue dans de nouvelles directions, qui sont le sujet de cette présentation: l'établissement des multiples appellations dans une région viticole ; la révision des délimitations des appellations existantes; la spécialisation des appellations d'origine vers un cépage spécifique pour chaque aire viticole; et la confusion entre les marques et les appellations d'origine.

INTRODUCTION

The appellation system in the U.S., now over 20 years old, is continuing to mature, with greater attention to how the various viticultural areas interrelate and with revisions to AVA boundaries where appropriate. Private research and promotional efforts by vintner-grower groups, especially inside the more prestigious appellations, are focusing on specific varieties which are distinctive inside that AVA. This concept of *terroir-cépage* is well known in the Old World appellations. Finally, the confusion caused by geographic brand names used on wines which do not come from the named area is being addressed. The Napa Valley vintners and growers, in particular, have

supported a law in the state of California which prohibits the use of any Napa appellation name on any wine which does not qualify for the Napa County appellation, except where that name is used as part of the required bottling address.

MULTIPLE, ORDINAL AVA ESTABLISHMENT

Learning from the experiences of other AVAs which were established one by one based on petitions from persons inside each area, growers and vintners in the U.S. today are presenting petitions for multiple AVAs within the larger, often prestigious grape growing areas. These petitions present a coherent picture of the area and its various divisions and subdivisions; avoid overlapping AVAs; and generally are developed by a larger vintner-grower group in the region. Examples are Rutherford and Oakville in the Napa Valley (California), the proposed subdivision of the Willamette Valley (Oregon) into six AVAs, and the present discussions of multiple AVAs inside the Paso Robles appellation (California).

Using the Willamette Valley AVA as an example, instead of applying for its various subdivisions separately, a vintner coalition decided to apply for them at one time. "We tried to bring this about five or six years ago, but the idea ran into enough resistance that it died before it got started," says local vintner Ken Wright.¹ Not everyone in the area is supportive even now. Michael Etzel of Beaux Frères says, "I'm a little okay with it, if that's what everyone wants. It's more important that we're united as a young viticultural area to promote the region. Ultimately, it could help the region and sell and market the wine."² The ultimate test, as Etzel notes, is whether the appellation offers value added (*la valeur ajoutée*) to the wines of the region.

BOUNDARY REALIGNMENT.

Since the inception of the AVA system, there have been six realignments of viticultural area boundaries. Another petition for boundary realignment, for the Lodi viticultural area in California, is presently pending before the federal Bureau of Alcohol, Tobacco & Firearms ("ATF"), which administers the appellation system in the U.S.

Realignments are of several types. The most common realignment is the result of limited knowledge of the surrounding areas at the time of initial AVA establishment. An example is the extension of the Mt. Veeder viticultural area, located in Napa County, California. The actor, Robin Williams, submitted a petition to ATF to extend the northern boundary of the Mt. Veeder viticultural area to include approximately 360 acres, of which 30 acres were being planted to vineyard. At the time the Mt. Veeder area was established (February, 1990), there were no vineyards in the proposed extension area. Mr. Williams submitted evidence that the proposed expansion area had the same physical qualities as the existing Mt. Veeder area. The petitioner also had the support of the vintners and growers within the existing viticultural area. The extension was approved, effective January, 1994.³

Realignments also are necessary when mistakes, which were made in the original approval, are later discovered. This was the case with the Alexander Valley and Dry Creek Valley (Sonoma

County, California) viticultural areas. These AVAs were among the first established, in 1984 and 1983, respectively. Over a decade later, E. & J. Gallo Winery petitioned ATF to realign a common boundary between the two viticultural areas. The petition showed that the original boundary line ignored distinctive geographic features and climatic differences. The boundary line proposed by Gallo follows a significant ridgeline, which defines the watershed dividing Dry Creek Valley and Alexander Valley. The realignment puts Gill Creek watershed into the Alexander Valley area into which it drains, and Dutcher Creek remains in Dry Creek Valley. The realignment was effective December, 2001.⁴

Another type of realignment is designed to prevent consumer confusion. When ATF established the Columbia Valley viticultural area, located in the states of Washington and Oregon, in 1984, it stated in the final rule that the Walla Walla Valley viticultural area was entirely within the Columbia Valley viticultural area. ATF discovered, when reviewing maps for the proposed extension of the northern boundary of the Walla Walla Valley viticultural area, that there was an area approximately three miles long where the eastern boundary of the Walla Walla Valley viticultural area extended beyond the eastern boundary of the Columbia Valley AVA. ATF on its own initiative amended the Columbia Valley AVA boundary so it coincides with the boundary of the Walla Walla Valley AVA, thereby eliminating the overlap and any resulting consumer confusion. The realignment was effective April, 2001.⁵

Finally, boundary realignment may be necessary when an area included in an AVA does not meet the viticultural area criteria. ATF has yet to process any petition to remove land from an established AVA. Such a request will be carefully scrutinized because of the likely argument that the affected landowner has relied on that appellation since its establishment and would be prejudiced by being removed therefrom. As vintners and growers learn more about the differences within each appellation however, such a petition to remove land from an AVA (and perhaps also to police wine quality within the AVA) will become inevitable.

PRIVATIZATION TOWARD VARIETAL SPECIFICITY.

From the outset of the AVA program, ATF steadfastly has maintained that the approval of a viticultural area is in no way an endorsement of the quality of the wines from that area. All final rules approving viticultural areas have the following disclaimer:

ATF approval of a viticultural area is not an endorsement of the wine produced in the area. The approval of this viticultural area petition merely allows the wineries in the area to more accurately describe the origin of their wines to consumers and helps consumers identify the wines they purchase. Thus, any benefit derived from the use and reputation of a viticultural area name is the result of a proprietor's own efforts and consumer acceptance of wines from that area.⁶

Although ATF may not draw any correlation between an AVA and the wines from that area, wine critics certainly have. In *Making Sense of California Wine*, Matt Kramer views California wines

from the perspective of the land.⁷ Kramer concludes that many relatively young AVAs in California already have found "true vocations of place" and that certain grape varieties perform particularly well in certain places. The examples he cites are sparkling wine and Pinot Noir in Carneros and Cabernet Sauvignon in Stags Leap District, Oakville and Rutherford.

Vintner-grower groups inside these same AVAs are directing their viticultural and enological research and their promotional dollars toward this same concept of *terroir-cépage*. Although ATF legally cannot restrict the use of an appellation name to wines of a particular grape varietal, vintner-grower groups are focusing their private efforts along these lines. An example is the Rutherford Dust Society in the Rutherford AVA. This appellation consists of 27 wineries and 75 growers within an AVA area of approximately 6,500 acres. 80% of the planted acreage is in red Bordeaux varietals. The Rutherford Dust Society promotes the Rutherford AVA as "the historic grape growing center" of Napa Valley Cabernet Sauvignon. Each year the society sponsors a Rutherford Cabernet Sauvignon tasting. The group's recent presentation to the Society of Wine Educators was entitled "Study of a Cabernet Appellation."⁸

The Carneros Quality Alliance in the Carneros AVA also has a varietal focus. In its *Wine Country Field Guide - Carneros*, there is a section entitled "A Taste of Carneros" which reads as follows:

This book has touched on factors that make grapegrowing in Carneros unique – the fog and wind, the volcanic and clay-based soils, the planting and growing methods. The factors culminate in wines with a distinctive Carneros taste: Chardonnays with fruity green apple and pear flavors; Pinot Noirs with spicy cherry and berry overtones.... *Terroir* and wine are indivisible, and should be discovered together.⁹

BRAND NAME-APPELLATION CONFUSION.

Beginning in 1986, ATF has required each wine sold under a brand name which contains a geographic reference (e.g., Stags' Leap Winery, Edna Valley Vineyards, Mt. Veeder Winery) to qualify for the named AVA (Stags Leap District, Edna Valley and Mt. Veeder, respectively). Otherwise, the brand name has to be changed. However, under ATF's "grandfather rule," pre-1986 brand names can be used misdescriptively, even if they had never been so used historically.¹⁰ This is the history of Rutherford Vintners, an historical Napa wine brand purchased in 1994 by Bronco Wine Co. Bronco uses that name on wines which do not qualify for the Napa County appellation, even though the prior owner, the Skoda family, never used the name in that manner. This unlimited grandfather privilege is particularly dangerous in older winegrowing areas such as Napa County where many geographic brand names were established before 1986. Examples include Napa Ridge, Rutherford Hill, Sunny S. Helena and Oakville Vineyards. Napa Valley, Rutherford, St. Helena and Oakville are all existing AVAs within Napa County.

The California legislature in 2000 prohibited such label confusion for any Napa-named wines produced or sold in California. That state law prohibits the use of brands which include Napa County appellation names, such as Rutherford Vintners, Stags' Leap Winery, Napa Ridge, Domaine Napa and Oakville Cellars, among many others, on any wine which does not qualify for the Napa County appellation of origin. The text of the law follows:

Business and Professions Code §25241. (a) (1) The Legislature finds and declares that for more than a century, Napa Valley and Napa County have been widely recognized for producing grapes and wine of the highest quality. Both consumers and the wine industry understand the name Napa County and the viticultural area appellations of origin contained within Napa County (collectively "Napa appellations") as denoting that the wine was created with the distinctive grapes grown in Napa County.

(2) The Legislature finds, however, that certain producers are using Napa appellations on labels, on packaging materials, and in advertising for wines that are not made from grapes grown in Napa County, and that consumers are confused and deceived by these practices.

(3) The Legislature further finds that legislation is necessary to eliminate these misleading practices. It is the intent of the Legislature to assure consumers that the wines produced and/or sold in the state with brand names, packaging materials, or advertising referring to Napa appellations in fact qualify for the Napa County appellation of origin.

(b) No wine produced, bottled, labeled, offered for sale, or sold in California shall use, in a brand name or otherwise, on any label, packaging material, or advertising, any of the names of viticultural significance listed in subdivision (c), unless that wine qualifies under Section 4.25a of Title 27 of the Code of Federal Regulations for the appellation of origin Napa County and includes on the label, packaging material and advertising that appellation or a viticultural area appellation of origin that is located entirely within Napa County, subject to compliance with Section 25240.

Notwithstanding the above, this subdivision shall not grant any labeling, packaging, or advertising rights that are prohibited under federal law or regulations.

(c) The following are names of viticultural significance for purposes of this section:

(1) Napa.

(2) Any viticultural area appellation of origin established pursuant to Part 9 (commencing with Section 9.1) of Title 27 of the Code of Federal Regulations that is located entirely within Napa County.

(3) Any similar name to those in paragraphs (1) or (2) that is likely to cause confusion as to the origin of the wine.

(d) The appellation of origin required by this section shall meet the legibility and size-of-type requirements set forth in either Section 4.38 or Section 4.63 of Title 27 of the Code of Federal Regulations, whichever is applicable.

(e) Notwithstanding subdivision (b), any name of viticultural significance may appear either as part of the address required by Sections 4.35 and 4.62 of Title 27 of the Code of Federal Regulations, if it is also the post office address of the bottling or producing winery or of the permittee responsible for the advertising, or as part of any factual, nonmisleading statement as to the history or location of the winery.

(f) The department may suspend or revoke the license of any person who produces or bottles wine who violates this section. Following notice of violation to the person in possession of the wine and a hearing to be held within 15 days thereafter, if requested by any interested party within five days following the notice, the department may seize wine labeled or packaged in violation of this section regardless of where found, and may dispose of the wine upon order of the department. From the time of notice until the departmental determination, the wine shall not be sold or transferred.

(g) This section applies only to wine which is produced, bottled or labeled after January 1, 2001.

The law been challenged on various constitutional grounds by Bronco and is presently pending before the California Court of Appeal.

FOOTNOTES AND BIBLIOGRAPHY

¹ Tim Fish, "Oregon Wineries Push for Six New Appellations," *Wine Spectator Online*, April 25, 2002.

² Id.

³ T.D. ATF-351 (Final Rule, Realignment of the Northern Boundary of the Mt. Veeder Viticultural Area) Fed. Reg. Vol. 58, No. 237, Page 65123, December 13, 1993.

⁴ T.D. ATF-468 (Final Rule, Realignment of the Alexander Valley and Dry Creek Valley Viticultural Areas) Fed.Reg. Vol. 66, No. 193, Page 50564, October 4, 2001.

⁵ T.D. ATF-441 (Final Rule, Realignment of the Boundary of the Walla Walla Valley Viticultural Area and the Eastern Boundary of the Columbia Valley Viticultural Area) Fed. Reg. Vol. 66, No. 38, Page 11540, February 26, 2001.

⁶ T.D. ATF-473 (Final Rule Establishing the Rockpile Viticultural Area), Fed. Reg. Vol. 67, No. 40, Page 9192, February 28, 2002.

⁷ Matt KRAMER, *Making Sense of California Wine*, William Morrow and Company, Inc., New York, 1992.

⁸ Rutherford Dust Society, "Rutherford, Napa Valley: Study of a Cabernet Appellation," presentation to the Society of Wine Educators, August 4, 2001.

⁹ Eileen CAMPBELL, *Carneros – Travels Along the Napa-Sonoma Edge, A Wine Country Field Guide*, Carneros Quality Alliance, 2000.

¹⁰ 27 CFR §4.39(i).