



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

ASSISTANT SECRETARY

June 19, 2007

The Honorable Mike Thompson  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Thompson:

I write in response to your letter of May 22, 2007, on the American Viticultural Area (AVA) system administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB), and the petition to establish a Calistoga AVA. After consulting with the Office of Tax Policy, I want to provide you with the following response to your letter.

You asked whether TTB would consider a transition period for brand owners that would be affected by the establishment of a Calistoga AVA similar to those promulgated for the phased out use of Gamay Beaujolais and Johannesburg Riesling. Unfortunately, the situation is not an exact parallel. In those earlier cases, varietal names had been widely used on an industry-wide basis, and the transitional period was designed to enable the industry to phase out the use of these names and provide time to allow consumers to become accustomed to new names. That is not the case here for individual brand names that might be adversely affected.

You also asked whether the Calistoga petition satisfied all of the TTB requirements for the establishment of an AVA. The Calistoga AVA petition did provide information addressing all of the regulatory requirements for completing a petition. The regulations, however, specify only the evidence and other information that must be included in a petition for the establishment of a new AVA. Satisfying the regulatory requirements for filing a petition is not necessarily sufficient for the establishment of a new AVA. The Treasury Department makes a determination on whether to establish a petitioned-for AVA on the basis of the evidence presented in the petition and on all other relevant information gathered through the public comments received during the rulemaking process or from other sources. This information may include views on the impact that the proposed AVA might have on other parties, such as existing businesses and industry members.

At the beginning of the AVA program, the Treasury Department considered its impact on the many brand names already in use. The Treasury Department addressed this issue in the TTB regulations, which permit the continued use of brand names that had been in use on or before July 7, 1986. The "grandfather" approach in the regulations was intended to protect brand names that had existed prior to the development of the AVA program. This solution, however, was not forward-looking and, therefore, does not address conflicts between AVAs and brand names that came into existence after July 7, 1986.

These post-1986 brand names, which have come into use before any thought was given to establishing an AVA having the same name, are frequently built up over a period of time by

substantial investments of capital and hard work. They can attain significant value in and of themselves. This value may then be threatened by a proposal to establish an AVA because, by virtue of the government's administrative action in establishing the new area, the AVA name then becomes "viticulturally significant." This in turn may result in a serious restriction on the brand-name holder's ability to use the name because of the requirements to source raw materials for wine production by substantially limiting that sourcing to materials grown within the new AVA. Our intent, consistent with the intent behind the "grandfather" approach, is to recognize established grape growing regions while avoiding interference with established brand names.

Since 1980, more than 180 AVAs have been established in response to petitions from industry members and grape growers. In recent years, an increasing number of petitions have been submitted that would affect established brands. There has also been an increase in the number of petitions to establish AVAs within AVAs, which some believe undermines the value of the program. Moreover, many of the more recent petitions ask to establish AVAs within AVAs within AVAs. Because of these issues and other concerns about the program, we have begun a review of our AVA-approval process, with a view toward establishing clearer and perhaps more rigorous standards. Our goal is to protect the integrity of the AVA system by ensuring that the system continues to have meaning for both consumers and producers.

The current Calistoga petition is an example of a petition that would affect an established brand and asks for establishment of an AVA within an AVA. The complexities of these issues have led us to suspend action on approval of this and other similar petitions while we consider revising the existing regulatory approach.

We appreciate your interest in and support of the AVA program. You can be sure that our intent is to take a balanced approach in its administration.

Sincerely,



Kevin I. Fromer  
Assistant Secretary for  
Legislative Affairs