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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2014-0007]

[T.D. TTB-141; Ref: Notice No. 145]

RIN: 1513-AC10

Expansion of the Sta. Rita Hills Viticultural Area

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

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is expanding the approximately 33,380-acre “Sta. Rita Hills” viticultural area in Santa Barbara County, California, by approximately 2,296 acres. The established viticultural area and the expansion area are both located entirely within the larger Santa Ynez Valley viticultural area and the multicounty Central Coast viticultural area. 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.

DATES: This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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 this law.

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 the wine's 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 expand an AVA must include the following:

- Evidence that the area within the proposed expansion area boundary is nationally or locally known by the name of the established AVA;

- An explanation of the basis for defining the boundary of the proposed expansion area;
- A narrative description of the features of the proposed expansion area affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the established AVA and distinguish it from adjacent areas outside the established AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed expansion area, with the boundary of the proposed expansion area clearly drawn thereon; and
- A detailed narrative description of the proposed expansion area boundary based on USGS map markings.

Online Availability of Documents

All documents and comments discussed below in this final rule, including the petition to expand the Sta. Rita Hills AVA and its supporting documents, the notice of proposed rulemaking (Notice No. 145), and the comments and attached supporting documents received in response to that notice, are available for public viewing within Docket No. TTB–2014–0007 on the “Regulations.gov” website at <http://www.regulations.gov>. A direct link to Docket No. TTB–2014–0007 is available under Notice No. 145 on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml>.

Petition to Expand the Sta. Rita Hills AVA

TTB received a petition from Patrick L. Shabram, on behalf of John Sebastiano Vineyards and Pence Ranch Vineyards, proposing to expand the

established Sta. Rita Hills AVA. The Sta. Rita Hills AVA (27 CFR 9.162) was established by T.D. ATF-454, published in the **Federal Register** on May 31, 2001 (66 FR 29476).¹

The Sta. Rita Hills AVA, which covers approximately 33,380 acres, is located in Santa Barbara County, California, between the towns of Lompoc, which lies to the west, and Buellton, which lies to the east. The Sta. Rita Hills AVA and the proposed expansion area are located within the Santa Ynez Valley AVA (27 CFR 9.54), which is entirely within Santa Barbara County. The Santa Ynez Valley AVA is within the larger multicounty Central Coast AVA (27 CFR 9.75). The Sta. Rita Hills AVA and the proposed expansion area do not overlap any other established or proposed AVA.

The proposed expansion area is located along the existing eastern boundary of the Sta. Rita Hills AVA. The proposed expansion area contains approximately 2,296 acres and three commercial vineyards, two of which are currently divided by the existing eastern boundary of the AVA. Pinot Noir and Chardonnay are among the varieties of grapes grown in the proposed expansion area. The proposed expansion would move a portion of the AVA's existing eastern boundary approximately one-half mile farther to the east. The new boundary would then be defined by a road within a north-south canyon named "Cañada de los Palos Blancos," which is located west of the city of Buellton. According to the expansion petition, the new boundary would still be within the

¹ The Sta. Rita Hills AVA was originally established under the name "Santa Rita Hills." The AVA name was later abbreviated to "Sta. Rita Hills" in order to prevent potential confusion between wines bearing the Santa Rita Hills appellation and the Santa Rita brand name used by a Chilean winery. For details, see T.D. TTB-37, published in the Federal Register on December 7, 2005 (70 FR 72710).

Santa Rita Hills because a 1906 decision card issued by the U.S. Board on Geographic Names² states that the hills extend as far east as the mouth of the canyon.

According to the petition, the climate, topography, soils, and native vegetation of the proposed expansion area are similar to those of the established AVA. The climate of both the proposed expansion area and established AVA is influenced by cool winds and fog that move inland from the Pacific Ocean, providing a climate that is suitable for growing cool-climate wine grapes such as Pinot Noir and Chardonnay. The proposed expansion area and the established AVA contain oak-studded rolling hills of similar elevations. Finally, both the established AVA and the proposed expansion area have soils that contain loam, sand, silt, and clay.

Although the proposed expansion area is more similar to the established Sta. Rita Hills AVA than the surrounding regions, the petition states that the proposed expansion area still shares some of the features of the surrounding Santa Ynez Valley AVA and Central Coast AVA. For instance, the proposed expansion area has elevations and rolling hills similar to those found in portions of the larger Santa Ynez Valley AVA. However, the proposed expansion area lacks the diversity of topography found within the larger Santa Ynez Valley, such as maze-like canyons and broad alluvial plains. The proposed expansion area

² The United States Board on Geographic Names is a Federal body created in 1890 and established in its present form by Federal law in 1947 to maintain uniform geographic name usage throughout the Federal Government. Sharing its responsibilities with the Secretary of the Interior, the Board promulgates official geographic feature names with locative attributes as well as principles, policies, and procedures governing the use of domestic names, foreign names, Antarctic names, and undersea feature names. See <http://geonames.usgs.gov/> for more information.

also shares a marine-influenced climate with the Central Coast AVA and the western portions of the Santa Ynez Valley AVA. However, the proposed expansion area receives less marine-cooled air and fog than the portions of the Central Coast AVA closer to the Pacific Ocean and more marine influence than the eastern regions of the Santa Ynez Valley AVA.

Publication of Notice of Proposed Rulemaking (Notice No. 145)

TTB published Notice No. 145 in the **Federal Register** on August 7, 2014 (79 FR 46204), proposing to expand the Sta. Rita Hills AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed expansion area. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed expansion area, and for a comparison of the distinguishing features of the proposed expansion area to the surrounding areas, see Notice No. 145.

In Notice No. 145, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period for Notice No. 145 was originally scheduled to close on October 6, 2014. On August 18, 2014, TTB received a letter from the chairman of the Sta. Rita Hills Winegrowers Alliance (comment 20) requesting a 90-day extension of the comment period in order to allow more time for industry members to submit comments. The letter stated that local grape growers and winemakers were in the process of bottling previous vintages and preparing for

harvest and thus did not have time to prepare and submit comments before the close of the comment period.

TTB determined that good cause existed to extend the comment period. Accordingly, TTB published Notice No. 145A in the **Federal Register** on September 3, 2014 (79 FR 52273), which extended the comment period for an additional 60 days. TTB did not extend the comment period for the requested 90 days because the bureau believed that neither Notice No. 145 nor the petition and supporting materials were voluminous or unusually complex, and that a 60-day extension would extend the comment period well past the peak of a typical harvest period. As a result, the comment period for Notice No. 145 closed on December 5, 2014.

Comments Received

In response to Notice No. 145, TTB received a total of 121 comments. Of these, TTB posted 117 comments for public viewing within Regulations.gov docket number TTB-2014-0007 (see <http://www.regulations.gov/>). TTB did not post three anonymous comments and one duplicate comment. As noted in Notice No. 145, TTB has a policy of not accepting anonymous comments.

Of the 117 comments TTB posted to the docket, 91 comments oppose the proposed expansion, and 19 comments support the proposed expansion. TTB also received five comments from the petitioner in defense of his analyses and credentials (comments 17, 29, 47, 102, and 113). In addition, TTB posted one comment requesting an extension of the comment period (comment 20). Finally, TTB posted one comment (comment 91) that responds to claims made in an

earlier comment (comment 83), but does not specifically express support for or opposition to the proposed expansion.

Supporting Comments Received

TTB received 19 comments supporting the proposed expansion of the Sta. Rita Hills AVA. Most of these comments assert that the petitioner's evidence demonstrates that the proposed expansion area is similar enough to the Sta. Rita Hills AVA that it should be considered part of the established AVA. These commenters include local vineyard owners and winemakers, a food and wine writer, sommeliers, a soil and plant nutrition consultant, and wine consumers. Of the 19 supporting comments, 18 provide anecdotal evidence, and 1 offers non-anecdotal evidence in the form of a chemical analysis of grapes grown within the AVA and grapes grown on the commenter's property within the proposed expansion area.

Opposing Comments Received

TTB received 91 comments from 88 individual commenters who oppose the expansion of the Sta. Rita Hills AVA. The commenters include local residents, local vineyard and winery owners, food and wine writers and bloggers, vineyard managers and consultants, the president of the Lompoc Valley Chamber of Commerce and Visitors Bureau, sommeliers, and the Sta. Rita Hills Winegrowers Alliance. Three of the 88 commenters submitted 2 comments each, including the Sta. Rita Hills Winegrowers Alliance (SRHWA), which sent in a link to a video presentation as well as a large package of documents that contains statements and reports from several experts. TTB considers the

package submission from the SRHWA to be a single comment, even though it contains statements and reports from multiple persons writing on behalf of the alliance.

The two most common reasons provided for opposing the proposed expansion of the Sta. Rita Hills AVA are that the proposed expansion area is not known to be part of the area known as Santa Rita Hills and that the proposed expansion area has a different climate. Some of the opposing comments also question the accuracy of the petitioner's data collection methods and analysis.

Discussion of Comments

In the following sections, TTB will provide a detailed discussion of the comments received in response to Notice No. 145 and the bureau's response to the comments.

Name Evidence

Opposing Comments

Forty-one of the opposing comments address the name evidence in the proposed expansion petition. All of these comments state that the proposed expansion area is not a part of the Santa Rita Hills and is instead on an entirely different landmass. Some of the comments describe this landmass as part of the Purisima Hills. The majority, however, state that the proposed expansion area is located within a landmass known as the "Buellton Flats," "Buell Flats," or "Buell Flat." Of the opposing comments that address the name evidence included in the expansion petition, two provide non-anecdotal evidence to support their claims (comments 97 and 116).

The SRHWA submitted comment 97, a detailed comment which addresses, among other things, the name evidence provided in the expansion petition. The comment claims although the expansion petition's name evidence is largely based on a 1906 U.S. Board on Geographic Names decision card that defined the boundaries of the Santa Rita Hills, the decision card was essentially revoked by a 1907 USGS bulletin on oil resources in Santa Barbara County. One of the two authors of the bulletin was Ralph Arnold, the paleontologist listed on the 1906 decision card as the "authority" who submitted the request to the U.S. Board on Geographic Names. The bulletin describes the Santa Rita Hills as extending as far east as "nearly to the edge of the Santa Rosa [land] grant." The comment asserts that by this definition, the Santa Rita Hills would not extend as far east as the proposed expansion area and would, instead, end within the current boundaries of the Sta. Rita Hills AVA.

Comment 97 also states that USGS Geographic Names Information System, which provides a link to the 1906 decision card, provides three sets of latitude and longitude coordinates relating to the Santa Rita Hills. The comment claims that when mapped, these coordinates "place the easternmost point of the Santa Rita Hills just west of Mail Road," which is within the current AVA boundaries and approximately 2.5 miles west of the proposed expansion area. The comment asserts that this is further evidence that the proposed expansion area cannot be known as "Sta. Rita Hills" because the Santa Rita Hills do not extend into the proposed expansion area.

Comment 97 also includes several historical newspaper articles from the Lompoc Record and asserts that these articles demonstrate that the proposed expansion area is located in a region called the “Buellton Flats” or “Buell Flat(s).” According to the comment, these two terms are used to describe all of the lands historically owned by the Buell family, including “the entire Rancho de San Carlos de Jonata, [and] the Canada [sic] de los Palos Blancos * * *.” The comment concludes that, by this description, the proposed expansion area is located in an area that was historically known as “Buell Flat” because the proposed expansion area is within the San Carlos de Jonata land grant, and the Cañada de los Palos Blancos forms the eastern edge of the proposed expansion area.

Another comment (comment 116) also challenges the expansion petitioner’s interpretation of the 1906 decision card issued by the U.S. Board on Geographic Names. Although the decision card states that the Santa Rita Hills extend to the “mouth of the Cañada de los Palos Blancos,” the commenter asserts that the term “mouth” does not refer to the mouth of the canyon, which is located just north of State Highway 246. Instead, the commenter believes that “mouth” refers to the point where the seasonal creek that runs through the canyon enters the Santa Ynez River. The creek curves to the west as it exits the canyon and joins with the river south of State Highway 246, outside both the proposed expansion area and the current AVA boundary. The commenter also states that the geological feature known as the Santa Rita Syncline “separates the Santa Rita Hills from the Purisima Hills” and follows the path of State Highway 246. The commenter states that, by his interpretation of the 1906

decision card, the Santa Rita Hills do not extend as far east as the actual canyon known as the Cañada de los Palos Blancos, which forms the eastern boundary of the proposed expansion area, nor do the hills extend north of the geological feature known as the Santa Rita Syncline.

The commenter also concludes that, using his definition of the boundaries of the actual Santa Rita Hills, none of the three vineyards located either entirely or partially within the expansion area are planted on the geological feature known as the Santa Rita Hills. The commenter asserts that the two vineyards planted north of State Highway 246 are planted on a ridge that “buttresses the Purisima Hills,” and the third vineyard, which is located south of both State Highway 246 and the junction of the creek and the Santa Ynez River, is planted in the Santa Rosa Hills. Because none of the three vineyards within the proposed expansion area are planted on the geological feature known as the Santa Rita Hills, the commenter claims that the expansion petition does not meet the name evidence requirements to say that the proposed expansion area is known as the “Sta. Rita Hills.”

Finally, comment 97 includes a report by an expert in land titles which examines the historical land records of a man named Charles Lewis. The report shows that in 1910, Mr. Lewis obtained a parcel of land consisting of 550.89 acres cut from the Santa Rosa land grant. The parcel includes the present-day Pence Ranch vineyard, which is located within the proposed expansion area. Mr. Lewis’ ranch house still stands on the Pence Ranch property and is shown on the USGS Solvang quadrangle map and on a 1919 map (included in comment

97) just north of present-day State Highway 246. The title expert's report then references a September 1913 article from the Lompoc Record that describes Mr. Lewis travelling from "his Buell Flat ranch" to Lompoc. The report concludes that because Mr. Lewis' property included a large portion of the proposed expansion area, the term "Buell Flat" applies to the proposed expansion area.

Supporting Comments

One of the 19 comments submitted in support of the proposed AVA expansion addresses the question of name evidence (comment 115). The commenter states that although many of the opposing comments claim the proposed expansion area is known as either "Buell Flats" or "Buellton Flats," the only reference to those terms of which she is aware is a reference to an area east of Buellton, several miles beyond the proposed expansion area. TTB notes that the commenter did not provide any evidence to support her claim of the location of a region known as "Buell Flats" or "Buellton Flats."

In response to the comments challenging the name evidence in the expansion petition, the petitioner, Patrick Shabram, submitted two additional comments (comments 102 and 113). In comment 102, Mr. Shabram addresses the claims in comment 76 that the proposed expansion area extends into an area called the "Buell Flat." Mr. Shabram provided anecdotal evidence that the proposed expansion area is not known as "Buell Flat" in the form of a statement by the current owner of Buell Ranch, who indicated the "Buell Flat" was never considered to extend west of Buellton. Instead, the ranch owner described "Buell

Flat” as being “on either side of [State Highway] 246 from Ballard Canyon to about Neilson Supply,” which is a building supply store in Solvang.

Finally, in comment 113, Mr. Shabram provides additional evidence to demonstrate that the proposed expansion area is associated with the name “Sta. Rita Hills.” A 2013 article from the Santa Barbara Independent newspaper describes a wine tasting festival in Solvang, which included wine from Pence Ranch, one of the vineyards within the proposed expansion area. The article describes the vineyard as being located “on the eastern edge of the Sta. Rita Hills [sic].” An advertisement for the 2013 PinotFest in Pasadena features “the Best of Pinot Noir from Sta. Rita Hills” and lists Pence Ranch as one of the featured wineries. Finally, a brochure from Dragonette Cellars describing their 2011 Sta. Rita Hills-labeled Pinot Noir notes that 12 percent of the grapes used to make the wine are from Pence Ranch, and that all the grapes used in the wine were selected for their “ability to add unique but complementary characteristics to the final blend.” According to Mr. Shabram, the article and the festival advertisement both demonstrate that the Pence Ranch is currently associated with the Sta. Rita Hills AVA, even though it is not within the AVA. Furthermore, Mr. Shabram believes the brochure from Dragonette Cellars shows that the quality and characteristics of the Pinot Noir grapes grown within the proposed expansion area are similar enough to Pinot Noir grapes grown within the AVA that they may be blended with AVA-grown fruit.

TTB Analysis

TTB has carefully reviewed all of the comments that address the issue of name evidence. TTB has also reviewed the regulatory history of the Sta. Rita Hills AVA to ensure that its determination regarding the name evidence for the proposed expansion area is consistent with the previous rulemaking, namely T.D. ATF-454.

TTB notes that the majority of the opposing comments solely provided anecdotal evidence to support their claims that the proposed expansion area is located in a region known as the “Buellton Flats,” “Buell Flat,” or “Buell Flats.” Although the expansion petitioner includes a statement from the current owner of Buell Ranch in the expansion petition and his two additional comments, stating that the ranch owner considers the “Buell Flat” to be located between the cities of Buellton and Solvang, this is also anecdotal evidence. Section 9.12(a)(1)(ii) of the TTB regulations (27 CFR 9.12(a)(1)(ii)) states that “anecdotal information by itself is not sufficient” to demonstrate name usage, and that evidence from sources independent of the petitioner, such as newspaper or magazine articles, books, or maps, must also be provided. Therefore, TTB cannot determine the exact location of a region historically or currently known as the “Buellton Flats,” or “Buell Flat(s),” or if the region contains the proposed expansion area, based solely on the anecdotal evidence provided by the commenters.

With regard to the articles referencing “Buell Flat(s)” which were included in comment 97, TTB notes that the articles all date to 1920 or earlier. Section 9.12(a)(1) requires evidence to show that the name is “currently and directly”

associated with the area of the AVA. Nevertheless, TTB has examined the historical articles and has determined that their descriptions of the location of “Buell Flat(s)” are too vague or broad to state conclusively that the proposed expansion area was located within the area known by that name. For these reasons, TTB has determined that the historical articles do not conclusively demonstrate that the proposed expansion area is in an area currently or historically known as “Buell Flat(s).”

TTB has also carefully considered the land title expert’s analysis of the property records of Charles Lewis, which was included in comment 97. TTB agrees with the title expert’s findings that the present-day Pence Ranch was once owned by Mr. Lewis, who was referred to in the 1913 newspaper article as living on a “Buell Flat ranch.” However, the 1910 survey map included with the title expert’s analysis does not include any reference to “Buell Flat” and refers to various portions of the parcel of land owned by Mr. Lewis as “Hill Land,” “Palos Blancos Flat,” and “Bottom Land.” Therefore, TTB believes that the region of the proposed expansion area has been referred to by various names over time and was not known exclusively as “Buell Flat,” even at the time the land was owned by Mr. Lewis. Finally, TTB notes that the analysis does not provide evidence that the proposed expansion area is currently known as “Buell Flat,” as required by § 9.12(a)(1) of the TTB regulations.

TTB disagrees with the assertion in comment 97 that the 1906 U.S. Board on Geographic Names decision card was revoked the following year by the 1907 USGS bulletin. Although the 1907 bulletin does not describe the eastern edge of

the Santa Rita Hills in the same manner as the 1906 decision card, the bulletin does not affect the decision card. If the description of the Santa Rita Hills in the bulletin had been intended to officially replace the description in the 1906 decision card, then the Board would have issued a second card noting the new decision. However, no such card was provided to TTB during the comment period, so TTB does not consider the 1907 bulletin to have officially revoked or amended the 1906 decision card. Because TTB finds no evidence that the decision card was officially revoked or amended, TTB considers the card's definition of the Santa Rita Hills to be current, even though the decision was made in 1906.

TTB also disagrees with the interpretation of the three sets of coordinates attributed to the Santa Rita Hills in the USGS Geographic Names Information System (GNIS). TTB does not believe that these coordinates are intended to demarcate the edges of the Santa Rita Hills. Instead, TTB believes these coordinates are intended to help map users locate the hills on each of the three USGS quadrangle maps on which they appear. On the GNIS website, each of the sets of coordinates is specifically linked to one of these three USGS quadrangle maps. When plotted on its specific map, each set of coordinates corresponds to a point within the hills, usually a point roughly in the middle of the printed words "Santa Rita Hills." TTB agrees that the easternmost set of these coordinates, which is a point on the Santa Rosa Hills quadrangle map, corresponds to a point within the current AVA boundary that is west of Drum Canyon. However, TTB does not agree that this set of coordinates is intended to

show the easternmost edge of the Santa Rita Hills, because the printed words “Santa Rita Hills” clearly continue east of Drum Canyon and onto the landmass that includes both the AVA’s current eastern boundary and the proposed expansion area.

TTB also finds no conclusive evidence to support the claim in comment 116 that the “mouth” mentioned in the 1906 decision card refers to the junction of the Santa Ynez River and the intermittent creek that runs through the Cañada de los Palos Blancos. Even if TTB was to use this interpretation, a portion of the Santa Rita Hills would still be within the proposed expansion area. Under the definition of “mouth” offered in comment 116, the landmass that includes both the current eastern boundary of the Sta. Rita Hills AVA and the proposed expansion area would contain portions of two separate ranges: the portion of the landmass that is north of the Santa Rita Syncline (which follows the path of State Highway 246) would be in the Purisima Hills, and the portion south of the syncline would be in the Santa Rita Hills. TTB notes that the portion of the landmass that is south of the syncline extends into the proposed expansion area. Therefore, even if TTB were to use the definition of the “mouth” of the canyon used in comment 116, a portion of the Santa Rita Hills would still be within the proposed expansion area.

Additionally, comment 116 places the Santa Rita Syncline within the proposed expansion area, following the path of State Highway 246. TTB notes that the Santa Rita Syncline also runs through the Sta. Rita Hills AVA and was used in the original AVA petition as evidence to support the name “Santa Rita

Hills” (later “Sta. Rita Hills”). Therefore, the existence of the syncline within the proposed expansion area further supports the expansion petition’s claim that the proposed expansion area is associated with the AVA name.

TTB also disagrees with the assertion in comment 116 that all three vineyards within the proposed expansion area must be planted on the actual Santa Rita Hills in order for the proposed expansion area to qualify to use the name. Section 9.12(a)(1) of the TTB regulations only requires that the name be “currently and directly associated with an area in which viticulture exists.” TTB does not require vineyards to be planted on the geographical feature that gives its name to the region. For example, no vineyards are planted in any of the creeks and rivers that give their names to numerous AVAs. Furthermore, TTB notes that many of the vineyards already within the Sta. Rita Hills AVA are not planted on the geographical feature known as the Santa Rita Hills and are, instead, planted in the Santa Rita Valley, along the floodplains along the Santa Ynez River, or on the foothills of the Purisima and Santa Rosa Hills.

TTB has determined that evidence provided by Mr. Shabram in comment 113 provides additional support for the claim that the proposed expansion area is known as the “Sta. Rita Hills.” TTB believes that the article from the Santa Barbara Independent that describes Pence Ranch as being located on the “edge of the Sta. Rita Hills” demonstrates that wine critics associate the vineyards and wineries within the proposed expansion area more with the Sta. Rita Hills AVA than with the larger, surrounding Santa Ynez Valley AVA. The advertisement for the Pasadena PinotFest includes Pence Ranch in its list of Sta. Rita Hills AVA

wineries, even though Pence Ranch is not located within the AVA's boundaries and its wines are not labeled with the appellation. Pence Ranch's inclusion in the festival strongly suggests wine community members and consumers associate the proposed expansion area with the AVA.

However, TTB does not believe that the brochure from Dragonette Cellars provides additional name evidence, even though grapes from Pence Ranch are specifically included in the Sta. Rita Hills-labeled wine, because TTB regulations allow up to 15 percent of the grapes from an AVA-labeled wine to come from outside the AVA. The brochure does not claim that 100 percent of the grapes in the wine are from within the Sta. Rita Hills AVA, and only 12 percent of the grapes in the wine are specifically attributed to Pence Ranch.

Finally, TTB notes that the presence within the proposed expansion area of geographical features with names other than "Santa Rita Hills," such as the Purisima Hills or the Buellton/Buell Flat(s), does not preclude the proposed expansion area from also being known as the "Sta. Rita Hills." TTB notes that the Sta. Rita Hills AVA currently includes several geographical features known by other names, including the Santa Rita Valley, the Santa Ynez River, Drum Canyon, and the foothills of both the Purisima Hills and the Santa Rosa Hills.

In conclusion, TTB has determined that the evidence included in the opposing comments does not sufficiently demonstrate that the proposed expansion area does not contain a portion of the geographical feature known as the Santa Rita Hills. Additionally, TTB has determined that the evidence included in any of the opposing comments does not conclusively show that the region of

the proposed expansion area is not known at the “Sta. Rita Hills” or is currently referred to solely as the “Buellton Flats” or “Buell Flat(s).” Therefore, taking into account the name evidence described in both the original AVA petition and T.D. ATF–454, TTB concludes that the name evidence provided in the expansion petition and supplemented by the evidence provided in comment 113 is sufficient to demonstrate that the proposed expansion area is known by the name “Sta. Rita Hills.”

Topography and Native Vegetation

Opposing Comments

TTB received 23 comments that argue that the topography of the proposed expansion area is markedly different from the established Sta. Rita Hills AVA. Several of the comments state that the current eastern boundary of the AVA was placed at the point where the hills change orientation from east-west (within the AVA) to north-south (within the proposed expansion area). For example, comment 97 includes a letter stating that the proposed expansion area was excluded from the AVA because “it deviates from the orientation of the existing AVA into the unique Santa Rita Hills and its surrounding valleys.” The letter asserts that the proposed expansion area is oriented towards the city of Buellton and is therefore “fundamentally and uniquely different” from the AVA. Other comments state that the proposed expansion area contains significant expanses of flat land that are different from the terrain within the AVA. For instance, comment 45 states that the AVA contains “tight valleys,” whereas the proposed expansion area is in the “vast open plain” beyond the eastern AVA

boundary. Additionally, comment 89 claims that the proposed expansion area “is actually in the flat lands east of the Santa Rita Hills.”

Two opposing comments include non-anecdotal evidence (comments 76 and 111) to support the claims that the topography of the proposed expansion area differs from that of the Sta. Rita Hills AVA. Comment 76 includes a link to a video created by the SRHWA that compares the topography of the Sta. Rita Hills AVA to that of the proposed expansion area and the region farther east. The video describes the AVA as a “transverse valley” marked by parallel hills that run east-west, while the region east of the AVA has hills that are aligned north-south. The video states that the current eastern boundary of the AVA follows a high ridgeline “over 1,000 feet high” that is “close to 800 feet above the Buell Flats valley floor” and marks the point where the orientation of the hills changes. The video also asserts that, “It is important to note that the watershed east of the ridgeline [outside of the Sta. Rita Hills AVA] drains into the Buell Flats.”

Comment 111 includes a wide-angle aerial photograph looking west into the Sta. Rita Hills AVA. The current Sta. Rita Hills eastern boundary and a portion of the proposed expansion area are marked on the photo. The commenter asserts that one can tell from the photo that the Sta. Rita Hills AVA and the proposed expansion area are “two different landmasses, two different drainages, and exposures.”

Three comments also oppose the proposed expansion based on the native vegetation of the proposed expansion area. Comment 103 describes the proposed expansion area as “windswept grasslands,” whereas the Sta. Rita Hills

is covered with “majestic oaks.” Comment 97 and comment 111 both include copies of a report from an environmental services company. The report is described as a “peer review” of the expansion petition and focuses on the petition’s description of the climate and native vegetation of the proposed expansion area. The report states that the expansion petition significantly undercounted the number of valley oaks in the region between U.S. Highway 101 and the eastern boundary of the AVA, including those valley oaks located within the proposed expansion area. The environmental services company conducted its own survey of oak trees in the eastern portion of the AVA, between Drum Canyon/Mail Road and the eastern boundary. The report claims that at three locations within in the survey area, valley oaks comprised less than one percent of the oaks present at each location. However, at the fourth location, which was “at or near the AVA’s eastern boundary,” valley oaks comprised approximately 50 percent of the oaks present, suggesting “an abrupt change” at the ridgeline that forms the boundary between the AVA and the proposed expansion area “to a climate that is significantly more favorable to valley oak” than to live oak.

Supporting Comments

TTB received three comments in support of the proposed expansion area that specifically mentioned its topography. According to the three comments, the proposed expansion area and the AVA both contain similar topography.

Comment 23 asserts that “the mesa part of the vineyard [within the proposed expansion area] is not dissimilar to other vineyards on flat ground” within the Sta. Rita Hills AVA. Comment 33 argues that the proposed expansion area is not on

a separate landmass from the AVA because it is on the same hillside as the current AVA's eastern boundary. Finally, comment 109 claims that the proposed expansion area is not flat and low-lying, as many opposing comments claim, but is "of a higher elevation and with steeper slopes than much of the existing AVA terrain."

The expansion petitioner, Mr. Shabram, submitted three comments further describing the topography of the proposed expansion area (comments 17, 29, and 102). Comment 17, submitted in response to several opposing comments that claim the proposed expansion would extend the AVA significantly to the east and beyond the influence of the marine air, includes a map showing the location of the Sta. Rita Hills AVA and the proposed expansion area, as well as the distance to the ocean from both regions. Mr. Shabram asserts that the map shows the proposed expansion area would not extend the AVA substantially farther from the ocean. Comment 29, submitted in response to comments claiming that the proposed expansion area is flatter than the AVA, contains a map showing the slope angles of both the proposed expansion area and the AVA, which Mr. Shabram asserts are similar.

In comment 102, Mr. Shabram responds to the video included in comment 76. Mr. Shabram first notes that although the video states that the Sta. Rita Hills AVA is a transverse valley, the satellite images in the video show that the transverse valley is not limited to the AVA but in fact extends from the Pacific Ocean through the AVA and the proposed expansion area and ends at a point "well east" of the city of Buellton. Mr. Shabram then disputes the video's claim

that the AVA's eastern boundary is formed by a ridgeline with elevations over 1,000 feet. Mr. Shabram asserts that the boundary is not a true ridgeline but "the eastern edge of the Santa Rita Valley or a narrowing of the gap between the Purisma [sic] Hills and the Santa Rita/Santa Rosa Hills." Mr. Shabram further states that the highest point along the eastern AVA boundary is an "unnamed hill of 1,063 feet upon which John Sebastiano Vineyards sit. Some of the vineyards on this hill are in the Sta. Rita Hills AVA, some are outside." Although this hill's elevation is over 1,000 feet, Mr. Shabram observes that the highest point along State Highway 246 is only 557 feet, as shown on the USGS maps. The highway connects the AVA and the proposed expansion area and follows a natural wind gap in the mountains. Because the diurnal inversion layers in Santa Barbara County typically reach as high as 900 feet, Mr. Shabram concludes that this wind gap, which is approximately 160 feet above the valley floor adjacent to the west, is not so high as to block marine air and fog from entering the proposed expansion area. Finally, Mr. Shabram states that although the video claims that it is important that the region east of the current AVA, including the proposed expansion area, drains into the "Buell Flats," both the AVA and the proposed expansion area are part of the larger Santa Ynez River watershed.

TTB Analysis

TTB has carefully reviewed all of the comments that address the issue of topography and native vegetation. TTB has also reviewed the regulatory history of the Sta. Rita Hills AVA to ensure that its determination regarding the

topographical and native vegetation evidence for the proposed expansion area is consistent with the previous rulemaking.

T.D. ATF-454 describes the topography of the AVA as “an oak studded, hill-laden maritime throat that runs east to west, a few miles east of Lompoc to a few miles west of the Buellton Flats” and is “isolated geographically” by the Santa Rosa Hills to the south and the Purisima Hills to the north. These two east-west oriented ranges “frame the interior of the Santa Rita Hills [sic] AVA.” TTB notes that the importance of the AVA’s orientation was that it allows marine-influenced air to enter the AVA and moderate the climate.

TTB has determined that the opposing comments do not provide sufficient evidence to demonstrate that the topography of the proposed expansion area is different from that of the existing Sta. Rita Hills AVA. The topographical maps provided with the expansion petition, as well as the slope angle map submitted by Mr. Shabram in comment 17, demonstrate that the proposed expansion area is a region of hillsides similar to those found in the Sta. Rita Hills AVA.

TTB disagrees that the aerial photograph included in comment 111 shows that the terrain of the proposed expansion area is different. The AVA’s current eastern boundary is marked on the photo, and State Highway 246 is visible, which makes it possible to identify the proposed expansion area. TTB notes that the hilly terrain of the proposed expansion area, located to the right of the highway in the photo, resembles the hillsides within the AVA. The flat floodplain of the Santa Ynez River, which is prominent in the foreground of the photo, is not within the proposed expansion area. Furthermore, nothing in T.D. ATF-454

excludes valleys, floodplains, or other flat lands from the AVA. In fact, TTB notes that T.D. ATF-454 states that “viticultural viability” within the AVA was determined by, among other factors, the presence of both “hillside and alluvial basin plantings.”

With regard to the comments that claim the proposed expansion area should be excluded from the Sta. Rita Hills AVA because it is not part of the east-west maritime throat that defines the AVA, TTB believes that the proposed expansion area is part of the east-west oriented ranges described in the original petition as “framing” the AVA. The proposed expansion area sits on the eastern side of the same landmass that forms the AVA’s current eastern boundary, meaning that the western slopes of this landmass are already within the AVA. TTB does not believe that any of the comments contain sufficient evidence to demonstrate that the eastern slopes of this landmass are topographically different from the western slopes, which are within the AVA.

TTB does agree that the eastern slopes of the landmass do face away from the interior of the AVA and the Santa Rita Hills. However, TTB notes that T.D. ATF-454 does not exclude all slopes that face away from the interior of the AVA. Currently, there are slopes along the canyons and creek valleys within the AVA that face east or west and not north or south into the interior of the AVA. Therefore, TTB does not believe that slope orientation should prevent the proposed expansion area from being included in the Sta. Rita Hills AVA.

After reviewing the video included in comment 76, TTB does not believe that the video demonstrates any significant topographical difference between the

proposed expansion area and the Sta. Rita Hills AVA. TTB does agree that the topography of the vineyards near Buellton and Solvang, which are shown in the video, appears different from the AVA. However, none of these vineyards are within the proposed expansion area. TTB also notes that, while the region east of the current AVA boundary may drain away from the Santa Rita Hills, all the creeks within the AVA and the proposed expansion area eventually drain into the Santa Ynez River. Although T.D. ATF-454 mentions that the AVA has a different drainage than the Lompoc basin, to the west, there is no discussion of any differences in drainage between the AVA and the region to the east, where the proposed expansion area is located. In fact, T.D. ATF-454 states that the “Santa Rita Upland Basin,” located within the AVA, is in “hydrologic continuity” with the “Buellton Upland Basin.” TTB notes that a map included in the original Sta. Rita Hills petition as Exhibit 3 shows that the “Buellton Upland Basin” covers an area that includes both the eastern portion of the AVA and the proposed expansion area. Therefore, TTB does not consider hydrologic features to distinguish the AVA from the region to the east, including the proposed expansion area.

With regard to the comments on the native vegetation within the proposed expansion area, TTB believes that the report from the environmental services company contained in comments 97 and 111 suggests the description of the native vegetation in the expansion petition may be inaccurate. The report asserts that valley oaks are more common within the proposed expansion area than the expansion petition claims. However, both the report and the expansion area concur that oak trees, in general, do grow in both the AVA and the proposed

expansion area. TTB also notes that T.D. ATF–454 states that the AVA is “oak studded” but does not distinguish between valley oaks and coastal live oaks. Therefore, although TTB agrees that the expansion petition’s estimate of the number of valley oaks versus live oaks found within the proposed expansion area may not be accurate, the presence or absence of a specific species of oak is not a distinguishing feature of the AVA. TTB has also determined that the expansion petition contains enough other evidence to demonstrate the similarity between the proposed expansion area and the AVA to allow the expansion petition’s native vegetation evidence to be excluded from consideration.

Climate

Opposing Comments

TTB received 45 comments opposing the proposed expansion based on climate. The majority of these opposing comments state that the proposed expansion area is warmer than the AVA because the ridgeline that forms the current eastern boundary of the AVA prevents most, if not all, of the cool marine air and fog from travelling farther east. For example, many of the opposing comments claim that as one travels east along State Highway 246, the temperature becomes noticeably warmer after crossing the eastern boundary of the AVA. Some of the comments claim that it is evident that the proposed expansion area has a warmer climate than the AVA because different vegetables and berries are grown in the proposed expansion area (comment 53) or because bud break and harvest occur earlier in the proposed expansion area (comments 81, 87, and 105). Another comment, comment 116 claims, “An average daily

high temperature of less than 80 degrees and an abundance of sunshine is the factor that distinguishes the Sta. Rita Hills AVA from all others,” and that the proposed expansion area’s daily highs are warmer than 80 degrees. Other comments question the petitioner’s data collection methods, claiming that the petitioner “cherry-picked” temperature data to make it appear as though the proposed expansion area’s climate is similar to the AVA (comment 44), and that the petitioner should have used an eastern comparison point closer to the proposed expansion area than Ballard Canyon (comments 86 and 97).

Three of these opposing comments provide non-anecdotal evidence (comments 76, 97, and 111). For example, the video in comment 76 includes footage of fog covering the AVA, while the vineyards in the proposed expansion area are fog-free. The video states that the absence of fog over the proposed expansion area demonstrates that the ridgeline forming the AVA’s eastern boundary prevents marine-influenced fog and air from moving farther east. Comment 97 also refers to this video as evidence that marine air does not enter the proposed expansion area.

Additionally, comment 97 asserts that the climate data in the expansion petition “cannot be considered adequate or credible evidence to establish that the original petitioners were incorrect or incomplete in their analysis of the distinctive climate of the AVA * * *.” The comment asserts that it is inappropriate for the expansion petition to use a weather station in the Ballard Canyon AVA to demonstrate that the proposed expansion area’s climate is more similar to the Sta. Rita Hills AVA than the region east of the proposed expansion area because

Ballard Canyon is “over 6 miles away and separated by a mountain range * * *.” Furthermore, the comment asserts that the expansion petition should not have used comparison data from a region that is already within an established AVA because, “[w]hen TTB established the Ballard Canyon AVA, the agency recognized the area as viticultural [sic] distinct from the surrounding areas. The petitioners have simply stated the obvious truth of what TTB determined—the areas outside Ballard Canyon AVA are not like Ballard Canyon AVA.”

Comment 97 also states that the website from Pence Ranch, which is a vineyard within the proposed expansion area, provides additional evidence that the climate of the proposed expansion area is different from that of the Sta. Rita Hills AVA. The Pence Ranch website notes that the vineyard is contemplating, in the words of the commenter, “graft[ing] an acre of Pinot Noir vines to Gamay (not one of the Burgundian varieties that the AVA is known to grow so successfully) * * *.” The website also includes a photo showing a neighboring vineyard within the AVA “nestled in fog,” while the Pence Ranch vineyard is sunny. The letter suggests that the absence of fog in the photo of the Pence Ranch vineyard along with the vineyard owner’s plans to graft Pinot Noir vines onto a varietal not currently grown in the Sta. Rita Hills AVA demonstrate that the proposed expansion area has a different climate.

Comment 97 also includes a report from Dr. Deborah Elliott-Fisk, Professor Emeritus of Geography, Ecology, and Wildlife, Fish and Conservation Biology at the University of California, Davis. In her report, Dr. Fisk critiques the climate data provided in the expansion petition. Dr. Fisk commissioned Mark

Battany, the University of California Cooperative Extension Viticulture Farm Advisor for Santa Barbara and San Luis Obispo counties, to provide an analysis of data from weather stations placed in vineyards throughout Santa Barbara County. These weather stations include stations that Dr. Fisk asserts correspond to stations used in the expansion petition, as well as several stations she describes as being “just outside” of the Sta. Rita Hills AVA. Dr. Fisk states that Mr. Battany’s climate analysis used two different methods to calculate growing degree days (GDDs), and the results were converted into isotherm maps that show the climate patterns in the county. According to Dr. Fisk, the results of the analysis demonstrate that the proposed expansion area is consistently warmer than the AVA, and the isotherm maps show that the transition to warmer temperatures occurs at the current eastern boundary of the AVA. Dr. Fisk also claims that when comparing Mr. Battany’s GDD data to the GDD data in the expansion petition, “none of the numbers match * * *.” As a result, Dr. Fisk concludes that the climate data in the expansion petition is inaccurate and that the petitioner’s data collection methods and analysis methods were faulty.

Finally, comment 97 and comment 111 both also include the same report from the environmental services company that was previously discussed in the “Topography and Native Vegetation” section of this document. The report critiques a map included in the expansion petition that illustrates the flow of wind through the AVA and into the proposed expansion area. The report asserts that the map provides an inaccurate description of the wind patterns, and that the winds move at different speeds as they are constricted at the bend in the Santa

Ynez River near the current eastern boundary. The report states that “given the lack of empirical evidence, these conclusions [should] be considered as an untested hypothesis.” The report also critiques the climate data provided in the expansion petition, claiming that the data is insufficient because it was collected for too short of a time period. Furthermore, the report asserts that the expansion petition did not provide any information as to the model of the weather stations used to gather the data, how they were calibrated, or where they were placed with respect to “slope, aspect, orientation, land-cover, vegetation, and nearby structures.”

The environmental services company’s report provides its own wind and temperature models to support the assertion that the proposed expansion area has a different climate than the AVA. The report’s wind models were derived from a “48-hour hindcast of a sea breeze circulation over Santa Barbara County on July 4th, 2009, using the Weather Research Forecasting Model (WRF) from the National Center for Atmospheric Research.” The temperature models show day and night cloud cover and land surface temperatures for the period between April and October from 2003 to 2013. The report states that these models demonstrate that the wind patterns shown on the map in the expansion petition are inaccurate, and that the “region of the proposed AVA expansion * * * is several degrees warmer, on average,” than the Sta. Rita Hills AVA.

Supporting Comments

Eleven comments supporting the proposed expansion specifically mention climate. These comments all essentially state that the proposed expansion

area's climate is similar to that of the Sta. Rita Hills AVA, with cooling marine breezes and fog. Two of these comments also claim that bud break and harvest within the proposed expansion area occur at approximately the same time as in the AVA (comments 23 and 110). TTB notes that none of these supporting comments provide non-anecdotal evidence to support their claims.

In response to comments questioning the climate data in the expansion petition, Mr. Shabram submitted two comments (comments 102 and 113). In comment 102, Mr. Shabram responds to the video included in comment 76. First, Mr. Shabram states that, contrary to the claim made in the video, marine air flows inland much farther than the current eastern boundary of the Sta. Rita Hills AVA and extends at least to the Ballard Canyon AVA. Mr. Shabram states that the ridgeline that forms the current eastern boundary of the AVA is not too high to prevent the marine air and fog from entering, particularly since the rise along State Highway 246 has an elevation of 557 feet, which is only approximately 160 feet above the floor of the adjacent valley within the AVA. Mr. Shabram also states that the narrowing of the mountains at the point of this rise actually increases the speed of the wind into the proposed expansion area, instead of slowing or stopping it. Finally, Mr. Shabram states that the footage showing fog over the AVA but not over the proposed expansion area is inconclusive, as the video provides no information about the time of day when the footage was shot, and one "momentary shot is by no means telling of an entire growing season." Furthermore, Mr. Shabram speculates that the fog shown in the video is not

marine fog but radiation fog, which is the result of cool air draining into the Santa Ynez River valley.

In comment 113, Mr. Shabram responds to critiques of the climate data he provided in the expansion petition. Mr. Shabram again asserts that the current eastern boundary of the AVA does not block marine air from travelling farther east but instead acts as a funnel to increase the speed of marine breezes, propelling them into the proposed expansion area. As evidence, Mr. Shabram provides wind speed data from Pence Ranch vineyards, within the proposed expansion area, and compares the data to wind speed data collected in the city of Lompoc, which is approximately two miles west of the Sta. Rita Hills AVA and receives unobstructed winds from the Pacific Ocean. The data shows that the maximum wind speeds in the proposed expansion area are significantly higher than those in Lompoc, even though the proposed expansion area is farther from the ocean and on the eastern side of the ridgeline. As additional evidence that fog can enter the proposed expansion area, Mr. Shabram included a link to a recent video of workers harvesting grapes at Pence Ranch, which shows fog shrouding the vineyard.

Mr. Shabram then addresses the report from Dr. Fisk in comment 97 by providing more information on the models of weather stations he used to collect his climate data, along with photographs of the stations. He states that he used the Ballard Canyon AVA as a comparison point because he was unable to find a weather station closer to the proposed expansion area that had complete data sets. Mr. Shabram notes that while several of the stations used in Dr. Fisk's

report are near the stations used in the expansion petition, only one of the weather stations is actually the same station used in the expansion petition: Station 26, located in the southeastern corner of the AVA, is the same station referred to as Station E in the expansion petition. None of the stations used in Dr. Fisk's report are located within the proposed expansion area. Mr. Shabram also states that the weather stations that Dr. Fisk described as being "just outside" the Sta. Rita Hills AVA are in fact several miles away, with the closest (Station 23) located along U.S. Highway 101 in Buellton and the next closest station appearing to be within the Ballard Canyon AVA.

Finally, Mr. Shabram clarified the method he used to calculate GDDs, which is different from the two methods used in Dr. Fisk's report. One of the methods in the report used an average of only the daily maximum and daily minimum temperatures, while the second method used a daily average temperature that was calculated using temperatures gathered every 15 minutes. Both of these methods set the minimum for the temperatures used to calculate the daily average at zero, and the temperatures were measured in degrees Celsius. By contrast, Mr. Shabram's GDD calculation method used the average of the daily maximum high and daily minimum low temperatures measured in degrees Fahrenheit. Furthermore, if the daily minimum low temperature was below 50 degrees Fahrenheit, the minimum temperature needed for grapevine growth and fruit development, Mr. Shabram's method substituted 50 degrees for the minimum temperature. Mr. Shabram states that the differences in the methods used to calculate GDDs would naturally cause differences in the results,

and both of the methods used in Dr. Fisk's report would always produce smaller GDD totals than Mr. Shabram's method. Furthermore, using degrees Celsius would also naturally result in smaller GDD totals than using degrees Fahrenheit, regardless of the GDD calculation method used.

TTB Analysis

TTB has carefully reviewed all of the comments that address the issue of climate. TTB has also reviewed the regulatory history of the Sta. Rita Hills AVA to ensure that its determination regarding the climatic evidence for the proposed expansion area is consistent with the previous rulemaking.

TTB notes that T.D. ATF-454 describes the climate of the AVA as being moderated by cooling breezes and fog from the Pacific Ocean. T.D. ATF-454 also states that the Sta. Rita Hills AVA is cooler than the region "east of Highway 101" and is cool enough to grow cool-climate grapes, specifically Pinot Noir and Chardonnay, which are not typically grown farther east. The original Sta. Rita Hills AVA petition included climate data from Lompoc, adjacent to the western boundary of the AVA, and Lake Cachuma, approximately 17 miles east of the eastern boundary of the AVA, but provided no climate data from within the AVA or the region that is now the proposed expansion area.

TTB has determined that the opposing comments do not provide sufficient evidence to demonstrate that the climate of the proposed expansion area is different from that of the existing Sta. Rita Hills AVA, as defined in T.D. ATF-454. Although many of the opposing comments state that the proposed expansion area is warmer, receives less fog, and has an earlier harvest date than the Sta.

Rita Hills AVA, the majority of these comments provide only anecdotal evidence. Therefore, TTB is unable to determine the accuracy of these statements.

Finally, with regard to the comments stating that different vegetable and berry crops are grown in the proposed expansion area, TTB notes that AVAs are established based on factors that affect viticulture. Different crops have different growing requirements and may be more susceptible to slight variations in growing conditions than wine grapes. Therefore, TTB does not consider the presence or absence of crops other than wine grapes to be a relevant feature of the Sta. Rita Hills AVA.

With regard to the video submitted in comment 76, TTB has also determined that the video does not provide sufficient evidence to contradict the climate evidence provided in the expansion petition. The footage of sunny conditions in the proposed expansion area while fog covers a neighboring vineyard within the AVA captures only one moment of one day and does not conclusively demonstrate that fog never reaches the expansion area. TTB notes that both the photograph of fog in the Pence Ranch that was included in the expansion petition and the video of fog submitted by Mr. Shabram in comment 113 show that fog can reach the proposed expansion area at some point during the growing season. TTB notes that the presence of marine fog is a distinguishing feature of the Sta. Rita Hills AVA, but T.D. ATF-454 does not set a minimum number of days when fog must be present or a certain time of day by which fog must be present. Therefore, TTB believes that the evidence provided

in the expansion petition is sufficient to demonstrate that fog occurs within the proposed expansion area.

TTB also does not believe that comment 97 contains sufficient evidence to demonstrate that the petitioner's methods were seriously flawed. The TTB regulations in § 9.12 do not prohibit use of comparison data from within an established AVA. The Ballard Canyon AVA is east of both the proposed expansion area and the Sta. Rita Hills AVA and, therefore, may be used to distinguish the proposed expansion area from the region to the east. TTB also notes that the Ballard Canyon AVA station is closer to both the Sta. Rita Hills AVA and the proposed expansion area than the station at Lake Cachuma, which was used as a comparison station in T.D. ATF-454. When the Sta. Rita Hills AVA was originally proposed, TTB did not receive any negative public comments regarding the use of the Lake Cachuma weather station, which is significantly east of the proposed AVA. Therefore, TTB believes that the expansion petition's use of temperature data from a station in the Ballard Canyon AVA is appropriate.

Additionally, TTB does not believe that the plan by the owner of the Pence Ranch to graft Pinot Noir vines to Gamay vines, as described in comment 97, is sufficient to demonstrate that the proposed expansion area has a different climate from the Sta. Rita Hills AVA. T.D. ATF-454 states that the Sta. Rita Hills AVA boundaries were drawn, in part, to include areas cool enough to grow Pinot Noir and Chardonnay, but TTB regulations do not require that only certain varieties of grapes can be planted or used for grafting within a given AVA. Furthermore, TTB notes that all three vineyards located either entirely or partially

within the proposed expansion area do currently grow both Pinot Noir and Chardonnay. Therefore, TTB does not believe that the Pence Ranch owner's decision to experiment with additional grape varietals or grafting techniques on one acre of his property is evidence that the proposed expansion area's climate is different from that of the Sta. Rita Hills AVA.

TTB has also carefully reviewed the report from Dr. Fisk included in comment 97 and has determined that the temperature analysis Dr. Fisk commissioned from Mr. Battany does not conclusively demonstrate that the temperature of the proposed expansion area is warmer than that of the AVA. TTB does agree that the data indicates that the southeastern corner of the AVA is not always warmer than the rest of the AVA, as the expansion petition suggests. The data from 2008 and 2011 shows that, for those two years, the southeastern portion of the AVA was actually cooler than the northeastern portion, when the "daily maximum-minimum" method of GDD calculation was used. However, given that the report used different weather stations and different GGD calculation methods from the expansion petition, TTB cannot say that the report's findings from these two years conclusively negate any or all of the temperature data in the expansion petition.

TTB also notes that Mr. Battany clearly states in his analysis that his isotherm maps "are intended to be aids for the viewer to observe broad regional trends," and that they "should not be used for assigning values to non-measured locations * * *." TTB notes that the proposed expansion area is not identified on the isotherm maps, nor was a weather station from within the proposed

expansion area used to develop the maps. However, based on the satellite photo included in the report to show the locations of his weather stations, TTB estimates that the proposed expansion area is almost due north of Station 26 and slightly east of Station 17, which places both stations within the current boundaries of the Sta. Rita Hills AVA. Based on this estimation, TTB believes that the isotherm maps show the proposed expansion area to be in the same isotherm as either Station 17 or Station 26 in some years, and to be in the same isotherm as both stations in other years. Station 23, in Buellton, is the closest station to the proposed expansion area and is consistently in a warmer isotherm than both the proposed expansion area and the AVA. Therefore, TTB does not believe that the isotherm maps conclusively demonstrate that the temperature of the proposed expansion area is either greater than the range of temperatures found in the AVA or is more similar to the temperatures of the region east of the AVA.

Furthermore, TTB notes that although T.D. ATF-454 states that a cool climate conducive for growing Pinot Noir and Chardonnay grapes is a distinguishing feature of the AVA, it does not set a maximum or minimum GDD total or a specific range of temperatures as a distinguishing feature of the AVA. T.D. ATF-454 describes climate data from Lompoc and Lake Cachuma and essentially states that the AVA is warmer than Lompoc and cooler than Lake Cachuma. The isotherm maps in comment 97 consistently show that the warmest station is Station 25, which is near Lake Cachuma. None of the isotherm maps show Station 25 in an isotherm that extends west of Buellton,

which means that the proposed expansion area is always cooler than the station closest to the comparison location used in T.D. ATF-454. Therefore, TTB believes the isotherm maps do not provide sufficient evidence to show that the proposed expansion area does not meet the temperature parameters for the Sta. Rita Hills AVA as set forth in T.D. ATF-454.

TTB has also determined that the differences in Mr. Battany's and Mr. Shabram's GDD totals can be explained by their use of different GDD calculation methods and different scales for measuring temperature. When comparing the 2008-2011 GDD totals for the only station used by both Mr. Shabram and Mr. Battany (Station 26/Station E), TTB does agree with the statement in comment 97 that the totals appear vastly different at first glance. For instance, Mr. Battany reports a GDD total of 1,694 for Station 26/Station E for 2008, using the "daily maximum-minimum" calculation method, while Mr. Shabram reports a GDD total of 3,363 using a similar but slightly different calculation method. However, when one converts Mr. Battany's GDD total for Station 26/Station E from degrees Celsius to degrees Fahrenheit by multiplying by 1.8, the GDD total becomes 3,049.2, which is much closer to Mr. Shabram's total.³ TTB believes that the remaining difference of 314 GDDs may be explained by the fact that Mr. Shabram's calculation method does not allow for daily minimum temperatures below 50 degrees, which naturally results in higher totals than either of Mr. Battany's calculation methods, which use any minimum temperature above 0. Therefore, TTB does not agree with Dr. Fisk's assertion that Mr. Battany's GDD

³ Celsius-to-Fahrenheit conversion method from the National Weather Service's Climate Prediction Center webpage (<http://www.cpc.noaa.gov/products/wesley/cfsr/GDD.html>).

totals prove that the temperature data included in the expansion petition is inaccurate and that Mr. Shabram's methods were faulty.

TTB notes that wind speed was not mentioned in T.D. ATF-454 and is not considered to be a distinguishing feature of the Sta. Rita Hills AVA.

Nevertheless, TTB reviewed the report from the environmental services company that was included in comments 97 and 111. With regard to the report's critique of the wind map provided in the expansion petition, TTB notes that the intent of the map was to show the direction of airflow through the Sta. Rita Hills AVA and the paths the marine air takes to enter the proposed expansion area. The map was not intended to show how strongly the wind moves through the AVA or the force with which it exits the AVA and enters the proposed expansion area. TTB notes that the scale of the wind maps created by the environmental services company and included in the report is small and difficult to read, and that the AVA and proposed expansion area are only vaguely marked. However, TTB notes that the maps do appear to show that air is able to enter the proposed expansion area from the west, which is not contrary to what the expansion petition claims.

TTB believes that the temperature maps compiled by the environmental services company are also of too small a scale to read easily. The AVA and proposed expansion area are vaguely marked on these maps, as well.

Therefore, TTB cannot agree with the environmental services company's claim that their temperature maps show that the proposed expansion area is "several degrees warmer, on average," than the Sta. Rita Hills AVA.

With regard to the report's critique of the temperature collection methods used in the expansion petition, TTB first notes that § 9.12 does not set forth a minimum number of years that climate data must be collected. Section 9.12(a) only requires that a petition include "sufficient information, data, and evidence such that no independent verification or research is required by TTB." However, petitioners are encouraged to submit data from as long a period as possible in order to provide the most complete picture of a region's climate. TTB notes that the expansion petition originally included only 2 years' worth of temperature data from within the proposed expansion area. Later, Mr. Shabram provided a third year of data, which came from a different weather station within the proposed expansion area because the original weather station was no longer in service. TTB was satisfied that the new station was in close enough proximity to the location of the original station and allowed the data to be used in the petition.

TTB also notes that § 9.12 does not require petitioners to provide detailed information on the model of the weather stations they used, how the stations were calibrated, or where the stations were placed with respect to "slope, aspect, orientation, land-cover, vegetation, and nearby structures." TTB believes it is sufficient for a petitioner to provide the years during which the weather data was collected and the general locations of the stations. The expansion petition states the length of time data was collected at each station and provides a general description of where the station was placed (i.e., inside the AVA, inside the proposed expansion area, within the Ballard Canyon AVA), as well as a map showing the location of each weather station. Furthermore, the expansion

petition includes the latitude and longitude of each weather station, although TTB does not require such detailed information. Finally, in response to comments questioning his data collection methods, Mr. Shabram submitted comment 113 to provide more detailed information on the weather station models he used, as well as photographs of the several of the stations, neither of which was required by TTB. Therefore, TTB believes the expansion petitioner has provided more information on the weather stations used in the expansion petition than TTB regulations require.

In summary, TTB has determined that the expansion petition provides sufficient evidence to demonstrate that the climate of the proposed expansion area meets the climate parameters for the Sta. Rita Hills AVA as set forth in T.D. ATF-454: temperatures that are moderated by marine air and fog, are cool enough for growing cool-climate grape varieties (specifically, Pinot Noir and Chardonnay), and are warmer than temperatures in Lompoc and cooler than temperatures in the eastern portion of the Santa Ynez Valley AVA (specifically, the region near Lake Cachuma). TTB has also determined that none of the opposing comments provide sufficient evidence to show conclusively that the climate of the proposed expansion area does not meet these parameters. Finally, TTB believes that the petitioner has provided a sufficient explanation of the methods he used to collect and analyze the climate data for the proposed expansion area, and that TTB is able to determine that his methods are sound.

Comments Regarding Issues Outside the Scope of Part 9

Numerous comments include various reasons for opposition to the proposed expansion of the Sta. Rita Hills AVA that do not relate to the regulatory criteria set forth in § 9.12 for AVA petitions. The points made by these comments include the following:

1. Grapes and wines from the proposed expansion area have different characteristics/flavors from grapes and wines from the Sta. Rita Hills AVA. Many comments state that consumers have come to expect a certain taste or style from wines of the Sta. Rita Hills AVA. These comments assert that the grapes and wines from the proposed expansion area taste so different that consumers will be confused if the grapes and wines are marketed as coming from the Sta. Rita Hills AVA.

TTB notes that the purpose of AVAs is to allow vintners to describe more accurately the origin of their wines to consumers and to help consumers identify wines they may purchase. The establishment of an AVA is neither an approval nor an endorsement by TTB of the wine or grapes produced in that area, including a determination of wine or grape taste or quality. Therefore, discussions of wine and grape taste and quality are not relevant in determining whether or not to expand the Sta. Rita Hills AVA.

2. Approval of the proposed expansion will tarnish the reputation of the Sta. Rita Hills AVA. Numerous commenters claim that including the proposed expansion area in the Sta. Rita Hills AVA will cause the AVA to lose its defining characteristics. Some commenters state that expanding the AVA will cause it to

lose its “purity and distinctiveness” (comment 27), and the expansion would negate the “countless hours and resources [spent] educating and indoctrinating millions of consumers about the AVA” (comment 45). Other commenters assert that the petitioners’ motives for proposing the expansion are purely financial and have nothing to do with maintaining or enhancing the character of the AVA.

TTB’s regulations in part 9 set forth the requirements for petitions proposing the establishment or modification of an AVA. TTB has determined that the expansion petition meets the requirements of part 9 and demonstrates that the proposed expansion area is within the parameters of the distinguishing features set forth in T.D. ATF–454. Therefore, TTB does not believe that expanding the Sta. Rita Hills AVA to include the proposed expansion area would be arbitrary or contrary to either the TTB regulations as set forth in part 9 or the parameters for the Sta. Rita Hills AVA as set forth in T.D. ATF–454.

TTB also notes that vineyard owners and vintners within an AVA will frequently form an association dedicated to promoting grapes and wines of the AVA and the business interests of its members. Therefore, the hope of financial benefits is likely not an uncommon motive for petitioning to establish or expand an AVA. However, any benefit derived from the use of an AVA name is the result of a proprietor’s efforts and consumer acceptance of wines from that area, and hypothetical financial gains or losses that may result from the establishment or expansion of an AVA are not considered by TTB in determining the merits of a petition.

3. Expansion of the Sta. Rita Hills AVA will lead to further expansions of the Sta. Rita Hills AVA as well as other AVAs.

Several comments argue that approving the proposed expansion will lead to more petitions to expand the Sta. Rita Hills AVA and/or other established AVAs. The comments generally state that approving the proposed expansion will set a precedent for expansion that will make it more difficult for TTB to reject future expansions to the Sta. Rita Hills AVA because the integrity of the original boundaries will have been impacted. As a result, the comments predict that TTB will see a large increase expansion petitions submittals, many of which will lack merit.

The modification of AVA boundaries is specifically allowed under § 9.12 of the TTB regulations, which also sets forth the requirements for such petitions. The merits of expansion petitions are evaluated based on these requirements, as well as on the regulatory history of the AVA, meaning that the expansion petitions must provide adequate name evidence and demonstrate that the proposed expansion area has the same distinguishing features as described in the Treasury Decision that established the AVA. TTB's decision regarding whether to approve a proposed expansion is not based on the potential for further expansion or other modification of the boundaries of the affected AVA or any other established AVA, nor would TTB's decision affect the likelihood of the approval of any such proposals in the future.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 145, TTB finds that the evidence provided by the petitioner supports the expansion of the Sta. Rita Hills AVA, based on the requirements of § 9.12 and the distinguishing features of the Sta. Rita Hills AVA as defined in T.D. ATF-454. TTB has also determined that the comments received in response to Notice No. 145 did not provide sufficient evidence to refute the evidence provided in the expansion petition. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB expands the Sta. Rita Hills AVA in Santa Barbara County, California, by approximately 2,296 acres, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the expanded Sta. Rita Hills AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the 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 or with a brand name that includes 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 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 27 CFR 4.39(i)(2) for details.

Bottlers currently using “Central Coast,” “Santa Ynez Valley,” or “Sta. Rita Hills” as an appellation of origin or in a brand name for wines made from grapes grown within the Central Coast, Santa Ynez Valley, or Sta. Rita Hills AVAs will not be affected by the expansion of the Sta. Rita Hills AVA. The expansion of the Sta. Rita Hills AVA will allow vintners to use “Sta. Rita Hills,” “Santa Ynez Valley,” and “Central Coast” as appellations of origin for wines made primarily from grapes grown within the expansion area if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA 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

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

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

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends 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. Section 9.162 is amended by adding paragraph (b)(6), revising paragraphs (c)(3) through (6), redesignating paragraphs (c)(7) through (19) as paragraphs (c)(8) through (20), and adding a new paragraph (c)(7).

The additions and revisions read as follows:

§ 9.162 Sta. Rita Hills.

* * * * *

(b) * * *

(6) "Zaca Creek, Calif.," edition of 1959.

(c) * * *

(3) Proceed west-northwest in a straight line 0.5 mile to the intersection of Santa Rosa Road and an unnamed, unimproved road that runs just north of a marked gaging station.

(4) Proceed west along the unnamed, unimproved road approximately 0.4 mile to a "T" intersection with an unnamed, unimproved road and the 320-foot elevation contour, Santa Rosa Land Grant, T. 6N, R. 32W.

(5) Proceed northwest along the 320-foot elevation contour, crossing onto the Santa Rosa Hills, Calif., Quadrangle U.S.G.S. map, then continue northwest, north, and northeast along the meandering 320-foot elevation contour for approximately 1.2 miles, crossing onto the Solvang, Calif., Quadrangle U.S.G.S. map, and continue east then north along the 320-foot elevation contour approximately 0.5 miles, crossing onto the Zaca Creek, Calif., Quadrangle U.S.G.S. map, to the intersection of the 320-foot elevation contour with an unnamed, unimproved north-south road that follows the length of the Cañada de los Palos Blancos, San Carlos de Jonata Land Grant, T. 6N, R. 32W.

(6) Proceed north-northwest along the unnamed, unimproved road 1.2 miles, crossing onto the Los Alamos, Calif., Quadrangle U.S.G.S. map, and continue along the road 1.3 miles to the marked 635-foot elevation point at the intersection of the road and a 4-wheel drive trail, San Carlos de Jonata Land Grant, T. 7N, R. 32W.

(7) Proceed northwest in a straight line approximately 1.3 miles to an unnamed hilltop, elevation 1443 feet. Section 20, T. 7N, R. 32W.

* * * * *

Signed: July 27, 2016.

John J. Manfreda,

Administrator.

Approved: August 3, 2016.

Timothy E. Skud,

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

[FR Doc. 2016-19998 Filed: 8/19/2016 8:45 am; Publication Date: 8/22/2016]