

# A Review of AVA Expansions

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## **Executive Summary**

The following report identifies and summarizes expansions to American Viticultural Areas (AVA) throughout the 34 year history of the AVA program. During that time, there have been 23 Treasury Decisions (as of the writing of this report) leading to 28 expansions of 17 AVAs. Only 6 AVAs out of the current 208 federally recognized AVAs have been expanded more than once.

## **Background**

At least one board member of the Santa Rita Hills Winegrowers Alliance has expressed concern that the recent petition, accepted by the Alcohol and Tobacco Tax and Trade Bureau (TTB), to expand the Sta. Rita Hills AVA may lead to a large number of additional efforts to expand this AVA. As such, the supporting petitioners for the Sta. Rita Hills AVA expansion have commissioned this study to understand the extent of this concern. Every Treasury Decision that resulted in the expansion, realignment and/or modification of every existing AVA boundary was analyzed. The findings of this report are outlined below. Further, TTB staff was interviewed and recent proposed rulemakings were reviewed to determine upcoming AVA boundary realignments.

## **Expansions to AVAs are Uncommon**

The TTB and the Bureau of Alcohol, Tobacco and Firearms (ATF), the agency who oversaw regulation of 27 CFR Part 9 of the Federal Alcohol Administration Act prior to establishment of the TTB, have recognized 208 AVAs as of the writing of this report. Of those AVAs, 17 have been expanded. This figure represents 8.2% of all AVAs, with less than one AVA expanded per year on average. Most of these AVAs have been expanded once, with six AVAs (2.9%) having been expanded more than once. The Alexander Valley AVA in Sonoma County has had the largest number of expansions with five, while the Russian River Valley AVA and Northern Sonoma AVA both have had three expansions.

### **Some of these Expansions are Related to other AVAs**

Every expansion to the Northern Sonoma AVA (3 expansions) and the Central Coast AVA (2 expansions) have been the direct result of trying to match boundaries to existing, newly created, or expanded AVAs. Further, expansions to the Columbia Valley AVA, the Mendocino AVA, and one of the two San Francisco Bay AVA expansions resulted from creations of new AVAs or expansions to existing AVAs. The Central Coast AVA, for example, was expanded to match the boundaries of the newly created San Francisco Bay AVA in 2009. Both the San Francisco Bay AVA and the Central Coast AVA were expanded to match the boundaries of the Livermore Valley AVA, which was expanded in 2006. The Mendocino AVA was expanded in 1998 to match the boundaries of the newly created Yorkville Highlands AVA. These types of expansions represent 7 of the total 28 expansions (25%).

### **Most Changes Have Been to the Larger AVAs**

Of the 17 AVAs that have had any expansion at all, only six were originally smaller than 100,000 acres: Santa Maria Valley, Livermore Valley, Temecula Valley, Alexander Valley, Mt. Veeder, and Santa Lucia Hills. Of these, only the Alexander Valley expanded more than once. Further, only three AVAs originally smaller than 40,000 acres (a category the Sta. Rita Hills AVA falls into) have ever been expanded: Temecula Valley, Mt. Veeder, and Santa Lucia Highlands. None of these three have been expanded more than once.

### **About an Equal Number of Expansion Petitions Get Rejected by the TTB**

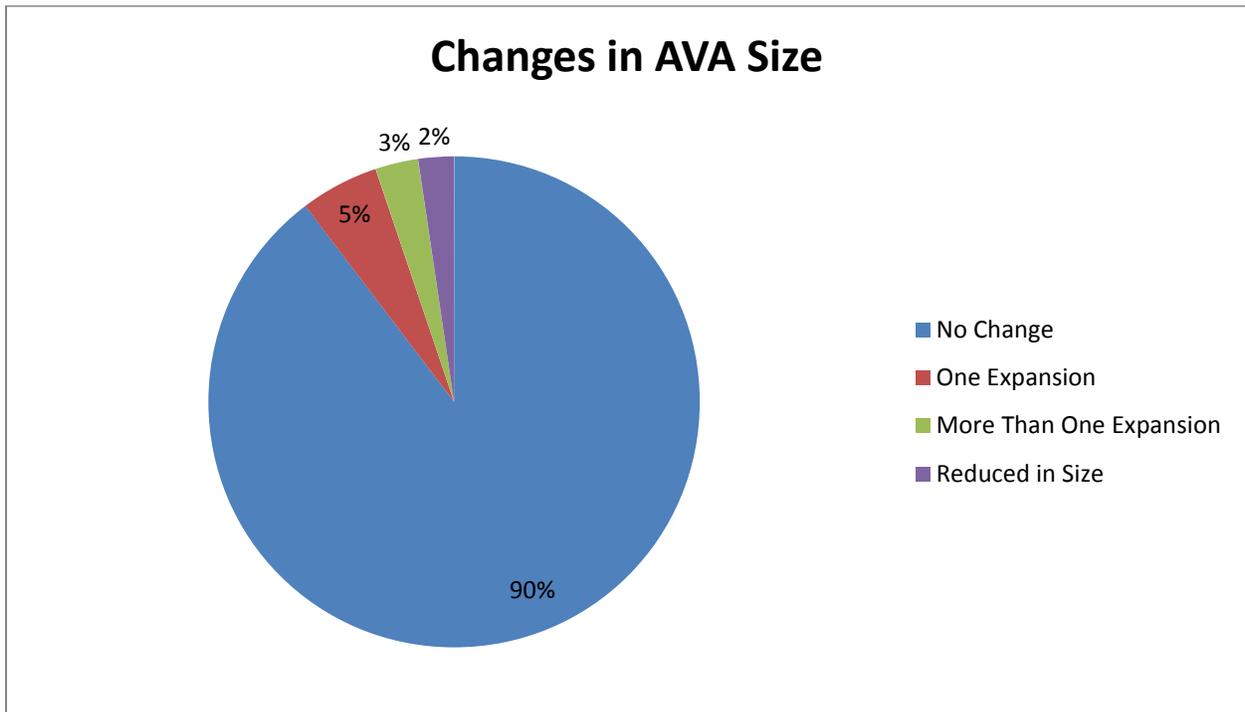
A direct comparison of the number of rejected petitions is hard to determine for several reasons. First, petitions by the TTB prior to public comment are not made public. Second, staff changes over the last three decades may mean some rejected AVA petitions are not readily available or locatable even with a Freedom of Information Act request (assuming a filer of such a request knew about the petition in the first place). Finally, some petitions that are originally rejected may be resubmitted with enough modification to get approval from the TTB. That being said, based on the last few years, the TTB rejects a petition for boundary modification (either expansion, contraction, or mutual realignment) at about the rate of one per year. Given that the TTB has approved 11 petitions for expansion (which in some cases include expansions to multiple AVAs) during the 10 year period between 2003 to 2012, the TTB is rejecting boundary modifications at close to the same rate as it is approving them.

### **A Few AVAs have Decreased in Size**

A total of five AVAs have reduced in size, all part of a realignment of boundaries moving territory from one AVA to another. Three of these, Dry Creek Valley AVA, Arroyo Seco AVA, and Chalk Hill AVA had territory that moved from these AVAs into existing AVAs by realigning a common boundary. The other two, San Lucas AVA and Ohio River Valley, lost territory to newly established AVAs that shared a new

common boundary. Further, on June 27, 2013, the public comment period opened for creating the Eagle Peak Mendocino County AVA. If approved as currently proposed, this petition would move small sections of the Redwood Valley AVA and Mendocino AVA to the new AVA. That would make Mendocino AVA the first to have both had an expansion and a reduction in size in separate Treasury Decisions. Finally, in the 1988 expansion of the Alexander Valley AVA, the Northern Sonoma AVA boundary was adjusted to include new area in some places but to exclude areas elsewhere. The net impact on total acreage was not addressed.

Chart 1: A Visual Representation of the Number of AVAs that have Changed in Size.



### Two Petitions for Expansion are Pending

In addition to the Sta. Rita Hills AVA, a petition to expand the Fair Play AVA has been accepted by the TTB. Further, a petition to redefine the Red Hill AVA boundary, in conjunction with the creation of the Kelsey Bench-Lake County AVA and Big Valley District-Lake County AVA, has gone through a public comment period and will likely publish as a Treasury Decision in the next few months. This petition, however, is not really an expansion as the Red Hills AVA was created on an older version of a USGS map using features that are not on a newer version of the same map. The newer maps were used to create the new AVAs. In order to get the AVAs boundaries to align, the Red Hills AVA boundary had to be redefined, translating into about a 7 acre expansion of the Red Hills AVA. Further, a petition to create

the Lewis-Clark Valley AVA including a movement of land out of the Columbia Valley AVA into the new AVA, has been accepted by the TTB.

### **Brief History of the Alexander Valley AVA and Livermore Valley AVA**

Each boundary modification has had its own unique set of circumstances. To exemplify that point, following is a brief discussion of the two AVAs most affected by AVA expansions: the Alexander Valley AVA and the Livermore Valley AVA. The Alexander Valley AVA has had the largest number of AVA expansions at five. The Livermore Valley had the great expansion in terms of percent increase.

#### *Alexander Valley AVA*

In order to understand the nature of some of the expansion to the Alexander Valley AVA, a brief history of the creation of the Alexander Valley AVA is necessary. In 1981, the ATF entertained two competing petitions for establishment of the Alexander Valley AVA. The ATF referred to the two petitioning groups as Group A and Group B. Group A proposed a smaller AVA (35,000 acres) than Group B (66,000 acres). After a public comment period, the ATF decided to hold a public hearing in 1983. Eventually the ATF sided with the Group B petition, but reduced the size to exclude some mountainous terrain while adding some land proposed by one of the commenters. These changes were not part of any public comment or public hearing. The boundary for the Alexander Valley relied heavily on section boundaries and geographic coordinates rather than geophysical features or readily identifiable landmarks on the surface of the earth.

In 1986, the ATF issued T.D. ATF-233, which expanded the AVA to include a vineyard in the northeast that the ATF had “inadvertently omitted” in its initial ruling. This expansion included existing newly planted vineyards. Further, ATF realized that the Northern Sonoma AVA, which was supposed to correlate to already established AVAs, didn’t share a correlated boundary with the Alexander Valley, and as such, expanded the Alexander Valley and adjusted the Northern Sonoma AVA to match. Finally, the ATF approved an expansion of the Alexander Valley to the south to include Diggers Bend.

In 1988, the ATF issued T.D. ATF-272, which realigned the common boundary between the Chalk Hill AVA and the Alexander Valley AVA. One of the two petitioners indicated that at the time of the 1983 public hearing, she had lived outside the area and was unaware that her vineyard was affected. The second of the two petitioners planted his vineyard in 1983. The petitioners were able to demonstrate that their land was more in line with the Alexander Valley than Chalk Hill.

In 1990, the ATF issued T.D. ATF-300, which added 19,085 acres to the eastern part of the AVA. Some of this land was included in Group B’s original petition to the TTB. This expansion was based on Gauer Ranch and Chestnut Springs Vineyards. Gauer Ranch had vineyards that existed at the time ATF created the Alexander Valley AVA, and since all of Gauer Ranch was in the original petition, the owner of this ranch had assumed his land was in the approved Alexander Valley AVA. He later learned that part of his ranch was outside the AVA, a result of ATF’s modifications to Group B’s proposed boundaries. The public hearing for the Alexander Valley concentrated on Group A’s petition versus Group B’s petition, but did not address the removal of land from Group B’s petition. As such, no comments in regards to the

appropriate boundaries were given. ATF had believed that no vineyards existed in this area when excluding parts of Gauer Ranch. Chestnut Spring Vineyards, planted in 1988 had also believed they were part of the Alexander Valley. The ATF accepted this petition based on similarities between these vineyards and the rest of the Alexander Valley AVA. The Northern Sonoma AVA was expanded to match the new boundaries.

In 2001, the ATF issued T.D. ATF-468, which realigned the common border between the Alexander Valley AVA and the Dry Creek Valley AVA, moving 410 acres from the Dry Creek Valley to the Alexander Valley. Submitted by E. & J. Gallo, the existing boundary, based on section boundaries, cut through a vineyard planted after the creation of the Alexander Valley and Dry Creek Valley AVAs. The vineyard, however, was in the Alexander Valley watershed and not in the Dry Creek Valley watershed. The common boundary was realigned to more closely follow the break in watershed.

In 2008, the TTB issued T.D. TTB-65 expanding the Alexander Valley on its western boundary by 1,300 acres. As a matter of full disclosure, the author of this report recommended the proposed expansion and summarily submitted the petition for expansion. Vineyards in the area that had existed at the time of the 1984 creation of the Alexander Valley AVA had assumed they were within the Alexander Valley until the early 2000s when a map of the area showed three vineyards excluded from the AVA and one vineyard dissected by the AVA boundary. The boundary in this area was especially difficult to understand at ground level as it ran diagonally from a section corner southeast to a geographic coordinate at the corner of four USGS maps. As such, wines had been produced from the area and sold with "Alexander Valley" appellation on the label. The petition demonstrated that the area shared characteristics to the Alexander Valley AVA.

#### *Livermore Valley*

The original Livermore Valley AVA focused on the wine growing areas south of the City of Livermore. As vineyards were planted outside the traditional AVA area, the Livermore Valley Winegrowers Association petitioned for an expansion to the Livermore Valley AVA that more closely tied the AVA to the geographic feature. The petition included the valley floor as well as flanking slopes. Using the broadest definition of the term "valley" the petition essentially included all of the Livermore Valley drainage basin. The geographic feature the Livermore Valley (using this definition) was significantly larger than the previous Livermore Valley AVA, but it gave the AVA definitive correspondence to the name and assured future viticulture in the valley would be within the revised AVA. The TTB approved the expansion in T.D. TTB-47 published in 2006. T.D. TTB-48 expanded the San Francisco Bay AVA and the Central Coast AVA to share a common boundary with the expanded Livermore Valley AVA. Prior to 2006, all of the Livermore Valley AVA was located within the Central Coast AVA and San Francisco Bay AVA, but these larger AVAs did not have boundaries that corresponded to the Livermore Valley AVA boundary. Without the expansion of the Central Coast AVA and San Francisco Bay AVA, the revised Livermore Valley AVA would have extended further east than either of these two AVAs.

## Conclusions

Based on reaction to the Sta. Rita Hills AVA expansion and this review of past AVA boundary modifications, the following conclusions are reached:

- Although recent media attention has commented on AVA expansions, such expansions are not that common. Further, far more AVAs have never been expanded or otherwise modified than those that have.
- A single expansion to an AVA does not lead to a rash of new expansions to that AVA. Only six AVAs have expanded more than once, and four of those are large regional or superregional AVAs (i.e. – Central Coast) that are inclusive of smaller AVAs and have commonly expanded to coordinate boundaries with these smaller AVAs. No AVA smaller than 40,000 acres has ever been expanded more than once.
- Of the six AVAs expanded multiple time, only three have been expanded more than twice, with two of those (Russian River Valley and Northern Sonoma ) related. Further, the second of the two expansions of the Russian River Valley was duplicate of the first. The AVA with the most expansions, the Alexander Valley, has a complicated history and boundaries that failed to closely follow geographic features, causing a great deal of confusion by local growers years after its establishment. Only one expansion (1988) and parts of a second (1990) were based on a re-evaluation of the overall extent of the AVA. Parts of the 1990 expansion and the other three expansions came of efforts to correct errors in the original AVA, correct confusion or long held misunderstandings based on the original boundaries, or better tie the AVA to geographic features.
- The largest AVA expansion in terms of percent gain, the Livermore Valley, expanded not as a matter of multiple applications that could diffuse the AVA's integrity, but rather as a single attempt by the Livermore Valley Winegrowers Association to definitively define the Livermore Valley. While the extent of this expansion and what it may or may not have done to the reputation of the Livermore Valley winegrowing area could be open for debate, the local association, nonetheless, chose to closely tie the AVA to the broadest definition of the geography by which the AVA is defined.
- While the TTB doesn't consider AVA boundaries static, the TTB doesn't simply accept any petition to expand an AVA. The TTB rejected AVA expansion petitions or, in some cases, limited expansions on otherwise approved expansion.
- Based on the past history of the AVA program and the nature of the Sta. Rita Hills, which is based on physical features and which has a relatively local geographic feature from which the name is derived, the Sta. Rita Hills AVA is very unlikely to see a large number of expansions, if any, beyond the current petition to expand.

## **Some Additional Analysis Relative to the Proposed Sta. Rita Hills Expansion**

### *Small Vs. Large AVAs*

Part of the reason that smaller AVAs have not been expanded more than once is because they do not have a number of smaller AVAs located within their boundaries, and as such, are not subject to the secondary boundary shifts that AVAs like Northern Sonoma and the Central Coast are subject to. Further, smaller AVAs tend to be more focused on specific geographic characteristics and local names not subject to larger geographic regions. The Livermore Valley would be an exemption, but it has expanded to be inclusive of the entire Livermore Valley. Mt. Veeder, as an example includes only the eastern sections of Mt. Veeder and hence, has a name that could be identified on its western slopes. Mt. Veeder AVA, however, has well defined geographic characteristics, including eastern exposure, that work to distinguish it from the west side of this mountain.

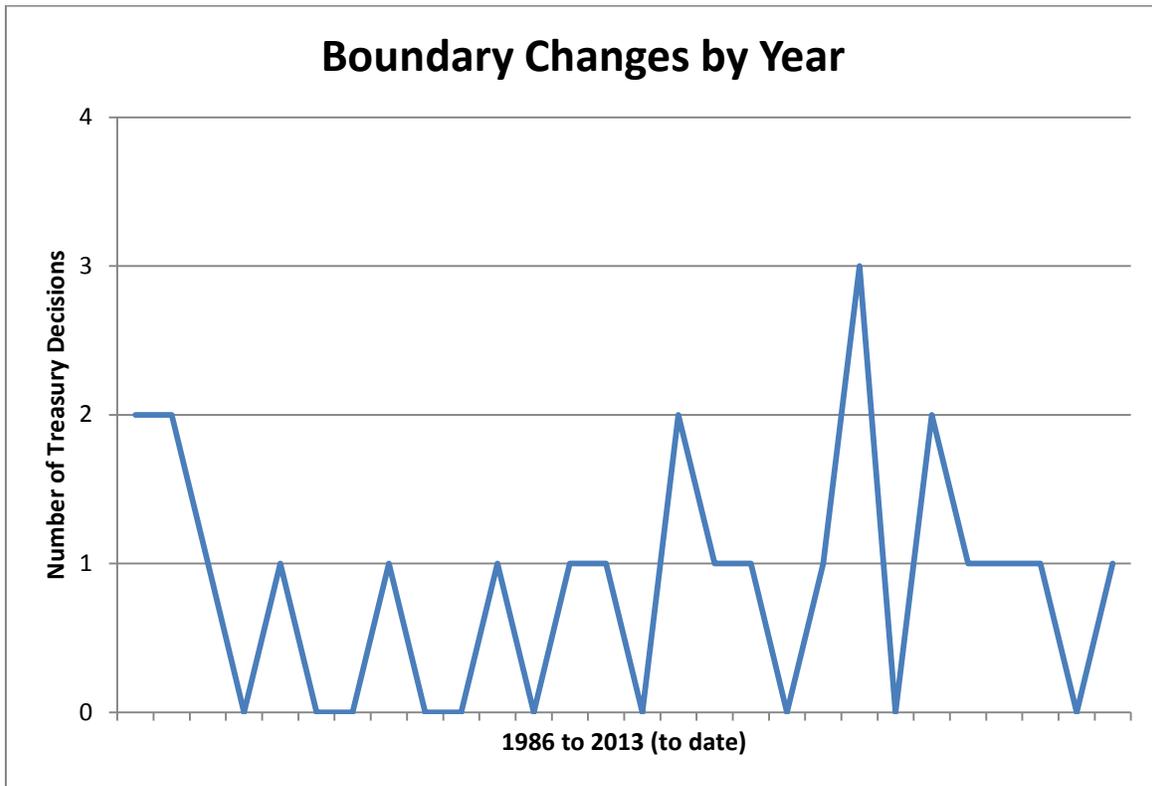
### *Expansions Due to Re-evaluation of Local Geography*

Only ten AVA expansions are attributable to a straight re-evaluation of the local geography relative to the defining characteristics of the AVA (See Table 2). Such a catalyst is the primary reason for the proposed expansion to the Sta. Rita Hills AVA. Some of these expansions are also attributable to other catalysts including the addition of new vineyards or expansion in conjunction with boundary changes for other reasons.

### *Nature of More Recent Expansions*

Considering the number of AVAs has steadily risen since the first AVA was created in 1981, the rate of boundary modifications has remained relatively consistent since 1986, when the first expansion was granted (see Chart 2). Given the relatively low number of expansions over any given time period, drawing conclusions about trends in the nature of AVA expansions is far from accurate. Nevertheless, more recent expansions tend to be based more on a re-evaluation of local geography with fewer expansion based on inadvertent omissions. Several reasons may explain this modest rise in expansions based on re-evaluation of local geography. First, the TTB likely has become more proficient at assessing unique characteristics of geographic areas and analyzing related data. The kinds of mistakes that plagued the Alexander Valley AVA are much less likely on new AVAs, leading to fewer corrections based on boundary errors and oversights. Second, data, especially climatic data, is more widely available and more reliable than in years past. This data can more accurately pinpoint characteristics that make AVAs viticulturally unique from surrounding area. Third, geographic information systems (GIS) have become much more widely utilized allowing for better aerial assessment of local geography.

Chart 2: Boundary Modifications Based on the Number of Treasury Decisions Including Expansions and Realignment by Year from 1986 to 2013 (as of the writing of this report).



## Tables

The following tables give an overview of all AVA expansions, including those AVAs that have had any sort of expansion (as of the writing of this report), including those expansions that are the result of a boundary realignments or, in the case of Northern Sonoma, an expansion to one area even if another area saw a reduction in size. Not included are AVAs that saw a reduction in size.

Table 1 includes every AVA, organized by 27 CRF Part 9 subpart, for which an expansion has occurred. When known, the original AVA acreage is given as well as the current AVA acreage. From these numbers, a total percent increase in size has been calculated. Also listed is the total number of expansions. The last column gives brief explanations for the reason and nature of the expansion, with code definitions listed on the following page. In the case of multiple expansions, a semicolon separates codes for each expansion.

Table 2 offers more information specifically on those expansions that are associated with a re-evaluation of the local geography by either re-evaluating data or by utilizing updated climate data, viticulture present, new soil data, geological studies, etc. This chart was created to more closely compare expansions that are of the nature of the Sta. Rita Hills AVA expansion. Note that all but 2 of these expansions were approved during or after 2001, which, as stated in subsection “Nature of More Recent Expansions,” would be expected considering advances in software, a greater use of weather stations, etc. Nevertheless, only 10 such expansions have taken place, and only eight such expansions have occurred in the 12-year period between 2001 and 2012. Further, one of those expansions, the 2003 expansion to the Russian River Valley, was duplicated in another expansion, the 2005 expansion. Also identified is a brief summary of the number of comments received during the public comment period. Finally, Table 2 includes corresponding Treasury Decisions to allow any interested party to quickly locate the final rulemaking establishing these expansions.

**Table 1: AVA's Expanded Throughout the History of the U.S. AVA Program**

Subpart	Name	Year Created	Original Acreage	Current Acreage <sup>1</sup>	# Expansions	% Expanded <sup>2</sup>	Expansion Type
9.28	Santa Maria Valley	1981	97,483	116,273	1	19	AH
9.46	Livermore Valley	1982	96,000	259,000	1	170	A
9.48	Monticello	1984	800,000	900,480	1	13	B
9.50	Temecula Valley	1984	33,000	33,000 <sup>3</sup>	1	<0.1	C
9.53	Alexander Valley	1984	50,000 <sup>4</sup>	78,083 <sup>5</sup>	5	56 <sup>6</sup>	ACDG; BE; BC; E; B
9.61	El Dorado	1983	Unknown <sup>7</sup>	Unknown	1	N/A	C
9.66	Russian River Valley	1983	124,784 <sup>8</sup>	169,028	3 <sup>9</sup>	35	A; A; A
9.70	Northern Sonoma	1985	329,000	394,088	3 <sup>10</sup>	12	G; F; FG
9.74	Columbia Valley	1984	14,720,000	Unknown	1	N/A	FG
9.75	Central Coast	1985	Unknown	Unknown	2	N/A	GH; FG
9.84	Paso Robles	1983	557,055	612,308	2	6	AD; C
9.91	Walla Walla Valley	1984	260,000	Unknown	1	N/A	A
9.93	Mendocino	1984	275,200	285,200	1	4	G
9.107	Lodi	1986	458,000	551,500	1	20	A
9.123	Mt. Veeder	1990	15,000	15,360	1	0.2	D
9.139	Santa Lucia Highlands	1992	22,000	22,200	1	1	E
9.157	San Francisco Bay	1999	1,566,720	1,643,040	2	5	FG; A

<sup>1</sup> In many cases, original acreage and expansion acreage are rough estimations. In some cases, original acreage is a rough estimation, but the expansion acreage is a more accurate number. As the full extent of estimation and/or rounding is outside the scope of this study, non-rounded numbers have been added to rounded/estimated numbers in some cases.

<sup>2</sup> Rounded to the nearest percent unless less than 1%, in which case rounded to the nearest tenth of a percent.

<sup>3</sup> Approximately 60 acres added. Acreage is a rounded estimate unchanged by expansion.

<sup>4</sup> Very rough estimation established by calculating the current acreage and backing out expansions when an acreage number was given. The original AVA was likely smaller than 50,000 acres, but the petition eventually approved called for a 66,000 acre AVA. The ATF reduced the size from the originally petitioned total by an unspecified amount.

<sup>5</sup> TTBB in TD TTBB-65 states 67,170 acres, likely calculated from past figures used in petitions to the ATF/TTBB. These numbers were problematic however due to ATF adjustments to petitioned boundaries. The currently number was calculated by Mike Bobbitt and Associates using GIS technology.

<sup>6</sup> See footnotes 4 and 5 above.

<sup>7</sup> Neither the original acreage nor the size of this expansion (which added a single vineyard) has been reported in any Treasury Decision regarding this AVA.

<sup>8</sup> The original AVA was considered to be 96,000 acres and expanded to 126,000 acres in 2005. The 2011 Treasury Decision further expanding the AVA to its current size notes that the size of the AVA is miscalculated and the actual size to be 154,984 as of the 2005 expansion. This last number was obtained using the latest in GIS software and is most certainly a more accurate number. What is not clear is if the miscalculating in acreage is attributable to the original AVA, the 2005 expansion or both. Given the date of the original petition and the absence of modern mapping technologies at that time, this report assumes the miscalculation to be in the original AVA acreage.

<sup>9</sup> The first of these three expansions is a duplicate of the second. A petition for a larger expansion that included this small expansion was pending and eventually approved.

<sup>10</sup> In the first of these expansions, Northern Sonoma AVA expanded in one area and was reduced in size in another. The net effect was not discussed in the Treasury Decision, but the change likely resulted in a net loss of territory. As the revised boundary included new territory, it is being considered an expansion.

Expansion Type Key

- A – Straight expansion based re-evaluation of local geography and defining characteristics.
- B – Include vineyards unaware of the petition and subsequent comment period, or unaware that their property was affected by modifications to the petition or TTB/ATF proposed rulemaking and/or Treasury Decisions. In most cases, growers thought their land was part of the AVA prior to expansion.
- C – Include vineyard(s) inadvertently left off through boundary revision during creation of the original AVA and/or use of markings on maps not representative of ground features.
- D – Expanded to include viticulture not planted at time of the original petition (when specifically state as a reason for expansion by the TTB/ATF)
- E – Expansion was part of a realignment of land moved from another AVA.
- F – Expanded to match common boundaries of another expanded AVA.
- G – Expanded to align boundaries between multiple AVAs either because of a desire to make boundaries conform to a new or existing AVA or because of a previous error of oversight in the boundaries.
- H – Original petition for expansion included additional areas of expansion not approved by the TTB/ATF

**Table 2: Expansions Most Attributed to a Re-evaluation of Local Geography**

AVA	Year of Expansion	Acreage	Treasury Decision	No. of Public Comments
Paso Robles	1996	50,618	T.D. ATF-377	No comments received
Alexander Valley	1988	>6,656	T.D. ATF-272	2 against (1 partial)
Walla Walla Valley	2001	Not specified	T.D. ATF-441	No comments received
Lodi	2002	93,500	T.D. ATF-482	23: 11 for, <sup>11</sup> 11 against, 1 neutral
Russian River Valley	2003	767	T.D. TTB-7	6: 2 for, 3 against, <sup>12</sup> 1 other
Russian River Valley	2005	30,200 <sup>13</sup>	T.D. TTB-32	3: 2 for, 1 other
Livermore Valley	2006	163,000	T.D. TTB-47	1 for
San Francisco Bay	2008	56,320	T.D. TTB-67	1 for
Santa Maria Valley	2010	18,790	T.D. TTB-88	2 for
Russian River Valley	2011	14,044	T.D. TTB-97	171: 26 for, 133 against, 12 other

<sup>11</sup> Six of these in favor sought to expand the AVA further.

<sup>12</sup> Two of the opposing comments were against the expansion because it was duplicated in the expansion that eventually became T.D. TTB-32.

<sup>13</sup> Includes 767 acres from 2003 expansion.