

## Statutory Authority

Accordingly, pursuant to the authority in sections 101, 103, 104, 109, 110 and 4065 of ERISA and sections 6058 and 6059 of the Code, the Form 5500 Annual Return/Report and the instructions thereto are proposed to be amended as set forth herein.

Signed at Washington, DC, this 9th day of May, 2022.

**Ali Khawar,**

*Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.*

**Eric Slack,**

*Director, Employee Plans, Tax Exempt and Government Entities Division, Internal Revenue Service.*

**Gordon Hartogensis,**

*Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 2022–10658 Filed 5–20–22; 8:45 am]

**BILLING CODE 4510–29–C**

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB–2018–0008; T.D. TTB–179; Ref: Notice No. 177]

RIN: 1513–AC40

#### Establishment of the West Sonoma Coast 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) establishes the approximately 141,846-acre “West Sonoma Coast” viticultural area in Sonoma County, California. The viticultural area lies entirely within the established Sonoma Coast and North Coast viticultural areas and contains the established Fort Ross–Seaview 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 June 22, 2022.

**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:**

#### Table of Contents

I. Background on Viticultural Areas

- A. TTB Authority
- B. Definition
- C. Requirements
- II. West Sonoma Coast Petition
  - A. General Characteristics
  - B. Notice of Proposed Rulemaking
- III. Discussion of Comments Received and TTB Responses
  - A. Comments on Establishment of Proposed West Sonoma Coast AVA
  - B. Comments on Inclusion of Fort Ross–Seaview AVA
- IV. TTB Determination
- V. Boundary Description
- VI. Maps
- VII. Impact on Current Wine Labels
- VIII. Regulatory Analysis and Notices
  - A. Regulatory Flexibility Act
  - B. Executive Order 12866
- IX. Drafting Information

### I. Background on Viticultural Areas

#### A. 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 the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01.

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 to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

#### B. 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, once approved, a name and a delineated boundary codified 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.

#### C. Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to 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 to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

### II. West Sonoma Coast Petition

#### A. General Characteristics

TTB received a petition from Patrick Shabram, on behalf of the West Sonoma Coast Vintners, proposing the establishment of the “West Sonoma Coast” AVA. The proposed West Sonoma Coast AVA is located in Sonoma County, California, and is entirely within the established Sonoma Coast AVA (27 CFR 9.116) and North

Coast AVA (27 CFR 9.30) and entirely contains the smaller established Fort Ross–Seaview AVA (27 CFR 9.221). The proposed West Sonoma Coast AVA contains 141,846 acres and has approximately 47 commercial vineyards covering approximately 1,028 acres distributed throughout the proposed AVA.

According to the petition, the distinguishing features of the proposed West Sonoma Coast AVA include its topography, geology, and climate. The topography of the proposed West Sonoma Coast AVA is characterized by the steep, rugged mountains and ridgelines that form the Coastal Ranges. The summits of these coastal mountains can exceed 1,000 feet. The high elevations of the Coastal Ranges provide areas for vineyards that are above the fog layer. The ridgelines also create areas at lower elevations that are sheltered from the heaviest marine fogs, where viticulture may take place successfully within the fog line. By contrast, the region to the east of the proposed AVA, within the Russian River Valley AVA (27 CFR 9.66), is generally lower and the slopes are less steep, particularly in the Santa Rosa Plain. To the south, within the Petaluma Gap AVA (27 CFR 9.261), the topography is characterized by gentle, rolling hills with lower elevations.

Much of the proposed West Sonoma Coast AVA is underlain with sedimentary rocks of the Franciscan Complex. The Franciscan Complex is not easily eroded, which contributes to the high elevations and steep slopes within the proposed AVA. Soils derived from the Franciscan Complex are typically thin and have a high sand content, which promotes good drainage in vineyards. To the east and south of the proposed AVA, the Franciscan Complex is present, but the Wilson Grove Formation is the dominant geological feature. To the east of the proposed AVA, alluvial soils are also more common.

Lastly, the proposed West Sonoma Coast AVA has a climate that is more influenced by marine winds and fog than the more inland regions of Sonoma County. Much of the proposed AVA is located within the Marine zone climate classification, and gradually transitions to the Coastal Cool zone.<sup>1</sup> Within the proposed AVA, daytime temperatures are generally cooler and nighttime

temperatures are generally warmer than in the more inland regions. Growing degree day (GDD)<sup>2</sup> accumulations within the proposed AVA are typically lower than within the region to the east. Wind speeds within the proposed AVA are lower than within the region to the south, where lower elevations allow the coastal winds to enter relatively unhindered. According to the petition, higher wind speeds can slow photosynthesis, thereby slowing fruit development and maturation. The petition also states that the climate of the proposed AVA is suitable for growing cooler climate varieties of grapes such as Pinot Noir and Chardonnay.

TTB notes that the petition did not provide information on the features of the region to the north of the proposed AVA, within Mendocino County. However, the petition states that the proposed name “West Sonoma Coast” is not used to describe any region outside of Sonoma County. Therefore, even if the region to the north has features similar to those of the proposed AVA, the proposed AVA could not extend into Mendocino County because § 9.12(a)(1) of the TTB regulations requires the proposed name to apply to the entire region included in the proposed AVA.

#### *B. Notice of Proposed Rulemaking*

TTB published Notice No. 177 in the **Federal Register** on December 6, 2018 (83 FR 62750), proposing to establish the West Sonoma Coast AVA. In that document, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The proposal also compared the distinguishing features of the proposed AVA to the surrounding areas, including the established Sonoma Coast, North Coast and Fort Ross–Seaview AVAs. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 177.

In Notice No. 177, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the

petition. In addition, given the proposed West Sonoma Coast AVA’s location within the Sonoma Coast and North Coast AVAs, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the two larger established AVAs. TTB requested comments on whether the geographic features of the proposed AVA are so distinguishable from the Sonoma Coast and North Coast AVAs that the proposed West Sonoma Coast AVA should no longer be part of the established AVAs. Finally, TTB requested comments on whether the evidence included in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the smaller established Fort Ross–Seaview AVA, and if the geographic features of the proposed AVA are so distinguishable that the Fort Ross–Seaview AVA should not be a part of the proposed West Sonoma Coast AVA.

The comment period for Notice No. 177 was originally scheduled to close on February 4, 2019. However, TTB received two comments requesting an extension of the comment period and subsequently published Notice No. 177A on February 12, 2019 (84 FR 3353), which reopened the comment period until April 15, 2019.

#### **III. Discussion of Comments Received and TTB Responses**

In response to Notice No. 177, TTB received a total of 72 comments. However, one comment was a duplicate of a previously submitted comment, and one comment was replaced by a later comment from the same submitter before the original comment was posted. Therefore, a total of 70 comments were posted for public viewing within *Regulations.gov* docket number TTB–2018–0008 (see <https://www.regulations.gov>). Commenters included local vineyard and winery owners and employees, wine writers and educators, sommeliers, and consumers.

Of the 70 comments that TTB posted to the docket, 67 express either support for or opposition to the proposed West Sonoma Coast AVA, while two comments request an extension of the comment period (comments 27 and 28), and one comment withdraws but does not replace a previously submitted and posted comment (comment 1, withdrawn by comment 42). Of the 67 comments that express a specific opinion on the proposal, 49 support the proposed AVA, 1 comment supports the proposed AVA and requests an

<sup>1</sup> See Vossen, Paul, *Sonoma County Climatic Zones*, University of California Cooperative Extension Service, Sonoma County, 1986. (This publication notes the findings of University of California Extension Farm Advisors Robert Sisson and Paul Vossen regarding the climate zones of Sonoma County, California.).

<sup>2</sup> See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 2nd ed. 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual growing degree days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day’s mean temperature is above 50 degrees, the minimum temperature required for grapevine growth.

expansion of the boundary to include the commenter's vineyard (comment 55), 1 comment supports the establishment of the proposed AVA but opposes the choice of name (comment 62), and 14 oppose the establishment of the proposed West Sonoma Coast AVA. Additionally, the petitioner submitted two comments in defense of his analysis of the proposed AVA (comments 54 and 67), including one (comment 54) which withdrew and replaced his previously submitted and posted comment (comment 36).

#### A. Comments on Establishment of Proposed West Sonoma Coast AVA

##### 1. Proposed AVA Name

###### i. Opposing Comments

TTB received two comments that oppose the proposed "West Sonoma Coast" name. One of these comments (comment 62) opposes the proposed name, although the commenter does support the establishment of an AVA limited to the extreme coastal regions of the established Sonoma Coast AVA. The commenter, who is a self-identified grape grower and winemaker in the established Sonoma Coast AVA, believes that the name "West Sonoma Coast" begs the question where is the "East Sonoma Coast?" The commenter is also concerned that the proposed name "will risk creating an inland or east version of the Sonoma Coast, which could be read by some as being less than" the proposed West Sonoma Coast AVA. The commenter supports the establishment of the AVA if it were proposed with another name; however, he did not suggest an alternative name for the proposed AVA.

The second comment opposing the proposed "West Sonoma Coast" name was submitted jointly by Lester Schwartz, owner of Fort Ross Vineyards, and Daniel Schoenfeld, owner of Wild Hog Vineyard (comment 51). Both vineyards are within the proposed AVA and also within the Fort Ross–Seaview AVA. The commenters assert that the name evidence provided by the petitioner does not meet the requirements of § 9.12(a)(1)(i) and (ii) of the TTB regulations. The commenters provide two articles which they believe demonstrate that the proposed AVA is not locally or nationally known as "West Sonoma Coast." The first article quotes the director of sales and marketing of Peay Vineyards, saying that the West Sonoma Coast Vintners' first petition to establish an AVA was rejected by TTB "because there was no historical reference to a West Sonoma Coast," and that the "proposed moniker seems nonsensical at first blush"

because there is no "East Sonoma Coast."<sup>3</sup> The second article is titled "California's Edgiest, Riskiest Wine Region Is About to Get a New Name: Five wines to know from West Sonoma Coast, as it'll soon be known."<sup>4</sup> The commenters assert that the phrases "get a new name" and "as it'll soon be known" in the title of the article suggests that the region of the proposed AVA is not currently known by the name "West Sonoma Coast."

The commenters provided examples of different names currently used to describe the region of the proposed AVA, including materials from the West Sonoma Coast Vintners' West of the West Wine Festival and Vintners Farm Camp. These materials use the terms "True Coast," "True Sonoma Coast," "Far Sonoma Coast," "Sonoma Coast Mountains," and "Sonoma Coast Highlands," among others when referring to the region of the proposed AVA. Another article included in the comment refers to the region of the proposed AVA as "Gold Coast" and "California's cote d'or."<sup>5</sup> The commenters further claim that the name "West Sonoma Coast" does not apply to the entire region, as portions of the proposed AVA are known by other names such as "Annapolis," "Freestone," "Occidental," and "Fort Ross." The commenters assert that the use of these other names to describe the region of the proposed AVA shows that the proposed name is not locally or nationally recognized, nor does it apply to the entire proposed AVA.

Comment 51 also questions the petition's use of the West Sonoma County Union High School District as evidence to support the proposed AVA name. The commenters claim that the petition incorrectly portrays the school district as the only school district serving the proposed AVA when in fact there are multiple school districts. The commenters included a map of the school districts serving the proposed AVA and surrounding regions and note that the northern portion of the proposed AVA is not within the school district, and 60 percent of the school district is located outside the proposed AVA.<sup>6</sup>

Finally, the commenters claim that the name evidence provided by the

<sup>3</sup> McIntyre, Dave. "Why American wine labels aren't as specific as they could be." Washington Post (December 31, 2016).

<sup>4</sup> McCoy, Elin. "California's Edgiest Riskiest Wine Region Is About to Get a New Name: Five wines to know from West Sonoma Coast, as it'll soon be known." Bloomberg Wine (August 31, 2018).

<sup>5</sup> Boone, Virginia. "Wines Way Out West." Press Democrat (July 21, 2014).

<sup>6</sup> See Exhibit A-10 to comment 51 in docket TTB-2018-0008 at <https://www.regulations.gov>.

petitioner is not independent of the petitioner, as required by TTB regulations. The commenters assert that the proposed name is a "recent fiction of the petitioner's own making." As evidence, the commenters point to a statement from page 5 of the proposed West Sonoma Coast AVA petition that says that the name "offers the best descriptive delineator given the limitations of being able to use the most appropriate identifier" for the proposed AVA.

###### ii. Supporting Comments

Only one comment expressly supports the use of the proposed name "West Sonoma Coast." The petitioner, Patrick Shabram, submitted a comment (comment 67) which included additional name evidence and was submitted in response to comment 51. The petitioner submitted an article entitled "Way Out on the West Sonoma Coast," which describes places to visit in the towns of Annapolis, Occidental, Freestone, and Sebastopol.<sup>7</sup> Another item submitted was a wine list from the Lazy Bear Restaurant<sup>8</sup> in San Francisco that uses the "West Sonoma Coast" moniker to describe several wines from the region of the proposed AVA. For example, the Alma Fria Doña Margarita Vineyard 2014 pinot noir is listed as "Freestone, West Sonoma Coast, California," and the 2014 Alma Fria Holterman Vineyard pinot noir is designated "Annapolis, 2014, West Sonoma Coast, California."

###### iii. TTB Response

After careful review of the comments and the name evidence provided in the petition, TTB has determined that there is sufficient evidence to support the proposed West Sonoma Coast AVA name. The petition provided ample evidence that the term "West Sonoma" is used to describe the entire western portion of Sonoma County, where the proposed AVA is located. TTB notes that the use of a directional term such as "West" in an AVA name does not require that there be a separate region known by the opposite direction. TTB has approved several such AVAs, including the North Yuba (27 CFR 9.106), North Fork of Long Island (27 CFR 9.113), and West Elks (27 CFR 9.172) AVAs.

TTB believes that the West Sonoma County Union High School District name is an acceptable piece of evidence to demonstrate that the proposed AVA

<sup>7</sup> Boone, Virginia. "Way Out on the West Sonoma Coast," Wine Enthusiast Magazine (June 13, 2016).

<sup>8</sup> <http://www.lazybearsf.com/site/wp-content/uploads/2019/01/20190129-Beverage-Menu.pdf>, pages 35, 67, and 70.

is in a region known as “West Sonoma” or “West Sonoma Coast.” The petition claimed that “much of the proposed AVA is within” the school district. The school district map included in comment 51 does not disprove this claim. TTB notes that the school district name was not the only piece of name evidence for the proposed AVA. The petition also included magazine and newspaper articles, an excerpt from a book, and a real estate listing that all referred to the region of the proposed AVA as “West Sonoma Coast” or “West Sonoma.”<sup>9</sup>

TTB does not agree with the assertion in comment 51 that the Washington Post and Bloomberg Wine articles demonstrate that the proposed name does not currently apply to the region. While the Washington Post article notes the proposed “West Sonoma Coast” name “seems nonsensical” and that there is a lack of historical evidence for this name, TTB does not believe these statements demonstrate the region is not known as the “West Sonoma Coast.” Under TTB regulations, a petitioner does not need to submit historical name evidence in support of a proposed AVA name, but only needs to submit evidence that the proposed AVA name is “currently and directly associated” with the area “in which viticulture exists” (see § 9.12(a)(1)). TTB finds that the petitioner for this rulemaking meets this requirement, and has determined that both the proposed West Sonoma Coast AVA petition and comment 67, which was submitted by the petitioner, included multiple examples of the name “West Sonoma Coast” or “West Sonoma” being used currently to describe the region of the proposed AVA.

Also, TTB does not believe the Bloomberg Wine article’s statement that the region of the proposed AVA will “soon be known” by a “new name” is evidence that the region is not known by the West Sonoma Coast name. TTB finds this statement is referring to the fact that a new AVA with the name “West Sonoma Coast” may soon be established. TTB finds the article refers to the region of the proposed AVA in the present tense as “West Sonoma Coast,” noting, “The dramatic, 51-mile-long sliver of land next to the ocean is known as the West Sonoma Coast \* \* \*.”

TTB also disagrees with the claim in comment 51 that, because the region of the proposed AVA is known by many different names, it cannot be designated

as “West Sonoma Coast.” TTB regulations do not preclude the region of a proposed AVA from being known by more than one name. In fact, the towns of Annapolis, Freestone, and Occidental are already within the established Sonoma Coast and North Coast AVAs, and the existence of these communities did not affect the ability of TTB to recognize the names “Sonoma Coast” and “North Coast” for those AVAs. Additionally, none of the comments provided evidence that any of the other names used to describe the region would be a more appropriate choice. Therefore, TTB has determined that the petition provided sufficient evidence to support the proposed name “West Sonoma Coast.”

Additionally, TTB believes that the proposed West Sonoma Coast AVA petition provided sufficient evidence to demonstrate that the towns of Annapolis, Freestone, and Occidental are considered part of a larger region known as West Sonoma Coast. For example, Exhibit J to the petition included an article entitled “West Sonoma Coast Wines are on the Rise”<sup>10</sup> which mentions Summa Vineyards in Occidental, while another article about the “west (sic) Sonoma Coast” mentions that Peay Vineyards “makes three estate pinots from their vineyard in Annapolis.”<sup>11</sup> Furthermore, in comment 67, the petitioner provided additional name evidence linking the proposed “West Sonoma Coast” name to the towns of Annapolis, Occidental, and Freestone.

Finally, TTB disagrees with the assertion in comment 51 that the petition did not include name evidence that is independent of the petitioner, as required by § 9.12(a)(1)(ii). The name evidence included in the petition shows that the name has been recognized and used by others to describe the region of the proposed AVA. For example, the real estate ad for “West Sonoma Coast Ranch Land” that was included in the petition provides evidence that the name “West Sonoma Coast” is currently used by people outside the wine industry. TTB acknowledges that many of the articles cited as name evidence in the petition are references to the wine industry. However, they include articles from newspapers and journals not exclusively dedicated to wine, such as the Wall Street Journal and Forbes, suggesting that the name has been

accepted and used by people outside the wine industry.

## 2. General Distinguishing Features

### i. Opposing Comments

Nine of the comments opposing the establishment of the proposed West Sonoma Coast AVA raise objection to the proposal based on a lack of distinguishing features. These opposing comments generally claim that the features of the proposed AVA are too diverse to be combined into a larger, generalized AVA, but do not provide evidence to support these claims.

One of the comments (comment 52) asserts that the distinguishing features data in the petition did not meet TTB’s regulatory requirements because the petition did not compare the proposed AVA to all of the seven AVAs that overlap or are adjacent to the proposed AVA, including the Northern Sonoma (27 CFR 9.70), Petaluma Gap, Russian River Valley, Green Valley of Russian River Valley (27 CFR 9.57), Fort Ross–Seaview, Sonoma Coast, and North Coast AVAs. The comment states that the comparisons that were included in the petition are not sufficiently supported by facts, but the comment did not provide any evidence to refute the data in the petition.

Comment 51 also asserts that the petition failed to meet the requirements of § 9.12(a)(2) of the TTB regulations because it does not explain with specificity how the commonalities and similarities within the proposed AVA are different from those in the adjacent areas outside the proposed AVA. The comment states that the petition does not provide comparisons to the neighboring Northern Sonoma, Green Valley of the Russian River Valley, and Petaluma Gap AVAs, and that the petitioner’s comparison to the North Coast AVA is insufficient. The comment also claims that the proposed West Sonoma AVA consists of four regions with “too diverse a range of geographic and climatic features to be considered a unitary AVA.” These four regions are identified as the Fort Ross–Seaview AVA and the Annapolis, Freestone, and Occidental regions. The comment asserts that an attempt to establish a Freestone–Occidental AVA in 2008, as well as TTB’s rejection of a request to include the Annapolis region in the Fort Ross–Seaview AVA in 2011, illustrate that the two regions are too different to be included in a single AVA.

### ii. Supporting Comments

Five of the supporting comments express general agreement that the features of the proposed West Sonoma

<sup>10</sup> McInerney, Jay. “West Sonoma Coast Wines are on the Rise,” *The Wall Street Journal* (July 18, 2013).

<sup>11</sup> Brown, Elaine Chukan. “Sonoma’s Far Coast: A haven for pinot noir,” *Wines and Spirits* (August 31, 2015).

<sup>9</sup> The name evidence is included in Exhibit J to the petition in Docket TTB–2018–0008 at [www.regulations.gov](http://www.regulations.gov).

Coast AVA are distinctive from those of the surrounding regions. These five comments did not focus on a particular feature, nor did they provide any additional evidence.

### iii. TTB Response

After careful review of the comments and the petition, TTB has determined that the information in the petition sufficiently demonstrates that the features of the proposed West Sonoma Coast AVA generally distinguish it from the surrounding regions, including neighboring and overlapping established AVAs. The TTB regulations at § 9.12(a)(2) require an AVA petition to explain how a proposed AVA's distinguishing features are "different in the adjacent areas outside that boundary." The AVAs adjacent to the eastern boundaries of the proposed West Sonoma Coast AVA are the Russian River Valley AVA and the Sonoma Coast AVA, which entirely overlaps both the proposed AVA as well as the Green Valley of Russian River AVA and most of the Russian River Valley AVA. The Petaluma Gap AVA is adjacent to the southern boundary of the proposed West Sonoma Coast AVA and is also partially located within the Sonoma Coast AVA. The Green Valley of Russian River Valley AVA is entirely within the Russian River Valley AVA, and the Northern Sonoma AVA completely encompasses both the Green Valley of Russian River Valley AVA and the Russian River Valley AVA.

TTB disagrees with the assertion in comments 51 and 52 that the petition does not include comparisons of the proposed West Sonoma Coast AVA's distinguishing features to those of the surrounding AVAs. In its discussion of topography, the petition compares the proposed AVA to the established Russian River Valley, Green Valley of Russian River Valley, and Petaluma Gap AVAs. The climate section of the petition includes GDD, average monthly maximum temperature, and monthly low temperature data from the town of Windsor, which is within the Sonoma Coast, Russian River Valley, and Northern Sonoma AVAs. The average monthly maximum and minimum temperature graphs also include data from the city of Santa Rosa, which is partially within the Sonoma Coast, Northern Sonoma, and Russian River Valley AVAs. Wind speed data is provided from Windsor, Santa Rosa, and the town of Valley Ford, which is within both the Petaluma Gap AVA and the Sonoma Coast AVA. Finally, the geology section of the petition contains a discussion of the geology of the Russian River Valley and Petaluma Gap

AVAs. Therefore, TTB has determined that the proposed West Sonoma Coast AVA petition meets the regulatory requirements to provide comparison data from the "adjacent areas outside the boundary." TTB notes that its regulations do not require that each of the features of the proposed AVA must be distinguishable from all of the surrounding regions. In other words, the feature that distinguishes a proposed AVA from the regions to the east and west does not have to be the same feature that distinguishes the proposed AVA from the north and south.

TTB also finds that the petition provided a sufficient comparison of the proposed West Sonoma Coast AVA to the larger North Coast AVA that encompasses it. As noted in T.D. ATF-145, which established the North Coast AVA, the primary distinguishing features of the North Coast AVA are a climate that is "influenced by intrusions of cooler, damper coastal marine air and fog, by temperatures that are cooler than the Central Valley, and by greater rainfall than surrounding areas."<sup>12</sup> The proposed West Sonoma Coast AVA petition notes that, like the North Coast AVA, the proposed AVA is influenced by maritime air. Although the petition does not provide any additional specific comparisons to the North Coast AVA, the petition does describe how the proposed AVA differs from the Sonoma Coast, Russian River Valley, and Petaluma Gap AVAs, all of which are also located in the North Coast AVA. Therefore, TTB finds that the petition sufficiently demonstrated that the proposed AVA shares a marine-influenced climate with the North Coast AVA, but is also a distinct microclimate within the larger AVA. Also, due to its smaller size, the proposed AVA experiences a much smaller range of climatic variations within its proposed boundaries than the diverse, multicounty North Coast AVA.

TTB does not believe that the information included in comment 51 demonstrates that the characteristics of the proposed West Sonoma Coast AVA are too diverse to be considered "a unitary AVA." The comment includes an elevation map (Exhibit A-2) and an elevation statistics table (Exhibit A-3), both of which do show a variety of elevations within the proposed AVA. However, neither the map nor the table provide sufficient evidence to refute the petition's claims that the proposed AVA's elevations are generally higher than elevations in the surrounding regions, particularly in the Petaluma Gap AVA and the Santa Rosa Plain

region of the Russian River Valley AVA. For example, Exhibit A-3 notes elevations of acreage outside the proposed AVA that exist at less than 400 feet. However, this exhibit also shows that within the four regions comprising the proposed AVA, no region has an average vineyard elevation of below 500 feet. Additionally, the petition shows the proposed AVA contains the mountainous terrain of the Coastal Ranges, which contain summits which exceed 1000 feet, a contrast to the Santa Rosa Plain to the east of the proposed AVA, which contains slopes of less than 5 percent.

Comment 51 includes a letter from meteorologist Roland Clark that also claims, "While the petition seeks to simply distinguish the western half [of the established Sonoma Coast AVA] from the eastern half, it does not address the differences that have been proven to exist between Annapolis, Fort Ross-Seaview AVA, Occidental and Freestone," which are all communities within the proposed West Sonoma Coast AVA.<sup>13</sup> TTB regulations allow for an AVA to contain regions with differences in distinguishing features. However, § 9.12(a)(3) of the TTB regulations requires that the regions within an AVA must still share "common or similar features." TTB believes the various regions of the proposed AVA share climatic features, topography, and geology that are more similar to each other than to the regions outside the proposed AVA. TTB also notes that the entire proposed AVA is already located within the established Sonoma Coast and North Coast AVAs, further indicating that the various regions within the proposed AVA share at least some similar features.

TTB does not agree with the assertion in comment 51 that the exclusion of the Annapolis region from the Fort Ross-Seaview AVA indicates that the two regions are too dissimilar to now be included in a single AVA. Although the Annapolis region does not share enough of the characteristics of the Fort Ross-Seaview AVA, particularly the name evidence, to be included with that AVA, the two regions share enough similarities to be included in a larger, overlapping AVA, such as the proposed West Sonoma Coast AVA. As noted previously, both the Annapolis region and the Fort Ross-Seaview AVA are already located within the Sonoma Coast and North Coast AVAs, indicating that TTB found them to share at least some broad characteristics of the two larger AVAs.

<sup>13</sup> See Exhibit B-1 of comment 51 in docket TTB-2018-0008 at <https://www.regulations.gov>.

<sup>12</sup> See 48 FR 42973, 42976, September 21, 1983.

Last, in contrast to the assertion in comment 51, TTB does not believe that submission of a petition to establish a Freestone–Occidental AVA in 2008 indicates that the Freestone–Occidental region is too distinct from the Fort Ross–Seaview AVA and the Annapolis region to be included with those regions in a larger AVA such as the proposed West Sonoma Coast AVA. The submission of a petition to establish an AVA within another AVA does not mean that the smaller region cannot have features that are distinct enough to warrant recognition as an AVA and still share some of the broader characteristics of the encompassing AVA. For example, the Fort Ross–Seaview AVA is currently within the larger, established North Coast and Sonoma Coast AVAs, along with the Freestone–Occidental and Annapolis regions. Even though the Fort Ross–Seaview AVA is distinguishable from the Freestone–Occidental and Annapolis regions, they all still share marine-influenced climates characteristic of the two larger coastal AVAs. Therefore, TTB believes that the submission of a petition to recognize the Freestone–Occidental region as an AVA does not, by itself, serve as evidence that the region is too distinct to be included in a larger AVA with the Annapolis region and Fort Ross–Seaview AVA.

### 3. Climate

#### i. Opposing Comments

Six comments, comments 41, 43, 47, 49, 50, and 51, oppose including the Fort Ross–Seaview AVA within the proposed West Sonoma Coast AVA. These commenters allege the climate of the Fort Ross–Seaview AVA is distinct from other regions to be included in the proposed West Sonoma Coast AVA. However, comment 51 was the only opposing comment that addressed the petition’s climate evidence and provided data to support its claims. The comment states that the petition is incorrect in asserting that the proposed AVA is largely within the Marine climate zone, as developed by Robert Sisson and Paul Vossen.<sup>14</sup> The comment states that the vineyards in the Annapolis region of the proposed AVA are within the Coastal Cool zone, not the Marine zone, and that although some vineyards within the Occidental and Freestone regions are within the Marine zone, others are in the Coastal Cool zone. The comment claims that the Sisson model of climate zones is “unsupportive of [the petitioner’s] thesis for

distinguishing the proposed AVA,” because the model claims that the Marine zone is too cold for grape growing.

Comment 51 also disagrees with the petition’s description of fog intrusion within the proposed West Sonoma Coast AVA and the surrounding regions, particularly the petition’s claim that ridgelines form pockets protected from the heaviest marine fog in the Freestone, Annapolis, and Occidental regions of the proposed AVA. The comment states that the Annapolis region has low-elevation gaps that allow for the penetration of fog, and that there are no high coastal ridges to form protected areas around Freestone. As evidence, the comment includes a statement from the winemaker of Peay Vineyards.<sup>15</sup> In the statement, the winemaker says that her Annapolis-area vineyard is below the inversion layer, and cool ocean fog persists throughout the day. Comment 51 also includes a Sonoma County fog map created from satellite imagery from August 24, 2018, that shows fog intruding into much of the county, including the region east of the proposed West Sonoma Coast AVA.<sup>16</sup> The fog, however, appears to intrude only partially into the portion of the proposed AVA that contains the Fort Ross–Seaview AVA.

Comment 51 also disputes the petition’s claims that the proposed AVA generally has warmer nocturnal temperatures than the regions to the east. The comment includes a printout from a graph published by the West Sonoma Coast Vintners that shows the average diurnal temperature shift in the proposed AVA, the Green Valley of Russian River AVA, and the Russian River Valley AVA from veraison through harvest.<sup>17</sup> According to the comment, the graph shows that the Occidental region of the proposed AVA has substantially lower nocturnal temperatures than the Russian River Valley AVA.

Additionally, comment 51 included a letter dated February 20, 2019, from Ronald Clark, a retired naval meteorologist and president of Weather Mission, Inc.<sup>18</sup> The letter responds to additional maximum and minimum temperature data and temperature

variation calculations submitted by the petitioner in comment 54. In the letter, Mr. Clark states his belief that diurnal temperature difference is not what “makes the difference in plant growth.” Instead, Mr. Clark suggests that GDDs, which take into consideration the total number of hours a day with temperatures above 50 degrees F, are more important in predicting plant growth. Mr. Clark concludes by stating that neither the climate data in comment 54 nor the climate data provided in the original petition provide sufficient evidence to establish the proposed West Sonoma Coast AVA.

Comment 51 disagrees with the petition’s claim that wind speeds within the proposed West Sonoma Coast AVA are lower than within the regions to the south and east. As evidence, the comment provided a map of average annual wind speeds in the western portion of Sonoma County.<sup>19</sup> The map indicates that winds of up to 15.7 miles per hour occur within the proposed AVA and the region to the south, while wind speeds generally do not exceed 14.4 miles per hour in the region to the east.

Comment 51 further claims that the climate data in the petition is incomplete because it does not provide information on rainfall amounts, which the comment claims is required by § 9.12(a)(3)(1) of the TTB regulations. The comment includes a map showing the annual average precipitation amounts for the proposed AVA and surrounding regions from 1981 to 2010.<sup>20</sup> The comment asserts that the average annual precipitation amounts in the four regions of the proposed West Sonoma Coast AVA are too diverse to be included in a single AVA, and that the differences between the Fort Ross–Seaview AVA and the Annapolis, Occidental, and Freestone regions are particularly significant.

Last, comment 51 questions the methodology used by the petitioner to calculate the GDDs of the proposed West Sonoma Coast AVA and the surrounding regions. The comment included a second letter from Roland Clark, dated January 11, 2019.<sup>21</sup> The letter argues that even though the proposed West Sonoma Coast AVA petition “seeks to distinguish the western half [of the established Sonoma Coast AVA] from the eastern, it still does not address differences which have been proven to exist between

<sup>14</sup> The statement was taken from a comment submitted to TTB in 2010 in response to Notice No. 34, which proposed the Fort Ross–Seaview AVA. The comment was submitted by Patrick Shabram, the current petitioner. See 70 FR 11174, March 8, 2005.

<sup>15</sup> See Exhibit A–6 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>16</sup> See Exhibit D–8 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>17</sup> See Exhibit B–2 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>18</sup> See Exhibit A–4 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>19</sup> See Exhibit A–5 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>20</sup> See Exhibit B–1 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>14</sup> See Vossen, Paul, *Sonoma County Climatic Zones*, University of California Cooperative Extension Service, Sonoma County, 1986.

Annapolis, Fort Ross–Seaview, Occidental and Freestone,” which are all regions within the proposed AVA. Mr. Clark claims that the most basic method of calculating GDDs is “to average the daily low and the daily high temperature, then subtract the determined base temperature and assign 0 for anything less than 0. So for each day, if the average temperature does not exceed the base temperature, no GDD accumulation is added \* \* \*.”

According to the letter, a base temperature of 50 degrees Fahrenheit (F) is typically used when calculating GDDs for grapes, and a cap temperature may be applied, typically 85 degrees F.<sup>22</sup> Graph 1 on page 12 of the petition uses 70 degrees F as a base temperature and 90 degrees F as the cap. Mr. Clark claims he ran a “simple average GDD model” with 2017 and 2018 data from five locations in the proposed AVA and two locations within the Russian River Valley AVA. He then ran the same model on the same data using a base temperature of 50 degrees F and a cap of 85 degrees F. Both computations resulted in higher GDD accumulations for the Fort Ross–Seaview AVA than for any other the other locations. The results, he claims, cast doubt on the data in Graph 1 of the petition.

Mr. Clark’s letter also questioned Table 3 on page 16 of the petition, noting that the methodology for calculating the information in Table 3 is not described and the data is incomplete. In particular, only one year of data is available from the Red Car Vineyard and KJ Seascape weather stations within the proposed AVA. The letter states that Tables 4 and 5 on pages 16 and 17 of the petition use a single location to represent the entirety of the proposed West Sonoma Coast AVA. Because the methodology of calculating the GDDs is not known and the data is incomplete, the letter concludes that the petition’s conclusion of cooler temperatures existing within the proposed AVA than in the surrounding regions cannot be deemed accurate.

#### ii. Supporting Comments

Thirty-four comments specifically expressed support for the climate evidence in the petition. These commenters generally state that the proposed West Sonoma Coast AVA’s climate is more affected by the marine breezes and fog than the regions farther inland, resulting in cooler daytime temperatures, warmer nighttime

temperatures, and later harvest dates. Only 2 of these 32 comments provided objective data, rather than anecdotal evidence, to support their claims. Both of these comments were submitted by the petitioner (comments 54 and 67).

In his first comment (comment 54), the petitioner submitted data relating to the 2018 average maximum and minimum temperatures and average temperature variation for six locations within the proposed AVA, including the Annapolis, Freestone, and Occidental regions and the Fort Ross–Seaview AVA, and four locations in the neighboring Russian River Valley AVA. The data shows that in 2018, the locations within the proposed West Sonoma Coast AVA had lower average maximum temperatures and higher minimum temperatures than the locations in the Russian River Valley AVA. The average diurnal temperature variations for the proposed AVA locations were also smaller than the variations for the Russian River Valley AVA. This data supports the petitioner’s original climate claims relating to maximum daytime and minimum nighttime temperatures within the proposed AVA and the surrounding regions.

In comment 67, the petitioner clarifies his characterization of the climatic zones created by Robert Sisson and Paul Vossen, which was questioned in comment 51. The petitioner states that the climatic zones are a “brilliant” creation, but that since their creation, “the kind of weather data available, trial and error with different sites, population densities, and even the climate have all changed.” He states that it is correct to claim that “sections of the West Sonoma Coast AVA with active viticulture are within the Marine climate type,” which was originally created to define regions too cold for successful viticulture. He agrees with comment 51 that portions of the proposed AVA are within the Coastal Cool zone, including much of the Fort Ross–Seaview AVA and portions of the Occidental and Freestone regions. He states that the proposed West Sonoma Coast AVA is based on “the coolest parts of the [established] Sonoma Coast AVA, and that would include the cooler sections of the Coastal Cool climate type and the transitional Marine zone.” He concludes by suggesting that it would be more accurate to say that vineyards in the Fort Ross–Seaview AVA and Annapolis region of the proposed AVA straddle the “edge” between the Coastal Cool and Marine zones, while vineyards “near” Occidental and Freestone are within the Marine zone.

In comment 67, the petitioner also addresses the issue of fog intrusion that

was raised in comment 51. He states that the comment inaccurately interpreted the summary in Notice No. 34 of the statement from the winemaker at Peay Vineyards to mean that the Peay Vineyards near Annapolis are below the inversion layer, not above it. The petitioner states that within the proposed AVA, the regions below the fog are generally below 400 feet. Vineyards in the Annapolis region, including the Peay Vineyards, are planted at elevations between 550 and 800 feet, putting them within the fog and not below it. He states that this distinction is important because “solar radiation has less fog to penetrate to reach vines” within the fog layer, as opposed to vines planted below the fog. Sitting below the fog in the Annapolis region, the petitioner concludes, “would likely mean grapes that do not consistently mature.”

The petitioner also responds to comment 51’s criticism of the GDD data and methodology used in the petition. He states that the data from Red Car Estate Vineyard used in Graph 1 of the petition is not from a single year, as claimed in comment 51, but is from the years stated in the heading of the graph. He clarifies that Graph 1 of the petition was provided by the West Sonoma Coast Vintners, as noted in the petition, and that he did not describe the methodology used to calculate the GDDs in that graph because he “could not definitively verify the methodology” the association used. The petitioner says that he did receive some partial data sets to test the GDD calculations, but he was unable to do a complete test because the totals for Annapolis, Occidental, and Freestone were in aggregate. He also states that according to the background data, he deduced that GDD was calculated using April 1 to October 31 heat accumulations for temperatures above 50 degrees F, with no cap temperature. The petitioner states that this method is commonly used in the wine industry and is the basis for A.J. Winkler’s and M.A. Amerine’s wine regions, often referred to as the Winkler Index or Winkler Scale,<sup>23</sup> and is the method he used for the other GDD calculations in the petition.

Last, the petitioner addresses the completeness of his GDD data in the other tables and graphs in the petition, as questioned in comment 51. The petitioner acknowledges that he lacked complete data from every station and every year listed in Tables 2 and 3 of the petition, but that he clearly stated as

<sup>22</sup> On days when the actual maximum temperature exceeds the cap temperature, the cap temperature is used in place of the maximum temperature when calculating GDDs.

<sup>23</sup> Winkler, A.J., et al. *General Viticulture*, University of California Press, 1962, 1974.

such in his petition. He also noted that weather station data is becoming increasingly more available, “but because data are available today doesn’t mean that they were available at the time of the West Sonoma Coast study.” He also says that he checked the Fort Ross-Seaview AVA, Graton, and Sebastopol weather stations used for the 2017 and 2018 GDD calculations in Exhibit B–1 of comment 51. The petitioner found that the data for those stations for the period during which the petition was written was unavailable or incomplete and, therefore, would have been of little use to him at the time he was developing the proposed West Sonoma Coast AVA petition.

The petitioner also states that he was not aware of the degree day modeling tool from Oregon State University mentioned in comment 51 and instead relied on growers to provide him with data or on data he gathered from the Western Region Climate Center, the California Data Exchange Center, and the California Irrigation Management Information System. He notes that, after learning of the degree day modeling tool, he attempted to test it by locating several stations just outside the proposed AVA. He particularly looked for data from 2010 to 2014, to be consistent with the years he had used in the petition. The petitioner claims that data from those years was also incomplete for the stations he found using the modeling tool. He also discovered that the modeling tool uses temperature observations and digital elevation models to interpolate high and low temperatures and precipitation. He asserts that when this method is used for single-year data sets, the results “are in 4KM x 4KM pixels, which isn’t very helpful when trying to assess climatic variations at the scale that assessment of viticulture is usually done at.” Instead, the method is best used with thirty-year normals, and the petitioner states he seldom has 30 years of historical data to make meaningful use of the model. Therefore, he does not believe that using the Oregon State University modeling tool would have provided more accurate GDD data at the time he was developing the petition than the data he obtained from weather stations.

### iii. TTB Response

After reviewing the petition and the comments, TTB has determined that the climate of the proposed West Sonoma Coast AVA distinguishes it from the surrounding regions. TTB agrees with the petition’s statement that much of the proposed AVA is in the climate zone originally identified as “Marine” by Sisson and Vossen, which was

characterized as being too cool for grape growing. TTB points to the climate zone map included in the petition as evidence that much of the proposed AVA is in the Marine zone.<sup>24</sup> TTB also notes that comment 51 acknowledges that some vineyards in the Freestone and Occidental regions are within the Marine zone. TTB lacks data that determines definitively the reason viticulture is now occurring in a zone originally defined as too cool for grape growing. However, TTB has determined that the petition’s description of a large portion of the proposed West Sonoma Coast AVA being in the Marine zone is not inaccurate.

TTB finds that, although part of the proposed West Sonoma Coast AVA is within the Coastal Cool zone, the climate zone map in the petition shows the portion within the Coastal Cool zone is smaller than the portion of the regions east of the proposed AVA that are within the Coastal Cool zone. TTB also notes that the petition did not state that the proposed AVA contains only regions within the Marine zone; the petition describes the climate as “‘Marine’ to ‘Coastal Cool’” and notes that the proposed AVA “contains the western edge of the Coastal Cool climate type.” Therefore, TTB believes that the proposed AVA’s climate can be distinguished from that of the region farther east, which lacks the Marine zone and is instead in the Coastal Cool, Coastal Cool transitioning to Coastal Warm, and Coastal Warm zones.

Based on the climate zone map in the petition, TTB does not agree with the assertion in comment 51 that a “significant portion of the Russian River Valley AVA in the eastern portion of the Sonoma Coast AVA” is within the Marine zone. Using the climate zone map, TTB believes that only the extreme southern portion of the Russian River Valley AVA, roughly the triangular region from Cunningham south to Roblar and east to U.S. Highway 101, would be in the Marine zone. TTB agrees that the fog map included as Exhibit A–6 to comment 51 shows marine fog extending east of the proposed West Sonoma Coast AVA into the Russian River Valley AVA, but the map only shows the fog as it occurred on a single day. Therefore, TTB cannot determine from the map alone that the petition was incorrect in stating that the region east of the proposed AVA is not typically subjected to the heaviest marine fog and air.

TTB does agree with comment 51 that the Petaluma Gap AVA, to the south of

the proposed AVA, is also within the same Marine zone as much of the proposed West Sonoma Coast AVA. However, the petition did not use climate zones to distinguish the proposed AVA from the region to the south, and instead used topography, geology, and wind speed. Therefore, in spite of the climate zone similarity, TTB has determined that the petition provided suitable evidence for not including the Petaluma Gap AVA in the proposed AVA.

TTB also agrees with comment 51 that several tables in the proposed West Sonoma Coast AVA petition include incomplete or insufficient GDD data. For that reason, TTB did not consider the data in Tables 3 and 4 of the petition when determining if GDDs were a distinguishing feature of the proposed AVA. Additionally, the petition notes that the Laguna de Santa Rosa GDD data in Table 5 came from a station located in a bowl-like region that trapped cooler air and was thus not representative of the climate of the majority of the Russian River Valley AVA. For this reason, TTB did not consider the Laguna de Santa Rosa GDD data in that table. However, TTB did determine that Table 2 of the petition contains sufficient data to indicate lower GDD accumulations in the proposed AVA than are generally found in the region to the east. Table 2 includes four consecutive years of GDD data from a station in Occidental, located within the proposed AVA, and one from Windsor, within the Santa Rosa Plain<sup>25</sup> that covers much of the adjacent Russian River Valley AVA to the east of the proposed AVA. Each year, GDD accumulations within the proposed AVA were lower than those from the Windsor station.

TTB does not agree that the GDD calculations in Exhibit B–1 of comment 51 refute the petition’s claims of lower GDD accumulations in the proposed West Sonoma Coast AVA. First, the comment’s calculations used data from 2017 and 2018, which was not available at the time the petition was submitted. Second, the comment acknowledges that the summers of 2017 and 2018 were the two hottest summers on record in California, including the coastal regions, so it is possible that the resulting GDD accumulations are skewed and not indicative of typical weather patterns in Sonoma County. Additionally, the calculations in comment 51 used a growing season period of March 1 to October 31, compared to the petition’s growing season of April 1 to October 1.

<sup>24</sup> See Exhibit H of the petition in docket TTB–2018–2008 at <https://www.regulations.gov>.

<sup>25</sup> <https://www.usgs.gov/centers/california-water-science-center/science/santa-rosa-plain>.

Finally, both of comment 51's GDD calculation methods used a cap temperature, whereas the petition's GDD method did not include a cap temperature. For these reasons, TTB does not find that the GDD calculations in comment 51 can be compared directly to the GDD calculations in the petition, nor do they disprove the petition's claims that GDD accumulations east of the proposed AVA are generally higher than within the proposed AVA.

TTB also disagrees that the graph created by the West Sonoma Coast Vintners and included in comment 51 as Exhibit D-8 disproves the petition's claim that nocturnal temperatures in the proposed West Sonoma Coast AVA are generally warmer than nocturnal temperatures in the regions to the east. The graph does show that nighttime temperatures in the Russian River Valley and Green Valley of Russian River AVA are warmer than two of the three proposed AVA locations at hours 20 through 24. However, the graph also shows that temperatures in the Russian River Valley and Green Valley of Russian River AVAs continue to fall into the early morning hours, so that between hours 0 and 8, only one proposed AVA location has lower temperatures. Additionally, the graph does not include a period of record for the data, nor does it say where the weather stations were located within the Russian River Valley and Green Valley of Russian River Valley AVAs. As a result, TTB cannot determine the period of time the data represents, or if the data for each AVA comes from a single station or is an average of multiple stations' data. Therefore, TTB does not believe that the graph in comment 51 provides sufficient evidence to disprove the nocturnal temperature data in the petition.

TTB disagrees with the assertion in Exhibit B-2 of comment 51 that the proposed AVA should not be established because the climate data in comment 54 is insufficient. TTB agrees that the single year of average maximum and minimum temperatures included in comment 54 is insufficient by itself to demonstrate climate differences. However, the petition did include similar data collected from multiple consecutive years. As described in Notice No. 177, the temperature data suggested that the proposed AVA generally has lower maximum temperatures and higher minimum temperatures than the region to the east. The information included in Exhibit B-2 of comment 51 does not disprove the data included in the petition, nor does it disprove the average maximum

temperature and average minimum temperature data included in comment 54.

TTB does agree that the single year of diurnal temperature variation data included in comment 54 is insufficient to demonstrate a difference between the proposed AVA and the surrounding regions. However, TTB notes that diurnal temperature variation data was not included in the original petition, nor was it considered to be a distinguishing feature of the proposed AVA in Notice No. 177. Instead, GDDs and average monthly maximum temperatures and average monthly low temperatures were discussed as distinguishing climatic features. TTB believes that the climate data in the petition, along with the topographic and geologic information, is sufficient to demonstrate that conditions within the proposed West Sonoma Coast differ from those of the surrounding regions.

With respect to the question of the petition's wind speed data, TTB finds the wind speed map in comment 51 (Exhibit A-4) does not refute the petition's claim of higher wind speeds to the south of the proposed West Sonoma Coast AVA, within the Petaluma Gap AVA. TTB agrees with comment 51 that the wind speed map does appear to show that wind speeds immediately to the east of the proposed AVA, within the western portions of the Russian River Valley and Green Valley of Russian River AVAs, are lower, whereas the data in the petition that indicates higher wind speeds is from a location farther east within the Russian River Valley AVA, in the town of Windsor. The comment's map indicates that wind speeds in the western parts of the Russian River Valley and Green Valley of Russian River Valley AVAs are generally less than 12 miles per hour. While wind speeds within those two AVAs may generally be lower than those generally found within the proposed AVA, the map also suggests that there are, in fact, regions east of the proposed AVA that do have higher wind speeds. In particular, the map shows wind speeds east of the Annapolis region of the proposed AVA reaching 15.7 miles per hour, compared to calmer speeds of between 0 and 14.3 miles per hour near Annapolis. However, the regions of higher wind east of Annapolis have similar speeds to the regions near the southern end of the Fort Ross-Seaview AVA and between the towns of Jenner and Carmel, which calls into question the petition's claim that winds east of the proposed West Sonoma Coast AVA are higher than within the proposed AVA. As a result, TTB has determined that wind speeds cannot

definitively distinguish the proposed AVA from the region to the east. However, TTB continues to believe that wind speed does distinguish the proposed AVA from the region to the south, within the Petaluma Gap AVA.

Last, TTB disagrees with comment 51 that the petition is incomplete because it did not include precipitation data from within the proposed AVA and the surrounding regions. The TTB regulations in § 9.12(a)(3)(i) list precipitation as a climate feature that may be used to distinguish a proposed AVA. However, the TTB regulations do not require a petition to include all the types of climate information listed in § 9.12(a)(3)(i). Therefore, the proposed West Sonoma Coast AVA can meet the regulatory requirements without discussing precipitation—or without mentioning climate at all—as long as at least one of the features listed in § 9.12(a)(3) is used to distinguish it from the surrounding regions.

#### 4. Topography and Elevation

##### i. Opposing Comments

Two comments specifically oppose the petition's characterization of the topography and elevation of the proposed West Sonoma Coast AVA and the surrounding regions. However, only comment 51 provides evidence to support its claims. Comment 51 first asserts that the four main regions of the proposed West Sonoma Coast AVA (the Fort Ross-Seaview AVA and the Annapolis, Freestone, and Occidental regions) are too diverse in topography and elevation to be included in a single, cohesive AVA. The comment claims the petition's characterization of the proposed AVA as a region of steep, rugged mountains and ridgelines is inaccurate. According to the comment, the region near Annapolis is rugged and steep, but the Freestone region is not mountainous and instead consists of low rolling hills and valleys. The comment asserts the Occidental region is a mixture of mountains, ridgelines, and rolling hills with low valleys. Comment 51 also states that, contrary to the petition's claims of lower elevations outside the proposed AVA, the adjacent areas have peaks exceeding 1,000 feet.

The comment also includes a map of vineyard locations and elevations within the proposed AVA and states that vineyards in the four regions of the proposed AVA are planted at varying elevations, which results in different growing conditions within the proposed AVA.<sup>26</sup> For example, the comment claims that all the vineyards except one

<sup>26</sup> See Exhibit A-2 of comment 51 in docket TTB-2018-0008 at <https://www.regulations.gov>.

within the Fort Ross-Seaview AVA are planted above 900 feet, which is above the fog line, while all vineyards in the Annapolis and Freestone regions are planted below 900 feet, which is within and below the fog line. Vineyards within the Occidental region, according to the comment, are planted both above and below the fog line.

#### ii. Supporting Comments

Twenty-one of the supporting comments address the topography and elevation of the proposed West Sonoma Coast AVA. All these comments note the area within the proposed AVA has high elevations and mountainous terrain, and some comments assert these two attributes contribute to unique growing conditions for viticulture within the proposed AVA. Comment 67, submitted by the petitioner, was the only supporting comment that provided substantive, non-anecdotal evidence.

In comment 67, the petitioner responds to claims in comment 51 about the accuracy of the topographic and elevation evidence in the petition. The petitioner first addresses the topography of the Freestone region of the proposed AVA, which he described in the petition as steep. He acknowledges that the terrain “transitions to rolling hills south of Freestone, but the territory west of Freestone remains steep.” As evidence, he included a slope map of the entire proposed AVA and the surrounding regions,<sup>27</sup> as well as a topographic profile of the region stretching westward from the most major road intersection in Freestone to the coast.<sup>28</sup>

With respect to the elevations within the proposed AVA, the petitioner disputes the claim in comment 51 that the Freestone region has elevations as low as 52 feet and lacks high coastal ridges. He notes that both Attachments A and B of his comment 67 demonstrate the presence of higher ridges in the regions west of Freestone. He states that elevations west of Freestone do not drop as low as 50 feet along Salmon Creek until the creek is less than 2½ miles from the Pacific Ocean. The petitioner believes the low region described in comment 51 likely refers to the land along Estero Americano, which is south of the proposed West Sonoma Coast AVA, within the Petaluma Gap AVA.

Last, comment 67 acknowledges that there are elevations over 1,000 feet within the Russian River AVA, as stated in comment 51. However, the petitioner states that the description of the

elevations of the Russian River Valley AVA that he included in the proposed AVA petition referred to “the terrain east of the proposed West Sonoma Coast AVA at its adjacent location south of the Russian River (*i.e.*, moving east from the common border onto the Santa Rosa Plain).” He then asserts that the higher peaks within the Russian River Valley AVA “are removed from the coastal ridges of the West Sonoma Coast” and therefore are not relevant to the distinguishing characteristics of the entire proposed West Sonoma Coast AVA.

#### iii. TTB Response

After reviewing the information in the petition and the comments, TTB has determined that topography and elevation are distinguishing features of the proposed AVA. TTB agrees with comment 51 that there is a range of elevations and slope angles within the proposed West Sonoma Coast AVA. However, TTB does not agree with comment 51 that the topography is too diverse to be included in a unified AVA. As noted earlier, the proposed West Sonoma Coast AVA is located within two larger established AVAs: The Sonoma Coast AVA and the North Coast AVA. TTB recognizes that any AVA may have a degree of variation in its topography, but the AVA must still be distinguishable from the surrounding regions. The elevation map included in comment 51 shows that, while elevations below 400 feet do occur in the proposed AVA, most of the proposed AVA contains elevations between 400 and 2,297 feet. The Annapolis and Occidental regions, as well as the Fort Ross-Seaview AVA all contain elevations between 400 and 2,297 feet, while the region near Freestone also contains elevations between 400 and 900 feet.

TTB also agrees with comment 51 that certain peaks within the Sonoma Coast and Russian River AVAs east of the proposed West Sonoma Coast AVA do exceed 1,000 feet. However, TTB does not believe that the existence of certain peaks to the east of the proposed AVA that have elevations above 1,000 feet refutes the petition’s claims that elevations outside the proposed AVA are generally lower and less steep. The Russian River Valley is still largely characterized by the Santa Rosa Plain, which the petition states has lower elevations and gentle slopes of 5 percent or less. The Santa Rosa Plain is also located within the portion of the Sonoma Coast AVA that does not include the proposed West Sonoma Coast AVA. To the south of the proposed AVA is the Petaluma Gap

AVA (27 CFR 9.261), which is distinguished from surrounding areas by containing “low, rolling hills not exceeding 600 feet,” “small valleys and fluvial terraces,” and “flat land along the Petaluma River \* \* \*.” (See T.D. TTB–149, December 7, 2017, 82 FR 57660).

#### 5. Geology

##### i. Opposing Comments

Four comments oppose the AVA, asserting it contains geologies too diverse to be within one AVA. One of the opposing comments questions the petitioner’s description of the geology of the proposed AVA and the surrounding regions. Comment 51 asserts that the proposed AVA is not comprised predominately of sedimentary rock of the Franciscan Complex, as claimed in the petition, but instead is comprised of a variety of geologic features. The comment included a letter from professional geologist Ryan Padgett,<sup>29</sup> along with a map of the geology of the proposed AVA and the surrounding regions<sup>30</sup> as evidence of the variety of geologic features within the proposed AVA. The comment states that the region near Annapolis where vineyards are planted is mainly Ohlson Ranch formation. Vineyards in the Fort Ross-Seaview AVA are planted mostly on what the comment describes as a “mélange and greywacke sandstone and in a metabasalt unit of the Franciscan Formation with some localized plantings in Ohlson Ranch Formation \* \* \*.” Last, the comment states that vineyards in the Freestone and Occidental regions are predominately planted in the Wilson Grove formation. The comment asserts that this fact is contrary to the petition’s claim that the Wilson Grove formation does not exist within the proposed West Sonoma Coast AVA.

##### ii. Supporting Comments

Nineteen supporting comments address the geology of the proposed AVA, generally noting that the proposed West Sonoma Coast AVA has a unique underlying geological structure. Some comments assert that the area within the proposed AVA has unique soil, and note this soil is comprised primarily of sedimentary material, rather than alluvium.

Comment 67, submitted by the petitioner, was the only comment that included substantive evidence to support its claims. Comment 67 first

<sup>27</sup> See Attachment B of comment 67 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>28</sup> See Attachment A of comment 67 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>29</sup> See Exhibit C of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>30</sup> See Exhibit A–8 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

states that, contrary to the assertion in comment 51, the petition does not claim the Wilson Grove Formation is not found within the proposed AVA. Instead, the petition states that the Wilson Grove Formation is “a much more common unit in the Petaluma Gap and southwestern Russian River Valley” outside of the proposed AVA. The petitioner agrees with comment 51 that the Wilson Grove Formation is found in the southeastern portion of the proposed West Sonoma Coast AVA. However, the petitioner provides a geologic map<sup>31</sup> of the proposed AVA and surrounding regions to support his claim that, while the Wilson Grove Formation is present in portions of the proposed AVA, it is more common in the regions to the south and east of the proposed AVA.

### iii. TTB Response

After reviewing the petition and the comments, TTB has determined that geology is a distinguishing feature of the proposed West Sonoma Coast AVA. TTB agrees with the petitioner’s statement in comment 67 that the petition did not exclude the Wilson Grove formation entirely from the proposed AVA. The petition indicates that the formation is present in a portion of the proposed AVA, but the formation is much more common outside the proposed AVA, particularly in the Petaluma Gap and Green Valley of Russian River Valley AVAs and the southwestern region of the Russian River Valley AVA. TTB believes the geologic maps included in comments 51 and comment 67 support the petitioner’s claims.

TTB also believes that the geologic maps in comments 51 and 67, along with the letter from the professional geologist included in comment 51, do not refute the petitioner’s claims regarding the prevalence of the geologic unit known as the Franciscan Formation within the proposed West Sonoma Coast AVA. Therefore, TTB has determined that the petition correctly identifies the Franciscan Formation as comprising much of the proposed AVA.

Although comment 51 is correct that the vineyards in the Annapolis, Freestone, and Occidental regions of the proposed AVA are planted in geologic features other than the Franciscan Complex, those regions still contain large regions of Franciscan Complex. For example, the Annapolis region contains geologic units identified on the map in Exhibit A–8 of the comment as “Sandstone–Maastrichtian (Franciscan Complex).” The Freestone and

Occidental regions contain units identified as “Graywacke and mélange (Franciscan Complex).” Furthermore, the geologic map indicates that vineyards in the Fort Ross–Seaview AVA are planted on the same unit of the Franciscan Formation found in the Annapolis region. Therefore, TTB believes the petition is correct when it states that the Franciscan Complex comprises much of the proposed AVA.

## 6. Proposed AVA Boundary

### i. Opposing Comments

Two comments specifically object to the proposed West Sonoma Coast AVA on the basis of the proposed boundary. The two comments, comments 51 and 52, both express the belief that the proposed West Sonoma Coast AVA contains too many public and protected lands and beaches on which vineyards will never be planted. Comment 51 includes a map of the public and protected lands within the proposed AVA<sup>32</sup> and further states that lands unavailable for commercial viticulture should be removed from the proposed boundaries, per guidance given in TTB’s AVA Manual for Petitioners.<sup>33</sup>

Comment 51 also claims that when TTB excluded the town of Fort Ross in the Fort Ross–Seaview AVA, the bureau set a precedent for omitting coastal regions from AVAs. According to the comment, TTB did not agree with the Fort Ross–Seaview AVA petition’s proposal to include the town in the AVA because the town was located in a cold, low-elevation area near the coastline where viticulture is not viable.

Comment 51 also asserts that TTB should reject the proposed West Sonoma Coast AVA boundary because the written boundary description in the petition does not match the proposed boundaries drawn on the USGS maps or the boundary as published in Notice No. 177. The comment provided several examples of what it described as inaccuracies in the written boundary description, including incorrect distances between points and erroneous section numbers.<sup>34</sup>

Another issue raised in comment 51 is the placement of the northeastern boundary of the proposed West Sonoma Coast AVA. The northeastern boundary omits from the proposed AVA a mountainous region that comment 51 refers to as the “Excluded Corridor.” According to the comment, this region

contains similar topography to the proposed AVA and was arbitrarily excluded.

Comment 51 further claims that the proposed West Sonoma Coast AVA boundary is arbitrarily drawn because it does not include all the regions previously promoted by the West Sonoma Coast Vintners as being in the “West Sonoma Coast.” The comment includes several West Sonoma Coast Vintners publications showing that portions of the Russian River Valley, Green Valley of Russian River Valley, and Petaluma Gap AVAs, as well as the region informally known as Sebastopol Hills, were at various times represented by the association as being part of the “West Sonoma Coast.”<sup>35</sup> The comment notes that as late as 2018, the association promoted the Sebastopol Hills region as part of the “West Sonoma Coast AVA Marketing Region.”<sup>36</sup> According to the comment, these various representations of the “West Sonoma Coast” demonstrate that the boundary proposed in the AVA petition is not based on solid name or distinguishing features evidence, as required by § 9.12(a)(2) of the TTB regulations.

### ii. Supporting Comments

In response to Notice No. 177, TTB received thirteen comments that support the boundaries of the proposed West Sonoma Coast AVA. Nine of the comments generally express support for the proposed AVA as a way to create a smaller, more tightly defined AVA within the larger, more diverse Sonoma Coast AVA.

Four comments submitted in response to Notice No. 177 specifically express support for the proposed West Sonoma Coast AVA boundary as it was described in the proposed rule. One of these comments (comment 55) supports the proposed West Sonoma Coast AVA boundaries, in general, but also asks that they be expanded. Comment 55, submitted by Hans Vidkjer of Atlas Vineyard Management, requests that the proposed northeastern boundary be expanded slightly to include Walala Vineyard. Mr. Vidkjer claims that the vineyard, which contains 18 acres of Pinot Noir, is only 0.7 mile east of the proposed AVA boundary. The comment contains evidence that Mr. Vidkjer believes demonstrates that the Walala Vineyard has mean temperatures, nocturnal temperatures, elevations, slopes, and geology that are similar to

<sup>32</sup> See Exhibit A–9 to comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>33</sup> [https://www.ttb.gov/wine/p51204\\_ava\\_manual.pdf](https://www.ttb.gov/wine/p51204_ava_manual.pdf).

<sup>34</sup> See Exhibit A–1 to comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>35</sup> See Exhibits D–1 through D–7 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>36</sup> See Exhibit D–2 of comment 51 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>31</sup> See Attachment G of comment 67 in docket TTB–2018–0008 at <https://www.regulations.gov>.

those of the proposed West Sonoma Coast AVA.

The other three comments specifically support using the coastline as the western boundary of the proposed AVA. Comment 53, submitted by the winegrower of Peay Vineyards, states that the coastline was used as the western boundary “as a matter of simplicity.” Comment 70, submitted by a self-identified local wine industry member, believes the coastal regions should remain in the proposed West Sonoma Coast AVA. The comment acknowledges that it is difficult to ripen grapes in the extreme coastal regions of the proposed AVA, but “it is not impossible to achieve a level of ripeness that would enable a producer to produce a sparkling wine from this less-ripe fruit.” Comment 67, submitted by the petitioner, also states that the coastline was used for simplicity. The comment goes on to say that removing all the public and protected lands from the proposed AVA would also have created an unnecessarily complicated boundary. The petitioner notes that TTB has established AVAs that include publicly-owned lands in order to avoid creating boundaries that are cumbersome to describe and difficult to administer. As evidence, he cites the Malibu Coast AVA (27 CFR 9.235), where 37 percent of the land within the AVA is administered by the Federal Government or the State of California.

Comment 67 also addresses comment 51’s discussion of the discrepancies between the written boundary description and the boundary drawn on the USGS maps. The petitioner believes that the commenters may have relied upon copies of the USGS maps that were included as Exhibit A to the proposed West Sonoma Coast AVA petition. The petitioner notes, however, that he worked in consultation with TTB to make “modest adjustments” to the proposed boundaries to provide better clarity and simplification to the boundary description. These consultations took place in January of 2017, and as a result, the boundary description included in the proposed rule would not exactly match the original boundaries drawn on the USGS maps at the time the commenters may have viewed them. The petitioner states that any typographic errors appearing in the boundary description of the proposed rule may be corrected as needed, but they “do not otherwise discredit the integrity of the proposed boundary.”

The petitioner also explains why the proposed AVA boundary does not include the region referred to in comment 51 as the “Excluded

Corridor.” He claims that his field review of the region around Annapolis found a noticeable shift in vegetation approximately 8 miles inland from the coast. He explains that such a shift in vegetation signals a difference in climate and possibly soils. Therefore, even though the terrain of the Exclusion Corridor resembles that of the proposed West Sonoma Coast AVA, the change in vegetation strongly suggests the region does not share the same climate or underlying geology as the proposed AVA and should not be included.

In comment 67, the petitioner then addresses why the proposed West Sonoma Coast AVA boundary does not include certain regions that were previously described in various West Sonoma Coast Vintners publications as being within the “West Sonoma Coast.” The petitioner explains that when the West Sonoma Coast Vintners association was first formed, it was “originally concerned with discerning the coolest regions of the west Sonoma Coast AVA from the greater Sonoma Coast AVA.” The Green Valley of Russian River AVA, the Sebastopol Hills region, and a portion of the Petaluma Gap AVA were all considered to be cooler than the regions of the Sonoma Coast AVA that are farther inland and were included in the association’s early maps of the “West Sonoma Coast.” Over time, and after consultation with AVA experts, the group determined that the extreme coastal mountains are unique from the milder topography of the Petaluma Gap and Green Valley of Russian River Valley AVAs, and also the Sebastopol Hills region. As a result, these regions ultimately were not included in the proposed West Sonoma Coast AVA boundary that was submitted to TTB.

### iii. TTB Response

After careful review of the petition and comments, TTB has determined that the boundary as it was described in Notice No. 177, with the addition of the Walala Vineyard as requested in comment 55, is appropriate and shall be maintained.

TTB does not believe that the coastline and all public and protected lands need to be removed from the proposed West Sonoma Coast AVA. To do so would create an unnecessarily complex boundary that would be difficult to describe and to administer. Although TTB’s AVA Manual for Petitioners does recommend removing public lands or lands otherwise unavailable for commercial viticulture, it does not require it. TTB typically does not request the removal of these lands unless they may be easily excluded without creating holes within the

interior of the proposed AVA or an overly complex boundary description. Examples of established AVAs whose petitions specifically mention that the AVAs contain public lands include Upper Hiwassee Highlands (27 CFR 9.234) and Malibu Coast (27 CFR 9.235).

TTB does not agree with comment 51 that the exclusion of the town of Fort Ross from the established Fort Ross–Seaview AVA set a precedent for removing all coastal lands from AVAs. TTB has established many AVAs whose boundaries include a coastline, including the North Coast and Sonoma Coast AVAs, as well as the Martha’s Vineyard (27 CFR 9.73), Long Island (27 CFR 9.170), Outer Coastal Plain (27 CFR 9.207), and Tip of the Mitt (27 CFR 9.257) AVAs. TTB notes that the town of Fort Ross was not included in the Fort Ross–Seaview AVA because one of the key features of the Fort Ross–Seaview AVA is elevations above 900 feet; the town of Fort Ross is located at lower elevations. Therefore, excluding a town with lower elevations from an AVA that is primarily characterized by elevations above 900 feet is appropriate, especially when removing the town from the AVA would not create a hole in the interior of the AVA. In addition, the exclusion of Fort Ross from the Fort Ross–Seaview AVA did not preclude TTB from including both the town and the AVA in the established Sonoma Coast and North Coast AVAs, which are larger, regional AVAs with broad characteristics that both the town and the AVA share.

TTB acknowledges that the proposed boundary description for the proposed West Sonoma Coast AVA that was included in Notice No. 177 is different from the description contained in the petition and originally shown on the USGS maps. TTB regularly works with petitioners to ensure that the boundary description meets TTB requirements and is described and defined as clearly as possible. When TTB accepts a petition as “perfected,” that simply means an initial review of the petition finds that it contains sufficient evidence to meet the regulatory requirements. However, TTB’s acceptance of a “perfected” petition does not mean that TTB will not ask for additional information or edits to clarify the information or proposed boundary in the petition before publishing a proposed rule. TTB acknowledges that there are some minor typographic errors in the boundary description in Notice No. 177, particularly in paragraphs (c)(2), (14), (15), (21), and (24). These errors have been corrected in the boundary description at the end of this document.

With respect to the “Excluded Corridor” referred to in comment 51, TTB believes that the petition, along with the information provided by the petitioner in comment 67, provides a sufficient rationale for not including this region in the proposed West Sonoma Coast AVA. East of the proposed northeastern boundary, the climate is not affected by the heaviest marine influence and transitions entirely to the Coastal Cool zone and then to the Coastal Warm zone.

TTB does not agree with the assertion in comment 51 that the proposed AVA boundary is arbitrarily drawn and does not comply with the requirements of § 9.12(a)(2) of the TTB regulations. The petition included evidence that topography, climate, and geology are different outside the boundary of the proposed AVA. The petition also included evidence to demonstrate those regions of Sonoma County that are considered to be in the “West Sonoma Coast,” and the proposed boundary does not include regions that are not known by that name.

TTB does not believe that the West Sonoma Coast Vintners’ changing definition of what defines the “West Sonoma Coast” demonstrates that the proposed West Sonoma Coast AVA boundaries are arbitrarily drawn. TTB agrees with the petitioner’s assertion in comment 67 that the association refined over the years what it considered to be the key factors of the region—namely, mountainous terrain with heavy marine influence. Therefore, it is not inappropriate that the boundary that was proposed for a West Sonoma Coast AVA differs from what the association originally envisioned.

TTB also does not agree that the historical publications of the West Sonoma Coast Vintners are attempts by the association to mislead or deceive TTB or the public or to violate the requirements of § 4.39(a)(1) of the TTB regulations, as suggested in comment 51. The TTB regulations do not prohibit the region known by a proposed AVA name to be larger than the area included in the AVA. The regulations also do not prohibit an association from accepting members who are not within the boundaries of the AVA. However, TTB does note that wines produced primarily from grapes grown outside the AVA would not be allowed to be labeled with the AVA name or to be marketed as coming from within the AVA.

As previously mentioned, TTB is modifying the proposed West Sonoma Coast AVA boundary to include the Walala Vineyard, which is just east of the Annapolis region of the proposed AVA. Comment 55, which requests

including Walala Vineyard in the proposed AVA, provided information on the climate, elevations, slope angle, and geology of the Walala Vineyard. The Walala Vineyard climate data was compared to the climate of the Goldrock Vineyard, located within both the proposed AVA and the Fort Ross–Seaview AVA, and to Windsor, which was the inland comparison location used in the proposed AVA petition. The data suggests that the mean growing season temperatures within the Walala Vineyard are very similar to those in the Goldrock Vineyard and cooler than those in Windsor. The data also suggests that minimum temperatures within the Walala Vineyard are higher than those in Windsor; minimum temperature data was not included for the Goldrock Vineyard. These climate findings are similar to those included in the proposed West Sonoma Coast AVA petition, which indicate cooler maximum and warmer minimum temperatures within the proposed AVA than are found in the inland regions to the east. Comment 55 also described the average elevation within the Walala Vineyard as 1,150 feet, which is within the range of elevations included in the proposed AVA and higher than the average elevation of the Santa Rosa Plain, within the Russian River Valley AVA. The comment also provided a map of slope angles that indicates the Walala Vineyard has slope angles similar to those in the Annapolis region of the proposed AVA, which is adjacent to the Walala Vineyard.<sup>37</sup> Finally, the comment included a geologic map of the vineyard and the Annapolis region, which indicates that the vineyard is located on the Franciscan Formation<sup>38</sup> and has soils derived from weathered sedimentary rock,<sup>39</sup> similar to the proposed AVA.

In response to an inquiry from TTB, Mr. Shabram provided an email indicating that the board of directors of the West Sonoma Coast Vintners voted unanimously to expand the proposed AVA boundary to include Walala Vineyard. Because of the evidence included in comment 55, TTB is modifying the boundary of the proposed West Sonoma Coast AVA to include the Walala Vineyard.

<sup>37</sup> See Figure 10 to comment 55 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>38</sup> See Figure 11 of comment 55 in docket TTB–2018–0008 at <https://www.regulations.gov>.

<sup>39</sup> See Figure 13 of comment 55 in docket TTB–2018–0008 at <https://www.regulations.gov>.

## 7. FAA Act and TTB Regulations

### i. Opposing Comments

Comment 51 asserts that establishing the proposed West Sonoma Coast AVA would be an “arbitrary and capricious” decision “inconsistent with the purposes of the FAA Act and [TTB] Regulations” and “contrary to the public interest.” The comment first notes that the Federal Alcohol Administration Act (FAA Act) “prohibit[s] consumer deception and the use of misleading statements” on wine labels. The comment then states that TTB regulations in § 4.39 prohibit wine labels from containing “[a]ny statement that is false or untrue in any particular” or creates a “misleading impression.” Furthermore, the comment claims that the petition contains “a number of factual errors, unverified and incomplete or illegible documents, data, charts, and maps” and cannot be considered “true and correct.” For these reasons, the comment claims that allowing wine to be labeled as “West Sonoma Coast” would mislead consumers by falsely attributing “common quality, reputation, and characteristics” to wine made from grapes grown in an AVA comprised of regions with “dissimilar climates, geology, physical features and maximum and minimum elevations.”

### ii. Supporting Comments

TTB did not receive any comments specifically addressing the comment’s claims that establishing the proposed West Sonoma Coast AVA would be arbitrary and capricious, and inconsistent with the FAA Act or TTB regulations. However, TTB did receive 20 comments that express the belief that the proposed AVA would provide more information to consumers and help them distinguish coastal wines from wines made from grape grown farther inland. As discussed earlier in this document, TTB also received numerous comments supporting the petition’s claim that the various regions within the proposed AVA contain similar distinguishing features that distinguish the proposed AVA from the larger established Sonoma Coast AVA.

### iii. TTB Response

TTB has carefully reviewed the information in the petition and in the comments received in response to Notice No. 177, including the information in comment 51. TTB believes that the information in comment 51 and in other opposing comments does not conclusively demonstrate that all the information in the petition is false, misleading, or

erroneous. Based on information provided in comment 51, TTB has re-evaluated its determination that wind speeds distinguish the proposed AVA from the region to the east. However, as discussed earlier in this document, TTB still believes the petition provided sufficient information to meet the regulatory requirements for an AVA petition; namely, the petition provided name evidence, a delineated boundary, and evidence that the various regions within the AVA share similar features that are distinguishable from the surrounding regions and affect viticulture. Therefore, TTB does not believe that establishing the proposed West Sonoma Coast AVA would be an arbitrary and capricious decision inconsistent with the FAA Act or TTB regulations, nor does TTB believe that allowing wines to be labeled with “West Sonoma Coast” as an appellation of origin would mislead the public.

#### *B. Comments on Inclusion of Fort Ross–Seaview AVA*

Twenty-one comments specifically mentioned the proposal to include the Fort Ross–Seaview AVA within the proposed West Sonoma Coast AVA. Ten comments opposed the inclusion, while 11 comments supported it. Six of the supporting comments and three of the opposing comments were submitted by wine industry members who specifically indicated affiliations with wineries or vineyards within the Fort Ross–Seaview AVA.

Several of the comments simply expressed opposition or support with a general statement that the characteristics of the established AVA were either similar to or different from the proposed West Sonoma Coast AVA. However, other comments mentioned specific reasons for opposing or supporting the proposed AVA. Those specific reasons will be discussed in the following sections.

##### 1. Reputation of Fort Ross–Seaview AVA.

###### i. Opposing Comments

Five comments express the belief that the reputation of the Fort Ross–Seaview AVA would be harmed if it were included in the proposed West Sonoma Coast AVA. Four of these comments were submitted by wine industry members who claim an affiliation with vineyards or wineries within the Fort Ross–Seaview AVA (comments 44, 48, and 51). The opposing comments generally claim that the characteristics of the Fort Ross–Seaview AVA would be “watered down” (comment 48) if it were included, and that “the elements that

make Fort Ross–Seaview so unique would be lost in this change” (comment 41). The result would be “quite confusing to consumers,” (comment 44) who would no longer know what to expect from wines labeled with the Fort Ross–Seaview AVA. This consumer confusion could lead to “incalculable damage” for winemakers and grape growers within the AVA (comment 51).

###### ii. Supporting Comments

Six of the comments disagree with the idea that the Fort Ross–Seaview AVA would be diminished or devalued if it was included in the proposed West Sonoma Coast AVA. Four of these comments were submitted by wine industry members who claim an affiliation with vineyards or wineries within the Fort Ross–Seaview AVA (comments 31, 34, 63, and 66). Comment 31 believes that the Fort Ross–Seaview AVA and the proposed West Sonoma Coast AVA are “harmonious and complementary,” and that including the established AVA in the proposed AVA will help customers “distinguish wines from the coast” of Sonoma County. The commenter also notes that her vineyard, Hirsch Vineyards “are strong proponents of the Fort Ross Seaview AVA, and helped foster its creation.” The winemaker of Alma Fria Wines submitted two comments (comments 34 and 66) that support including the Fort Ross–Seaview AVA in the proposed AVA. In comment 34, he expressed his belief that including the Fort Ross–Seaview AVA in the proposed West Sonoma Coast AVA would “help bring clarity to consumers” because wines from the proposed AVA “have much in common with each other and very little in common with wines from other areas” of the larger Sonoma Coast AVA. In comment 66, he states that both the Fort Ross–Seaview AVA and the proposed West Sonoma Coast AVA are “supported by the facts and can co-exist without impacting each other.” Comment 63, submitted jointly by six wineries and vineyards within the Fort Ross–Seaview AVA, believes that “growers, winemakers, wine writers, other wine professionals, and many consumers recognize the similarities between the Fort Ross–Seaview AVA and the greater West Sonoma Coast” and that “[t]hese similarities set the entire West Sonoma Coast region apart from the greater Sonoma Coast AVA including the Russian River Valley and Petaluma Gap AVAs.”

Comment 59 uses the example of the AVAs located within the Napa Valley AVA (27 CFR 9.23) to illustrate the belief that inclusion in the proposed

AVA would not harm the reputation of the Fort Ross–Seaview AVA. The comment notes that, while there are “significant distinctions” between each of the smaller AVAs within Napa Valley, they all share the overarching characteristics of the “long established and much appreciated Napa Valley AVA.” The comment also notes the lack of petitions requesting the removal of the smaller AVAs from the Napa Valley AVA, and suggests this demonstrates that the Napa Valley AVA and the smaller AVAs within it benefit from each other, as the Fort Ross–Seaview AVA and the proposed West Sonoma Coast AVA would benefit from each other.

Comment 61, from the sales director of a vineyard located within the Napa Valley AVA, also compares the inclusion of the Fort Ross–Seaview AVA in the proposed West Sonoma Coast AVA to the smaller AVAs located within the Napa Valley AVA. He claims that, although the Napa Valley AVA name is “the most valuable designation in American viticulture,” the appellation does not “diminish the usefulness of distinguishing wines” made within the smaller nested AVAs. The comment concludes that the Fort Ross–Seaview AVA is “undoubtedly as Western Sonoma and as coastal as Rutherford [AVA] and Oakville [AVA] are Napa Valley [AVA].”

###### iii. TTB Response

After careful review of the petition and comments, TTB believes that, although it has unique features, the Fort Ross–Seaview AVA still shares the broad distinguishing characteristics of the proposed West Sonoma Coast AVA. In particular, both regions have steep mountainous terrain, sedimentary soil, and a maritime-influenced climate that is generally cooler during the day and warmer during the night than the more inland regions of Sonoma County. Because both regions share these similarities, TTB does not believe that including the Fort Ross–Seaview AVA within the proposed AVA would mislead consumers. Furthermore, establishment of the proposed West Sonoma Coast AVA would not require winemakers to discontinue use of the Fort Ross–Seaview AVA name or to adopt the West Sonoma Coast AVA name. Such decisions would be entirely up to the individual proprietors.

TTB also does not find that the commenters provided evidence to support their claims that the reputation of the Fort Ross–Seaview AVA would be harmed by the establishment of the proposed West Sonoma Coast AVA, or that the inclusion of an established AVA

within a larger AVA would be detrimental to the smaller AVA's image. TTB notes that many well-known AVAs are located within other AVAs, including the Arroyo Seco (27 CFR 9.59), Sta. Rita Hills (27 CFR 9.162), Red Mountain (27 CFR 9.167), Yakima Valley (27 CFR 9.69), and Eola-Amity Hills (27 CFR 9.202) AVAs. The reputation of an AVA and any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area.

## 2. Previous TTB Rulings

### i. Opposing Comments

Three comments oppose including the Fort Ross–Seaview AVA in the proposed AVA because they believe doing so would contradict previous TTB rulings, specifically T.D. TTB–98, which established the Fort Ross–Seaview AVA. Only one of these comments (comment 51) was from a wine industry member located within the Fort Ross–Seaview AVA.

Comment 38 notes that T.D. TTB–98 established the Fort Ross–Seaview based on its unique climate and geology. The commenter asserts that including it “as part of a larger area simply confuses that prior designation without any evidence that the prior AVA's boundaries were mistakenly restrictive.” Comments 51 and 52 both cite TTB's decision in T.D. TTB–98 not to include the region near Annapolis in the Fort Ross–Seaview AVA. According to these two comments, TTB's decision demonstrates that the two regions are too dissimilar to be included in a single AVA. Comment 51 also asserts that TTB's initial acceptance of a petition to establish a Freestone–Occidental AVA in 2008 further demonstrates that the region of the proposed West Sonoma Coast AVA which includes Freestone and Occidental is a distinct region that should not be included in an AVA that also includes the Fort Ross–Seaview AVA. To include the Fort Ross–Seaview in a single AVA that contains such different regions would, according to comment 51, be “requesting TTB to create a new type of hybrid AVA.”

Comment 51 also asserts that, by establishing the Fort Ross–Seaview AVA, TTB has already determined that it is “viticulturally distinguishable” from the surrounding regions. Therefore, including it in the proposed West Sonoma Coast AVA would “undermine the credibility and the integrity of the AVA system,” as well as negate the findings of T.D. TTB–98. First, the comment states that rainfall is substantially higher in the Fort Ross–

Seaview AVA than in the Annapolis, Freestone, and Occidental regions of the proposed West Sonoma Coast AVA. The comment also states that T.D. TTB–98 determined that the Fort Ross–Seaview AVA was in the Coastal Cool zone, not the Marine zone, and is therefore not as influenced by marine fog as other regions in the proposed West Sonoma Coast AVA. Elevations within the Fort Ross–Seaview AVA are above the fog line, allowing greater solar radiation exposure and warmer daytime temperatures than are generally found within the proposed West Sonoma Coast AVA. The comment cites the exclusion of the Santa Cruz Mountains AVA (27 CFR 9.31) from both the larger San Francisco Bay AVA (27 CFR 9.157) and Central Coast AVA (27 CFR 9.75) as an example of an instance where a smaller AVA was determined to be too distinct to be included in a larger overlapping AVA.

### ii. Supporting Comments

Comment 67, submitted by the petitioner, was the only comment to address how the inclusion of the Fort Ross–Seaview AVA in the proposed West Sonoma Coast AVA would affect TTB's determination in T.D. TTB–98.

In comment 67, the petitioner responds to the reasons cited in comment 51 to exclude the Fort Ross–Seaview AVA from the proposed AVA. He first states that the proposed AVA petition is not an effort “to apply the characteristics that define the Fort Ross–Seaview AVA to the entire West Sonoma Coast region,” and that the proposed West Sonoma Coast AVA is not defined by all of the same distinguishing criteria as the Fort Ross–Seaview AVA. Referencing a 2010 letter submitted to TTB during the rulemaking process that led to the creation of the Fort Ross–Seaview AVA, the petitioner notes that the Fort Ross–Seaview is a “local wine growing area,” while the proposed West Sonoma Coast AVA is a “regional viticultural area” which may encompass smaller, more localized AVAs. Establishing the proposed West Sonoma Coast AVA, he claims, would have no impact on the continued existence of the Fort Ross–Seaview AVA.

The petitioner also shows that the exclusion of the Annapolis region from the Fort Ross–Seaview AVA does not preclude the two regions from being included in a larger, regional AVA. He states that including the Annapolis region in the Fort Ross–Seaview AVA in T.D. TTB–98 would not have been appropriate because the primary feature of the Fort Ross–Seaview AVA was a location that was generally above the fog

line. The Annapolis region did not meet this criteria, nor did the name “Fort Ross–Seaview” apply to the Annapolis region. He states that, for these reasons, the Annapolis region did not belong in the Fort Ross–Seaview AVA. However, including both regions in a larger coastal AVA that also includes other coastal regions of Sonoma County would be appropriate because the regions all share the broad characteristics of the proposed West Sonoma Coast AVA, such as sedimentary soils, a marine-influenced climate, and steep coastal ridges.

### iii. TTB Response

After reviewing the petition and the comments, TTB does not believe that including the Fort Ross–Seaview AVA within the proposed West Sonoma Coast AVA would be inconsistent with the findings of T.D. TTB–98, which established the Fort Ross–Seaview AVA. TTB believes it is appropriate to include the Fort Ross–Seaview AVA within the proposed West Sonoma Coast AVA, as the Fort Ross–Seaview AVA shares the mountainous topography and marine-influenced climate of the surrounding regions. T.D. TTB–98 describes the Fort Ross–Seaview AVA as having steep, mountainous terrain, soils derived from sedimentary rock, and temperatures that are moderated by the convection and conduction of fog from the Pacific Ocean. These distinguishing features are similar to the proposed West Sonoma Coast AVA, which is described in TTB Notice No. 177 as containing steep, rugged mountains and ridgelines, soils derived from the sedimentary rock of the Franciscan Complex, and a climate influenced by the cold marine air and heavy marine fog from the Pacific Ocean. Further, while Comment 51 notes the Fort Ross–Seaview AVA is distinguished by elevations that are generally above the fog line, T.D. TTB–98 does show that vineyards in the AVA benefit from being near the fog line. T.D. TTB–98 states that the Fort-Ross Seaview AVA is “in the heaviest fog intrusion area,” and the vineyards still receive “some cooling via conduction due to the close proximity of the fog layer.” Last, while Comment 51 asserts rainfall amounts in the Fort Ross–Seaview AVA may differ from those in the rest of the proposed West Sonoma Coast AVA, TTB notes that rainfall amounts were not determined to be a distinguishing feature of either the proposed West Sonoma Coast AVA, as described in Notice No. 177, or the Fort Ross–Seaview AVA, as described in T.D. TTB–98.

TTB also disagrees that including the Fort Ross–Seaview AVA within a larger

AVA would create a “new hybrid type of AVA,” as asserted in comment 51. TTB regulations allow for the creation of smaller AVAs within larger AVAs, as well as the creation of larger AVAs that encompass one or more smaller AVAs. TTB and its predecessor agency, ATF, have both established numerous AVAs that are within or contain other AVAs, and TTB believes that consumers and industry members generally understand and accept the concept of these so-called “nested” AVAs. TTB notes that the Fort Ross–Seaview AVA is already within the established Sonoma Coast AVA and the North Coast AVA. Also, as discussed above, TTB notes the examples of the Arroyo Seco, Sta. Rita Hills, Red Mountain, Yakima Valley, and Eola–Amity Hills AVAs, which are all located within other larger established AVAs.

TTB also does not believe that either the decision to exclude the Annapolis region from the Fort Ross–Seaview AVA in T.D. TTB–98 or the previous attempt to establish a Freestone–Occidental AVA means that the two regions are too dissimilar to be included along with the Fort Ross–Seaview AVA in a single new West Sonoma Coast AVA. As stated in comment 67, the Fort Ross–Seaview AVA encompasses a very localized microclimate within the larger established Sonoma Coast and North Coast AVAs. The characteristics of the Annapolis region were determined to be too distinctive to be a part of the same limited Fort Ross–Seaview AVA microclimate. Additionally, TTB found that the “Fort Ross–Seaview” name did not apply to the Annapolis region. However, the proposed West Sonoma Coast AVA represents the more regional microclimate found throughout the extreme coastal regions of Sonoma County. Although the Freestone–Occidental and Annapolis regions and the Fort Ross–Seaview AVA each have some unique features, they all share the characteristics of this larger regional microclimate.

### 3. Name Recognition

#### i. Opposing Comments

Comment 51 states that the Fort Ross–Seaview AVA should not be included in the proposed West Sonoma Coast AVA because “the smaller Fort Ross–Seaview AVA has name recognition that clearly distinguishes it” from the proposed AVA. The comment also asserts that the proposed West Sonoma Coast AVA petition did not state or explain “why the name West Sonoma Coast is applicable or appropriate for the existing approved Fort Ross–Seaview AVA which \* \* \* has not itself even

been known as the West Sonoma Coast AVA.” The comment included multiple images of wine bottles bearing “Fort Ross–Seaview” as an appellation of origin, as well as links to images and maps depicting the Fort Ross–Seaview AVA. The comment also notes that the Fort Ross–Seaview AVA has its own page on the Sonoma County Tourism Bureau website<sup>40</sup> and is identified “as a prominent and clearly delimited AVA” on a map of Sonoma County AVAs on the Sonoma County Winegrowers Association website.<sup>41</sup> Finally, comment 51 states that there have been “a number of education and promotional seminars” exclusively about the Fort Ross–Seaview AVA, including two separate seminars entitled “Pinot” and “Diamonds in the Sky,” which were both held in 2016. The commenter suggests that these seminars further demonstrate that the Fort Ross–Seaview AVA is recognized independently of the proposed West Sonoma Coast AVA.

#### ii. Supporting Comments

Comment 67, submitted by the petitioner, was the only supporting comment to address the applicability of the proposed West Sonoma Coast AVA name to the Fort Ross–Seaview AVA. The petitioner notes that several vineyards and wineries within the Fort Ross–Seaview also identify themselves as being in a region known as “West Sonoma Coast.” For example, the Hirsch Vineyards website states, “The Fort Ross–Seaview AVA was granted official status in 2012, although the oldest plantings, including Hirsch, date from the 1970s, making it the oldest grape-growing region on the West Sonoma Coast.”<sup>42</sup> The Red Car Wines website states, “The coastal ridgetop vineyards in the West Sonoma Coast are situated in one of the most dramatically beautiful places in California.”<sup>43</sup>

Comment 67 also states that several wineries and vineyards within the Fort Ross–Seaview AVA are members of the West Sonoma Coast Vintners, indicating that they also choose to associate their businesses with the region known as “West Sonoma Coast.” Members include Failla Wines, Flowers Winery & Vineyards, Hirsch Vineyards, Red Car Wines, and Wayfarer. Comment 67 also notes that Fort Ross Vineyards was a member of the association until 2018. Finally, the comment notes that the

<sup>40</sup> <https://www.sonomacounty.com/articles/fort-ross-seaview-wine-region-and-appellation>.

<sup>41</sup> <https://sonomawinegrape.org/about/sonoma-county-terroir>.

<sup>42</sup> <https://www.hirschvineyards.com/The-Site/West-Sonoma-Coast>.

<sup>43</sup> <https://redcarwine.com/>.

2018 West of the West Festival, which celebrates wines from the West Sonoma Coast region, featured wines from Failla Wines, Flowers Vineyards & Winery, Fort Ross Vineyards, Hirsch Vineyards, Red Car Wines, and Wayfarer, which are all located within the Fort Ross–Seaview AVA. The petitioner therefore illustrates the “West Sonoma Coast” name includes wineries and vineyards within the Fort Ross–Seaview AVA. However, he continues by saying, “Given the widespread usage of the name Fort Ross–Seaview AVA, as presented by Mr. Schwartz and Mr. Schoenfeld [in comment 51], there should be little concern that the West Sonoma Coast AVA would have any impact on the recognition of Fort Ross–Seaview as a place of wine origin.”

#### iii. TTB Response

After reviewing the comments, TTB agrees that there is widespread recognition of the Fort Ross–Seaview AVA name. However, TTB also believes the petition and the additional information provided by petitioner in comment 67 demonstrate there is sufficient evidence that the Fort Ross–Seaview AVA is considered to be within a larger region known as the “West Sonoma Coast.” Therefore, TTB does not believe it would be misleading or inappropriate to allow winemakers in the Fort Ross–Seaview AVA the option of labeling and marketing their wines using “West Sonoma Coast” as an appellation of origin.

TTB notes that establishment of the proposed West Sonoma Coast AVA would not prevent any label holder from using “Fort Ross–Seaview” as an appellation of origin on their wines, nor would they be required to use “West Sonoma Coast” as an appellation of origin. However, winemakers in the Fort Ross–Seaview AVA would have the option of using the West Sonoma Coast AVA name on their labels and marketing material, just as they currently have the option to use “Sonoma Coast” or “North Coast.” Additionally, wine makers and grape growers within the Fort Ross–Seaview AVA could continue to have a separate association for its industry members, as well as have separate festivals, seminars, and promotional events related to the Fort Ross–Seaview AVA.

#### IV. TTB Determination

After careful review of the petition and the comments received in response to Notice No. 177, TTB finds that the evidence provided by the petitioner supports the establishment of the West Sonoma Coast AVA. Notwithstanding the arguments of those who oppose the

AVA, the petitioners' request for approval of the proposed West Sonoma Coast AVA satisfied all of the regulatory criteria needed for the approval of a new AVA. 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 establishes the "West Sonoma Coast" AVA in Sonoma County, California, effective 30 days from the publication date of this document.

TTB has also determined that the West Sonoma Coast AVA will remain part of the established Sonoma Coast AVA and North Coast AVA. As discussed in Notice No. 177, the West Sonoma Coast AVA shares some broad characteristics with the both established AVAs. For example, all three AVAs have temperatures that are moderated by marine air and fog. However, the West Sonoma Coast AVA is located within the portion of Sonoma County that experiences the highest degree of maritime influence. Additionally, because it is a smaller region, the West Sonoma Coast AVA is more uniform in its soils and topography than both the larger Sonoma Coast AVA and the multi-county North Coast AVA.

Finally, TTB has determined that the Fort Ross-Seaview AVA will remain a part of the West Sonoma Coast AVA because the two AVAs share a similar geology, topography, and maritime-influenced climate. The Fort Ross-Seaview AVA is still distinguishable from the West Sonoma Coast AVA because its elevations are primarily above the fog line, whereas the West Sonoma Coast AVA also contains elevations within and below the fog line. However, the Fort Ross-Seaview AVA still benefits from the cooling influence of the marine fog and breezes, as does the West Sonoma Coast AVA.

## V. Boundary Description

See the narrative description of the boundary of the West Sonoma Coast AVA in the regulatory text published at the end of this final rule.

## VI. Maps

The petitioner provided the required maps, and they are listed below in the regulatory text. You may also view the West Sonoma Coast AVA boundary on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

## VII. 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.

With the establishment of this AVA, its name, "West Sonoma Coast" will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name "West Sonoma Coast" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin. TTB notes that the term "Sonoma Coast" already has viticultural significance as it is the name of an established AVA. However, because the West Sonoma Coast AVA is located within the Sonoma Coast AVA, the establishment of this new AVA will have no effect on the use of the term "Sonoma Coast" on wine labels.

The establishment of the West Sonoma Coast AVA will not affect any existing AVA, and any bottlers using "North Coast," "Sonoma Coast," or "Fort Ross-Seaview" as an appellation of origin or in a brand name for wines made from grapes grown within these AVAs will not be affected by the establishment of this new AVA. The establishment of the West Sonoma Coast AVA will allow vintners to use "West Sonoma Coast," "Sonoma Coast," and "North Coast" as appellations of origin for wines made primarily from grapes grown within the West Sonoma Coast AVA if the wines meet the eligibility requirements for the appellation. Additionally, any bottlers using "Fort Ross-Seaview" as an appellation of origin for wines made primarily from grapes grown in the Fort Ross-Seaview AVA will be able to use "Fort Ross-Seaview," "Sonoma Coast," "North Coast," and "West Sonoma Coast" as appellations of origin of their wines.

Bottlers who wish to label their wines with "West Sonoma Coast" as an

appellation of origin must obtain a new Certificate of Label Approval (COLA) for the label, even if the currently approved label already contains another AVA appellation of origin. Please do not submit COLA requests to TTB before the date shown in the **DATES** section of this document or your request will be rejected.

## VIII. Regulatory Analysis and Notices

### A. 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.

### B. 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.

## IX. 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. Subpart C is amended by adding § 9.283 to read as follows:

#### § 9.283 West Sonoma Coast.

(a) *Name.* The name of the viticultural area described in this section is "West Sonoma Coast". For purposes of part 4 of this chapter, "West Sonoma Coast" is a term of viticultural significance.

(b) *Approved maps.* The 14 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the West

Sonoma Coast viticultural area are titled:

- (1) McGuire Ridge, California, 1991 (provisional edition);
- (2) Stewarts Point, California, 1978;
- (3) Annapolis, California, 1977;
- (4) Tombs Creek, California, 1978;
- (5) Fort Ross, California, 1998;
- (6) Cazadero, California, 1998;
- (7) Duncans Mills, California, 1979;
- (8) Camp Meeker, California, 1995;
- (9) Valley Ford, California, 1954;

photorevised 1971;

- (10) Two Rock, California, 1954; photorevised 1971;

- (11) Bodega Head, California, 1972;
- (12) Arched Rock, California, 1977;
- (13) Plantation, California, 1977; and
- (14) Gualala, California, 1998.

(c) *Boundary.* The West Sonoma Coast viticultural area is located in Sonoma County, California. The boundary of the West Sonoma Coast viticultural area is as described as follows:

(1) The beginning point is on the McGuire Ridge map at the intersection of the Sonoma County/Mendocino County boundary and the northwest corner of section 29, T11N/R14W. From the beginning point, proceed southeast in a straight line for 0.4 mile to an unnamed hilltop with a marked elevation of 820 feet in section 29, T11N/R14W; then

(2) Proceed southeast in a straight line for 1.4 miles to the intersection of the eastern boundary of section 32 and the 800-foot elevation contour, T11N/R14W; then

(3) Proceed southeast along the 800-foot elevation contour for 3.1 miles, crossing onto the Stewarts Point map, to its intersection with the northern boundary of section 3, T10N/R14W; then

(4) Proceed east along the northern boundary of section 3 and then along the northern boundary of section 2 for a total of 0.8 mile to the intersection of the northern boundary of section 2 and the 600-foot elevation contour, T10N, R14W; then

(5) Proceed generally southeast along the 600-foot elevation contour for 3.3 miles, crossing onto the Annapolis map, to its intersection with the northern boundary of section 12, T10N/R14W; then

(6) Proceed east along the northern boundary of section 12, T10N/R14W, for 0.1 mile to its intersection with the 600-foot elevation contour; then

(7) Proceed north then generally east along the meandering 600-foot elevation contour for 4.8 miles to its sixth intersection with the northern boundary of section 7, T10N/R13W; then

(8) Continue northeasterly along the 600-ft elevation contour for an

additional 3 miles to its intersection with Springs Creek in section 5, T10N/R13W; then

(9) Proceed southeasterly along Springs Creek for 1 mile to its intersection with the northern boundary of section 9, T10N/R13W; then

(10) Proceed east along the northern boundary of section 9 for 0.42 mile to its intersection with an unnamed, intermittent tributary of Grasshopper Creek; then

(11) Proceed southwest along the unnamed, intermittent tributary of Grasshopper Creek for 0.63 mile to its intersection with the main stem of Grasshopper Creek in section 9, T10N/R13W; then

(12) Proceed generally west along the main stem of Grasshopper Creek to its intersection with the eastern boundary of section 7, T10N/R13W; then

(13) Proceed south along the eastern boundary of section 7 for 0.17 mile; then

(14) Proceed in a straight line southeast for 1.6 miles to the intersection of the eastern boundary of section 17, T10N/R13W, and the 800-foot elevation contour; then

(15) Proceed southeast along the 800-foot elevation contour for 2.6 miles to its intersection with an unnamed, unimproved road near the 862-foot benchmark in section 21, T10N/R13W; then

(16) Proceed southeast in a straight line for 0.2 mile to the intersection of the 600-foot elevation contour and an intermittent stream in section 28, T10N/R13W; then

(17) Proceed south along the 600-foot elevation contour for 1.7 miles to its intersection with the eastern boundary of section 33, T10N/R13W; then

(18) Proceed southeast in a straight line for 0.5 mile to the intersection of an unnamed light-duty road known locally as Skaggs Springs Road and an unnamed, unimproved road near the Mendosoma Fire Station in section 34, T10N/R13W; then

(19) Proceed southeast along the unnamed, unimproved road for total of 5.9 miles as it follows Skyline Ridge and crosses onto the Tombs Creek map, back onto the Annapolis map, then back on to the Tombs Creek map, to the second intersection of the road with the 1,200-foot elevation contour in section 13, T9N/R13W; then

(20) Proceed southeast along the 1,200-foot elevation contour for 0.6 mile to the intersection with Allen Creek in section 18, T9N/R12W; then

(21) Proceed north along Allen Creek for 0.2 mile to the intersection with the 920-foot elevation contour in section 18, T9N/R12W; then

(22) Proceed east and then southeast along the meandering 920-foot elevation contour, crossing onto the Fort Ross map, then onto the Tombs Creek map, and then back onto the Fort Ross map, to the intersection of the elevation contour with Jim Creek in section 21, T9N/R12W; then

(23) Proceed southeast along Jim Creek for 0.7 mile to the intersection of the creek with the northern boundary of section 27, T9N, R12W; then

(24) Proceed east along the northern boundary of section 27 for 0.5 mile to the northeast corner of section 27; then

(25) Proceed south along the eastern boundaries of sections 27, 34, 3, 10, 15, and 22 for 5.1 miles to the intersection of the eastern boundary of section 22 and Fort Ross Road, T9N/R12W; then

(26) Proceed east along Fort Ross Road for approximately 262 feet to the intersection of the road with the middle branch of Russian Gulch Creek in section 23, T8N/R12W; then

(27) Proceed south along the middle branch of Russian Gulch Creek for 1.2 miles to the intersection with the 920-foot elevation contour in section 26, T8N/R12W; then

(28) Proceed southeast in a straight line for 2 miles, crossing onto the Cazadero map, to the summit of Pole Mountain in section 30, T8N/R11W; then

(29) Proceed southeast in a straight line for 4.7 miles, crossing onto the Duncans Mills map, to the confluence of Austin Creek and the Russian River, T7N/R11W; then

(30) Proceed generally east (upstream) along the Russian River for 3.1 miles to the intersection of the Russian River and the Bohemian Highway in section 7, T7N/R10W; then

(31) Proceed southeast along the Bohemian Highway for a total of 10.1 miles, crossing onto the Camp Meeker map and through the towns of Camp Meeker and Occidental, then crossing onto the Valley Ford map and through the town of Freestone, to the intersection of the Bohemian Highway and an unnamed medium-duty road known locally as Bodega Road near benchmark (BM) 214 in section 12, T6N/R10W; then

(32) Proceed northeast along Bodega Road for 0.9 mile, crossing onto the Camp Meeker map, to the intersection of the road with an unnamed light-duty road known locally as Barnett Valley Road north of the marked 486-foot elevation point in the Cañada de Jonive land grant, T6N/R10W; then

(33) Proceed south then east along Barnett Valley Road for 2.2 miles, crossing onto the Valley Ford map and then onto the Two Rock map, to the

intersection of Bennett Valley Road with Burnside Road in section 17, T6N/R9W; then

(34) Proceed southeast along Burnside Road for 3.2 miles to its intersection with the 400-foot elevation contour just north of an unnamed light duty road known locally as Bloomfield Road in the Cañada de Pogolimi land grant, T5N/R9W; then

(35) Proceed west along the 400-foot elevation contour for 6.7 miles, crossing onto the Valley Ford map, to the intersection of the elevation contour with an unimproved road, Cañada de Pogolimi land grant, T6N/R9W; then

(36) Proceed northwest then southwest along the unnamed, unimproved road for 0.9 mile to its terminus, Cañada de Pogolimi land grant, T6N/R9W; then

(37) Proceed northwest in a straight line for 0.1 mile to the marked 448-foot summit of an unnamed hilltop, Cañada de Pogolimi land grant, T6N/R10W; then

(38) Proceed northwest in a straight line for 0.6 mile to the 61-foot benchmark along an unnamed secondary highway known locally as Freestone Valley Ford Road, Cañada de Pogolimi land grant, T6N/R10W; then

(39) Proceed west-northwest in a straight line for 0.8 mile to VABM 724 in the Estero Americano land grant, T6N/R10W; then

(40) Proceed west in a straight line for 1.0 mile to the intersection of Salmon Creek and an intermittent stream, Estero Americano land grant, T6N/R10W; then

(41) Proceed west (downstream) along Salmon Creek for 9.6 miles, crossing onto the Bodega Head map, to the mouth of the creek at the Pacific Ocean; then

(42) Proceed north along the Pacific coastline for 51.4 miles, crossing over the Duncan Mills, Arched Rock, Fort Ross, Plantation, and Stewarts Point maps and onto the Gualala map to the intersection of the coastline with the Sonoma County/Mendocino County line; then

(43) Proceed east along the Sonoma County/Mendocino County line for 5.6 miles, crossing onto the McGuire Ridge map, and returning to the beginning point, T11N, R14W.

Signed: May 11, 2022.

Mary G. Ryan, Administrator.

Approved: May 11, 2022.

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

[FR Doc. 2022-10590 Filed 5-20-22; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2022-0221]

Drawbridge Operation Regulation; Rancocas Creek, Burlington County, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US Route 543 (Riverside-Delanco) Bridge across Rancocas Creek, mile 1.3, at Burlington County, NJ. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. The Coast Guard is seeking comments from the public regarding these proposed changes.

DATES: This deviation is effective from May 23, 2022 through 7:59 p.m. on October 15, 2022. For the purpose of enforcement, actual notice will be used from 1 p.m. on May 4, 2022, until May 23, 2022. Comments and related material must reach the Coast Guard on or before August 1, 2022.

ADDRESSES: You may submit comments identified by docket number USCG-2022-0221 using Federal Decision Making Portal at http://www.regulations.gov. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call or email Mr. Mickey D. Sanders, Fifth Coast Guard District (dpb); telephone (757) 398-6587, email Mickey.D.Sanders2@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

The purpose of the deviation is to test the seasonal operating regulation of the US Route 543 (Riverside-Delanco) Bridge across Rancocas Creek, mile 1.3, at Burlington County, NJ. The US 543 (Riverside-Delanco) Bridge across Rancocas Creek, mile 1.3, at Burlington County, NJ, has a vertical clearance of 4 feet above mean high water in the closed-to-navigation position. The bridge currently operates under 33 CFR 117.745(b).

The Burlington County Bridge Commission who owns and operates the bridge has requested this change in the operation schedule to reduce the number of bridge openings during off-peak hours, while providing for the reasonable needs of navigation. The Rancocas Creek is used predominately by recreational vessels and pleasure crafts.

The bridge will be maintained in the closed-to-navigation position from 7 a.m. to 3 p.m., and from 8 p.m. to 11 p.m., Monday through Friday, from 7 a.m. to 1 p.m., and from 8 p.m. to 11 p.m., Saturday and Sunday, and from 11 p.m. to 7 a.m., daily, from May 4, 2022, through October 15, 2022.

The three-year, monthly average number of bridge openings from 7 a.m. to 3 p.m., Monday through Friday, 7 a.m. to 1 p.m., Saturday and Sunday, and from 8 p.m. to 11 p.m., daily, as drawn from the data contained in the bridge tender logs, is presented below.

Table with 2 columns: April to October (2018, 2019 and 2020) and Average monthly openings. Rows include Monday-Friday, Saturday & Sunday, and Daily.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at any time. The bridge will be able to open in case of an emergency and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the test deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to normal operation at the end of the effective period of this test deviation. This deviation is authorized under 33 CFR 117.35.

II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.