

Drafting Information

Nancy Sutton of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 9, 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. Amend subpart C by adding § 9.192 to read as follows:

§ 9.192 Wahluke Slope.

(a) *Name.* The name of the viticultural area described in this section is “Wahluke Slope”. For purposes of part 4 of this chapter, “Wahluke Slope” and “Wahluke” are terms of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Wahluke Slope viticultural area are eight United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Beverly Quadrangle, Washington, 1965;

(2) Beverly SE Quadrangle, Washington—Grant Co., 1965;

(3) Smyrna Quadrangle, Washington—Grant Co., Provisional Edition 1986;

(4) Wahatis Peak Quadrangle, Washington—Grant Co., Provisional Edition 1986;

(5) Coyote Rapids Quadrangle, Washington, Provisional Edition 1986;

(6) Vernita Bridge Quadrangle, Washington, Provisional Edition 1986;

(7) Priest Rapids NE Quadrangle, Washington, Provisional Edition 1986; and

(8) Priest Rapids Quadrangle, Washington, 1948; photo revised 1978.

(c) *Boundary.* The Wahluke Slope viticultural area is located in Grant County, Washington. The boundary of the Wahluke Slope viticultural area is as described below:

(1) The beginning point is at the northwest corner of the viticultural area where the east bank of the Columbia River intersects the north boundary line of section 22, T15N/R23E, on the Beverly map; then

(2) From the beginning point proceed straight east 1.5 miles to the intersection

of the section 23 north boundary line and the 1,480-foot elevation line, T15N/R23E, Beverly map; then

(3) Proceed generally east along the meandering 1,480-foot elevation line, crossing the Beverly map, the Beverly SE map, and the Smyrna map, and continue onto the Wahatis Peak map to the intersection of the 1,480-foot elevation line and the eastern boundary line of section 15, which forms a portion of the boundary line of the Hanford Site, T15N/R26E, Wahatis Peak map; then

(4) Proceed generally southwest along the Hanford Site boundary in a series of 90 degree angles, crossing the Wahatis map, the Coyote Rapids map in section 36, T15N/R25E, and the Vernita Bridge map, and continue onto the Priest Rapids NE map to the intersection of the Hanford Site boundary and the north bank of the Columbia River, section 10, T13N/R24E, Priest Rapids NE map; then

(5) Proceed generally west along the north bank of the Columbia River, crossing onto the Priest Rapids map and, turning north-northwest, continue along the river bank and, crossing onto the Beverly map, return to the beginning point.

Signed: September 29, 2005.

John J. Manfreda,
Administrator.

Approved: November 3, 2005.

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

[FR Doc. 05-23679 Filed 12-6-05; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY**Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[T.D. TTB-37; Notice No. 40; Ref: T.D. ATF-454]

RIN 1513-AA50

Santa Rita Hills Viticultural Area Name Abbreviation to Sta. Rita Hills (2003R-091P)

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

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision modifies the name of the existing “Santa Rita Hills” American viticultural area by abbreviating its name to “Sta. Rita Hills.” We make this change to prevent possible confusion between wines bearing the Santa Rita Hills appellation and wines bearing the Santa Rita brand name used by a Chilean winery. The

size and boundary of the existing viticultural area will remain unchanged. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Rita Butler, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, 1310 G St., NW., Washington, DC 20220; telephone 202-927-8210.

SUPPLEMENTARY INFORMATION:**Background on Viticultural Areas TTB Authority**

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product’s identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive American viticultural areas and 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) contains the list of approved viticultural areas.

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 distinguishable by geographical features, the boundaries of which have been recognized and defined 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 its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party

may petition TTB to establish a grape-growing region as a viticultural area. Petitioners may use the same procedure to request changes involving existing viticultural areas. Section 9.3(b) of the TTB regulations requires the petition to include:

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, elevation, physical features, and soils, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Sta. Rita Hills Petition

General Background

TTB received a petition from a group of 11 viticulturists and vintners in the established Santa Rita Hills viticultural area (27 CFR 9.162) in Santa Barbara County, California, proposing to abbreviate the name of the viticultural area as "Sta. Rita Hills." The petitioners requested abbreviation of the name of the Santa Rita Hills viticultural area as "Sta. Rita Hills" in order to prevent confusion between wine bearing the "Santa Rita Hills" appellation and wines bearing the "Santa Rita" brand name. The petitioners do not believe such confusion is likely, but want to accommodate the concerns of Viña Santa Rita, the Chilean producer of Santa Rita brand wines. The petitioners believe it would be in the best interests of all parties, including consumers in the United States and abroad, to use the Sta. Rita Hills abbreviation for the viticultural area. Viña Santa Rita endorses this proposal.

According to the petitioners, abbreviating the viticultural area name by using the abbreviation as suggested above would accommodate Viña Santa Rita's brand and trademark rights without compromising the accuracy of the viticultural area's name. As discussed more fully below:

- The term "Sta." is a recognized abbreviation for the word "Santa," as evidenced by standard dictionaries of abbreviations.
- Of particular significance is the use of the abbreviation "Sta." in the United

States to refer to wines made from grapes grown in such well-known appellations as Santa Barbara, Santa Barbara County, the Santa Cruz Mountains, and the Santa Maria Valley.

- Historic evidence demonstrates that "Sta. Rita" has been used as an abbreviation for the "Santa Rita Hills" region. Such evidence also shows the term "Sta." was frequently used with other California place names, such as Santa Barbara, Santa Clara, and Santa Rosa.
- The use of abbreviations in viticultural area names is not uncommon; approved viticultural areas include names like "Mt. Veeder" (27 CFR 9.123), "Mt. Harlan" (27 CFR 9.131), "St. Helena" (27 CFR 9.149), and "Isle St. George" (27 CFR 9.51). The petitioners believe the name "Sta. Rita Hills" fits comfortably within these precedents.

Background for Petition

The current petition notes that on March 31, 1998, a group of viticulturists and vintners in Santa Barbara County, California, petitioned the Bureau of Alcohol, Tobacco and Firearms (ATF, TTB's predecessor agency) to establish the "Santa Rita Hills" viticultural area in the western portion of the Santa Ynez Valley viticultural area. ATF published a notice of proposed rulemaking in the **Federal Register** on September 11, 1998 (see Notice No. 866, 63 FR 48658).

ATF received comments from 35 parties. Eleven parties, mostly Santa Barbara County winemakers, grape growers, and public officials, supported the proposed viticultural area. The remaining 24 parties were opposed, not to the establishment of the viticultural area, but to its proposed name.

Viña Santa Rita, a publicly traded Chilean company that has produced and sold wines under the brand name "Santa Rita" for more than 120 years, led this opposition. Viña Santa Rita commented that recognition of the "Santa Rita Hills" viticultural area would cause widespread consumer confusion and would damage Viña Santa Rita's vested trademark rights.

On May 31, 2001, ATF published a final rule in the **Federal Register** approving Santa Rita Hills as an American viticultural area (see T.D. ATF-454, 66 FR 29476). ATF concluded that the region was locally known as the Santa Rita Hills and that it was geographically, viticulturally, and climatically distinct from the surrounding Santa Ynez Valley viticultural area.

ATF recognized the similarities between the Santa Rita trademark and brand name and the Santa Rita Hills

viticultural area, but concluded that consumers would not be confused by wines bearing the Santa Rita brand name and wines labeled with the Santa Rita Hills viticultural area. ATF stated as follows in this regard:

The fact that imported products are required to state the words "Imported by" followed by the name and address of the party responsible for importation world, in the case of a product with a "Sta. Rita Hills" appellation, signal to consumers that the product is domestically produced rather than imported. The fact that imported products are also required to state the words "Product of _____" followed by the country of origin, further identifies the origin of imported products to consumers, as distinct from domestic products. Likewise, the fact that domestic products are required to indicate the name and address of the bottler or packer, minimizes the likelihood of confusion between a "Sta. Rita Hills" wine and a product of Santa Rita in Chile or any other place.

The current petition states that Viña Santa Rita and the petitioners have since negotiated in good faith about the use of the Santa Rita Hills viticultural area name. The petitioners, with the agreement of Viña Santa Rita, believe that abbreviating the name "Santa Rita Hills" to "Sta. Rita Hills" would be in the best interest of everyone, including consumers in the United States and abroad. Moreover, the requested modification will, by agreement, obviate the need for further legal proceedings.

Avoiding Conflict With the Existing Santa Rita Brand Name

TTB regulations recognize that consumers can be confused when an American viticultural area and a brand name contain the same or similar terms but are used for different wines (see 27 CFR 4.39(i)). When confronted with a proposed viticultural area name that is similar to an existing brand or trademark, TTB solicits public comment for other potential names that might avoid such a dilemma. Upon occasion, TTB has modified the proposed viticultural area name to avoid conflict, provided the modification could be justified under TTB regulations.

For example, in 1981, ATF considered recognizing a new AVA called "The Pinnacles" (46 FR 49601; Oct. 7, 1981). That brand name, however, was already in use by a California winery. ATF thus determined the proposed name was "inappropriate" due to "trademark claims by another winery and the possibility of consumer confusion that would result if the proposed name were approved" (see 47 FR 25517; June 14, 1982). After soliciting alternative proposals, ATF recognized the

viticultural area under the name “Chalone” (27 CFR 9.24).

Similarly, in 1992, ATF proposed establishing the Spring Mountain viticultural area (58 FR 8726; February 17, 1993). Spring Mountain Vineyards protested, claiming that its brand name, “Spring Mountain,” would be “rendered worthless” by establishment of a viticultural area of the same name. At Spring Mountain Vineyards’ suggestion, the petitioners amended their petition to request the name “Spring Mountain District”, which was approved (27 CFR 9.143).

More recently, ATF considered recognizing the Diamond Mountain viticultural area (66 FR 29695; June 1, 2001). Diamond Mountain Vineyards objected, claiming the name would cause consumer confusion and conflict with its trademark right in the “Diamond Mountain Vineyards” brand. ATF agreed, noting consumers might confuse wines labeled with the Diamond Mountain viticultural area name with wines bearing the brand name “Diamond Mountain Vineyards.” Sufficient name evidence was provided for recognition of the “Diamond Mountain District” name and, therefore, ATF approved the viticultural area under this alternative name (*see* 27 CFR 9.166).

The current petition states that the requested modification to the viticultural area’s name is intended to reconcile various interests in the “Santa Rita” name. The petition contends that modifying the viticultural area’s name to feature the abbreviation “Sta.” would reduce the potential for consumer confusion. The petitioners feel that abbreviating the viticultural area’s name would be consistent with TTB’s policy of minimizing, when possible, the potential for consumer confusion between existing brand names and newly created viticultural areas.

Name Evidence for Sta. Rita Hills

Below, we discuss the evidence provided in the petition showing that “Sta. Rita Hills” is an appropriate name for the Santa Rita Hills viticultural area. According to the petition, “Sta. Rita Hills” is equally accurate and appropriate name for the area, since the term “Sta.” is a well-recognized abbreviation for “Santa.” This abbreviation is confirmed by authoritative sources such as the “Gale Press Abbreviations Dictionary” and “The Oxford Dictionary of Abbreviations.” The petition included copies of these sources. Based on this, the petitioners state that the terms “Santa Rita Hills” and “Sta. Rita Hills” are functionally identical.

The abbreviation “Sta.” has been used in reference to the Santa Rita Hills region, as well as other California regions, for over a century, according to the petition. The petition included copies of historic *diseños*, or sketches, that were presented, along with land grant petitions, to the governors of Mexican California. There were no official surveyors in the region at that time; therefore, each *diseño* graphically defined the tract of land solicited. On these *diseños*, the term “Sta. Rita” was used to describe “Santa Rita.” Likewise, “Sta. Clara” denotes “Santa Clara,” “Sta. Rosa” denotes “Santa Rosa,” and “Sta. Izabel” denotes “Santa Izabel.”

According to the petition, the “Sta.” abbreviation continues to be used throughout the United States today, especially in connection with California wines. The Wine Enthusiast’s Web site advertises a “wine boot camp” in “Sta. Barbara Cty,” and the term “Sta. Barbara” is used in wine reviews (*see* <http://www.dooyou.co.uk/product/141787.html>—visited on August 19, 2002). Top restaurants and retailers from around the United States use the terms “Sta. Barbara,” “Sta. Cruz Mountains,” and “Sta. Maria Valley” as appellations for fine wines (references: <http://www.renaissancehollywood.com/docs/twistwine.pdf>; <http://www.ambrosiaonhuntington.com/html/wines.html>; http://www.circa1886.com/cabernet_sauvignon_circa_restaurant_charleston.asp?subject=circa1886; http://www.northsidewine.com/level3/us_west.htm; <http://www.hotelastor.com/wine.htm>; http://www.capitalraleigh.com/dining/wine_list.htm; and <http://www.villacreek.com/pages/winelist.html>—all visited on October 11, 2002). Babcock Winery & Vineyards uses the abbreviation “Sta. Barbara” on its distributors list (<http://www.babcockwinery.com/distributionlist.html>—visited on October 11, 2002).

Internet searches reveal many additional uses of the abbreviation “Sta.” with California place names. A tourism page promoting Santa Barbara County uses the abbreviation “Sta. Barbara” for addresses within the city (<http://www.maintour.com/socal/stabarb.html>—visited on October 11, 2002). Ship schedules refer to “Sta. Barbara” (<http://www.gso.uri.edu/unols/schedules/Sproul/Sproul99.html>—visited on August 19, 2002), as do high school athletic calendars (<http://www.ouhsd.k12.ca.us/sites/cihs/handbook/december.htm>—visited on October 11, 2002).

The term “Sta. Rita” is used as an abbreviation for “Santa Rita” throughout the United States and in Spanish-speaking countries. For example, a simple Internet search performed by a petitioner found a University of Arizona faculty Web site that uses the term “N. Sta. Rita St.” to refer to “North Santa Rita Street,” located in Tucson, Arizona (http://www.bened.arizona.edu/ransdell/english_102_108.htm—visited on August 19, 2002). Another Web site concerning husbandry and breeding of reptiles and amphibians abbreviates the “Santa Rita Mountains,” a range in Arizona, as “Sta. Rita Mts.” (<http://www.herper.com/MantidNA3.html>, and <http://www.herper.com/PhasmidNA2.html>—both visited on August 19, 2002).

The petition states that use of the “Sta.” abbreviation is consistent with practices of the United States Board on Geographic Names, the body responsible for standardizing geographic names used by the Federal Government and printed on Federal maps. The Board’s guidelines specify that the term “Saint” may be abbreviated “St.”. Particularly in regions where place names are derived from the Spanish language, as in Southern California, abbreviating the term “Santa,” the Spanish feminine form of the English word “Saint,” as “Sta.” is consistent with the Board’s general approach to abbreviations.

Notice of Proposed Rulemaking and TTB Finding

TTB published a notice of proposed rulemaking, Notice No. 40, in the **Federal Register** on April 29, 2005 (70 FR 22283), regarding the modification of the Santa Rita Hills viticultural area by abbreviating it as “Sta. Rita Hills.” In that notice, TTB requested comments by June 28, 2005, from anyone interested. We received three supporting comments, no opposing comments, and one unrelated comment.

After careful review, TTB finds that it is appropriate to modify the name of the Santa Rita Hills viticultural area by using the abbreviation “Sta.” in place of “Santa.” Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we modify the “Santa Rita Hills” viticultural name to read “Sta. Rita Hills” effective 30 days from this document’s publication date. Viña Santa Rita will be able to obtain future label approvals of its use of its “Santa Rita” brand name on wines imported into the United States because it is distinguishable from “Sta. Rita Hills.”

Impact on Current Wine Labels*General*

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. With the adoption of this modification of the name for the Santa Rita Hills viticultural area, the abbreviated "Sta. Rita Hills" name will be recognized as a name of viticultural significance. Consequently, wine bottlers using "Sta. Rita Hills" 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 viticultural area's name as an appellation of origin. Accordingly, the amended regulatory text set forth below in § 9.162(a) specifies that "Sta. Rita Hills" is a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name. If the wine is not eligible to use the viticultural area name as an appellation of origin 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 viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name "Sta. Rita Hills" for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation.

Different rules apply if a wine has a brand name containing a viticultural area 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.

Use of the Name "Santa Rita Hills"

Since July 30, 2001, the name of this viticultural area has been expressed as "Santa Rita Hills." After the effective date of this final rule, we will approve wine labels showing "Sta. Rita Hills," and not "Santa Rita Hills," as the viticultural area appellation.

The final rule includes, under our authority pursuant to 27 CFR 13.72(a)(2), a transition period during which vintners may continue to use approved labels that carry "Santa Rita Hills" as the name of the viticultural area. However, one year after the

effective date of that final rule, certificates of label approval showing "Santa Rita Hills" as an appellation of origin will be revoked by operation of that final rule (see 27 CFR 13.51). We have added a statement to this effect as a new paragraph (d) in § 9.162.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735). Therefore, it requires no regulatory assessment.

Drafting Information

Rita Butler of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 27, chapter 1, 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. In subpart C, amend § 9.162 by revising the section heading, revising paragraph (a) and the introductory text of paragraphs (b) and (c), and adding a new paragraph (d), to read as follows:

§ 9.162 Sta. Rita Hills.

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

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Sta. Rita Hills viticultural area are five United States Geological Survey (USGS) 7.5 Minute Series maps titled:

* * * * *

(c) *Boundary.* The Sta. Rita Hills viticultural area is located in Santa Barbara County, California. The boundary is as follows:

* * * * *

(d) From July 30, 2001, until January 5, 2006, this viticultural area was named "Santa Rita Hills". Effective January 6, 2006, the name of this viticultural area is "Sta. Rita Hills". Existing certificates of label approval showing "Santa Rita Hills" as the appellation of origin are revoked by operation of this regulation on January 6, 2007.

Signed: August 25, 2005.

John J. Manfreda,
Administrator.

Approved: November 3, 2005.

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

[FR Doc. 05-23682 Filed 12-6-05; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY**Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[T.D. TTB-38; Re: Notice No. 25]

RIN 1513-AA77

Establishment of the Texoma Viticultural Area (2003R-110P)

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

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the Texoma viticultural area in north-central Texas, in Montague, Cooke, Grayson, and Fannin Counties. The proposed area covers approximately 3,650 square miles on the south side of Lake Texoma and the Red River, along the Texas-Oklahoma Stateline. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, P.O. Box 18152, Roanoke, VA 24014; telephone 540-344-9333.

SUPPLEMENTARY INFORMATION: