

§ 418.3335 What types of unearned income do we count?

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(b) For claims filed before January 1, 2010, and redeterminations that are effective before January 1, 2010, we also count in-kind support and maintenance as unearned income. In-kind support and maintenance is any food and shelter given to you or that you receive because someone else pays for it.

§ 418.3345 [Removed]

■ 5. Remove § 418.3345.

■ 6. Revise § 418.3350 to read as follows:

§ 418.3350 What types of unearned income do we not count?

(a) For claims filed on or after January 1, 2010 and redeterminations that are effective on or after January 1, 2010, we do not count as income in-kind support and maintenance.

(b) While we must know the source and amount of all of your unearned income, we do not count all of it to determine your eligibility for the subsidy. We apply to your unearned income the exclusions in § 418.3350(c) in the order listed. However, we do not reduce your unearned income below zero, and we do not apply any unused unearned income exclusion to earned income except for the \$20 per month exclusion described in § 416.1124(c)(12) of this chapter. For purposes of determining eligibility for a subsidy and whether you should receive a full or partial subsidy, we treat the \$20 per month exclusion as a \$240 per year exclusion.

(c) We do not count as income the unearned income described in § 416.1124(b) and (c) of this chapter, except for paragraph (c)(13).

(d) We do not count as income any dividends or interest earned on resources you or your spouse owns.

■ 7. Amend § 418.3405 to revise paragraph (a) to read as follows:

§ 418.3405 What types of resources do we count?

(a) We count liquid resources. Liquid resources are cash, financial accounts, and other financial instruments that can be converted to cash within 20 workdays, excluding certain non-workdays as explained in § 416.120(d) of this chapter. Examples of resources that are ordinarily liquid include: stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies (for claims filed before January 1, 2010, and redeterminations that are effective before January 1, 2010), financial institution accounts (including savings,

checking, and time deposits, also known as certificates of deposit), retirement accounts (such as individual retirement accounts or 401(k) accounts), revocable trusts, funds in an irrevocable trust if the trust beneficiary can direct the use of the funds, and similar items. We will presume that these types of resources can be converted to cash within 20 workdays and are countable as resources for subsidy determinations. However, if you establish that a particular resource cannot be converted to cash within 20 workdays, we will not count it as a resource.

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■ 8. Amend § 418.3425 to revise paragraph (f) to read as follows:

§ 418.3425 What resources do we exclude from counting?

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(f) For claims filed on or after January 1, 2010, and redeterminations that are effective on or after January 1, 2010, life insurance owned by an individual (and spouse, if any).

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[FR Doc. 2010-32848 Filed 12-28-10; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2010-0001; T.D. TTB-88; Re: Notice No. 103]

RIN 1513-AB31

Expansion of the Santa Maria Valley Viticultural Area

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

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision expands the Santa Maria Valley viticultural area in Santa Barbara and San Luis Obispo Counties, California, by 18,790 acres. 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.

DATES: *Effective Date:* January 28, 2011.

FOR FURTHER INFORMATION CONTACT: Elisabeth C. Kann, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220; telephone 202-453-2002.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act requires that these regulations, 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 regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive 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 geographical 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. 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, soils, elevation, and physical features 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.

Santa Maria Valley Expansion Petition

Background

On August 5, 1981, the Bureau of Alcohol, Tobacco, and Firearms (ATF), our predecessor agency, published T.D. ATF-89 in the **Federal Register** at 46 FR 39811 (August 5, 1981), establishing the Santa Maria Valley viticultural area (27 CFR 9.28) on 97,483 acres in southern San Luis Obispo and northern Santa Barbara counties, largely within the Central Coast viticultural area (27 CFR 9.75). A small portion of the existing Santa Maria Valley viticultural area lies outside of the Central Coast area's boundary within the Los Padres National Forest where no grape-growing takes place. In the Geographical Evidence section, T.D. ATF-89 stated that prevailing ocean winds blow west to east, into and through the Santa Maria Valley. The winds create a climate where air temperatures are cooler in summer and winter, but warmer in fall, than the surrounding areas.

In March 2006, Sara Schorske of Compliance Service of America, Inc., on behalf of a group of local winery and vineyard owners, submitted a petition proposing an expansion of the southern and western boundaries of the current Santa Maria Valley viticultural area. The petition presented evidence and documentation in recognition of the geographical name of the proposed southern expansion area and in support of the similarities of its climate, soils, terrain, and watershed with those of the original viticultural area. The petition also documented significant commercial viticulture to the south of the original southern boundary line. TTB returned the March 2006 petition to expand the Santa Maria Valley viticultural area with a letter urging the petitioner to delete the western expansion portion, about which sufficient evidence was not presented.

Ms. Schorske then submitted the current petition, which requests only a southern expansion (consisting of 18,790 acres) of the original Santa Maria Valley viticultural area. The expansion

area lies in northern Santa Barbara County, according to the boundary description and USGS maps, and is entirely within the Central Coast viticultural area. The expansion area includes 9 vineyards, 255 acres of commercial viticulture, and 60 to 200 acres under viticultural development, according to the petition.

Name Evidence

The current petition explains that the original petition supporting the establishment of the Santa Maria Valley viticultural area in 1981 documented the "Santa Maria Valley" name for the geographical area. Hence, T.D. ATF-89, in establishing the Santa Maria Valley viticultural area, determined that the most appropriate name for the geographical area was Santa Maria Valley.

The current petition states that the southern expansion of the Santa Maria Valley viticultural area follows the watershed boundary line between the Santa Maria Valley to the north and the Los Alamos Valley to the south. The current petition relies on the Santa Maria River watershed for name recognition of the expansion area.

Boundary Evidence

The original southern boundary line of the Santa Maria Valley viticultural area follows Foxen Canyon Road and Clark Avenue, at Sisquoc, for 4.2 miles inside the southern perimeter of the Santa Maria River watershed, according to the current boundary description and USGS maps. On the south side of the Santa Maria Valley watershed, the creeks drain northward to lower elevations, through the valley, and into the Santa Maria River, as shown on USGS maps. Computer-generated watershed maps show that the expansion of the southern boundary line conforms to the Santa Maria River watershed, according to the petition.

The boundary line of the southern expansion of the Santa Maria Valley viticultural area, going clockwise, starts at the southeast corner of the current viticultural area boundary and travels in a straight line west-northwest, over the Solomon Hills to its intersection with U.S. Route 101, according to the boundary description and USGS maps. Following U.S. 101, the boundary line continues north to Clark Avenue in Orcutt, rejoining the original boundary line of the Santa Maria Valley viticultural area.

Distinguishing Features

Santa Maria Valley Viticultural Area as Established by T.D. ATF-89

TTB notes that in establishing the Santa Maria Valley viticultural area, T.D. ATF-89 cited terrain, soils, and climate as distinguishing features.

Terrain: According to T.D. ATF-89, the boundary line of the Santa Maria Valley viticultural area surrounds the Santa Maria Valley floor, adjacent canyons, and sloping terraces. Elevations vary from a low of 200 feet at the Santa Maria River to a high of 3,200 feet at Tepusquet Peak. As shown on the USGS Foxen Canyon map, a westward projection of the San Rafael Mountains, peaking at 1,801 feet in elevation, extends about 4 miles into the southeast portion of the original Santa Maria Valley viticultural area. According to USGS maps, the original southern boundary line varies from 600 to 1,000 feet in elevation. Vineyards within the original viticultural area were planted between elevations of 300 feet on the valley floor and 800 feet on the slopes of the rolling hillsides.

Soils and Climate: According to T.D. ATF-89, the soils of the Santa Maria Valley viticultural area are well drained and fertile, and range in texture from sandy loam to clay loam. The prevailing, cooling, marine-influenced ocean winds are also important to the viticultural area.

Current Petition to Expand the Santa Maria Valley Viticultural Area

Terrain: The petition states that the geography of the southern expansion of the Santa Maria Valley viticultural area is similar to that inside the original southern boundary line. The valley lies along an east-southeast axis, and is about 16 miles long within the existing viticultural area and the expansion area ("Locations of Weather Stations and Selected Vineyards and Wineries," map, undated). In the southern expansion area, gently rolling hills give way to a more rugged terrain of canyons and steep slopes, as shown on USGS maps. Elevations in the southern expansion area vary between around 440 feet near Sisquoc to 1,360 feet at the southeast corner of the original Santa Maria Valley viticultural area, and are similar to those in areas on or surrounding the Santa Maria Valley floor.

The petition includes the table below, which shows the elevations of commercial vineyards in the southern portion of the original Santa Maria Valley viticultural area and in the southern expansion area. Elevations of vineyards within the southern portion of the original Santa Maria Valley

viticultural area range from 600 to 950 feet; likewise, those of vineyards in the southern expansion area range from 600 to 930 feet.

Vineyard	Location	Approximate elevation in feet
Rancho Ontiveros	Within the AVA	650
Solomon Hills	Within the AVA	700
Good Child	Within the AVA	750–800
Riverbench	Within the AVA	950
Rancho Sisquoc	Within the AVA	600–750
Foxen	Within the AVA	720
Addamo Estate	Within the proposed expansion	760–840
Solomon Hills	Within the proposed expansion	640–840
Casa Torres	Within the proposed expansion	720–800
Le Bon Climate	Within the proposed expansion	600
Lucas Lewellan	Within the proposed expansion	700
Foxen	Within the proposed expansion	800–900
Rancho Real	Within the proposed expansion	650–930
Murphy	Within the proposed expansion	750–880

Climate: The petition explains that the Santa Maria Valley has a “maritime fringe” climate (“The Climate of Southern California,” Harry P. Bailey, University of California Press, 1966). The maritime fringe climate derives from the Pacific Ocean, causing foggy and windy conditions in the Santa Maria Valley. In contrast, some other inland, high-elevation areas nearby have either less or no marine influence, according to the petition.

The petition states that during the summer growing season, the marine air moves onshore, passing through low-elevation passes in the Coast Range, inland to the Santa Maria Valley. (T.D. ATF–89 describes the Santa Maria Valley as a “natural funnel-shaped” valley.) Temperatures are consistent throughout the gentle west-to-east rise in elevations in the Santa Maria Valley. The petition states that the cooling wind and fog encounter little resistance in any direction until they meet the Sierra Madre Mountains on the north side of the valley and the Solomon Hills on the south side, where the valley terminates. The boundary of the southern expansion extends to the Solomon Hills, where the cooling wind and fog encounter resistance, according to the petition.

The petition includes a map that shows the broad, westerly opening between these mountains and hills and how they funnel cooling wind and fog in an east-southeast direction, into the valley. T.D. ATF–89 states that “* * * the prevailing winds from the ocean [cause] the valley to have a generally cooler summer, warmer fall, and cooler winter than surrounding areas.”

The current petition provides data from two weather stations, one within the original Santa Maria Valley viticultural area and one within the expansion area. Both stations are

nestled along foothills, slightly above the valley floor. A graph in the petition presents heat accumulation data recorded in 2004 at the two stations. The graph shows that growing season totals for 2004 in the original viticultural area and in the expansion area were both just below 3,000 growing degree days.

As a measurement of heat accumulation during the growing season, 1 growing degree day accumulates for each degree Fahrenheit that a day’s mean temperature is above 50 degrees, the minimum temperature required for grapevine growth (“General Viticulture,” Albert J. Winkler, University of California Press, 1975, pages 61–64).

Soils: According to the petition, the original Santa Maria Valley viticultural area consists of a wide variety of soils, without a single dominant type. The petition provides a table listing the soil map units in the original Santa Maria Valley viticultural area and in the expansion area. The table is divided into four general areas. Three areas are within the original Santa Maria Valley viticultural area: (1) Valley floor, (2) hills (the Solomon Hills), and (3) mountains (the foothills of the Sierra Madre Mountains, northeast of the Santa Maria River). The fourth is the southern expansion area.

As shown in the table, the soils are mainly sand, sandy loam, and loam on the valley floor, but are mixed sandy loam, clay loam, shaly loam, and silt loam on mountains. However, the soils in the expansion area are also found in the original Santa Maria Valley viticultural area. In both the expansion area and on hills in the original viticultural area, the soils are sand, sandy loam, clay loam, and shaly clay

loam, but are mostly loam and shaly loam.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 103 regarding the proposed expansion of the Santa Maria Valley viticultural area in the **Federal Register** at 75 FR 9827 (March 4, 2010). In that notice, TTB invited comments by May 3, 2010, from all interested persons. We solicited comments from interested members of the public on whether we should expand the Santa Maria Valley viticultural area as described above. We expressed particular interest in receiving comments concerning the similarity of the proposed expansion area to the current Santa Maria Valley viticultural area, the geographical features that distinguish the viticultural features of the proposed expansion area from the area beyond it to the south, and the use of the Santa Maria River watershed to justify the proposed expansion of the southern boundary line.

We received two comments in response to the notice, both supporting the expansion of the Santa Maria Valley viticultural area. An agricultural property appraiser supports the expansion and states the boundaries are reasonably defined by geographic features. A Farm Advisor employed with the Cooperative Extension-San Luis Obispo County, University of California, Agriculture and Natural Resources, supports the expansion based on similarities in temperature conditions within the existing Santa Maria Valley viticultural area and the expansion area. The Advisor included temperature data, an aerial picture of the area, and a 2008 and 2009 overview of the average growing degree days for

the Santa Maria Valley viticultural area that includes the expansion area.

TTB Finding

After careful review of the petition and the comments received, TTB finds that the evidence submitted supports the expansion of the Santa Maria Valley viticultural area. Accordingly, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we expand the Santa Maria Valley American viticultural area in Santa Barbara and San Luis Obispo Counties, California, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this document.

Maps

The maps for determining the boundary of the viticultural area are listed below in the regulatory text.

Impact on Current Wine Labels

The expansion of the Santa Maria Valley viticultural area will not affect currently approved wine labels. The approval of this expansion may allow additional vintners to use "Santa Maria Valley" as an appellation of origin on their 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 a viticultural area name or with a brand name that includes a viticultural area name or other term identified as viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

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. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 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. Section 9.28 is revised to read as follows:

§ 9.28 Santa Maria Valley.

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

(b) *Approved maps.* The six United States Geological Survey maps used to determine the boundary of the Santa Maria Valley viticultural area are titled:

(1) Orcutt Quadrangle, California-Santa Barbara Co., 7.5 minute series, 1959, photorevised 1967 and 1974, photoinspected 1978;

(2) Santa Maria Quadrangle, California, 7.5 minute series, 1959, photorevised 1982;

(3) "San Luis Obispo", N.I. 10-3, series V 502, scale 1: 250,000;

(4) "Santa Maria", N.I. 10-6, 9, series V 502, scale 1: 250,000;

(5) Foxen Canyon Quadrangle, California-Santa Barbara Co., 7.5-minute series, 1995; and

(6) Sisquoc Quadrangle, California-Santa Barbara Co., 7.5 minute series, 1959, photoinspected 1974.

(c) *Boundary.* The Santa Maria Valley viticultural area is located in Santa Barbara and San Luis Obispo Counties, California. The boundary of the Santa Maria Valley viticultural area is as follows:

(1) Begin on the Orcutt quadrangle map at the intersection of U.S. Route 101 and Clark Avenue, section 18 north

boundary line, T9N/R33W, then proceed generally north along U.S. Route 101 approximately 10 miles onto the Santa Maria quadrangle map to U.S. Route 101's intersection with State Route 166 (east), T10N/R34W; then

(2) Proceed generally northeast along State Route 166 (east) onto the San Luis Obispo N.I. 10-3 map to State Route 166's intersection with the section line southwest of Chimney Canyon, T11N/R32W; then

(3) Proceed south in a straight line onto the Santa Maria N.I. 10-6 map to the 3,016-foot summit of Los Coches Mountain; then

(4) Proceed southeast in a straight line onto the Foxen Canyon quadrangle map to the 2,822-foot summit of Bone Mountain, T9N/R32W; then

(5) Proceed south-southwest in a straight line approximately 6 miles to the line's intersection with secondary highways Foxen Canyon Road and Alisos Canyon Road and a marked 1,116-foot elevation point, T8N/R32W; then

(6) Proceed west-northwest in a straight line approximately 6 miles onto the Sisquoc quadrangle map to the southeast corner of section 4, T8N/R32W; then

(7) Proceed west-northwest in a straight line approximately 6.2 miles, crossing over the Solomon Hills, to the line's intersection with U.S. Route 101 and a private, unnamed light-duty road that meanders east into the Cat Canyon Oil Field, T9N/R33W; then

(8) Proceed north 3.75 miles along U.S. Route 101 onto the Orcutt quadrangle map and return to the point of beginning.

Signed: August 24, 2010.

John J. Manfreda,
Administrator.

Approved: September 21, 2010.

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

[FR Doc. 2010-32873 Filed 12-28-10; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF JUSTICE

28 CFR Part 72

[Docket No. OAG 117; AG Order No. 3239-2010]

RIN 1105-AB22

Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act

AGENCY: Department of Justice.

ACTION: Final rule.