

deemed to have timely deposited the employment taxes due for that quarter if the employer fully deposits the employment taxes accumulated during the quarter by the last day of the month following the close of that quarter. Employment taxes accumulated during the fourth quarter can be either deposited by January 31 or remitted with a timely filed return for the return period.

(5) \* \* \*

*Example 3. De minimis deposit rule for employers who file Form 944 satisfied.* K (a monthly depositor) was notified to file Form 944 to report its employment tax liabilities for the 2006 calendar year. In the first quarter of 2006, K accumulates employment taxes in the amount of \$1,000. On April 28, 2006, K deposits the \$1,000 of employment taxes accumulated in the first quarter. K accumulates another \$1,000 of employment taxes during the second quarter of 2006. On July 31, 2006, K deposits the \$1,000 of employment taxes accumulated in the second quarter. K's business grows and accumulates \$1,500 in employment taxes during the third quarter of 2006. On October 31, 2006, K deposits the \$1,500 of employment taxes accumulated in the third quarter. K accumulates another \$2,000 in employment taxes during the fourth quarter. K files Form 944 on January 31, 2007, reporting a total employment tax liability for 2006 of \$5,500 and submits a check for the remaining \$2,000 of employment taxes with the return. K will be deemed to have timely deposited the employment taxes due for all of 2006 because K complied with the *de minimis* deposit rule provided in paragraph (f)(4)(iii) of this section. Therefore, the IRS will not impose a failure-to-deposit penalty under section 6656 for any month of the year. Under this *de minimis* deposit rule, because K was required to file Form 944 for calendar year 2006, if K's employment tax liability for a quarter is *de minimis*, then K may deposit that quarter's liability by the last day of the month following the close of the quarter. This *de minimis* rule allows K to have the benefit of the same quarterly *de minimis* amount K would have received if K filed Form 941 each quarter instead of Form 944 annually. Thus, because K's employment tax liability for each quarter was *de minimis*, K could deposit quarterly.

(g) *Agricultural employers—special rules—(1) In general.* An agricultural employer reports wages paid to farm workers annually on Form 943 (Employer's Annual Tax Return for Agricultural Employees) and reports wages paid to nonfarm workers quarterly on Form 941 or annually on Form 944. Accordingly, an agricultural employer must treat employment taxes reportable on Form 943 ("Form 943 taxes") separately from employment taxes reportable on Form 941 or Form 944 ("Form 941 or Form 944 taxes"). Form 943 taxes and Form 941 or Form 944 taxes are not combined for purposes

of determining whether a deposit of either is due, whether the One-Day rule of paragraph (c)(3) of this section applies, or whether any safe harbor is applicable. In addition, Form 943 taxes and Form 941 or Form 944 taxes must be deposited separately. (See paragraph (b) of this section for rules for determining an agricultural employer's deposit status for Form 941 taxes). Whether an agricultural employer is a monthly or semi-weekly depositor of Form 943 taxes is determined according to the rules of this paragraph (g).

\* \* \* \* \*

(n) *Effective/applicability dates.* Except for the deposit of employment taxes attributable to payments made by government entities under section 3402(t), §§ 31.6302–1 through 31.6302–3 apply with respect to the deposit of employment taxes attributable to payments made after December 31, 1992. Paragraph (e)(1)(iii)(E) of this section applies with respect to the deposit of employment taxes attributable to payments made by government entities under section 3402(t) after December 31, 2012. To the extent that the provisions of §§ 31.6302–1 through 31.6302–3 are inconsistent with the provisions of §§ 31.6302(c)–1 and 31.6302(c)–2, a taxpayer will be considered to be in compliance with §§ 31.6302–1 through 31.6302–3 if the taxpayer makes timely deposits during 1993 in accordance with §§ 31.6302(c)–1 and 31.6302(c)–2. Paragraphs (b)(4), (c)(5), (c)(6), (d) *Example 6*, (e)(2), (f)(4)(i), (f)(4)(iii), (f)(5) *Example 3*, and (g)(1) of this section apply to taxable years beginning on or after December 30, 2008. Paragraph (f)(4)(ii) of this section applies to taxable years beginning on or after January 1, 2010. The rules of paragraphs (e)(2) and (g)(1) of this section that apply to taxable years beginning before December 30, 2008, are contained in § 31.6302–1 as in effect prior to December 30, 2008. The rules of paragraphs (b)(4), (c)(5), (c)(6), (d) *Example 6*, (f)(4)(i), (f)(4)(iii), and (f)(5) *Example 3* of this section that apply to taxable years beginning on or after January 1, 2006, and before December 30, 2008, are contained in § 31.6302–1T as in effect prior to December 30, 2008. The rules of paragraphs (b)(4) and (f)(4) of this section that apply to taxable years beginning before January 1, 2006, are contained in § 31.6302–1 as in effect prior to January 1, 2006. The rules of paragraph (g) of this section eliminating use of Federal tax deposit coupons apply to deposits and payments made after December 31, 2010.

\* \* \* \* \*

#### § 31.6302–1T [Removed].

**Par. 10.** Section 31.6302–1T is removed.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 6, 2011.

**Emily S. McMahon,**

*Acting Assistant Secretary of the Treasury (Tax Policy).*

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB–2011–0006; T.D. TTB–100; Ref: Notice No. 119]

RIN 1513–AB81

#### Establishment of the Coombsville Viticultural Area

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

**ACTION:** Final rule; Treasury Decision.

**SUMMARY:** This final rule establishes the 11,075-acre "Coombsville" viticultural area in Napa County, California. The viticultural area lies within the Napa Valley viticultural area and the multicounty North Coast viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** *Effective Date:* January 13, 2012.

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G St. NW., Room 200E, Washington, DC 20220; phone (202) 453–1039, ext. 175.

#### SUPPLEMENTARY INFORMATION:

##### Background on Viticultural Areas

##### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol

and Tobacco Tax and Trade Bureau (TTB) administers the 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) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American 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 having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to 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. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of viticultural areas. Such petitions must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed viticultural area;
- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make it distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;

- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and

- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

#### Petition for the Coombsville Viticultural Area

TTB received a petition from Thomas Farella of Farella-Park Vineyards and Bradford Kitson, on behalf of the vintners and grape growers in the Coombsville region of Napa Valley, California, proposing the establishment of the Coombsville viticultural area. The proposed viticultural area contains 11,075 acres, 1,360 acres of which are in 26 commercial vineyards, according to the petition. The proposed viticultural area lies within the Napa Valley viticultural area (27 CFR 9.23) and the larger, multicounty North Coast viticultural area (27 CFR 9.30). The distinguishing features of the proposed Coombsville viticultural area include geology, geography, climate, and soils.

TTB notes that the proposed Coombsville viticultural area adjoins or is located near four established viticultural areas: the Oak Knoll District of Napa Valley viticultural area (27 CFR 9.161), the Los Carneros viticultural area (27 CFR 9.32), the Wild Horse Valley viticultural area (27 CFR 9.124), and the Solano County Green Valley viticultural area (27 CFR 9.44). The Oak Knoll District of Napa Valley viticultural area to the northwest and the Los Carneros viticultural area to the southwest share portions of their boundary lines with those of the proposed viticultural area. The Wild Horse Valley viticultural area to the east and the Solano County Green Valley viticultural area to the southeast are close to, but do not touch, the eastern boundary line of the proposed Coombsville viticultural area.

The petition states that four bonded wineries use the "Coombsville" name on one or more of their wine labels: Bighorn Cellars, Laird Family Estate, Farella-Park Vineyards, and Monticello Cellars. All four wineries have advised TTB in writing that if the Coombsville viticultural area is established, they will be able to comply with the rule that at least 85 percent of the wine must be produced from grapes grown within the boundary of the Coombsville viticultural area in order to use the "Coombsville" name on the label as an appellation of origin.

#### Previous Proposed Rulemaking

Previously, a group of Napa Valley grape growers proposed the establishment of the 11,200-acre "Tulocay" American viticultural area in approximately the same area as the proposed Coombsville viticultural area. Consequently, TTB published Notice No. 68 in the **Federal Register** (71 FR 65432) on November 8, 2006, to propose the establishment of the Tulocay viticultural area. However, comments received in response to Notice No. 68 raised a substantial question as to whether there was a sufficient basis to conclude that the geographical area described in the petition was locally or nationally known as "Tulocay." Additionally, the evidence provided by the commenters and other information available suggested the likelihood of confusion if the term "Tulocay" would suddenly be attributed only to grapes grown from a geographical area, as the term "Tulocay" has been identified with a particular winery for more than 30 years. Based on the comments received in response to Notice No. 68, TTB published Notice No. 84 in the **Federal Register** (73 FR 34902) on June 19, 2008, withdrawing Notice No. 68.

However, TTB did not preclude consideration of the current petition in Notice No. 84. In fact, TTB stated: "\* \* \* currently there is no petition requesting the establishment of a viticultural area in the subject area using a variation of Tulocay, such as Tulocay District, or any other name, such as Coombsville or Coombsville District. It is noted that these findings do not preclude future consideration of a petition, supported by sufficient name evidence, proposing the establishment of a viticultural area in the subject area using a name other than 'Tulocay.'" Notice No. 84 further noted that some comments in response to Notice No. 68 expressed a preference for the name "Coombsville" for the proposed viticultural area rather than the petitioned-for "Tulocay" name.

TTB further notes that the eastern portion of the boundary line for the proposed Coombsville viticultural area differs from that of the proposed Tulocay viticultural area boundary line in order to keep the proposed Coombsville viticultural area within Napa County and the Napa Valley viticultural area. This boundary change results in a 125-acre reduction of the total area, from 11,200 acres for the previously proposed Tulocay viticultural area to 11,075 acres for the currently proposed Coombsville viticultural area.

### *Name Evidence for the Proposed Coombsville Viticultural Area*

The petition states that “Coombsville” is the commonly used name for an area that lies east of the City of Napa, California. In addition, the area east of the City of Napa is designated as “Coombsville” on the Napa County Land Use Plan 2008–2030 map. The petition also states that the Coombsville region has always had a separate identity from the City of Napa. Early on, the City of Napa grew in increments, eventually “swallowing up the easterly suburb of Coombsville” (“Napa Valley Heyday,” Richard H. Dillon, *The Book Club of California*, 2004, page 119).

The petition states that, as early as 1914, an unincorporated area of Napa County became commonly known as the “Coombsville” region, named for Nathan Coombs, a prominent community leader and founder of the City of Napa. Mr. Coombs owned 2,525 acres of land on 3 parcels to the east of the Napa River, in the area now called “Coombsville” (“Official Map of the County of Napa,” California, 1876). According to the petition, the original Coombsville Road, little more than an unnamed path, existed more than 120 years ago (“Map of Coombsville,” survey map, W. A. Pierce, “County Road from Napa to Green Valley,” 1883). Currently, Napa city and county road signs identify Coombsville Road where the road intersects with Third Street and the Silverado Trail. Coombsville Road is entirely within the boundary line of the proposed Coombsville viticultural area (“Napa Valley,” map, California State Automobile Association, May 2004).

The petition cited several Napa County newspaper reports to demonstrate that the Coombsville name is commonly used to refer to the region within the proposed viticultural area. For example, a newspaper report stated: “A week ago, Patrick Sexton’s backyard in Coombsville was a riotous place, with a gobble-gobble here, a gobble-gobble there, a gobble-gobble everywhere” (“Napa High senior raises great gobblers,” *The Napa Valley Register*, Nov. 27, 2008). Another report describes a downed power line that cut off electricity to 2,200 Coombsville residential customers overnight (“Lights out again in Coombsville area,” *op. cit.*, Sept. 3, 2008). A third report describes a political district including Coombsville, American Canyon, and part of [the City of] Napa (“Local ballot for June takes shape,” *op. cit.*, March 12, 2008).

The petition also states that the Napa County real estate industry recognizes the Coombsville region in its sale

listings. One realtor listing on July 7, 2009, described a property as “situated in the prestigious and desirable Coombsville area.” Another realtor listing from 2008 described a property as “Coombsville Area at Its Best!” The petition includes the following description of a proposed new housing development in the region: “The project is off of Wyatt Road, on the frontier where the residences of east Napa meet the open space and rural feel of Coombsville” (“No middle ground in Napa County,” *op. cit.*, Oct. 23, 2005). Fifty-five acres in the region purchased for real estate development is described in the petition as, “\* \* \* in the Coombsville area of Napa County, scrub-covered slopes at the south end of the valley \* \* \*” (“The Far Side of Eden—New Money, Old Land and the Battle for Napa Valley,” James Conaway, *Houghton Mifflin Company*, 2002, page 50).

The petition notes that the Coombsville name has long been associated with viticulture. The petition states that the history of grape-growing in the Coombsville region dates to 1870, when the Carbone family purchased a large land parcel on Coombsville Road (“Napa Valley Heyday,” Richard H. Dillon, *The Book Club of California*, 2004, page 100). Around 1880, Antonio Carbone opened a winery (*ibid.*). The historic winery still exists and is now used as a private residence, the petition explains. The petition further states that modern vineyard plantings include: Farella-Park Vineyards; Stag’s Leap Wine Cellars’ Arcadia Vineyards; Far Niente Winery’s Barrow Lane, Carpenter, and John’s Creek Vineyards; Berlenbach Vineyards; and Richard Perry Vineyards.

The petition explains that “Coombsville” has national name recognition because of its renown as a wine region in Napa Valley. The following reports were published by *Wine Spectator*: “Putting Coombsville on the map for Napa Cabernet” (July 31, 2001), regarding a vintner who believes he can make one of the top cabernets in the Napa Valley region; “Caldwell Vineyards” (Nov. 15, 2002), regarding the first time that John Caldwell produced wine from a 60-acre Coombsville vineyard; “Franciscan Buys Large Parcel of Napa Land” (March 15, 1999), describing a 160-acre property in the Coombsville region; and “James Laube Unfined—An Armchair Winery ‘Tour’ with Philippe Melka” (Aug. 10, 2007), detailing the acquisition of Coombsville-grown cabernet grapes to produce wine.

The petition also states that the following reports on the Coombsville

region appeared on AppellationAmerica.com: the Coombsville region is described as “the hottest spot for grapes these days in the Napa Valley” and it is circled on a map of the Napa Valley in “Why Cool Coombsville is HOT” (Oct. 8, 2008); and a 1995 acquisition of 20 acres of vineyards in the Coombsville region is detailed in “The Wonders of Mountain Terroir: Let Robert Craig Explain” (Feb. 7, 2007).

### *Boundary Evidence*

According to USGS maps submitted with the petition, the proposed Coombsville viticultural area is nestled in the southeastern region of the Napa Valley viticultural area, between the eastern shores of both the Napa River and Milliken Creek and the western ridgeline of the Vaca Range at the Solano County line. The west-facing, horseshoe-shaped southern tip of the Vaca Range encircles much of the proposed Coombsville viticultural area and defines parts of the northern, eastern, and southern portions of the boundary line, according to the petition, boundary description, and USGS maps.

According to the boundary description in the petition, the eastern portion of the boundary line of the proposed Coombsville viticultural area incorporates straight lines between western peaks of the Vaca Range. The eastern portion of the boundary line corresponds in part to, but does not overlap, the western portions of the boundary lines of the Wild Horse Valley and Solano County Green Valley viticultural areas and stays within Napa County.

As detailed in the boundary description in the petition, the southern portion of the boundary line of the proposed Coombsville viticultural area follows a straight southeast-to-northwest line from a map point in Kreuse Canyon to Imola Avenue, and then continues west on Imola Avenue to the Napa River.

According to the petition, and as visible on the USGS maps, an east-west transverse ridge that climatically protects the Coombsville region from the full impact of the marine influence of the San Pablo Bay lies beyond the proposed southern portion of the boundary line. Commonly known as “Suscol,” “Soscol,” or “Soscol Ridge,” the ridge separates the Coombsville region from large portions of the Napa Valley flood plain’s differing soils and broad slough topography. The petition states that the complex terrain of the ridge was difficult to use as a precise and reasonable southern portion of the boundary line for the proposed

Coombsville viticultural area petition. Hence, a straight line between two map points and a portion of Imola Avenue was used to define the southern limits of the proposed Coombsville viticultural area. TTB believes that the straight line and Imola Avenue are a reasonable alternative for the proposed southern portion of the boundary line.

According to the boundary description and the USGS Napa Quadrangle map, the western portion of the boundary line of the proposed Coombsville viticultural area relies on portions of the Napa River and Milliken Creek to connect Imola Avenue to the south with Monticello Road to the north. TTB notes that the southwest corner of the proposed viticultural area, at the intersection of Imola Avenue and the Napa River, touches but does not overlap the eastern portion of the boundary line of the Los Carneros viticultural area.

According to the boundary description, the northern portion of the boundary line of the proposed Coombsville viticultural area uses Monticello Road and a straight line from the road's intersection with the 400-foot contour line eastward to the peak of Mt. George. Much of the length of the proposed northern portion of the boundary line follows a ridge line from the Vaca Range along Milliken Creek, according to the USGS maps submitted with the petition. TTB notes that the northwest corner of the proposed viticultural area, at the intersection of Milliken Creek and Monticello Road, touches but does not overlap the southeast corner of the Oak Knoll District of Napa Valley viticultural area.

#### *Distinguishing Features*

##### Geology

The petition describes the ancient volcanic and crustal uplift events in the geologic history of the Coombsville region ("The Geologic Origin of the Coombsville Area," EarthVision, Inc., May 2009). According to the petition and the above report, the initial geological event was the eruption and collapse of a volcano that was part of the Napa Valley-Sonoma volcanic series. The collapse of the volcano created a bowl-shaped structure known as a caldera, which formed the basis for the "cup and saucer" topography within the Coombsville region.

The petition states that the next important geologic process began when crustal forces started to uplift and wrinkle the earth crust in the Vaca Range. The uplift progressed from east to west through the Vaca Range. When the uplift passed through the

Coombsville region, the western front of the caldera collapsed and slid westward as a large landslide into the valley below (*ibid.*). The ancient Napa River removed most of the landslide debris from the Napa Valley (*ibid.*). The remaining debris formed a raised structure in the valley, and the remaining portion of the caldera formed a horseshoe-shaped ridge to the east. This area is referred to on USGS maps of the Coombsville area as the "cup and saucer," since the raised area resembles a teacup sitting within the curved "saucer" formed by the remaining ridge of the caldera.

The petition states that the earth surface materials that cover the proposed Coombsville viticultural area originated in a variety of ways. A thin coat of residual debris on volcanic bedrock covers the hills. Within the remains of the caldera, alluvial gravels of the Huichica Formation occur in the northern part and diatomaceous lake deposits occur along the northeast edge. The remainder of the surface material is a variety of alluvial deposits laid down since the ancient volcanic collapse (*ibid.*).

The petition did not include data on the geology of the surrounding areas.

##### Geography

As shown in the aerial photograph submitted with the petition, the most notable geographical characteristic of the proposed Coombsville viticultural area is a horseshoe-shaped, elevated landform, part of the Vaca Range ("The Winemaker's Dance—Exploring Terroir in the Napa Valley"). The west-facing horseshoe comprises a ring of volcanic mountains, according to the petition. The elevated cup-and-saucer landform lies partially within the curvature of the horseshoe on the western side of the proposed viticultural area. A small flood plain lies along the proposed western portion of the boundary line near the Napa River and Milliken Creek, the petition explains. The petition states that gentle slopes and rolling terrain extend westward from the Vaca Range and the opening of the horseshoe to the Napa River and Milliken Creek, and that most viticultural activity occurs within this area. The petition states that the Milliken-Sarco-Tulocay watershed, named after the three main creeks in the region, lies within the proposed Coombsville viticultural area. The cup-and-saucer landform presents a drainage obstacle, making Sarco Creek detour to the north and Tulocay Creek flow to the south. Eventually, all drainage flows to the southwest and joins with the south-flowing Napa River, the petition explains.

According to USGS maps, elevations within the proposed Coombsville viticultural area vary from about 10 feet along Milliken Creek and the Napa River shoreline to 1,877 feet at the peak of Mt. George, at the northeast corner of the proposed Coombsville viticultural area along the western ridge of the Vaca Range. The landforms along the remaining caldera wall that forms the edge of the "saucer" vary from approximately 500 to 1,200 feet in elevation, some having steep terrain. The raised "cup" portion of the cup-and-saucer formation exceeds 400 feet in elevation in some areas. The surrounding gentle slopes and rolling terrain which form the bottom of the "saucer" vary from approximately 100 to 200 feet in elevation. The flood plain along the western boundary line varies in elevation from 10 to 20 feet along Milliken Creek and the Napa River.

According to the petition, the combination of unique landforms and large elevation differences gives the proposed Coombsville viticultural area a fog-protected partial basin with high surrounding ridges. The aerial photograph submitted with the petition shows Coombsville as an isolated niche within the larger, more open terrain of the Napa Valley viticultural area. Also, the USGS maps indicate that the Vaca Range to the east provides a natural geographical boundary for the proposed viticultural area.

According to the USGS maps and the petition, the regions surrounding the proposed Coombsville viticultural area have different geographies. To the northwest of the proposed viticultural area lies the Oak Knoll District of Napa Valley viticultural area, which can be distinguished from the proposed Coombsville viticultural area by its low valley floor elevations and the dry creek alluvial fan. To the west lies the City of Napa. To the southwest lies the Los Carneros viticultural area, which can be distinguished from the proposed viticultural area by its low rolling hills, flatlands, and mountainous terrain. To the southeast lies the Solano County Green Valley viticultural area, with a more rugged terrain than the proposed Coombsville viticulture area. To the east lies the Wild Horse Valley viticultural area, which can be distinguished from the proposed viticultural area by its isolated valley and the surrounding steep, rugged terrain and high elevations. To the northeast are the Vaca Mountains, which can be distinguished from the proposed viticultural area by their rugged terrain.

Climate

The petition states that the proposed viticultural area has climatically unique features, including precipitation and heat summation. The petition provides statistical information on the microclimates of the adjacent Los Carneros and Oak Knoll District of Napa Valley viticultural areas, which are both within the larger Napa Valley viticultural area (“The Micro-Climate of the Coombsville Viticultural Area,” Erik Moldstad, Sept. 28, 2009). According to

the petitioner, the isolated Wild Horse Valley and Solano County Green Valley viticultural areas, to the immediate east of the proposed Coombsville viticultural area, lack available weather station data. In considering this petition, TTB obtained historic weather station data for surrounding north, east, south, and west regions within 15 miles or less of the proposed Coombsville viticultural area (Lake Berryessa, Fairfield, Napa State Hospital, and the City of Napa, respectively) from the Western Region Climate Center (WRCC) Web site,

created in partnership with the National Climatic Data Center, Regional Climate Centers, and State Climate Offices.

The table below presents average annual precipitation amounts and heat summation range totals for the Coombsville region, the Los Carneros and Oak Knoll District of Napa Valley viticultural areas, and the surrounding north, east, south, and west weather station areas. The table data is based primarily on petition documentation and also TTB’s WRCC Web site data research.

Climatic averages for Coombsville region and surrounding areas	Coombsville region	Los Carneros viticultural area (southwest)	Oak Knoll District of Napa Valley viticultural area (northwest)	Lake Berryessa (north)	Fairfield (east)	Napa State Hospital (south)	City of Napa (west)
Years .....	2006–2008	2006–2008	2006–2008	1957–1970	1950–2009	1893–2009	1903–1965
Precipitation in inches—annual average .....	19.14	17.32	21.63	24.44	22.77	24.61	24.02
Years .....	1974–2007	1974–2007	1974–2007	1974–2007	1950–2009	1893–2009	1903–1965
Heat summation units—annual average .....	2,550	2,435	2,888	2,611	2,667	2,794	3,233

The table shows that precipitation in the proposed Coombsville viticultural area averages 19.14 inches annually, and varies from the surrounding viticultural microclimates. The Coombsville region is warmer and wetter than the Los Carneros viticultural area to the southwest and cooler and drier than the Oak Knoll District of Napa Valley viticultural area to the northwest, according to Michael Wolf, owner of Michael Wolf Vineyard Services. To the northwest, the Oak Knoll District of Napa Valley viticultural area averages 2.5 inches more annual rainfall. To the southwest, the Los Carneros viticultural area has about 2 inches less rainfall annually. The data in the table indicates that the proposed Coombsville viticultural area averages 3.63 to 5.47 inches less precipitation annually than the four surrounding areas for which weather station data was obtained by TTB.

The growing season in the proposed Coombsville viticultural area is measured in the Winkler climate classification system (“General Viticulture,” Albert J. Winkler, University of California Press, 1974, pages 61–64). In the Winkler system, heat accumulation per year defines climatic regions. As a measurement of heat accumulation during the growing season, 1 degree day accumulates for each degree Fahrenheit that a day’s

mean temperature is above 50 degrees, which is the minimum temperature required for grapevine growth. Climatic region I has less than 2,500 growing degree days (GDD) per year; region II, 2,501 to 3,000; region III, 3,001 to 3,500; region IV, 3,501 to 4,000; and region V, 4,001 or more.

According to the table, the Coombsville region is a low Winkler region II (2,550 GDD units), which is cooler by 61 to 683 degree units than the four surrounding areas from which weather station data was obtained by TTB. The coolest of the four areas is Lake Berryessa to the north at 2,611 GDD units (region II), and the warmest is the City of Napa to the west at 3,233 GDD units (region III). Also, the adjacent Oak Knoll District of Napa Valley viticultural area is significantly warmer at 2,888 GDD units, a high Winkler region II. The adjacent Los Carneros viticultural area is cooler than the proposed Coombsville region (region I) at 2,435 GDD units.

The petition states that significant viticultural factors for the Coombsville region growing season include the amount of solar radiation and daytime heating. The solar radiation and heating are affected by the dissipation rate of morning fog, followed by the number of hours of sunshine, and then the onset of afternoon cooling bay breezes from San Pablo Bay.

The petition states that the effects of the presence and disappearance of fog from the Napa Valley region in the day alters the temperature rise in the grape-growing season. Temperature and sunlight have subtle effects on grape development that, over the growing season, affect grape ripening times and flavors. The pace of sugar accumulation and the pace of the lessening of acidity during grape ripening are two examples of how the fog affects grape development. The petition notes that grape growers in the cooler Los Carneros viticultural area, to the south and closer to the foggy bay, harvest grapes with similar sugar and acidity levels for the same varietal as in the Coombsville region, but do so later in the growing season. To the north of the Coombsville region, in the warmer and less foggy Oak Knoll District of Napa Valley viticultural area, the same varietals with similar sugar and acid levels are harvested earlier than in the Coombsville and Los Carneros areas.

The petition explains that the Coombsville region has more sunlight and daytime heat during the growing season than the Los Carneros viticultural area to the southwest and less than the Oak Knoll District of Napa Valley viticultural area to the northwest. The morning fog generally dissipates about 1 to 2 hours earlier in the Coombsville region than in the Los

Carneros viticultural area to the southwest, and an hour later than in the Oak Knoll District of Napa Valley viticultural area to the northwest. Also, in the afternoon, the bay breezes first cool the Los Carneros viticultural area, then spread slowly northward through the Coombsville region into the Oak Knoll District of Napa Valley viticultural area, and eventually continue northward up the Napa Valley.

According to the petition, as the San Pablo Bay afternoon breezes reach northward to each micro-climate in the Napa Valley region, the air temperature

incrementally stops rising, or slightly decreases. These cool breezes contribute to the differences in maximum daytime temperatures during the growing season for the south-to-north locations in the Los Carneros viticultural area, the Coombsville region, Oak Knoll District of Napa Valley viticultural area, and other Napa Valley viticultural areas.

**Soils**

The petition explains that the soils of the proposed Coombsville viticultural area are generally well drained and of volcanic origin. Upland soils are

weathered from their primary volcanic source, while lowland soils are alluvial in nature (“A Custom Soil Resource Report for Napa County, California—Coombsville Soils,” Natural Resources Conservation Service, United States Department of Agriculture, <http://websoilsurvey.nrcs.usda.gov/>, May 27, 2009). The petitioner provided the following table, which shows the percentages of the predominant soils in the proposed Coombsville viticultural area as compared to surrounding regions, based on information contained in this report.

Viticultural area	Coombsville (percent)	Oak Knoll District of Napa Valley (NW) (percent)	Los Carneros (SW) (percent)	Wild Horse Valley (E) (percent)	West Side Napa River (W) (percent)
<b>Predominant Soil Series:</b>					
Hambright-Rock outcrop .....	28.5	0.6	0.2	15.5	0
Coombs .....	24.1	5.6	0	1.7	5.0
Sobrante .....	15.5	1.1	0	16.0	0
Forward .....	7.4	0.7	7.9	0	0.4
Haire .....	4.5	23.0	43.0	0	10.8
Cole .....	2.6	23.1	10.9	0	47.3

The Hambright-Rock outcrop complex makes up 28.5 percent of the Coombsville area, as shown on the above table, and is found in lesser concentrations to the north, east, and south. The complex is found in the Vaca Range and makes up most of the cup-and-saucer landform soils (*ibid.*).

Coombs gravelly and stony loams represent 24.1 percent of the soils in the Coombsville area, and are found in lesser concentrations to the north, east, and west, as shown on the above table. In addition, those soils are the main types appropriate for grape growing in the Coombsville region. They are alluvial, well drained soils at elevations of 50 to 500 feet. The Coombs soils are “relatively unique to the area,” and they were likely first identified in the Coombsville area, according to the petition. Coombs soils make up only 1.7 percent of the soils in Napa County, but they account for almost a quarter of the Coombsville region soils (*ibid.*).

As shown on the table, Sobrante soils make up 15.5 percent of the Coombsville region, 16 percent to the east in Wild Horse Valley, and a much lesser concentration to the northwest. These soils are well drained and are at elevations of 120 feet and higher.

As shown on the table, soils found in lesser concentrations in the proposed Coombsville viticultural area include Haire and Cole, which have higher concentrations in three of the surrounding areas.

*The Proposed Coombsville Viticultural Area Compared to the North Coast and Napa Valley Viticultural Areas*

**North Coast Viticultural Area**

The North Coast viticultural area was established by T.D. ATF-145, which was published in the **Federal Register** on September 21, 1983 (48 FR 42973). It includes all or portions of Napa, Sonoma, Mendocino, Solano, Lake, and Marin Counties, California. TTB notes that the North Coast viticultural area contains all or portions of approximately 40 established viticultural areas, in addition to the area covered by the proposed Coombsville viticultural area. In the conclusion of the “Geographical Features” section of the preamble, T.D. ATF-145 states that “[d]ue to the enormous size of the North Coast, variations exist in climatic features such as temperature, rainfall, and fog intrusion.”

The proposed Coombsville viticultural area shares the basic viticultural feature of the North Coast viticultural area: the marine influence that moderates growing season temperatures in the area. However, the proposed viticultural area is much more uniform in its geography, geology, climate, and soils than the diverse multicounty North Coast viticultural area. In this regard, TTB notes that T.D. ATF-145 specifically states that “approval of this viticultural area does not preclude approval of additional areas, either wholly contained with the

North Coast, or partially overlapping the North Coast,” and that “smaller viticultural areas tend to be more uniform in their geographical and climatic characteristics, while very large areas such as the North Coast tend to exhibit generally similar characteristics, in this case the influence of maritime air off of the Pacific Ocean and San Pablo Bay.” Thus, the proposal to establish the Coombsville viticultural area is not inconsistent with what was envisaged when the North Coast viticultural area was established.

**Napa Valley Viticultural Area**

The Napa Valley viticultural area was established by T.D. ATF-79, which was published in the **Federal Register** on January 28, 1981 (46 FR 9061), includes most of Napa County, California. As noted in T.D. ATF-79, the Napa Valley viticultural area encompasses “all the areas traditionally known as ‘Napa Valley’ which possess generally similar viticulture characteristics different from those of the surrounding areas.” TTB notes that the Napa Valley viticultural area encompasses 14 existing smaller viticultural areas, in addition to the area covered by the proposed Coombsville viticultural area.

The Coombsville petition states that a Mediterranean climate of warm, dry summers and cool, moist winters dominates the Napa Valley region. Air temperatures in the valley increase from south to north based on the dissipation of the marine fog and cooling winds

from the San Pablo Bay to the south. Precipitation amounts are greater at the north end of the valley, at higher elevations, and in the Mayacmas Mountains on the west side of the valley. Sun exposure is greater on the east side of Napa Valley along the southwest face of the Vaca Range, including the Coombsville region, as compared to the western valley foothills of the Mayacmas Mountains.

According to T.D. ATF-79, the Napa Valley viticultural area contains varieties of both Coombs and Sobrante soils, which are prominent in the Coombsville region. The Napa Valley viticultural area also includes other soil types, including Bale, Cole, Yolo, Reyes, and Clear Lake. The latter soil types are not prominent or are not present in the proposed Coombsville viticultural area, according to the petition. Thus, while the characteristics of the proposed Coombsville viticultural area are generally similar to those of the Napa Valley viticultural area, there are some distinguishing characteristics that warrant its separate designation as a viticultural area.

#### **Notice of Proposed Rulemaking and Comments Received**

TTB published Notice No. 119 regarding the proposed Coombsville viticultural area in the **Federal Register** on May 24, 2011 (76 FR 30052). In that notice, TTB requested comments from all interested persons by July 25, 2011. TTB solicited comments on the accuracy of the name, boundary, climactic, and other required information submitted in support of the petition. TTB expressed particular interest in whether the distinguishing features of the proposed viticultural area are sufficiently different from the established Napa Valley and North Coast viticultural areas, within which the proposed area lies. Additionally, TTB asked if the geographic features of the proposed viticultural area are so distinguishable from the surrounding Napa Valley and North Coast viticultural areas that the proposed Coombsville viticultural area should no longer be part of those viticultural areas.

TTB received 50 comments in response to Notice No. 119. The commenters included 26 self-identified wine industry members and one self-identified representative of a trade association, the Napa Valley Vintners. Forty-nine of the comments express support for the proposed Coombsville viticultural area, and many note the unique climate and distinctive geography of the proposed viticultural area as described in Notice No. 119. The remaining comment, comment 17, notes

a typographical error in the boundary description in paragraph (c)(12) of the proposed regulatory text, which is described in more detail below. There were no comments submitted in opposition to Notice No. 119.

#### **TTB Finding**

After careful review of the petition and the comments received during the comment period, TTB finds that the evidence provided by the petitioner supports the establishment of the proposed Coombsville viticultural area within the Napa Valley and North Coast viticultural areas, as proposed in Notice No. 119, with the alteration to the boundary description as discussed below. Accordingly, under the authority of the Federal Alcohol Administration Act and part 4 of the TTB regulations, TTB establishes the “Coombsville” viticultural area in Napa County, 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. In this final rule, TTB altered some of the language in the written boundary description published as part of Notice No. 119, to conform the written boundary description to the boundary of the proposed viticultural area as marked on the USGS maps and the written description submitted with the petition. As noted in comment 17, in paragraph (c)(12) of the proposed regulatory text, the word “northwest” should have read “northeast.” Paragraph (c)(12) of the final regulatory text contains the correct term “northeast.”

#### *Maps*

The petitioner provided the required maps, and TTB lists them below in the regulatory text.

#### **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine’s true place of origin. With the establishment of this viticultural area, its name, “Coombsville,” is recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the new regulation clarifies this point. Once this final rule becomes effective, wine bottlers using “Coombsville” 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. The establishment of the Coombsville

viticultural area will not affect any existing viticultural area, and any bottlers using Napa Valley or North Coast as an appellation of origin or in a brand name for wines made from grapes grown within the Coombsville viticultural area will not be affected by the establishment of this new viticultural area. The establishment of the Coombsville viticultural area will allow vintners to use “Coombsville,” “Napa Valley,” and “North Coast” as appellations of origin for wines made from grapes grown within the Coombsville viticultural area.

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 being 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). If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that name or term 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 or other term of viticultural significance 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 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**

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 a viticultural area name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

#### **Executive Order 12866**

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

**Drafting Information**

Karen A. Thornton 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, 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 § 9.223 to read as follows:

**§ 9.223 Coombsville.**

(a) *Name.* The name of the viticultural area described in this section is “Coombsville”. For purposes of part 4 of this chapter, “Coombsville” is a term of viticultural significance.

(b) *Approved maps.* The two United States Geological Survey 1:24,000 scale topographic maps used to determine the boundary of the Coombsville viticultural area are titled:

(1) Mt. George Quadrangle, California, 1951, Photoinspected 1973; and

(2) Napa Quadrangle, California-Napa Co., 1951, Photorevised 1980.

(c) *Boundary.* The Coombsville viticultural area is located in Napa County, California. The boundary of the Coombsville viticultural area is as described below:

(1) The beginning point is on the Mt. George map at the 1,877-foot peak of Mt. George, section 29, T6N/R3W. From the beginning point, proceed southeast in a straight line for 0.4 mile to the intersection of the 1,400-foot elevation line and an unnamed intermittent creek that feeds northeast into Leonia Lakes, section 29, T6N/R3W; then

(2) Proceed east-southeast in a straight line for 0.45 mile to the intersection of the 1,380-foot elevation line and an unnamed, unimproved dirt road, and then continue in the same straight line to the section 29 east boundary line, T6N/R3W; then

(3) Proceed south-southeast in a straight line for 0.6 mile to the unnamed 1,804-foot elevation point in the northwest quadrant of section 33, T6N/R3W; then

(4) Proceed south-southwest in a straight line for 1 mile, passing over the

marked 1,775-foot elevation point, to the intersection of the T6N and T5N common line and the 1,600-foot elevation line; then

(5) Proceed south-southeast in a straight line for 1.1 miles to the 1,480-foot elevation point along the section 9 north boundary line, T5N/R3W; then

(6) Proceed south-southwest in a straight line for 1.3 miles to the 1,351-foot elevation point, section 16, T5N/R3W; then

(7) Proceed south-southwest in a straight line for 1.5 miles to the intersection with two unimproved dirt roads and the 1,360-foot elevation line in Kreuse Canyon at the headwaters of the intermittent Kreuse Creek, northeast of Sugarloaf, section 20, T5N/R3W; then

(8) Proceed northwest in a straight line for 1.95 miles to the 90-degree turn of Imola Avenue at the 136-foot elevation point, section 13, T5N/R4W; then

(9) Proceed west along Imola Avenue for 2.1 miles, crossing from the Mt. George map onto the Napa map, to the intersection of Imola Avenue with the Napa River at the Maxwell Bridge, T5N/R4W; then

(10) Proceed north (upstream) along the Napa River for 3.2 miles, crossing over the T6N/T5N common line, to the intersection of the Napa River with Milliken Creek, T6N/R4W; then

(11) Proceed north (upstream) along Milliken Creek for 0.75 mile to the intersection of Milliken Creek with Monticello Road, T6N/R4W; then

(12) Proceed northeast along Monticello Road for 2.4 miles, crossing from the Napa map onto the Mt. George map, to the intersection of Monticello Road with the section 19 west boundary line, T6N/R3W; and then

(13) Proceed east-southeast in a straight line for 1.4 miles to the beginning point, section 29, T6N/R3W.

Signed: September 28, 2011.

**John J. Manfreda,**  
*Administrator.*

Approved: October 19, 2011.

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

[FR Doc. 2011-32018 Filed 12-13-11; 8:45 am]

**BILLING CODE 4810-31-P**

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

[Docket No. TTB-2011-0004; T.D. TTB-98; Re: Notice Nos. 34, 42, and 117]

RIN 1513-AA64

**Establishment of the Fort Ross-Seaview Viticultural Area**

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

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision establishes the 27,500-acre “Fort Ross-Seaview” viticultural area in the western part of Sonoma County, California. 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:** *Effective Date:* January 13, 2012.

**FOR FURTHER INFORMATION CONTACT:** Elisabeth C. Kann, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G St. NW., Room 200E, Washington, DC 20220; phone (202) 453-1039, ext. 002.

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

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) provides for 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) sets forth standards for the preparation, submission, and approval of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.