

Dated: May 19, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-118761-09]

RIN 1545-BI92

Controlled Groups; Deferral of Losses; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to notice of proposed rulemaking (REG-118761-09) that was published in the **Federal Register** on Thursday, April 21, 2011 (76 FR 22336). The proposed regulations provide guidance concerning the time for taking into account deferred losses on the sale or exchange of property between members of a controlled group.

FOR FURTHER INFORMATION CONTACT: Bruce A. Decker at (202) 622-7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this document is under section 267 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG-118761-09) contains errors that are misleading and are in need of clarification.

Correction to Publication

Accordingly, the notice of proposed rulemaking which is the subject of FR Doc. 2011-9606 is corrected as follows:

On page 22336, in the preamble, column 1, under the paragraph heading "Background", line 2, the language "concerning the Federal income tax," is corrected to read "concerning the federal income tax".

On page 22337, in the preamble, column 1, under the paragraph heading "Background", line 14 from the top of the page, the language "entirety. Accordingly, the IRS and the" is

corrected to read "entirety. Accordingly, the IRS and"

LaNita VanDyke,

Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2011-12788 Filed 5-23-11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2011-0006; Notice No. 119]

RIN 1513-AB81

Proposed Establishment of the Coombsville Viticultural Area (2010R-009P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 11,075-acre "Coombsville" viticultural area in Napa County, California. The proposed 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. TTB invites comments on this proposed addition to the TTB regulations.

DATES: TTB must receive your comments on or before July 25, 2011.

ADDRESSES: Please send your comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB-2011-0006 at "Regulations.gov," the Federal e-rulemaking portal);
- *U.S. Mail.* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments TTB receives about this proposal at <http://www.regulations.gov> within Docket No. TTB-2011-0006. A link to that docket is posted on the TTB Web site at http://www.ttb.gov/wine/wine_rulemaking.shtml under Notice No. 119. You also may view copies of this notice, all related petitions, maps or other supporting materials, and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202-453-2270 to make an appointment.

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 202-453-2002.

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 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 prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

- Evidence that the area within the 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 viticultural area;
- A narrative description of the features of the 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 viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the viticultural area, with the boundary of the viticultural area clearly drawn thereon; and
- A detailed narrative description of the viticultural area boundary based on USGS map markings.

Coombsville Petition

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 in Napa County, California. 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) to the northwest and the Los Carneros viticultural area (27 CFR 9.32) to the southwest share portions of their boundary lines with that of the proposed Coombsville viticultural area, and the Wild Horse Valley viticultural area (27 CFR 9.124) to the east and the Solano County Green Valley viticultural area (27 CFR 9.44) 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, in the case of wine using the “Coombsville” name on the label as an appellation of origin, at least 85 percent of the wine must be produced from grapes grown within the boundary of the Coombsville viticultural area.

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, based on 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 because the evidence and other information available 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” and because consumer confusion could ensue if the term “Tulocay,” which for more than 30 years was identified with a particular winery, would suddenly be attributed only to grapes grown from a geographical area.

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 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), according to the petition.

The petition 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 Coombsville region was also recognized as a farming area (“Napa, The Transformation of an American Town,” Lauren Coodley and Paula Schmitt, Arcadia Publishing, 2007, page 61), according to the petition.

The Coombsville region has become well known as an agricultural area through Napa County newspaper reports, according to the petition. 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). That report further noted: “Coombsville is still wild country. The birds are fully protected from the raccoons, dogs and occasional mountain lions” (*ibid.*). 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), according to the petition.

The petition states that the Napa County real estate industry recognizes the Coombsville region in its sale listings. Properties are described as “situated in the prestigious and desirable Coombsville area,” according to a realtor listing on July 7, 2009. A property described as “Coombsville Area at Its Best!” sold for \$600,000 in 2008, according to another realtor. 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 explains that “Coombsville” has national name recognition because of its renown as a wine region in Napa Valley. The following reports appeared in a wine

enthusiast publication: “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

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.

An aerial photograph of the Coombsville region, included in the petition, is described as “a view of the ‘cup-and-saucer’ area of Coombsville, east of the city of Napa” (“The Winemaker’s Dance—Exploring Terroir in the Napa Valley,” Jonathan Swinchatt and David G. Howell, University of California Press, 2004, page 59, figure 34).

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, according to the boundary description in the petition.

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

Citing a report entitled "The Geologic Origin of the Coombsville Area," which is an exhibit to the petition, 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. This process created structural underpinnings for the curved architecture that characterizes the cup-and-saucer topography within the Coombsville region. The eastern part of the Coombsville area is bowl-shaped, reflecting the geologic structure from a caldera landform (*ibid.*), according to the petition.

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. The latest expression of the westward advancing crustal compression is the down-dropped region of Napa Valley and the complementary up-thrown Mayacmas Mountains west of Napa Valley (*ibid.*).

According to the above report, when the crustal uplift passed through the Coombsville region, the western front of the collapsed caldera slid westward as a large landslide into the valley below (*ibid.*). The ancient Napa River removed most of the Coombsville landslide debris from the Napa Valley (*ibid.*).

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 collapsed volcanic region, alluvial gravels of the Huichica Formation occur in the northern part and diatomaceous lake deposits occur along the northeast edge of the Coombsville bowl landform. 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, a horseshoe-shaped, elevated landform, part of the Vaca Range, is the most notable geographical characteristic of the proposed Coombsville viticultural area ("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 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.

As shown in the aerial photograph referred to above, 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 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 outer landforms vary from approximately 500 to 1,200 feet in elevation, some having steep terrain. The inner landforms exceed 400 feet in elevation in some areas, and the

surrounding gentle slopes and rolling terrain to the north, west, and south, between the inner and outer landforms, varies 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 USGS maps.

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; it can be distinguished from the proposed Coombsville viticultural area by more rugged terrain. 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 significantly 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, or 113 percent of the Coombsville regional average. To the southwest, the Los Carneros viticultural area has about 2 inches less rainfall annually, or about 90 percent of the Coombsville regional average. 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 (*ibid.*).

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 Winkler 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 explains.

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, profoundly 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. Also, 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, according to the petition.

The petition explains that the Coombsville region has more solar radiation and daytime heat 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, the petition states.

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. Cool breezes create the differences in maximum growing temperatures for the south-to-north locations of the Los Carneros viticultural area, the Coombsville region, Oak Knoll District of Napa Valley viticultural area, and other Napa Valley viticultural areas, the petition explains.

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	Oak Knoll District of Napa Valley (NW)	Los Carneros (SW)	Wild Horse Valley (E)	West Side Napa River (W)
Predominant soil series	Percent	Percent	Percent	Percent	Percent
Hambricht-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 Hambricht-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. In addition, some Sobrante soils are used for viticulture in the southeast corner of the proposed Coombsville viticultural area (*ibid.*).

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** (48 FR 42973) on September 21, 1983. 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** (46 FR 9061) on January 28, 1981, includes most of Napa County, California. 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 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,” according to T.D. ATF-79.

The Coombsville petition states that a Mediterranean climate of warm, dry summers and cool, moist winters dominate 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 the petition.

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. It also includes other soil types, including Bale, Cole, Yolo, Reyes, and Clear Lake, T.D. ATF-79 states. 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 may warrant its separate designation as a viticultural area.

TTB Determination

TTB concludes that the petition to establish the 11,075-acre Coombsville American viticultural area merits consideration and public comment, as invited in this notice.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and TTB lists them below in the proposed 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. If TTB establishes this proposed viticultural area, its name, "Coombsville," will be recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the new regulation clarifies this point. Consequently, 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.

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.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether the Bureau should establish the proposed viticultural area. TTB also is interested in receiving comments on the sufficiency and accuracy of the name, boundary, climate, soils, and other required information submitted in support of the petition. In addition, given the proposed Coombsville viticultural area's location within the existing Napa Valley and North Coast viticultural areas, TTB is also interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates the proposed viticultural area from those existing viticultural areas. TTB is also interested in comments regarding whether 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. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Coombsville viticultural area on wine labels that include the words "Coombsville," as discussed above under "Impact on Current Wine Labels," TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. As noted above, four bottling wineries that currently use the "Coombsville" name on one or more of their wine labels have provided written assurance

to TTB that, should the Coombsville viticultural area be approved, these label holders will comply with the regulatory requirement that at least 85 percent of any wine with "Coombsville" on the label is derived from grapes grown within the Coombsville viticultural area.

If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example by adopting a modified or different name for the viticultural area.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this notice within Docket No. TTB-2011-0006 on "Regulations.gov," the Federal e-rulemaking portal, at <http://www.regulations.gov>. A direct link to that docket is available under Notice No. 119 on the TTB Web site at http://www.ttb.gov/wine/wine_rulemaking.shtml. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on "User Guide" under "How to Use this Site."
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 119 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via

Regulations.gov, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and you may view, copies of this notice, selected supporting materials, and any electronic or mailed comments TTB receives about this proposal. A direct link to the Regulations.gov docket containing this notice and the posted comments received on it is available on the TTB Web site at http://www.ttb.gov/wine/wine_rulemaking.shtml under Notice No. 119. You may also reach the docket containing this notice and the posted comments received on it through the Regulations.gov search page at <http://www.regulations.gov>.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You also may view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact TTB's information specialist at the above address or by telephone at 202-453-2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed 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 proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

Drafting Information

The Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend 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. ___ to read as follows:

§ 9 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, Photinspected 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 line's 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 Imola Avenue's intersection 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 Napa River's intersection with Milliken Creek, T6N/R4W; then

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

(12) Proceed northwest along Monticello Road for 2.4 miles, crossing from the Napa map onto the Mt. George map, to Monticello Road's intersection 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.

Signed: May 10, 2011.

John J. Manfreda,
Administrator.

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