

upgraded after the effective date of the regulations in this part.

(f) Nothing in this part shall be construed as requiring the use of any particular type of electronic toll collection technology. However, any such toll collection technology must meet the interoperability requirement of this section.

#### **§ 950.9 Enforcement.**

(a) The tolling authority of any facility operating pursuant to authority under a 1604 toll program shall be suspended in the event the relevant toll agency is not in compliance with this part within six (6) months of receiving a written notice of non-compliance from FHWA. If the toll agency demonstrates that it is taking the necessary steps to come into compliance within a reasonable period of time, FHWA shall extend such tolling authority.

(b) The FHWA may take other action as may be appropriate, including action pursuant to § 1.36 of this title.

[FR Doc. E9-24296 Filed 10-7-09; 8:45 am]

BILLING CODE 4910-22-P

## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

[Docket No. TTB-2008-0008; T.D. TTB-82; Re: Notice No. 89]

RIN 1513-AB52

#### **Establishment of the Happy Canyon of Santa Barbara Viticultural Area (2007R-311P)**

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

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

**SUMMARY:** This Treasury decision establishes the 23,941-acre "Happy Canyon of Santa Barbara" American viticultural area in Santa Barbara County, California. This viticultural area lies within the larger Santa Ynez Valley viticultural area and the multicounty Central Coast viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** *Effective Date:* November 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** Brady Groscoft, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G St. NW., Room

200E, Washington, DC 20220; phone 202-927-8210.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background on Viticultural Areas**

###### *TTB Authority*

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

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

###### *Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

###### *Requirements*

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;

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

##### **Petition for Happy Canyon of Santa Barbara**

TTB received a petition from Wes Hagen, Vineyard Manager and Winemaker at Clos Pepe Vineyards, Lompoc, California, on behalf of Happy Canyon vintners and grape growers, proposing the establishment of the Happy Canyon of Santa Barbara American viticultural area. According to the petitioner, the proposed viticultural area encompasses 23,941 acres, 492 acres of which are in commercial viticulture in 6 vineyards. The proposed viticultural area is entirely within the Santa Ynez Valley viticultural area (27 CFR 9.54), which in turn is completely within the multicounty Central Coast viticultural area (27 CFR 9.75).

The petitioner stated that the viticulture of the proposed Happy Canyon of Santa Barbara viticultural area, in eastern Santa Ynez Valley, is distinguishable from that of the rest of the valley, including the Sta. Rita Hills viticultural area (27 CFR 9.162), in western Santa Ynez Valley. We summarize below the supporting evidence submitted with the petition.

###### *Name Evidence*

According to the petitioner and USGS maps, the "Happy Canyon of Santa Barbara" name applies to a canyon located in Santa Barbara County. TTB notes that a search of the USGS Geographical Names Information System (GNIS) includes 10 hits for "Happy Canyon," 3 of which are in California. The petitioner originally proposed "Happy Canyon" as the name of the viticultural area. However, based on results of the GNIS search, TTB determined that the Happy Canyon name would require a geographical modifier to pinpoint its physical location and avoid potential consumer confusion with other identical or similar names. After careful consideration, the petitioner modified the name of the petitioned-for viticultural area to

“Happy Canyon of Santa Barbara.” The petitioner believes that the proposed Happy Canyon of Santa Barbara viticultural area name will identify the area as a unique grape-growing region for both consumers and industry members.

According to the USGS Lake Cachuma, Santa Ynez, and Figueroa Mountain maps that the petitioner provided, Happy Canyon is a region that descends in elevation northeast-to-southwest, north and west of Lake Cachuma in Santa Barbara County. Happy Canyon Road, a light-duty road, meanders through the proposed viticultural area.

A road map of Santa Barbara County shows that the Happy Canyon area and Happy Canyon Road are to the east of the town of Santa Ynez (Automobile Club of Southern California, California State Automobile Association, January 2003 edition). The map also shows that the Happy Canyon area is within Santa Barbara County.

#### *Boundary Evidence*

The petitioner documents that the proposed Happy Canyon of Santa Barbara viticultural area lies in the eastern part of the 40-mile-wide Santa Ynez Valley and the northern part of Santa Barbara County, California. As shown on USGS maps, Happy Canyon comprises canyon terrain, hills, and river and creek basins to the east and south of the San Rafael Mountains, west of Lake Cachuma, and north of the Santa Ynez River.

The petitioner explains that the proposed boundary line of the Happy Canyon of Santa Barbara viticultural area was drawn by a local committee of viticulturists, consultants, and vintners, all of whom had formal training in geology, geography, and agriculture. The proposed boundary line encompasses a unique geological and climatic grape-growing region on the east side of the Santa Ynez Valley viticultural area. The proposed boundary line skirts the San Rafael Mountains to the north, the Los Padres National Forest to the east, and the Lake Cachuma Recreation Area on portions of the south side, according to the written boundary description. The proposed boundary line, continuing in a clockwise direction, incorporates a portion of the Santa Ynez River as the south boundary line, and uses a series of straight lines between elevation points to skirt the steep foothills west of Santa Agueda and Figueroa Creeks.

According to the petitioner, the northern and northeastern portions of the boundary line of the proposed Happy Canyon of Santa Barbara viticultural area are based on the

location of the best grape-growing areas, viable agricultural soils, sparse and rocky pine forests, and high elevations. Photographs and descriptions of the landscape in the proposed viticultural area tell of the change from green pastures to stony, infertile soils at the Los Padres National Forest to the northeast. The U.S. Department of Agriculture, Soil Conservation Service, did not map the soils in the national forest. However, as shown on the USGS maps submitted with the petition, elevations north of Happy Canyon rise from 1,200 to 3,200 feet, far exceeding the average 1,200-foot elevation within the proposed viticultural area.

The USGS maps show that the eastern boundary line of the proposed Happy Canyon of Santa Barbara viticultural area runs, north to south, along the border of the Los Padres National Forest, and continues south along the dividing line of several land grants. The proposed boundary line cuts through steep, mountainous terrain where elevations are between approximately 800 and 3,400 feet. The petitioner explains that the proposed eastern boundary line uses the same line established in 1983 for the eastern border of the Santa Ynez Valley viticultural area. Local winegrowers in Happy Canyon assert that the eastern boundary line applies equally well to the Santa Ynez Valley and the proposed Happy Canyon of Santa Barbara viticultural areas.

According to the written boundary description in the petition and the USGS maps, the southern boundary line of the proposed Happy Canyon of Santa Barbara viticultural area coincides with the southern boundary line of the Santa Ynez Valley viticultural area along the boundary line of the Lake Cachuma Recreation Area to its intersection with the Santa Ynez River. The proposed boundary line then follows the Santa Ynez River west to its intersection with a road, where the boundary line turns north.

The petitioner explains that the committee, in determining the southwestern portion of the boundary of the proposed viticultural area, considered only areas that were traditionally known as Happy Canyon and that had similar potential for viticulture.

The petitioner explains that the central and northerly portions of the western boundary line of the proposed Happy Canyon of Santa Barbara viticultural area define the boundaries of grazed, rolling hills and deep canyons with ridge lines 1,200 to 1,800 feet in elevation. According to the written boundary description and USGS maps,

the rolling foothills of the Santa Agueda Creek Valley, where cattle graze both sides of the creek, lie immediately inside the proposed western boundary line. As the Santa Agueda Creek Valley rises to the west, rolling foothills meet steep canyons at the western boundary line of the proposed Happy Canyon of Santa Barbara viticultural area. The petitioner notes that the steepness of the terrain to the west and outside of the proposed boundary line contrasts with the topography and geology of the preserved oak scrubland, open rolling grazing land, and vineyards to the east, inside the proposed boundary line.

#### *Distinguishing Features*

The petitioner states that the distinguishing features of the proposed Happy Canyon of Santa Barbara viticultural area are climate, topography, drainage, soils, and geology. Happy Canyon, in the eastern portion of the Santa Ynez Valley, and the western portion of the Santa Ynez Valley have overt differences in climate, geological parent material, and soil drainage patterns.

#### *Climate*

According to the petitioner, of all the grape-growing areas in the Santa Ynez Valley, Happy Canyon is the furthest inland and has the warmest climate. It is located in the easternmost part of the Santa Ynez Valley, and the daytime highs and nighttime lows in that part of the county vary more in a 24-hour period than those in other parts of the valley. At about 12 miles west of the proposed viticultural area, the inland mountain ranges change direction from west-east to north-south. The north-south mountain ridge blocks the Pacific coastal breezes, preventing them from cooling the canyon. As a result, the ridge traps in heat in Happy Canyon during the warmer growing months.

The petition for the Happy Canyon of Santa Barbara viticultural area includes climatic data for the period 2004–6 provided by Kerry Martin of Coastal Vineyard Care Associates. Some of the data for the Happy Canyon area and the areas to the west and north of Happy Canyon were obtained from data stations located in vineyards and maintained by Coastal Vineyard Care Associates. The data for the areas to the east and south of Happy Canyon were retrieved from the Western Regional Climate Center (at <http://www.wrcc.dri.edu/>) and the California Irrigation Management Information System (at <http://www.cimicis.water.ca.gov/cimicis/welcome.jsp>), respectively. The petitioner used those data in creating

the table below, which compares growing degree days, based on the Winkler climate classification system, for Happy Canyon and the surrounding areas; see "General Viticulture," by Albert J. Winkler, University of California Press, 1974.

In the Winkler system, 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. The data, in degree days, show that, compared to the Happy Canyon area, areas to the north, south, and west of Happy Canyon average between 5 and 20 percent cooler and the area to the east averages 15 percent warmer.

#### GROWING DEGREE DAYS WITHIN AND OUTSIDE OF HAPPY CANYON, 2004–2006

Location relative to Happy Canyon	2004	2005	2006	Overall average	Percent cooler or warmer than Happy Canyon
In Happy Canyon .....	3,414	3,187	3,419	3,340	Same.
North—Los Alamos .....	3,250	2,700	3,200	3,050	9% cooler.
East—Figueroa Mountain .....	3,872	3,721	3,965	3,853	15% warmer.
South—Santa Barbara .....	2,795	2,537	2,721	2,684	20% cooler.
West—Ballard Canyon .....	3,300	2,950	3,250	3,167	5% cooler.

#### Topography

The petitioner explains that the topography of the proposed Happy Canyon of Santa Barbara viticultural area includes varying elevations, rolling foothills, and a distinctive southwest drainage. According to the USGS maps, the proposed viticultural area lies on the east side and in the higher elevations of the Santa Ynez Valley region. Elevations within the proposed boundary line range from 500 feet in the southwest corner to 3,430 feet in the northeast corner, in the foothills of the San Rafael Range.

The petitioner explains that between the Pacific Ocean and the Santa Ynez Valley, hills and mountains trend west-to-east. As the elevation of the Santa Ynez Valley rises from west to east, the hills and mountains turn from a west-east direction to a generally north-south direction. The proposed viticultural area, located inland, lies along mountains and hills with a north-south orientation.

#### Drainage

According to the petitioner, the southwest drainage pattern of the proposed viticultural area is comparatively unique. To the west of the proposed boundary line, between Santa Agueda Creek and Figueroa Mountain Road, the drainage pattern trends south-southeast.

#### Soils and Geology

According to the current soil survey, the two major soil types in the proposed Happy Canyon of Santa Barbara viticultural area are related to topography ("Soil Survey of Northern

Santa Barbara Area, California," issued by the United States Department of Agriculture, Soil Conservation Service, 1972). Alluvial soils are at lower elevations and on bottoms of canyons; upland soils are at higher elevations of canyons and on surrounding peaks and hilltops.

The petitioner explains that the current soil survey shows that the soil characteristics of the proposed Happy Canyon of Santa Barbara viticultural area include green serpentine (magnesium silicate hydroxide) parent material, elevated levels of exchangeable magnesium, lower levels of exchangeable sodium, and a high cation exchange capacity (CEC). High CEC levels, because of the amount of positively charged ions in the soils, increase the uptake of nutrients by plant roots.

The proposed viticultural area comprises the Shedd-Santa Lucia-Diablo and Toomes-Climara associations on uplands. The Shedd-Santa Lucia-Diablo association consists of strongly sloping to very steep, well drained shaly clay loams and silty clays. The Toomes-Climara association consists of moderately steep to very steep, somewhat excessively drained and well drained clay loams and clays.

The Chamise-Arnold-Crow Hills association is of greater extent in the western portion of the Santa Ynez Valley viticultural area, west of the proposed Happy Canyon of Santa Barbara viticultural area. This association consists of gently sloping to very steep, well drained and somewhat excessively drained sands to clay loams on high terraces and uplands.

The petitioner explains that the soils in the western portion of the Santa Ynez Valley viticultural area, compared to the soils in the proposed Happy Canyon of Santa Barbara viticultural area, have less magnesium, a significantly lower CEC level, and higher amounts of exchangeable sodium. Although drainage patterns change along the proposed western boundary line, the soils on both sides of the boundary line are similar.

The Positas-Ballard-Santa Ynez soil association is scattered throughout much of the southern part of the proposed Happy Canyon of Santa Barbara viticultural area. Sedimentary rock, unfavorable for viticulture, is predominant along the south side of the Santa Ynez River, outside the proposed boundary line.

The petitioner provides the results of two soil studies conducted in connection with the proposed Happy Canyon of Santa Barbara viticultural area. The first study details the differences in CEC among soils tested at sites in the proposed viticultural area and in areas immediately southwest and further west of the proposed boundary line, in the western end of the Santa Ynez Valley. The study shows that the soils in the proposed viticultural area have significantly more magnesium and an elevated CEC level as compared to the soils in areas beyond the proposed boundary line to the southwest and west (see table below). The petitioner also notes that the levels of calcium and sodium in the soils in the Happy Canyon are less than half those in the soils to the southwest and west.

## CATION EXCHANGE CAPACITY (CEC) IN SOILS WITHIN AND OUTSIDE OF HAPPY CANYON

[meq/100g = milliequivalents of cations absorbed per 100 grams of soil]

Location	Magnesium	Calcium	Sodium	Total CEC in meq/100g
	Percent of total CEC			
Westerly Vineyard (in Happy Canyon) .....	74.1	23.1	0.72	32.0
Armour Ranch Road and Hwy 154 (1 mile southwest of Happy Canyon) .....	34.4	60.0	2.0	12.5
Clos Pepe (in the Sta. Rita Hills viticultural area, in the west end of Santa Ynez Valley) .....	26.0	61.0	5.0	11.6

The second study that the petitioner provided examines the differences in soils in the proposed Happy Canyon of Santa Barbara viticultural area and in canyons outside the boundary line, as far west as Figueroa Mountain Road, which is located approximately 4 miles

away. The study is based on an acreage table of the soils on approximately 35,000 acres within the proposed viticultural area and on an equal number of acres to the west (see "Soil Survey of Northern Santa Barbara Area, California"). The results of that study

confirm the differences in total acreage and slope of soils in areas on either side of the proposed western boundary line of the Happy Canyon of Santa Barbara viticultural area (see table below).

## DOMINANT SOIL MAP UNITS WITHIN AND OUTSIDE OF HAPPY CANYON

Soil symbol and soil name	Number of map units/percentage of survey area	Percentage slope
<b>Happy Canyon of Santa Barbara (East of Foothills Adjacent to Santa Agueda Creek)</b>		
DaF—Diablo silty clay .....	28/14	30 to 45 percent.
SrG3—Shedd silty clay loam .....	23/12	9 to 30 percent.
SdC—Salinas silty clay loam .....	11/6	2 to 9 percent.
ChF—Chamise shaly loam .....	11/6	15 to 45 percent.
SrG—Shedd silty clay loam .....	11/6	9 to 30 percent.
<b>Figueroa Area (West of Foothills and Santa Agueda Creek to Figueroa Mountain Road)</b>		
PtC—Positas fine sandy loam .....	25/17	2 to 9 percent.
ChF—Chamise shaly loam .....	22/15	15 to 45 percent.
PtD—Positas fine sandy loam .....	13/9	9 to 15 percent.
CkF—Chamise clay loam .....	11/8	30 to 45 percent.
SnC—Santa Ynez gravelly fine sandy loam .....	11/8	9 to 15 percent.

According to the petitioner, the results of the soil study above show a unique geological pattern that justifies placing the western portion of the proposed boundary line in the vicinity of the Santa Agueda and Figueroa Creeks. The results also show that the Happy Canyon area comprises a group of soils different from those found to the west.

*Notice of Proposed Rulemaking and Comments Received*

TTB published Notice No. 89 regarding the proposed Happy Canyon of Santa Barbara viticultural area in the **Federal Register** (73 FR 46830) on August 12, 2008. In that notice, TTB invited comments by October 14, 2008, from all interested persons. We expressed particular interest in receiving comments on whether the evidence regarding name and distinguishing features is sufficient to

warrant the establishment of this new viticultural area within the existing Santa Ynez Valley and the larger Central Coast viticultural areas. We also solicited comments on the sufficiency and accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. We received seven comments from individuals in response to that notice, and all supported the establishment of the Happy Canyon of Santa Barbara viticultural area as originally proposed.

**TTB Finding**

As stated above, the proposed viticultural area is entirely within the Santa Ynez Valley viticultural area (27 CFR 9.54), which in turn is completely within the multicounty Central Coast viticultural area (27 CFR 9.75). The Central Coast viticultural area, established by T.D. ATF-216 published in the **Federal Register** on October 24,

1985 (50 FR 43128), identified an area between the Pacific Ocean and the California Coastal Ranges as being under marine influence on climate. T.D. ATF-216 stated that the marine influence caused precipitation, heat summation, maximum high temperatures, minimum low temperatures, length of frost free season, wind, marine fog incursion, and relative humidity to be significantly different from those on the opposite side of the Coastal Ranges, which is typically arid or semiarid. It also recognized the existence of microclimates within this relatively large AVA. The Santa Ynez Valley viticultural area, established by T.D. ATF-132 published in the **Federal Register** on April 15, 1983 (48 FR 16250), was recognized as having a cool Region II climate on the Winkler system, citing the average degree days in Solvang in the center of the valley, and also that summertime temperatures increase going west to east. T.D. ATF-

132 also identifies rainfall average of 16 inches, fog, and three major soils associations (Positas-Ballard-Santa Ynez, Chamise-Arnold-Crow Hill, and Shedd Santa Lucia-Diablo) as being distinguishing geographical features. Although the proposed Happy Canyon of Santa Barbara viticultural area shares some of the characteristics of the Central Coast and Santa Ynez Valley viticultural areas, its location furthest inland and near a north-south mountain ridge blocking some of the marine influence and its unique soil characteristic of high CEC justify recognition of Happy Canyon of Santa Barbara as a distinct viticultural area within the two existing AVAs.

Accordingly, after careful review of the petition and the comments received, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the "Happy Canyon of Santa Barbara" viticultural area in Santa Barbara 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.

#### *Maps*

The maps for determining the boundary of the viticultural area are listed 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 and its inclusion in part 9 of the TTB regulations, its name, "Happy Canyon of Santa Barbara," is recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation clarifies this point.

Once this final rule becomes effective, wine bottlers using "Happy Canyon of Santa Barbara" 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 full 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 viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a previously approved label uses the name "Happy Canyon of Santa Barbara" for a wine that does not meet the 85 percent standard, the previously approved label will be subject to revocation, upon the effective date of the establishment of the Happy Canyon of Santa Barbara viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name or other term of viticultural significance that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

#### **Regulatory Flexibility Act**

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

#### **Executive Order 12866**

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

#### **Drafting Information**

Brady Groscof of the Regulations and Rulings Division drafted this notice.

#### **List of Subjects in 27 CFR Part 9**

Wine.

#### **The Regulatory Amendment**

■ For the reasons discussed in the preamble, we amend title 27 CFR, chapter I, part 9, as follows:

#### **PART 9—AMERICAN VITICULTURAL AREAS**

■ 1. The authority citation for part 9 continues to read as follows:

*Authority:* 27 U.S.C. 205.

#### **Subpart C—Approved American Viticultural Areas**

■ 2. Subpart C is amended by adding § 9.217 to read as follows:

##### **§ 9.217 Happy Canyon of Santa Barbara.**

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

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

- (1) Los Olivos, CA, 1995;
- (2) Figueroa Mountain, CA, 1995;
- (3) Lake Cachuma, CA, 1995; and
- (4) Santa Ynez, CA, 1995.

(c) *Boundary.* The Happy Canyon of Santa Barbara viticultural area is located in Santa Barbara County, California. The boundary of the Happy Canyon of Santa Barbara viticultural area is as described below:

(1) The beginning point is on the Los Olivos map at the intersection of the Santa Lucia Ranger District diagonal line and Figueroa Mountain Road, a light-duty road, section 27, T8N, R30W. From the beginning point, proceed southeast along the Santa Lucia Ranger District diagonal line, crossing onto the Figueroa Mountain map, and continuing east to its intersection with the northwest corner of section 6, T7N, R29W; then

(2) Proceed straight south along the R29W and R30W line, which is a boundary line of the Los Padres National Forest, to its intersection with the southwest corner of section 18 that coincides with one of the two 90-degree, southwest corners of the Los Padres National Forest, T7N, R29W; then

(3) Proceed east, south, and then east, along the boundary line of the Los Padres National Forest, to its intersection with the boundary line of the Cañada de Los Pinos, or College Rancho Grant, at the northwest corner of section 28, T7N, R29W; then

(4) Proceed straight south along the boundary line of the Cañada de Los Pinos, or College Rancho Grant, crossing onto the Lake Cachuma map, to its intersection with the 1,074-foot Bitt elevation point and the Lake Cachuma Recreation Area boundary line, section 17 east boundary line, T6N, R29W; then

(5) Proceed generally southwest along the Lake Cachuma Recreation Area boundary line to its intersection with the Santa Ynez River to the west of Lake Cachuma and Bradbury Dam, T6N, R30W; then

(6) Proceed generally west along the Santa Ynez River, crossing onto the Santa Ynez map, and continuing to its intersection with California State Road 154, northwest of BM 533, T6N, R30W; then

(7) Proceed north-northwest in a straight line 1.2 miles to the marked 924-foot elevation point, T6N, R30W; then

(8) Proceed north-northwest in a straight line 1.2 miles to the "Y" in an unimproved road 0.1 mile south of the 800-foot elevation line, west of Happy Canyon Road, T6N, R30W; then

(9) Proceed north-northwest in a straight line for 0.5 mile, crossing onto the Los Olivos map, and continuing to the marked 1,324-foot elevation point, 0.5 mile southwest of Bar G O Ranch, T7N, R30W; then

(10) Proceed north-northwest in a straight line for 2.5 miles crossing over the marked 1,432-foot elevation point in section 9, then continue in a straight line northerly 1.4 miles to the marked 1,721-foot elevation point in section 4, T7N, R30W; then

(11) Proceed north in a straight line 1.4 miles to the marked 2,334-foot elevation point, west of a meandering unimproved road and south of Figueroa Mountain Road, T8N, R30W; then

(12) Proceed east-northeast in a straight line, returning to the beginning point.

Signed: April 27, 2009.

**John J. Manfreda,**  
Administrator.

Approved: June 11, 2009.

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

**Editorial Note:** This document was received in the Office of the Federal Register on October 5, 2009.

[FR Doc. E9-24329 Filed 10-7-09; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

#### 31 CFR Part 1

#### Privacy Act; Implementation

**AGENCY:** Office of the Secretary, Treasury.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury exempts a new Internal Revenue Service (IRS) system of records entitled "Treasury/IRS 50.222—Tax Exempt/Government Entities (TE/GE) Case Management Records" from certain provisions of the Privacy Act.

**DATES:** *Effective Date:* October 8, 2009.

**FOR FURTHER INFORMATION CONTACT:** Telephonic inquiries should be directed to Marianne Davis, Program Analyst, Internal Revenue Service, TE/GE Division, at telephone number (949) 389-4304. Written inquiries should be directed to Robert Brenneman, TE/GE Reporting and Electronic Examination System (TREES) Project Manager, at Internal Revenue Service, TE/GE Business Systems Planning (SE:T:BSP), 1111 Constitution Avenue, NW., Attn: PE-6M4, Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:** The Department of the Treasury published a notice of proposed rule on December 7, 2005 (Volume 70, No. 234), pages 72739-72740, exempting the new system of records from certain provisions of the Privacy Act of 1974, as amended. The IRS published the proposed system notice in its entirety on December 7, 2005 (Volume 70, Number 234), pages 72876-72878.

Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system contains investigatory material compiled for law enforcement purposes. Treasury/IRS 52.222—Tax Exempt/Government Entities (TE/GE) Case Management Records contains investigatory material compiled for law enforcement purposes.

The proposed rule requested that public comments be sent to the Office of Governmental Liaison and Disclosure, 1111 Constitution Avenue, NW., Washington, DC 20224, no later than January 6, 2006.

The IRS received one comment on the proposed rule and the system of records notice urging the IRS: (1) not to exempt the system of records from requirements that its information be relevant and necessary for its purpose; and, (2) to limit the scope of its exemptions from the Privacy act requirements to provide access and correction rights to individuals.

After consideration, the IRS determined that the public comment did not present any new information that would be a basis for changes being made to the proposed rule or system of records notice because: (1) Relevance and necessity can only be established

with certainty after the information is evaluated; and, (2) the access provisions, as written, are consistent with the language and intent of the Privacy Act, comport with the Treasury regulation language for (k)(2), and explain that the release of information to the individual covered by the system would provide the individual or entity subject to investigation with significant information concerning the nature of the investigation and could result in altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation. Accordingly, the Department of the Treasury is hereby giving notice that the system of records entitled "Treasury/IRS 50.222—Tax Exempt/Government Entities (TE/GE) Case Management Records" is exempt from certain provisions of the Privacy Act.

The provisions of the Privacy Act from which the system of records is exempt pursuant to 5 U.S.C. 552a(k)(2) are as follows: 552a(c)(3), (d)(1), (2), (3) and (4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) because the system contains investigatory material compiled for law enforcement purposes.

The following are the reasons why this system of records maintained by the IRS is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974.

(1) 5 U.S.C. 552a(c)(3). This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c)(1) and (2) to the individual named in the record at his/her request. The reasons for exempting this system of records from the foregoing provision are:

(i) The release of disclosure accounting would put the tax exempt or government entity subject to investigation or individuals connected with those entities on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to which disclosure was made. The release of such information to the individual covered by the system would provide the individual or entity subject to investigation with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation.