

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the A.I.D. Administrator.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the A.I.D. Administrator shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the A.I.D. Administrator that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the A.I.D. Administrator shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The A.I.D. Administrator may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the ALJ in an initial decision.

(k) The A.I.D. Administrator shall promptly serve each party to the appeal with a copy of his/her decision. At the same time, the authority head shall serve the defendant with a statement describing the defendant's right to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of his/her decision, a determination that a defendant is liable under § 224.3 is final and is not subject to judicial review.

§ 224.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the A.I.D. Administrator a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 224.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 224.42 Judicial review.

Section 3805 of Title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 224.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of Title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 224.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 224.42 or § 224.43, or any amount agreed upon in a compromise or settlement under § 224.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under the subsection against a refund of an over payment of Federal taxes, then or later owing by the United States to the defendant.

§ 224.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 224.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The A.I.D. Administrator has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during pendency of any review under § 224.42 or during the pendency of any action to collect penalties and assessments under § 224.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 224.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the A.I.D. Administrator, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the A.I.D. Administrator, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 224.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 224.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 224.10(b) shall be deemed notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Ain H. Kivimaa,

Deputy Assistant to the Administrator for Management.

April 13, 1987.

[FR Doc. 87-8840 Filed 4-20-87; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-250 Re: Notice No. 570]

Establishment of the Northern Neck George Washington Birthplace Viticultural Area.

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final Rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in the tidewater area of Virginia to be known as the Northern Neck George Washington Birthplace. Because the viticultural area named has five words, it may appear on wine labels or in advertisement on one line or two (in the same size and style of print type). This viticultural area is a five-county peninsula or neck located to the east of Fredericksburg, Virginia. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling

and advertising will help consumers identify the wines they may purchase. It will also allow wineries to better designate the specific grape-growing area where their wines come from.

EFFECTIVE DATE: May 21, 1987

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR, Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin. Section 4.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region, distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

The petition should include:

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural area from the surrounding areas;

(d) A description of the specific boundaries of the viticultural area based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF received a petition proposing an American viticultural area to be known as George Washington Birthplace. The

petitioner, Carl F. Flemer, Jr. is the owner of Ingleside Plantation Vineyards, a bonded winery located in Oak Grove, Westmoreland County, Virginia. The 590,080-acre (922 square mile) viticultural area includes all the land in the five counties (Westmoreland, King George, Richmond, Northumberland and Lancaster) of the Northern Neck. There are 16 established vineyards and one winery with a total of 92.5 acres planted in *Vitis Vinifera* and French-American hybrid grapes located within the boundary of the viticultural area. The petitioner owns a bonded winery located within a few miles of the historic National Park Service landmark (known as George Washington Birthplace National Monument). The monument, which consists of a park facility and memorial home (the original home of George Washington was destroyed by fire), is located on 538 acres of land.

Notice of Proposed Rulemaking

In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 570, in the Federal Register on Tuesday, September 17, 1985 (FR 37692). That notice proposed establishment of the Northern Neck viticultural area and solicited public comment concerning the proposal.

ATF had determined that the name Northern Neck satisfied informational requirements that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition. ATF felt that the evidence for the use of the name George Washington Birthplace to describe the entire five-county petitioned area was not conclusive.

Name of the Area

ATF initially had reservations about the use of the petitioned name George Washington Birthplace for the entire five-county peninsula because of insufficient evidence to substantiate its use in describing this area. Furthermore, the name Northern Neck appeared to be more appropriate than that of George Washington Birthplace because of the content of the name evidence provided by the petitioner.

The petitioner acknowledged that the petitioned area is locally known as the Northern Neck. However, he claimed that the name Northern Neck is not very well known throughout the rest of Virginia and is almost unknown regionally and nationally. The petitioner stated that George Washington's name and close relationship to the five-county area was the most important and readily recognizable name associated with the

area. On this basis, the petitioner still maintained that the name George Washington Birthplace was the most appropriate name for the viticultural area.

The evidence of name submitted by the petitioner did not establish that the name George Washington Birthplace was predominantly associated with the petitioned five-county area of land. On the hand, the evidence showed that the name Northern Neck has been well documented for over three centuries and is still used today in maps and other commonly used reference sources to describe the five-county peninsula.

Discussion of Comments

In Notice No. 570, ATF invited comments from interested parties regarding the proposal of the establishment of the Northern Neck viticultural area. ATF was particularly interested in receiving comments regarding evidence of name and boundary of the viticultural area.

ATF received 81 comments during the 45-day comment period. None of those comments disputed the geographical evidence (climate, soil, etc.) or boundaries presented in the notice of proposed rulemaking. However, all of the comments addressed whether the name of the viticultural area should be Northern Neck or George Washington Birthplace. Seventy-four of the comments favored the name George Washington Birthplace, 6 of the comments favored the name Northern Neck and 1 comment favored either name.

Approved Name

Although the petitioner and commenters provided some evidence supporting use of the name George Washington Birthplace, the evidence that the entire peninsula is locally or nationally known as referring to the area specified in the petition, more strongly supports the name Northern Neck. The land area proposed by the petitioner encompasses the entire neck or peninsula separated by the Rappahannock and Potomac Rivers and the Chesapeake Bay.

The notice of proposed rulemaking referred to many sources that identified the five-county area as the Northern Neck.

The notice also documented that George Washington's name was associated with entire Northern Neck because he was born there and frequented the area throughout his life. Today, both names are found on landmarks and businesses located

within the boundaries of the five-county area.

In addition, evidence gathered during the rulemaking process from sources such as the University of Virginia, The College of William and Mary, George Mason University, Rappahannock Community College, and the Commonwealth of Virginia, shows that both names have been used to identify the area. Furthermore, the names George Washington Birthplace and Northern Neck are often used together to identify and describe the area because of the unique history of the five-county area and the important link our first president had to it.

Therefore, a viticultural area name combining the names Northern Neck and George Washington Birthplace has been approved by ATF. The use of these two names on wine labels and advertisements would insure consumer recognition as to the identity and origin of the wine. This combined name is appropriate since the Northern Neck is, in fact, the birthplace of America's first president, George Washington.

Evidence of Boundaries

The Northern Neck George Washington Birthplace viticultural area is a peninsula bounded on the north by the Potomac River and Potomac Creek, on the east by the Chesapeake Bay, on the south by the Rappahannock River and on the west by the King George County/Stafford County line. The boundaries of the viticultural area were prominently marked by the petitioner on two U.S.G.S. maps.

The map names and complete boundary descriptions can be found in the new § 9.109, as added by this Treasury Decision. Having verified the boundaries, ATF agrees that they meet the requirements for approval of the Northern Neck George Washington Birthplace as an American viticultural area.

Evidence of Geographical Characteristics

Climate and Rainfall

The Northern Neck George Washington Birthplace viticultural area extends approximately 100 miles from the Chesapeake Bay westward to within a few miles of the City of Fredericksburg, Virginia. The distance on land from north to south between the Potomac and Rappahannock Rivers varies from 10 to 20 miles, making the area a long narrow neck or peninsula between the two tidal rivers. The climate begins to change throughout the proposed viticultural area, from the gentle influence of the Chesapeake Bay

and the Potomac and Rappahannock Rivers to the more harsh influences of Piedmont Virginia in the interior land areas.

Historical evidence of favorable grape-growing conditions within the viticultural area was documented in Notice No. 570. The climate of the Northern Neck George Washington Birthplace viticultural area is greatly influenced by the Chesapeake Bay, the Potomac and Rappahannock Rivers. The viticultural area is almost surrounded by these bodies of water. The fanning effect from these waters tend to moderate the climate, and this is the chief reason native stands of longleaf pine (*pinus taeda*), southern bayberry (*myrica cerifera*) and other plants are found growing from King George County eastward to the Chesapeake Bay. These varieties of native stands are not found in any substantial degree to the west of King George County in Stafford County. By contrast there are native stands of hemlock (*tsuga canadensis*) in Stafford County which are not found anywhere on the Northern Neck.

These climate features are the main characteristics which distinguish the Northern Neck George Washington Birthplace from the surrounding areas, and support its designation as a distinguishable viticultural area.

Soils

The Northern Neck George Washington Birthplace viticultural area is entirely within the Northern Coastal Plain with topography running into two general agricultural types called neckland and upland. Neckland, located along the river flats, is nearly level with a gently sloping plateau along the center of the Northern Neck with elevations beginning at 50 feet above sea level and reaching 190 feet above sea level in the western areas of Westmoreland and King George Counties.

The soils of the Northern Neck have been formed from material that has been transported by marine and steam action. The soils are also varied in age; the upland ridges are older and well drained while soils of the necklands are considered younger soils.

Sandy clay and other well-drained soil types are found on the ridge which extends generally through the center of King George County and eastward through Westmoreland County. Other agricultural soils are found along each of the rivers, in what is generally called the river flats, with excellent air drainage and a moderating climate influenced by the huge bodies of surrounding water.

Conclusion

The climate of the Northern Neck George Washington Birthplace viticultural area is milder, its native plants are of more southern variety, its snowfall less severe, its frost free days greater, and its temperatures more even and moderate than the adjoining Piedmont Plateau Region located to the west. This climate produces favorable grape-growing conditions. The U.S. Department of Agriculture classifies the soils of the Northern Neck as prime farmland. These factors, combined with a short but freezing winter season, abundant yearly rainfall, and a generally dry, sunny, grape ripening and harvest time, provide favorable grape-growing conditions for wine production.

After careful analysis of the evidence gathered pursuant to the petition, ATF finds the Northern Neck George Washington Birthplace viticultural area to be a delimited grape-growing region distinguishable by geographical features.

Miscellaneous

ATF does not wish to give the impression by approving Northern Neck George Washington Birthplace as an American viticultural area that it is approving or endorsing the quality of the wine that comes from this area. ATF is approving this area as being distinct and not better than other areas. By approving this area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Northern Neck George Washington Birthplace wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. This final rule will not impose or otherwise cause a significant increase in reporting, recordkeeping, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not classified as a "major rule" within the meaning of Executive Order 12291. 46 FR 13193 (1981), because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is proposed.

Disclosure

A copy of the petition and supporting evidence are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4406, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue NW., Washington, DC 20226.

Drafting Information

The principal author of this document is Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Issuance**PART 9—[AMENDED]**

Accordingly, 27 CFR Part 9, American Viticultural Areas, is amended as follows:

Paragraph A. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. B. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.109, to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *
9.109 Northern Neck George Washington Birthplace.

Par. C. Subpart C of 27 CFR Part 9 is amended by adding § 9.109, which reads as follows:

§ 9.109 Northern Neck George Washington Birthplace.

(a) *Name.* The name of the viticultural area described in this section is "Northern Neck George Washington Birthplace."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Northern Neck George Washington Birthplace viticultural area are 2 U.S.G.S. 1:250,000 scale maps. They are entitled:

- (1) Washington, DC; Maryland; Virginia, 1957 (Revised 1979); and
- (2) Richmond, VA; MD., 1973.

(c) *Boundaries.* The Northern Neck George Washington Birthplace viticultural area consists of all of the lands in the Counties of Westmoreland, King George, Northumberland, Lancaster and Richmond, in the Commonwealth of Virginia. The boundaries of the Northern Neck George Washington Birthplace viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows:

(1) Beginning on the Washington, DC; Maryland; Virginia U.S.G.S. map at a point on Potomac Creek where the King George County western boundary line at its northernmost point intersects Potomac Creek the boundary proceeds easterly and southeasterly on the Richmond, VA; MD. U.S.G.S. map, along the Virginia shoreline of the Potomac River for approximately 86 miles to Smith Point on the Chesapeake Bay;

(2) Thence southerly along the shoreline of the Chesapeake Bay for approximately 20 miles to Windmill Point at the mouth of the Rappahannock River;

(3) Thence northwesterly along the banks of the Rappahannock River for approximately 72 air miles to Muddy Creek at the point where the western boundary line of King George County at its southernmost point begins;

(4) Thence northward along the King George County/Stafford County line

approximately 7 miles to the point of the beginning.

March 30, 1987.

Stephen E. Higgins,
Director.

Approved: April 3, 1987

John P. Simpson,
Deputy Assistant Secretary, Regulatory,
Trade and Tariff Enforcement.

[FR Doc. 87-8860 Filed 4-20-87; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 3**

[CGD 87-008]

Changes to Coast Guard District Boundaries and Reassignment of Units

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule redescrines the boundaries of Coast Guard Districts and reassigns various Marine Inspection and Captain of the Port Zones to reflect organizational changes in the Coast Guard. The Coast Guard, in conjunction with an internal realignment of support functions, is reducing the number of Coast Guard districts from 12 to 10. The Third and Twelfth Coast Guard Districts are being disestablished. The geographic area previously under the jurisdiction of the Twelfth Coast Guard District is being absorbed into the Eleventh Coast Guard District. The geographic area previously under the jurisdiction of the Third Coast Guard District is being divided; the northern portion becomes part of the First Coast Guard District and the southern portion becomes part of the Fifth Coast Guard District. This rule also assigns the Marine Inspection and Captain of the Port Zones previously in the Twelfth District to the Eleventh District, and those previously in the Third District to the First and Fifth Coast Guard Districts. These organizational changes will not affect any Coast Guard services to the public.

FOR FURTHER INFORMATION CONTACT: LCDR E.A. CALHOUN, Commandant U.S. Coast Guard (G-CPA), Washington, DC (202-267-2405).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not prepared for this regulation. These amendments are matters relating to agency organization and are exempt from the notice and comment requirements of 5 USC 553(b). Since this rule reflects current organizational