

term “pure” as it relates to those commodities.

#### V. Request for Comments

TTB is considering whether to amend the regulations concerning the use of the word “pure” or its variants in the labeling and advertising of alcohol beverage products. To assist TTB in identifying and implementing the best course of action, we wish to gather information by inviting comments from the public and industry as to how, if at all, the existing regulations should be amended. In addition to general comments on the issue, we are seeking comments on the following specific questions.

A. What does the general public consider the word “pure” to mean when used on labels and in advertisements of alcohol beverage products? Does its use convey information to the consumer about the identity and quality of the product? Does its use convey information about the alcohol content of a product?

B. TTB considers variants of the word “pure” such as “pureness,” “purest,” and “purity” to fall within the purview of the pure regulations. Are these variants misleading and, if so, should TTB amend the regulations to prohibit their use? Should TTB limit the scope of the pure regulations to the word “pure” only?

C. Would the use of terms or claims such as “pure vodka,” “pure whisky,” “vodka with exceptional purity” on distilled spirits labels and in advertisements mislead consumers? Would the use of similar terms or claims on wine and malt beverage products mislead consumers?

D. Should TTB amend the pure regulations to allow the use of the word “pure” and its variants on distilled spirits labels and in advertisements if the statements are truthful? How can TTB substantiate the truthfulness of such claims? How should pure be defined?

E. Should TTB permit the use of the word “pure” or its variants on distilled spirits product labels and in advertisements if those products meet a certain standard? If so, what should that standard be?

F. What would be the impact of allowing the use of these terms?

G. Should TTB prohibit the use of the word “pure” and its variants on labels and in advertisements for malt beverages and wine products? Why or why not?

#### VI. Submitting Comments

Please submit your comments by the closing date shown above in this notice.

Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- *Mail*: You may send written comments to TTB at the address listed in the **ADDRESSES** section.

- *Facsimile*: You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

- (1) Be on 8.5 by 11-inch paper;

- (2) Contain a legible, written signature; and

- (3) Be no more than five pages long.

This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *E-mail*: You may e-mail comments to [nprm@ttb.gov](mailto:nprm@ttb.gov). Comments transmitted by electronic mail must—

- (1) Contain your e-mail address;

- (2) Reference this notice number on the subject line; and

- (3) Be legible when printed on 8.5 by 11-inch paper.

- *Online form*: We provide a comment form with the online copy of this notice on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the “Send comments via e-mail” link under this notice number.

- *Federal e-Rulemaking Portal*: To submit comments to us via the Federal e-rulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

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, in light of all circumstances, whether to hold a public hearing.

#### Confidentiality

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

#### Public Disclosure

You may view copies of this advance notice, the petitions, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 by 11-inch page. Contact our librarian at the above address or telephone 202–927–2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this advance notice and any comments

we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online copy of this notice, visit <http://www.ttb.gov/alcohol/rules/index.htm>. Select the “View Comments” link under this notice number to view the posted comments.

#### VII. Drafting Information

Lisa M. Gesser and Joanne C. Brady of the Regulations and Procedures Division drafted this advance notice.

Signed: September 29, 2005.

**John J. Manfreda,**  
Administrator.

Approved: November 3, 2005.

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

[FR Doc. 05–23680 Filed 12–6–05; 8:45 am]

**BILLING CODE 4810–31–P**

#### DEPARTMENT OF THE TREASURY

#### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Notice No. 54]

RIN 1513–AA89

#### Proposed Establishment of Tracy Hills Viticultural Area (2003R–508P)

**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 39,200-acre Tracy Hills viticultural area in San Joaquin and Stanislaus Counties, California, approximately 55 miles east-southeast of San Francisco. 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. We invite comments on this proposed addition to our regulations.

**DATES:** We must receive written comments on or before February 6, 2006.

**ADDRESSES:** You may send comments to any of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 54, P.O. Box 14412, Washington, DC 20044–4412.

- 202–927–8525 (facsimile).

- [nprm@ttb.gov](mailto:nprm@ttb.gov) (e-mail).

• <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.

• <http://www.regulations.gov> (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this notice by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400. You may also access copies of the notice and comments online at <http://www.ttb.gov/alcohol/rules/index.htm>.

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.

**FOR FURTHER INFORMATION CONTACT:** N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415-271-1254.

**SUPPLEMENTARY INFORMATION:**

**Background on Viticultural Areas**

*TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

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 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 9.3(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.

**Tracy Hills Petition**

TTB has received a petition from Sara Schorske of Compliance Service of America, Inc., filed on behalf of the Brown family, owners of a vineyard near Tracy, California. The petitioner proposes to establish the 39,200-acre "Tracy Hills" viticultural area south and southwest of the city of Tracy, California, in southern San Joaquin and northern Stanislaus Counties. Located approximately 55 miles east-southeast of San Francisco, the proposed Tracy Hills viticultural area currently encompasses 1,005 acres of vineyards. The proposed area is not within, nor does it include, any other proposed or established viticultural area. The distinguishing climatic features of the proposed viticultural area, the petition states, include the area's limited rainfall and consistent winds, along with its sparse fog, frost, and dew.

Originally, the petitioner proposed the name "Mt. Oso" for this viticultural area. However, after a careful evaluation of the original petition, TTB concluded, and advised the petitioner, that the submitted evidence did not demonstrate, as required by section

9.3(b)(1) of the TTB regulations, that the proposed viticultural area is locally or nationally known as Mt. Oso. In response, the petitioner amended the petition to propose use of the name "Tracy Hills" for the proposed viticultural area. The petitioner also has revised the proposed viticultural area's western boundary and submitted additional evidence to support the amended petition. We summarize below the information submitted in support of the petition.

*Name Evidence*

The petitioner states that the name "Tracy," which is used to identify the city of Tracy, California, and its surrounding agricultural land, together with the geographical modifier "Hills," accurately describes and names the proposed Tracy Hills viticultural area. Stating that the name "Tracy Hills" is "locally and nationally associated with the proposed area," the petition discusses the rationale for the Tracy Hills name and offers examples of its use for the land within the proposed viticultural area.

The petition included copies of eight newspaper articles from the Tracy Press featuring petitioner Jeff Brown's Mt. Oso Vineyards or wines made from its grapes. The articles list the vineyard's location as Tracy, demonstrating, according to the petition, the close association between the proposed area's vineyards and the "Tracy" name.

However, the petition states that the use of "Tracy" alone for the proposed viticultural area does not accurately describe the area and would mislead consumers about the specific location of the area. The proposed viticultural area includes only a small part of the land within the Tracy city limits, and it does not include all the land surrounding the city of Tracy. Due to differences in climate, soil, water table levels, and slope, the land to the north, east, and southeast of Tracy is excluded from the proposed viticultural area.

Therefore, the petitioner emphasizes that it would be misleading and inaccurate to name the proposed viticultural area "Tracy," without the addition of the "Hills" modifier. In support of this usage, the petitioner cites the use of "Valley" as a modifier in the names of the Napa Valley viticultural area (27 CFR 9.23), which surrounds the city of Napa, and the Temecula Valley viticultural area (27 CFR 9.50), which lies outside the city of Temecula in southern California.

To further support the use of the proposed "Tracy Hills" name, the petitioner notes that the Coast Range foothills southwest of the city of Tracy,

the lower elevations of which are included within the proposed viticultural area, are informally called "the Tracy Hills," and the petitioner provides examples of the name's association with the proposed area.

The petition states that "Tracy Hills" is the name of a large real estate development located on the southwest side of the city of Tracy along either side of Interstate Highway 580 (I-580). Part of the Tracy Hills development, the petition notes, is within the northern portion of the proposed Tracy Hills viticultural area. In 1998, the city of Tracy annexed the development, according to a July 7, 2004, Stockton Record newspaper article, "Council Delays Tracy Hills Vote," included in the revised petition. The revised petition also included copies of, or statements from, Federal government environmental reports from the early 1990s, a 1999 Sierra Club newsletter, and newspaper articles from the Sacramento Bee and the Tracy Press that discuss the Tracy Hills real estate development and its location, growth, and impact on local water resources.

In addition, the petition included evidence of other references to the Tracy Hills name. For example, the petition includes a map of the proposed Northern California Passenger Rail Network. This map shows a future high-speed rail line running through Altamont Pass and, east of the pass, a "Tracy Hills" station within the Tracy Hills development. The petition also includes information about the "Tracy Hills Ride," sponsored by the San Joaquin Valley Rangers horse enthusiasts club ([www.sjvr.org](http://www.sjvr.org)). This horseback ride begins and ends within the proposed area along State Highway 132 (Bird Road), according to club information included in the petition. A 1995 NASCAR publication, the petition states, places the reopened Altamont Raceway "in the Tracy hills," while a September 29, 2003, East Bay Business Times article titled "Sutter, Kaiser Build Up Valley Presence," notes that a donor gave 20 acres "in the Tracy hills" for a hospital.

#### *Boundary Evidence*

Located south and southwest of the city of Tracy in southern San Joaquin and northern Stanislaus Counties, California, the proposed Tracy Hills viticultural area largely lies between State Route 33 to the east and Interstate 580 to the west, with a portion of the area reaching west of the Interstate into the foothills of the Diablo Mountains. The proposed area is about 15 miles long northwest to southeast, and about 5 miles wide east to west.

The portion of the Tracy Hills real estate development appropriate for viticulture, the petitioner explains, is included in the northern region of the proposed Tracy Hills viticultural area. Other parts of the proposed viticultural area lie within the rural, San Joaquin Valley agricultural lands to the southwest and south of the city of Tracy, according to the provided USGS maps and the California State Automobile Association Central California map of May 2001.

The boundary of the proposed Tracy Hills viticultural area, according to the petitioner, encompasses viticultural features that distinguish the proposed area from the regions north, east and southeast of the city of Tracy. According to the petitioner, these distinguishing features include the proposed area's microclimate, soils, and slope.

The proposed Tracy Hills viticultural area, which is nestled between the lower elevations of the San Joaquin River valley floor to the east and the steeper terrain of the Diablo Range to the west, has east-sloping terrain, as shown on the provided USGS maps. The proposed viticultural area boundary encompasses a 400-foot change in elevation and includes streams and east-sloping alluvial fans and plains, according to the petitioner and the provided USGS maps.

The petitioner notes that the 100-foot to 500-foot elevation within the proposed Tracy Hills viticultural area is distinct from the surrounding areas. To the west of the proposed boundary line are the significantly higher elevations and steep terrain of the Diablo Range, as noted on USGS maps of the area. To the north and east are the nearly sea level flood plains of the San Joaquin River. The proposed southern boundary line, according to the petitioner, is the dividing point between two alluvial fans.

The petitioner states that the proposed Tracy Hills viticultural area soils are predominantly of alluvial origin from the higher Diablo Range elevations, beyond the proposed boundary. While similar to the soils found to the south, the petitioner explains that the alluvial soils of the proposed area are distinct from the mountainous sedimentary soils to the west, the organic peat soils to the north, and the heavy clay soils to the east.

The petitioner also states that the proposed Tracy Hills viticultural area has a distinctive microclimate, which contrasts with the climate found in the surrounding region. The proposed area, the petition states, is located within the rain shadow created by Mt. Oso, which is located to the proposed area's

southwest in the Diablo Mountains. This rain shadow effect gives the proposed viticultural area a drier climate with less fog, dew, frost, and hail. Beyond the proposed boundary to the west, north, and south, the distinctive differences in geography and proximity to the Altamont Pass create a wetter, windier climate, according to the petition.

#### *Distinguishing Features*

##### *Topography*

The western portion of the proposed Tracy Hills viticultural area lies in the eastern foothills of the Diablo Range, while the remainder of the proposed area slopes to the east towards the lower elevations of the San Joaquin River valley, according to the provided USGS maps. This transitional terrain, between 500 feet and 100 feet in elevation, creates a 400-foot drop within a 3 to 3.7 mile west-to-east span, giving the proposed area a 2 percent to 2.5 percent slope, as noted in the petition.

Three intermittent streams, Corral Hollow, Lone Tree, and Hospital Creeks, flow east through the proposed Tracy Hills viticultural area, to the San Joaquin Valley flood plain, the petitioner explains. Flowing down from the higher Diablo Range elevations, these streams created the alluvial fans and deposits found within the proposed Tracy Hills viticultural area.

##### *Climate*

The petitioner emphasizes that the unique climate of the proposed Tracy Hills viticultural area is its most distinctive characteristic. The sheltering effect of Mt. Oso and the Diablo Range, the marine winds coming through the Altamont Pass, and the cold air drainage from the higher mountain elevations, the petitioner explains, create a microclimate in the proposed Tracy Hills area with the lowest annual rainfall in the Tracy region. The petitioner adds that these climatic elements combine to produce a microclimate with less rain, fog, dew, and frost than the surrounding areas.

##### *Rainfall*

As noted above, the proposed Tracy Hills viticultural area is located on the west side of the San Joaquin Valley area and, therefore, according to the petitioner, is in the rain shadow of Mt. Oso in the Diablo Range. This rain shadow creates an environment with less precipitation than the surrounding areas, the petitioner adds. Based on its proximity to the 3,347-foot sheltering Mt. Oso peak, the proposed Tracy Hills viticultural area has 8 to 9 inches of

annual rain, the petitioner explains, which is the lowest in the region. According to the provided San Joaquin County Soil Survey map, the average annual precipitation, in inches, in the surrounding regions of San Joaquin County is at least 10 inches. Also, at the higher mountain elevations, about 9 miles west of the proposed boundary line, the rainfall map shows about 18 inches, or twice the rainfall of the proposed Tracy Hills viticultural area. To the north, along the San Joaquin Valley floor, the precipitation increases correspond to the longer distances from

the rain shadow, with Stockton at about 13 inches of rain and Lodi at 16 inches of rain annually, according to the provided rainfall map.

Temperature

The temperatures found in the proposed Tracy Hills viticultural area vary from the surrounding areas, according to the petitioner. A statistical table (compiled by Stan Grant of Progressive Viticulture, Turlock, California) shows the average annual heat accumulation at various weather stations in the greater Tracy region

during the 1990s as measured in degree days. (Each degree that a day's mean temperature is above 50 degrees F, which is the minimum temperature required for grapevine growth, is counted as one degree day; see "General Viticulture," Albert J. Winkler, University of California Press, 1975.) These 10-year averages reflect lower and upper threshold temperatures of 50 to 115 degrees F, respectively. All mileages are according to California State Automobile Association's Central California map of May 2001.

1990-1999 DEGREE DAY AVERAGES

Weather station	Degree days	County	Direction/ distance from the proposed Tracy Hills viticultural area
Tracy-Carbona .....	4,033	San Joaquin .....	On site.
Brentwood .....	3,776	Contra Costa .....	West 23 miles.
Manteca .....	3,726	San Joaquin .....	North 10 miles.
Modesto .....	4,446	Stanislaus .....	East 14 miles.
Newman .....	4,498	Stanislaus .....	South 22 miles.

Brentwood is closer to the cooling maritime influences of San Francisco Bay and the Carquinez Strait, according to the petitioner, while Manteca is directly in the path of the cooling marine winds blowing through the Altamont Pass. The proposed Tracy Hills viticultural area is located a short distance south of Altamont Pass, while Modesto is about 25 miles south of the pass. Newman, the warmest region, is 40 miles south of the pass and its cooling marine winds, the petitioner states.

Wind

The petitioner explains that the degree day measurement of heat accumulation referred to above does not indicate seasonal vine growth and development as accurately when fog, clouds, and a prevailing wind affect the proposed viticultural area. The significance of wind is noted in a 1943 USDA Soil Survey of the Tracy area:

Aside from the soil and moisture conditions, which have the most important bearing on crops that can be grown in this area, another factor that has a definite influence is wind. The wind during certain

seasons is very strong, blowing from the northwest along the western side of the San Joaquin Valley.

The constant wind of the Altamont Pass has a cooling effect on vineyards within the proposed Tracy Hills viticultural area through evaporation of moisture on grapevine leaves, according to the petitioner. The earth-warmed marine air and winds of the Livermore Valley blow west-to-east through the Pass, into the San Joaquin Valley, and then south, passing directly over the proposed viticultural area, the petitioner explains. Also, the down-slope winds from the Diablo Range have a cooling climatic influence on the area's agriculture.

Frost and Fog

The petitioner states that residents and workers in the proposed Tracy Hills viticultural area have observed certain distinctive climatic characteristics within the area. Frost is "unknown," the petitioner explains, although it occurs beyond the proposed viticultural area boundary. Ground fog forms to the south of the proposed Tracy Hills viticultural area and gradually extends

north, according to the petitioner. If the fog does invade the proposed area at all, the petitioner notes that it is usually short-lived.

Soil

As noted in the soil maps submitted with the petition, the soils in the proposed Tracy Hills viticultural area are recent alluvial deposits from the intermittent streams flowing down from the upper elevations of the Diablo Range to the San Joaquin Valley floor. The geologic fans and fan terraces found along the Corral Hollow, Hospital and Lonetree Creeks meld into one vast alluvial plain, according to the San Joaquin County Soil Survey.

The soils found on this alluvial plain are very deep, well-drained to moderately well-drained, and have water tables deeper than six feet. Silty and clay soils are found at the lower elevations of this alluvial plain, while at its higher elevations, soils are generally gravelly and the alluvial deposits are eroded with deep drainage cuts. The principal soils are listed in the table below.

SOIL TYPES IN PROPOSED TRACY HILLS VITICULTURAL AREA

Soil type	Location	Elevation (in feet)
Carbona clay loam .....	Uplifted, dissected terraces .....	500-130
Zacharias gravelly clay loam .....	Alluvial fans, low stream terraces .....	300-50
Stomar clay loam .....	Alluvial fans .....	300-40
El Solyo clay loam .....	Alluvial fans .....	300-60

## SOIL TYPES IN PROPOSED TRACY HILLS VITICULTURAL AREA—Continued

Soil type	Location	Elevation (in feet)
Vernalis clay loam .....	Alluvial fans .....	300–25
Vernalis-Zacharias complex .....	Alluvial fans .....	250–25
Capay clay .....	Interfan basins .....	200–30
Capay clay, wet .....	Interfan basins .....	140–25

Beyond the boundary of the proposed Tracy Hills viticultural area, the soils and their origins differ, according to the petitioner. To the north are the low-elevation organic peat soils of the Sacramento-San Joaquin Delta region. To the east, and generally below the 100-foot elevation, are heavy clay soils with higher water tables created by irrigation and proximity to the San Joaquin River. To the south, the soils and terrain are similar to the proposed Tracy Hills viticultural area, with the proposed boundary line primarily defining the border between the alluvial fans of Hospital Creek, which is within the proposed viticultural area, and Ingram Creek, which is further to the south. To the west, and above the 500-foot elevation in the upper foothills of the Diablo Range, the soils are primarily gravelly, older alluvial deposits. Also to the west, the soils are rolling to very steep and situated on terrain of uplifted, dissected terraces and mountains, developed on bedrock.

#### *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 we list 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 we establish this proposed viticultural area, its name, "Tracy Hills," will be recognized as a name of viticultural significance. Consequently, wine bottlers using "Tracy Hills" 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. On the other hand, we do not believe that any single part of the proposed viticultural area name standing alone, such as "Tracy," would have

viticultural significance if the new viticultural area were to be established. Accordingly, the proposed part 9 regulatory text set forth in this document specifies only the full "Tracy Hills" name as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other requirements of 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name 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 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 new label or a previously approved label uses the name "Tracy Hills" for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the Tracy Hills viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name 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*

We invite comments from interested members of the public on whether we should establish the proposed viticultural area. We are also interested in receiving comments on the sufficiency and accuracy of the name, climatic, boundary, and other required information submitted in support of the petition. In particular, we are concerned about the adequacy of the petition's name evidence. Accordingly, we are seeking information in this regard from persons familiar with the area as to whether the "Tracy Hills" name

reasonably applies to the entire region encompassed within the boundary of the proposed viticultural area, and, if not, whether any suitable alternative names exist for the proposed area. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Tracy Hills viticultural area on brand labels that include the words "Tracy Hills" as discussed above under Impact on Current Wine Labels, we also are particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example by adopting a modified or different name for the viticultural area.

Although TTB believes that only the full name "Tracy Hills" should be considered to have viticultural significance upon establishment of the proposed viticultural area, we also invite comments from those who believe that "Tracy" standing alone would have viticultural significance. Comments in this regard should include documentation or other information supporting the conclusion that use of "Tracy" on a wine label could cause consumers and vintners to attribute to the wine in question the quality, reputation, or other characteristic of wine made from grapes grown in the proposed Tracy Hills viticultural area.

##### *Submitting Comments*

Please submit your comments by the closing date shown above in the notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we regard all comments as originals.

You may submit comments in one of five ways:

- *Mail*: You may send written comments to TTB at the address listed in the **ADDRESSES** section.

- *Facsimile*: You may submit comments by facsimile transmission to 202-927-8525. Faxed comments must—

- (1) Be on 8.5- by 11-inch paper;
- (2) Contain a legible, written signature; and

- (3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *E-mail*: You may e-mail comments to [nprm@ttb.gov](mailto:nprm@ttb.gov). Comments transmitted by electronic mail must—

- (1) Contain your e-mail address;
- (2) Reference this notice number on the subject line; and
- (3) Be legible when printed on 8.5- by 11-inch paper.

- *Online Form*: We provide a comment form with the online copy of this notice on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the “Send comments via e-mail” link under this notice number.

- *Federal e-Rulemaking Portal*: To submit comments to us via the Federal e-rulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

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, in light of all circumstances, whether to hold a public hearing.

#### Confidentiality

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

#### Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our librarian at the above address or by telephone at 202-927-2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online

copy of this notice and the submitted comments, visit <http://www.ttb.gov/alcohol/rules/index.htm>. Select the “View Comments” link under this notice number to view the posted comments.

#### Regulatory Flexibility Act

We certify 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, 58 FR 51735. Therefore, it requires no regulatory assessment.

#### Drafting Information

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

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

Wine.

#### Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 9, as follows:

#### PART 9—AMERICAN VITICULTURAL AREAS

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

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

2. Amend subpart C by adding § 9.\_\_\_\_ to read as follows:

#### Subpart C—Approved American Viticultural Areas

##### § 9.\_\_\_\_ Tracy Hills

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

(b) *Approved Maps*. The appropriate maps for determining the boundary of the Tracy Hills viticultural area are five United States Geological Survey 1:24,000 scale topographic maps. They are titled:

- (1) Tracy, Calif., 1954, photorevised 1981;
- (2) Vernalis, Calif., 1991;
- (3) Solyo, Calif., 1953, photorevised 1971, photoinspected 1978;

- (4) Lone Tree Creek, Calif., 1955, photorevised 1971; and

- (5) Midway Calif., 1953, photorevised 1980.

(c) *Boundary*. The Tracy Hills viticultural area is located in southwestern San Joaquin County and northwestern Stanislaus County. The boundary of the Tracy Hills viticultural area is defined as follows—

- (1) The point of beginning is on the Tracy map at the intersection of the Delta-Mendota Canal and Lammers Ferry Road, along the western boundary line of section 6, T3S/R5E. From that point, proceed 0.4 mile generally southeast along the Delta-Mendota Canal to its intersection with the Western Pacific railway line along the southern boundary line of section 6, T3S, R5E (Tracy map); then

- (2) Proceed 5.6 miles straight east along the Western Pacific railway line and then along Linne Road to the intersection of Linne Road and Lehman Road, along the northern boundary line of section 12, T3S, R5E (Vernalis map); then

- (3) Proceed 1.5 miles straight south and then east along Lehman Road to its intersection with Bird Road at the southeast corner of section 12, T3S, R5E (Vernalis map); then

- (4) Proceed 1 mile straight south along Bird Road to its intersection with Durham Ferry Road at the southeast corner of section 13, T3S, R5E (Vernalis map); then

- (5) Proceed 1.9 miles straight east along Durham Ferry Road to its intersection with State Highway 33 along the northern boundary line of section 20, T3S, R6E (Vernalis map); then

- (6) Proceed 5.1 miles straight southeast along State Highway 33, passing the hamlet of Vernalis, to the highway's intersection with McCracken Road along the eastern boundary of section 2, T4S, R6E (Solyo map); then

- (7) Proceed 3.4 miles straight south along McCracken Road to its intersection with Hamilton Road at the southeast corner of section 23, T4S, R6E (Solyo map); then

- (8) Proceed 2.4 miles straight west along the southern boundary lines of sections 23, 22 and 21, T4S, R6E, crossing the Delta-Mendota Canal and the California Aqueduct, to the junction of the southern boundary of section 21, the 500-foot elevation line, and the western-most transmission line, (Solyo map); then

- (9) Proceed 4.2 miles generally northwest along the meandering 500-foot elevation line to section 18, T4S, R6E, where the 500-foot elevation line crosses all of the transmission lines and

then continues northwest a short distance to the eastern-most transmission line in the northwest quadrant of section 18, T4S, R6E, (Solyo map); then

(10) Proceed 8.45 miles straight northwest along the eastern-most transmission line, crossing from the Solyo map, over the Lone Tree Creek map, to the Tracy map, and continue to the transmission line's intersection with the western boundary of section 19, T3S, R5W, about 0.7 mile north-northeast of Black Butte (Tracy map); then

(11) Proceed in a straight line 2 miles northwest to the line's intersection with the 500-foot elevation line, immediately north of an unimproved road, at about the mid-point of the western boundary line of section 12, T3S, R4E (Tracy map); then

(12) Proceed 0.65 mile straight north along with western boundaries of section 12 and section 3 to the section line's intersection with Interstate 580, section 3, T3S, R4E (Tracy map); then

(13) Proceed 0.8 mile straight northwest along Interstate 580 highway to its intersection with the Western Pacific railway in section 2, T3S, R4E (Midway map); then

(14) Proceed easterly 0.7 mile along the Western Pacific railway to its intersection with the eastern boundary line of section 2, T3S, R4E (Tracy map); and

(15) Proceed east for 1 mile in a straight line, returning to the point of beginning at the intersection of Delta-Mendota Canal and Lammers Ferry Road (Tracy map).

Signed: November 3, 2005.

**John J. Manfreda,**

*Administrator.*

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**BILLING CODE 4810-31-P**

## DEPARTMENT OF THE TREASURY

### 31 CFR Part 1

#### Privacy Act; Proposed Implementation

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Proposed rule.

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

**DATES:** Comments must be received no later than January 6, 2006. You may also submit comments through the Federal rulemaking portal at <http://www.regulations.gov> (follow the instructions for submitting comments).

**ADDRESSES:** Please submit comments to the Office of Governmental Liaison and Disclosure, 1111 Constitution Avenue, NW., Washington, DC 20224. Comments will be made available for inspection at the IRS Freedom of Information Reading Room (Room 1621), at the above address. The telephone number for the Reading Room is (202) 622-5164.

**FOR FURTHER INFORMATION CONTACT:**

Telephonic inquiries should be directed to Marianne Davis, Program Analyst, Internal Revenue Service, Tax Exempt/Government Entities Division (TE/GE), 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:** Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system contains investigatory material compiled for law enforcement purposes. The IRS is hereby giving notice of a proposed rule to exempt "IRS 50.222 Tax Exempt/Government Entities (TE/GE) Case Management Records" from certain provisions of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption is from provisions 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. A proposed notice to establish the Privacy Act system of records will be published separately in the **Federal Register**.

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). These provisions of the Privacy Act provide 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 provisions 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 tax exempt or government entity subject to investigation, or individuals connected with those entities, 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. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the tax exempt or government entity subject to investigation, would provide information concerning the scope of the investigation, and could aid the individual in impeding or compromising investigations by those agencies.

(2) 5 U.S.C. 552a (d) (1), (2), (3) and (4), (e) (4) (G), (e) (4) (H), and (f). These provisions of the Privacy Act relate to an individual's right to be notified of: The existence of records pertaining to such individual; requirements for identifying an individual who requested access to records; the agency procedures relating to access to records; the content of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems.

The reasons for exempting this system of records from the foregoing provisions are as follows:

Notifying an individual (at the individual's request) of the existence of an investigative file pertaining to such individual or granting access to an investigative file pertaining to such individual could: Interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by