

Pinot Meunier (Meunier)  
\* \* \* \* \*

Piquepoul blanc (Picpoul)  
Prairie Star  
\* \* \* \* \*

Princess  
\* \* \* \* \*

Refosco (Mondeuse)  
\* \* \* \* \*

Reliance  
\* \* \* \* \*

Rkatsiteli (Rkatziteli)  
\* \* \* \* \*

Rondinella  
\* \* \* \* \*

Sabrevois  
\* \* \* \* \*

Sagrantino  
\* \* \* \* \*

St. Pepin  
St. Vincent  
\* \* \* \* \*

Sauvignon gris  
\* \* \* \* \*

Seyval blanc (Seyval)  
Shiraz (Syrah)  
\* \* \* \* \*

Trebbiano (Ugni blanc)  
\* \* \* \* \*

Valdepeñas (Tempranillo)  
\* \* \* \* \*

Valiant  
Valvin Muscat  
\* \* \* \* \*

Vergennes  
Vermentino  
\* \* \* \* \*

Vignoles (Ravat 51)  
\* \* \* \* \*

White Riesling (Riesling)  
Wine King  
\* \* \* \* \*

Zinthiana  
Zweigelt

■ 3. Section 4.92 is amended by removing the word “prime” or “Prime” wherever it appears, and by adding new paragraph (d) to read as follows:

**§ 4.92 Alternative names permitted for temporary use.**

\* \* \* \* \*

(d) *Wines bottled prior to October 29, 2012.*

*Alternative Name/Name  
Agwam—Agawam*

Signed: August 22, 2011.

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

Approved: September 6, 2011.

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

[FR Doc. 2011–27812 Filed 10–26–11; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Alcohol and Tobacco Tax and Trade  
Bureau**

**27 CFR Part 9**

[Docket No. TTB–2010–0003; T.D. TTB–96;  
Notice Nos. 105, 107, and 112]

RIN 1513–AB41

**Establishment of the Pine Mountain-  
Cloverdale Peak Viticultural Area**

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

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

**SUMMARY:** This document establishes the 4,570-acre “Pine Mountain-Cloverdale Peak” viticultural area in portions of Mendocino and Sonoma Counties, California. The Alcohol and Tobacco Tax and Trade Bureau designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** *Effective date:* November 28, 2011.

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

**SUPPLEMENTARY INFORMATION:**

**Background on Viticultural Areas**

*TTB Authority*

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

Part 4 of the TTB regulations (27 CFR part 4) provides for the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation, submission, and approval of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.

*Definition*

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

*Requirements*

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

- Evidence that the area within the viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the viticultural area;
- A narrative description of the features of the viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make it distinctive and distinguish it from adjacent areas outside the viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the viticultural area, with the boundary of the viticultural area clearly drawn thereon; and
- A detailed narrative description of the viticultural area boundary based on USGS map markings.

**Pine Mountain-Mayacmas Petition**

Sara Schorske of Compliance Service of America prepared and submitted a petition on her own behalf and on behalf of local wine industry members to establish the 4,600-acre Pine Mountain-Mayacmas American viticultural area in northern California.

Located approximately 90 miles north of San Francisco and 5 miles north-northeast of Cloverdale, the proposed viticultural area surrounds much of Pine Mountain, which rises to the east of U.S. 101 and the Russian River, to the north of that river's Big Sulphur Creek tributary, and to the immediate west of the Mayacmas Mountains. Approximately two-thirds of the proposed viticultural area lies in the extreme southern portion of Mendocino County, with the remaining one-third located in the extreme northern portion of Sonoma County.

According to the petition and the written boundary description, the proposed viticultural area is totally within the multicounty North Coast viticultural area (27 CFR 9.30) and overlaps the northernmost portions of the Alexander Valley viticultural area (27 CFR 9.53) and the Northern Sonoma viticultural area (27 CFR 9.70). The proposed area currently has 230 acres of commercial vineyards, the petition states, with another 150 acres under development.

The petition states that the distinguishing features of the proposed viticultural area include its mountainous soils, steep topography with high elevations, and a growing season climate that contrasts with the climate of the Alexander Valley floor below. Also, the petition notes that vineyards within the proposed viticultural area generally are smaller than the vineyards found on the Alexander Valley floor.

The supporting evidence presented in the petition is summarized below.

#### *Name Evidence*

According to the petition, the "Pine Mountain-Mayacmas" name combines the names of the major geographical features found within the proposed viticultural area and serves to locate the proposed area within northern California. As shown on the provided USGS maps, the proposed viticultural area surrounds Pine Mountain, a 3,000-foot peak located on the western flank of the Mayacmas Mountains in northern Sonoma and southern Mendocino Counties.

The northern portion of the 1998 USGS Asti, California, quadrangle map shows Pine Mountain rising to 3,000 feet in southern Mendocino County, near the Sonoma County line. Also, as shown on the Asti map, Pine Mountain Road climbs from the Cloverdale area and marks a portion of the proposed viticultural area's southern boundary.

The October 2000 edition of the California State Automobile Association's Mendocino and Sonoma Coast road map shows the Mayacmas Mountains running north-northwest approximately from Mount St. Helena, and continuing through the Pine Mountain region to Lake Mendocino. A 1956 regional map produced by the State of California Division of Forestry, as provided with the petition, shows Pine Mountain located northeast of Cloverdale.

The 1982 publication, "Cloverdale Then & Now—Being a History of Cloverdale, California, Its Environs, and Families," refers to the Pine Mountain junction and the Pine Mountain toll road in discussing the early roads of the region (page 3). This publication also includes a 1942 picture of homesteaders Hubert and George Smith on Pine Mountain (page 6). A 1985 article in the Redwood Rancher, "The Early Wineries of the Cloverdale Area," by William Cordtz, discusses the grape growing of Mrs. Emily Preston in the late 1800s. The article states that the Preston Winery "was on Pine Mountain immediately north of the present U.S. 101 bridge north of Cloverdale."

The petition also notes that the Pine Mountain Mineral Water Company bottled water from springs located on Pine Mountain for more than 50 years, until the mid-1900s. A copy of one of the company's bottle labels included with the petition prominently displays the "Pine Mountain" name with a tall mountain in the background and springs in the foreground.

As noted in the petition and as shown on USGS maps, the Mayacmas Mountain range covers portions of Mendocino, Sonoma, Napa, and Lake Counties. The Mayacmas Mountain range separates Lake County from Mendocino, Sonoma, and Napa Counties, and, the petition states, that range defines the northern side of the Alexander Valley. According to the petition, the mountains were named for the Mayacmas Indians. Although the name is sometimes spelled "Mayacamas" or "Maacama," "Mayacmas" is the spelling used on USGS maps.

Noting that the name "Pine Mountain" is commonly used throughout the United States, the petition states that the use of "Mayacmas" in the proposed viticultural area's name acts as a geographic modifier that pinpoints the proposed viticultural area's northern California location. The petitioners

believe that "California" is not an appropriate geographical modifier for the viticultural area's name because there are other Pine Mountains in California. The USGS Geographical Names Information System (GNIS), for example, lists 21 additional "Pine Mountains" in California.

The petition also notes that the Mayacmas Mountains "are closely associated with winegrowing" because the range is home to many vineyards and wineries. The Mayacmas range, the petition states, divides the grape growing regions of Ukiah and Clear Lake, and borders the Alexander Valley viticultural area as well as the Napa Valley (27 CFR 9.23) and Sonoma Valley (27 CFR 9.29) viticultural areas. The petition states that "Mayacmas is an ideal modifier" to distinguish the proposed viticultural area "from other places with similar names" and will "help consumers easily ascertain its general location."

#### *Boundary Evidence*

According to the petition, the proposed 4,600-acre viticultural area encompasses those portions of Pine Mountain and the mountain's lower slopes that are suitable for viticulture. The petition states that the boundary was drawn in consideration of the mountain's varying steepness, water availability, and solar orientation.

The petition notes that within the proposed viticultural area, vineyard development is generally limited to small, 5- to 20-acre plots of flat or gently sloping ground found within the proposed area's mountainous terrain. Size-limiting factors for these mountain vineyard operations, the petition explains, include the need for tractor use and economical erosion control. The mountain vineyards' patchwork arrangement, the petition continues, contrasts to the larger vineyards, some of 100 acres or more, found on the floor of the nearby Alexander Valley.

The petition states that the south and southwest sides of Pine Mountain, which are included within the boundary line for the proposed viticultural area, have favorable growing season solar orientation as compared to the less sunny sides of the mountain outside the proposed boundary line, noting that successful viticulture depends partially on a favorable solar orientation to provide adequate growing season sunshine and heat accumulation. The below table summarizes the rationale for the proposed viticultural area boundary line as described in the petition:

Sides of Pine Mountain in relationship to the proposed viticultural area	Viticultural considerations
North: Outside boundary line .....	Inadequate sun and heat.
East: Outside boundary line .....	Inadequate sun and heat.
South and southwest at higher elevations: Inside boundary line .....	Some gentle slopes, good sun exposure and heat accumulation, and available water.
South at lower elevations below Pine Mountain Road: Outside boundary line.	Steep terrain and lack of water.
West at higher elevations: Inside boundary line .....	Some gentle slopes, good sun exposure and heat accumulation, and available water.
West at lower elevations: Outside boundary line .....	Steep terrain.

The history of grape-growing and winemaking in the Pine Mountain region goes back to the 19th century, according to the petition. The 1877 “Thompson Historical Atlas Map of Sonoma County” lists several grape growers with vineyards on or near Pine Mountain. The petition states that these included George Allen’s 2-acre vineyard on the slopes of Pine Mountain, J.G. Rains’ 10-acre vineyard, Clay Worth’s 6-acre vineyard at the base of Pine Mountain, and Wellington Appleton, who owned 144 acres on the mountain’s western slopes.

About 1910, the petition states, Steve Ratto developed a vineyard and winery at the 1,700-foot elevation of Pine Mountain, and that site is located inside the southwest portion of the boundary line of the proposed viticultural area. That winery site is shown on a 1956 State of California Division of Forestry map for the region that was included with the petition. The petition notes that remnants of the old winery building are still visible and that modern vineyards are on the site as well.

The petition also describes the large vineyard and winery operation of Hartwell and Emily Preston. The Preston Ranch, dating back to 1869, came to include over 1,500 acres of land, with a 10-acre vineyard, an oak cooperage, and a large winery and wine cellar. An October 29, 1874, article in the Russian River Flag newspaper lauded Preston’s “Fruit and Wine Ranch,” and noted that it stretched from the eastern bank of the Russian River to the slopes of Pine Mountain. Reports from the time state that Preston harvested 40 tons of grapes from his vineyards in 1889. Much of the Preston winery’s output was used in the various patent medicines prescribed by Emily Preston, a well-known faith healer of the time. According to the USGS Cloverdale Quadrangle map and an additional map included with the petition, the former Preston vineyard lies approximately one mile outside of the western boundary line of the proposed viticultural area.

*Distinguishing Features*

Differences in topography, climate, and soils distinguish the proposed viticultural area from the surrounding areas, according to the petition.

*Topography*

The proposed viticultural area has a higher elevation and steeper terrain than the Alexander Valley to the southwest of the proposed viticultural area. Elevations within the proposed viticultural area begin at 1,600 feet and rise to the 3,000-foot summit of Pine Mountain. The terrain within the proposed viticultural area is generally steep and mountainous, with patches of flatter ground within this steep terrain allowing for the development of areas of small, 5- to 20-acre vineyards.

In contrast, to the west and south, the Alexander Valley floor rises from about 260 feet in elevation at the Russian River and continues easterly and upward to the foothills of Pine Mountain and the Mayacmas Mountains. This flatter, lower terrain allows for the development of larger vineyards, some 100 acres or more, with different viticultural characteristics than those found in the small mountain vineyards. Areas to the north and east of the proposed viticultural area, while similar in elevation and steepness, lack the flatter patches of ground and water resources needed for vineyard development.

*Climate*

The distinctive growing season climatic factors of the proposed viticultural area include limited marine fog cover, abundant sunshine, mild diurnal temperature changes, significant wind, and heavy winter rainfall, according to the petition. Quoting local growers, the petition states that the cooler spring climate of Pine Mountain delays the start of vine growth by about 2 weeks, as compared to valley vineyards. The petition also notes that the proposed viticultural area’s growing season climate is cooler during the day, warmer at night, windier, and wetter than the surrounding lower elevation grape growing areas.

In support of these conclusions, the petitioners gathered climatic data from six regional weather stations located within and in areas surrounding the proposed viticultural area. These were: Cloverdale (southwest of Pine Mountain at 333 feet), Hopland East (north-northwest of Pine Mountain at 1,160 feet), Hopland West (northwest of Pine Mountain at 1,200 feet), Sanel Valley (north-northwest of Pine Mountain at 525 feet), Alexander Valley (at the Seghesio Vineyards valley weather station, south-southwest of Pine Mountain at 350 feet), and Pine Mountain (at the Seghesio Vineyards mountain weather station, within the proposed viticultural area boundary line at 2,600 feet in elevation).

*Fog:* Despite the later start of the grape growing season at the higher elevations of the proposed viticultural area, the differing elevation-based fog patterns found on Pine Mountain allow grape growth within the proposed viticultural area to catch up with the earlier start of the valley vineyards, according to local growers. The petition states that the heavy fog that frequently blankets the surrounding valley floors fails to rise to the 1,600-foot minimum elevation of the proposed viticultural area boundary line. The petition describes the mountain as a sunny island floating above the fog, and the petition included pictorial documentation of this phenomenon.

The petition states that the proposed viticultural area averages 3 to 4 hours more sunlight per day than the Alexander Valley during the growing season. While the valley remains blanketed under a heavy fog layer until late morning and then again later in the afternoon, the higher Pine Mountain elevations routinely bask in sunshine all day long. The extra sunlight and resulting longer daily period of warmth found on the higher slopes of Pine Mountain allow grapes to develop quickly and mature around the same time as those grown in valley floor vineyards.

*Temperatures:* During the growing season, daytime high temperatures within the proposed viticultural area are

consistently cooler, and overnight temperatures are consistently warmer, than those found on the Alexander Valley floor, according to the petition. The petition includes temperature data gathered by local grape grower John Copeland, who gathered hourly

temperature readings at several sites within the proposed viticultural area prior to planting his vineyards there. The petitioners combined Mr. Copeland's data and that of the valley weather stations noted above to document the diurnal temperature

differences between the proposed area and the lower valley floor. The average temperature differences between the higher elevations on Pine Mountain and the lower elevations on the Alexander Valley floor are shown in the table below:

Region and elevation	High temperature (°F)	Low temperature (°F)	Diurnal temperature variation (in °F)
Pine Mountain (2,200 feet) .....	74	60	14
Valley floor (225 feet) .....	84	49	35

The petition states that nights are warmer on the slopes of Pine Mountain mainly because cool night mountain air, being heavier than warm air, drains off the mountain into the valley below. This downward nocturnal air flow leaves the slopes of Pine Mountain relatively warmer as compared to the cooler valley. In addition, the petition explains that the marine inversion, a summer coastal phenomenon, results from a layer of cool, heavy, and moist marine air and fog that slips beneath the layer of warmer air. This cool, foggy air blankets the Alexander Valley floor and does not mix with the lighter, warm air above it on the mountain slopes. This phenomenon, the petition continues, inverts the normal mountainous air temperature pattern of cooler temperatures above and warmer temperatures below.

*Wind:* The proposed viticultural area climate includes stronger and more frequent winds than those found in the valley below, the petition explains. The petition states that local growers report that Pine Mountain vineyards are naturally free of mildew, a vineyard malady commonly found in areas with more stagnant air.

*Precipitation:* The petition notes that the proposed viticultural area receives 30 to 60 percent more rainfall than the valley below. Southern storms often stall over Pine Mountain and the Mayacmas range, dropping more rain than in other areas. Pine Mountain also receives some upper elevation-based snow, something not encountered on the Alexander Valley floor below, the petition explains.

**Soils**

According to the petition, the mountain soils within the proposed viticultural area are significantly different from the alluvial valley soils found at lower elevations outside the proposed area. The petition documents these differences using United States Department of Agriculture online soil maps for Mendocino and Sonoma Counties.

However, as the petition notes, the two county soil maps use different soils names since the two counties' soil surveys were conducted years apart using different name protocols. Specifically, the Sonoma County Soil Survey shows that the portion of the proposed viticultural area that lies within that county falls within the Los Gatos-Hennecke-Maymen association, with the Los Gatos soils series the predominant soil type. The Mendocino County Soil Survey, however, shows that the portion of the proposed viticultural area within that county falls within the Maymen-Estel-Snook association.

To show that the soils within the proposed viticultural area are generally the same in each county, the petition also provides descriptions of the physical characteristics of the proposed viticultural area soils. The petition describes the parent materials of the proposed viticultural area soils as fractured shale and weathered sandstone. The petition notes that soils within the proposed viticultural area are mountainous types, which are generally steep, shallow to moderately deep, and very well to excessively well-drained. Also, these mountain soils include large amounts of sand and gravel. Pine Mountain soils are generally less than 3 feet in depth, the petition continues, with more than half at depths of 12 inches or less. In contrast, soils found on the Alexander Valley floor and in other lower elevation areas outside the proposed viticultural area are deeper, less well-drained alluvial soils.

*Overlap With Established Viticultural Areas*

The Sonoma County portion of the proposed viticultural area lies almost entirely within the northern portion of the established Alexander Valley viticultural area, which, in turn, lies within the northern portion of the established Northern Sonoma viticultural area. The Alexander Valley and Northern Sonoma viticultural areas both lie totally within the North Coast

viticultural area. While located in whole or in part within these existing viticultural areas, the petitioners believe that the proposed viticultural area is distinguishable from those viticultural areas.

For example, the petition states that the 76,034-acre Alexander Valley viticultural area largely consists of lower elevation valley floor along the Russian River, with vineyards located below 600 feet, while the proposed viticultural area largely consists of mountainous terrain located above 1,600 feet. Further, as noted above, the petition includes climatic data documenting the differing valley and mountain growing season temperatures, wind, and fog patterns found in this region.

In addition, the petition notes that the 349,833-acre Northern Sonoma viticultural area extends 40 miles south from the Mendocino-Sonoma County line to the southernmost reaches of the Russian River Valley viticultural area (27 CFR 9.66) southwest of Sebastopol. In addition to the Russian River Valley and Alexander Valley viticultural areas, the large Northern Sonoma viticultural area includes the Knights Valley (27 CFR 9.76), Chalk Hill (27 CFR 9.52), Green Valley of Russian River Valley (27 CFR 9.57), and Dry Creek Valley (27 CFR 9.64) viticultural areas with their differing microclimates and terrains. According to the petition, the diversity within the Northern Sonoma viticultural area as a whole stands in contrast to the uniform climate and terrain found within the proposed viticultural area.

The established North Coast viticultural area lies north and northwest of San Francisco, and includes all of Sonoma County and portions of Mendocino, Napa, Lake, Solano, and Marin Counties. This very large viticultural area's distinguishing features include its distinctive coastal climate and topography. Although the proposed viticultural area has a somewhat similar climate, the petition notes, the proposed viticultural area is small, is limited to higher elevations,

and is less foggy than the general North Coast viticultural area climate.

#### *Relationship to Existing Viticultural Areas*

##### Alexander Valley Viticultural Area

The original Treasury Decision, T.D. ATF-187, establishing the more than 60,000-acre Alexander Valley viticultural area, was published in the **Federal Register** (49 FR 42719) on October 24, 1984. In the discussion of geographical features, T.D. ATF-187 relied on the geographical features of the valley floor and specifically excluded the mountainous area to the east, primarily because these areas were determined to have geographical features different from those in the established viticultural area. T.D. ATF-187 stated that the mountainous area has an average rainfall of 30 to 70 inches, temperatures of 54 to 58 degrees Fahrenheit, and a frost-free season of 230 to 270 days, but that the valley floor has an average rainfall of 25 to 50 inches, temperatures of 54 to 60 degrees Fahrenheit, and a frost-free season of 240 to 260 days. Regarding soils, T.D. ATF-187 stated that the mountainous area to the east is characterized primarily by the Goulding-Toomes-Guenoc and Henneke-Maymen associations, but the valley floor is characterized by the Yolo-Cortina-Pleasanton association. TTB notes that the temperature and frost-free season data concerning the valley and the mountainous areas, though different, are not so different as to be considered significantly different.

The area within the Alexander Valley viticultural area that also overlaps the proposed viticultural area was added in Treasury Decision (T.D.) ATF-233, published in the **Federal Register** (51 FR 30352) on August 26, 1986. In discussing the proposal to add approximately 1,536 acres to the existing Alexander Valley viticultural area "at elevations between 1,600 feet and 2,400 feet above sea level on Pine Mountain," T.D. ATF-233 recognized that "the land in the area shares similar geological history, topographical features, soils, and climatic conditions as adjoining land within the previously established boundary of the [Alexander Valley] viticultural area."

However, the petition provides more detailed evidence regarding the geographical features that distinguish the entire proposed viticultural area (including the overlap area) from the greater portion of the Alexander Valley viticultural area. That evidence details the significant differences between the areas in comparable night and day

temperatures, rainfall, and soils. The petitioner also included evidence that the proposed viticultural area climate includes stronger and more frequent winds than those found in the valley below.

##### Northern Sonoma Viticultural Area

The Alexander Valley viticultural area is entirely within the Northern Sonoma viticultural area, and the area of overlap created by the proposed viticultural area is the same with respect to both the Northern Sonoma and the Alexander Valley viticultural areas. In addition, TTB notes that the name recognition for the Northern Sonoma viticultural area does not extend into the portion of the proposed viticultural area that is outside the boundary line for the Alexander Valley viticultural area. Historically, the outer boundaries of four viticultural areas (Alexander Valley, Dry Creek Valley, Russian River Valley, and Knights Valley) have been used to define the boundary of the Northern Sonoma viticultural area.

T.D. ATF-204, published in the **Federal Register** (50 FR 20560) on May 17 1985, established the Northern Sonoma viticultural area and includes the following statement:

" \* \* \* Six approved viticultural areas are located entirely within the Northern Sonoma viticultural area as follows: Chalk Hill, Alexander Valley, Sonoma County Green Valley [subsequently renamed Green Valley of Russian River Valley], Dry Creek Valley, Russian River Valley, and Knights Valley.

The Sonoma County Green Valley and Chalk Hill areas are each entirely within the Russian River Valley area. The boundaries of the Alexander Valley, Dry Creek Valley, Russian River Valley, and Knights Valley areas all fit perfectly together dividing northern Sonoma County into four large areas. The Northern Sonoma area uses all of the outer boundaries of these four areas with the exception of an area southwest of the Dry Creek Valley area and west of the Russian River Valley \* \* \* "

TTB also notes that the Northern Sonoma viticultural area boundary has been adjusted twice to keep it coterminous with the outer boundaries of the four viticultural areas mentioned in T.D. ATF-204 (see T.D. ATF-233, published in the **Federal Register** on August 26, 1986, 51 FR 30352, and T.D. ATF-300, published in the **Federal Register** on August 9, 1990, 55 FR 32400).

##### North Coast Viticultural Area

In addition to what was previously stated in this document concerning the North Coast viticultural area, TTB notes that this viticultural area, which was established by T.D. ATF-145 (published in the **Federal Register** at 48 FR 42973

on September 21, 1983), encompasses approximately 40 established viticultural areas, as well as the proposed viticultural area, in northern California. In the "Geographical Features" portion of the preamble, T.D. ATF-145 states that climate is the major factor in distinguishing the North Coast viticultural area from surrounding areas, that all the areas within the North Coast viticultural area receive marine air, and that most of them also receive fog. T.D. ATF-145 also states that "[d]ue to the enormous size of the North Coast, variations exist in climatic features such as temperature, rainfall and fog intrusion."

The proposed viticultural area exhibits the basic geographical feature of the North Coast viticultural area: Marine air that results in greater amounts of rain. However, the geographical features of the proposed viticultural area are much more uniform in than those of the North Coast viticultural area. In this regard, T.D. ATF-145 specifically notes that "approval of this viticultural area does not preclude approval of additional areas, either wholly contained with the North Coast, or partially overlapping the North Coast" and that "smaller viticultural areas tend to be more uniform in their geographical and climatic characteristics \* \* \*."

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

In Notice No. 105, published in the **Federal Register** (75 FR 29686) on May 27, 2010, TTB described the petitioners' rationale for the proposed establishment of the Pine Mountain-Mayacmas viticultural area and requested comments on the proposal on or before July 26, 2010. TTB specifically invited comments regarding: (1) Whether the petition contains sufficient evidence regarding the distinguishing features of the proposed viticultural area; (2) whether the evidence submitted warrants the establishment of the proposed viticultural area within the existing North Coast viticultural area and portions of the Alexander Valley and Northern Sonoma viticultural areas; (3) whether the approval of the proposed viticultural area with the overlap with the Alexander Valley viticultural area is appropriate and/or whether the Alexander Valley and Northern Sonoma viticultural areas should be curtailed to avoid the overlap or expanded to encompass the new area; and (4) the appropriateness of the proposed "Pine Mountain-Mayacmas" name, including its spelling, viticultural significance, and potential conflicts with currently used brand names.

On July 16, 2010, TTB received a letter request from attorney Richard Mendelson on behalf of the Napa Valley Vintners (NVV), a wine industry trade association, which requested a 45-day extension of the comment period for Notice No. 105 to allow the NVV to complete and thoroughly vet its comments on the proposed viticultural area. In response to that request, on July 26, 2010, TTB published in the **Federal Register** (75 FR 43446) Notice No. 107 to extend the comment period for Notice No. 105 to September 9, 2010.

*Comments Received in Response to Notice No. 105*

During the course of the original and extended comment period on Notice No. 105, TTB received and posted 85 comments from 70 groups and individuals. Commenters included 36 industry members and 34 non-industry individuals. Of the commenters, 52 supported and 18 opposed the establishment of the Pine Mountain-Mayacmas viticultural area with the proposed name and boundary line. The comments in opposition to the proposal as published raised three issues that could warrant a change in the regulatory text proposed in Notice No. 105: (1) The appropriateness of the proposed Pine Mountain-Mayacmas name; (2) the viticultural significance of a suggested modified name for the proposed viticultural area; and (3) the inclusion of additional acreage within the boundary of the viticultural area.

With regard to the appropriateness of the Pine Mountain-Mayacmas name, some commenters questioned the "Mayacmas" portion of the name because it is associated with the four counties of Napa, Sonoma, Lake, and Mendocino in northern California rather than only the area within the proposed viticultural area boundary. TTB notes that "Mayacmas" refers to the Mayacmas Range, which is the mountain range that extends generally north from San Pablo Bay and divides the Napa Valley viticultural area from the Sonoma Valley viticultural area. The Mayacmas Range is a significant landform for both valleys. The following comments in response to Notice No. 105 stated opposition to the Pine Mountain-Mayacmas name: Nos. 41, 43, 44, 45, 48, 50, 53, 55, 56, 57, 59, 60, 63, 65, 76, 78, 79, 81, and 82 (comments 45 and 78 were submitted by the same commenter).

In response to comments opposing the "Mayacmas" modifier, the "Cloverdale Peak" geographical modifier was proposed in comment 62 by Barry Hoffner, a representative for the Pine Mountain vineyard owners. In comment

62, Mr. Hoffner describes the Pine Mountain growers as a unified group of 13 vineyard owners along the Sonoma-Mendocino boundary line, northeast of the town of Cloverdale. In comment 62, Mr. Hoffner explains that when opposition to the "Mayacmas" portion of the proposed "Pine Mountain-Mayacmas" name was expressed in some comments, the growers decided, after careful consideration and meetings with other industry groups, to propose to change the name of the proposed viticultural area to "Pine Mountain-Cloverdale Peak." Cloverdale Peak is a mountain landform that adjoins Pine Mountain and has similar elevations. Comment 62 emphasizes that the combination of the "Pine Mountain" and "Cloverdale Peak" names more accurately describes the geographical location of the proposed viticultural area and would effectively address the industry opposition relating to its name.

Comment 68, submitted by Sara Schorske of Compliance Service of America (and the originator of the Pine Mountain-Mayacmas viticultural area petition), expresses support for the "Cloverdale Peak" name change proposed in comment 62 and states that it would provide better information for consumers by providing a more unique and specific geographical indicator for "Pine Mountain." Comment 68 also provides substantiating documentation for the change, which includes various references in the petition and its exhibits to Cloverdale and its historical and current association with Pine Mountain. Comment 68 further states that Pine Mountain and Cloverdale Peak are neighboring peaks in the same range and that a portion of the Cloverdale Peak landform is already included within the proposed boundary line.

According to comment 68, Cloverdale Peak is identified on the Highland Springs USGS quadrangle map. Cloverdale Peak Road extends from Hopland to the western slope of Cloverdale Peak, and the <http://www.trails.com> Web site identifies Cloverdale Peak as a hiking and recreational destination. In addition, as noted in comment 70, submitted by the NVV, Cloverdale Peak Road begins near the center of the proposed viticultural area and runs northward through the area.

A number of commenters subsequently supported the use of the "Cloverdale Peak" name instead of "Mayacmas." Comments submitted in response to Notice No. 105 that specifically supported the name change to "Pine Mountain-Cloverdale Peak" were as follows: Nos. 61, 62, 68, 69, 70, 71, 72, 73, 74, 75, 77, and 80. The

comments supporting the proposed name change were submitted by individuals, vineyard and winery owners, industry association groups, and United States Congressman Mike Thompson.

The NVV (comments 64 and 70) also endorsed the modified "Pine Mountain-Cloverdale Peak" name. Comments from other industry groups include the Pine Mountain growers (comments 46 and 62) and the Mount Veeder Appellation Council (comments 63 and 72), each of which submitted a second comment supporting the proposed name change to "Pine Mountain-Cloverdale Peak." The Sonoma County Winegrape Commission (comment 61) and the Mendocino Winegrape and Wine Commission (comment 71) supported the original Pine Mountain-Mayacmas name, and the Lake County Winegrape Commission (comment 59) and the Spring Mountain District Association (comment 76) opposed the original Pine Mountain-Mayacmas name. None of these four industry groups commented on the proposed name change to Pine Mountain-Cloverdale Peak.

The comments supporting a modification of the name of the viticultural area also gave rise to the companion issue of the viticultural significance of the modified name. The following comments support the viticultural significance of the full "Pine Mountain-Cloverdale Peak" name because it better describes the location of the proposed viticultural area and reduces the likelihood of consumer confusion as compared to the originally proposed "Mayacmas" name: Nos. 61, 62, 68, 70, 71, 75, 77, and 80.

Finally, two commenters proposed altering the boundary line proposed in Notice No. 105. After expressing support for the "Pine Mountain-Cloverdale Peak" name change, comment 68 also proposes expanding the northwest portion of the boundary line to include more of the Cloverdale Peak landform and altering the boundary line to pass through the summit of Cloverdale Peak; this expansion would add 500 acres to the proposed viticultural area.

According to comment 68, the elevations in the proposed 500-acre expansion area that includes the summit of Cloverdale Peak are consistent with the originally proposed Pine Mountain-Mayacmas viticultural area: The Pine Mountain area has elevations between 1,600 and 3,000 feet, and the Cloverdale Peak area is located between 1,800 and 3,000 feet, with a 2,400-foot elevation low point between the two mountain landforms. The comment also suggests that similar climatic factors exist in both

areas because the elevations of the two regions are similar. Comment 68 further claims that the soils in the proposed Cloverdale Peak expansion area are generally the same as in the Pine Mountain area, with a less than 2 percent addition of other soils, and that both mountain landforms have upland soils naturally occurring under brush or forest cover. TTB notes that comment 68 did not include any supporting documents or data relating to the geographical features of the proposed expansion area and their similarity to the distinguishing features of the proposed viticultural area. Comment 68 also states that there are currently no vineyards or wineries located within the proposed 500-acre expansion of the proposed viticultural area.

An additional boundary line change was proposed in response to Notice No. 105. A commenter proposed in comments 58 and 67 that an additional 40 acres along the southwestern portion of the proposed viticultural area be included within the boundary line to include his vineyards, although no name or geographical features evidence was submitted in support of this proposed boundary line modification.

In addition, the Mendocino Winegrape and Wine Commission made TTB aware in comment 71 that the proposed boundary line in Notice No. 105 created a small overlap with the Mendocino viticultural area at the western portion of the proposed viticultural area.

#### *Determination To Re-Open Public Comment Period and Notice No. 112*

TTB reviewed all comments received in response to Notice No. 105 with reference to the original petition materials. Because of the potential impact on label holders if TTB adopted any of the changes proposed in the comments, TTB determined that it was appropriate to re-open the comment period on Notice No. 105 for the purpose of obtaining further public comment on the three issues outlined above that were raised in response to Notice No. 105 and that affected the original proposal before taking any further regulatory action on this matter.

In Notice No. 112, published in the **Federal Register** (75 FR 78944) on December 17, 2010, TTB specifically invited comments on the use of "Cloverdale Peak" as a geographical name in conjunction with "Pine Mountain" to form the "Pine Mountain-Cloverdale Peak" viticultural area name. TTB also invited comments on the viticultural significance of the full "Pine Mountain-Cloverdale Peak" name and on the viticultural significance of "Pine

Mountain-Cloverdale," "Cloverdale Peak," and "Cloverdale" standing alone. In addition, TTB invited comments on whether the boundary line should be expanded as suggested in the comments posted in response to Notice No. 105. The comment period for Notice No. 112 closed on February 15, 2011.

#### *Comments Received in Response to Notice No. 112*

TTB received five comments in response to Notice No. 112, all of which support changing the name of the proposed viticultural area to "Pine Mountain-Cloverdale Peak." Two comments, Nos. 88 and 89, also specifically comment on the viticultural significance of the entire name "Pine Mountain-Cloverdale Peak" as opposed to "Pine Mountain-Cloverdale," which the commenters state could be confusing or misleading for consumers because the city of Cloverdale is outside the boundary line of the proposed viticultural area. In addition, three comments support the 500-acre expansion of the proposed viticultural area to include the summit of Cloverdale Peak. The commenters' reasons for supporting this proposed expansion include the area's viticultural distinctiveness and local name recognition (comment 86) and the avoidance of potential consumer confusion (comments 87 and 89).

#### **TTB Analysis**

TTB carefully considered the comments received in response to Notice Nos. 105 and 112 and reviewed all petition evidence and subsequent documentation received in support of, or in opposition to, the proposed viticultural area.

TTB agrees with the public comments that the "Mayacmas" portion of the proposed name could be misleading or confusing for consumers due to the length of the Mayacmas Range, which extends beyond the Pine Mountain region, and TTB therefore believes that "Mayacmas" is an inappropriate name for this viticultural area. After reviewing the public comments as well as the evidence provided in support of the alternate "Cloverdale Peak" name, TTB agrees that the proposed "Pine Mountain-Cloverdale Peak" name is appropriate for the viticultural area because it more accurately and specifically describes the location of the viticultural area. TTB notes that the proposed modified "Pine Mountain-Cloverdale Peak" name received significant public support, and the modified name was not opposed by any commenters during the original and re-opened comment periods.

TTB declines to accept the proposed boundary line change to include the summit of Cloverdale Peak within the proposed Pine Mountain-Cloverdale Peak viticultural area. Although some comments assert that the inclusion of the Cloverdale Peak summit within the viticultural area will reduce the likelihood of consumer confusion relating to the location of the proposed "Pine Mountain-Cloverdale Peak" viticultural area, TTB notes the following:

- As noted in comment 68, a portion of the Cloverdale Peak landform is already included within the boundary line proposed in the petition, so the "Cloverdale Peak" geographical name accurately identifies the location of the proposed viticultural area;
- The contention that the proposed expansion area shares the same distinguishing features as the petitioned-for area is contrary to statements in the petition that areas to the north and west of the proposed boundary line are unsuitable for viticulture due to steep terrain or inadequate sun and heat;
- None of the comments supporting the proposed expansion contain sufficient supporting evidence or data to establish that the proposed expansion area shares the same distinguishing features as the originally petitioned-for viticultural area; and

- As conceded in comment 68, there are currently no vineyards or wineries located within the proposed expansion area, with the result that the area cannot be considered a "grape-growing region," which is part of the definition of an American viticultural area in 27 CFR 4.25(e)(1)(i). TTB further notes that the expansion of the boundary line in this way would be incompatible with the "area in which viticulture exists" principle contained in 27 CFR 9.12(a)(1), which was adopted subsequent to the filing of the Pine Mountain-Mayacmas petition (see T.D. TTB-90, published in the **Federal Register** at 76 FR 3489 on January 20, 2011).

Thus, for the above reasons, TTB concludes that the boundary line proposed in Notice No. 105 should not be altered to add the proposed 500-acre Cloverdale Peak summit expansion area.

TTB does not believe that it would be appropriate to adjust the proposed boundary line in response to comments 58 and 67. Those comments requested a boundary line change to include one person's vineyards, which are located southwest of the proposed boundary line. This additional acreage has elevations below 1,600 feet and as low as 1,200 feet. Such lower elevations are

not consistent with the proposed viticultural area's elevations, which are above 1,600 feet. TTB notes that the proposed viticultural area's distinguishing features are largely based upon its high elevation and mountainous topography, and the commenter did not present any evidence in support of his contention that the same distinguishing features in the viticultural area exist in the proposed expansion area.

As noted above, the Mendocino Winegrape and Wine Commission pointed out in comment 71 that the proposed boundary line in Notice No. 105 created a small overlap with the Mendocino viticultural area in the western region of the proposed viticultural area. TTB believes that this overlap, which involves approximately 30 acres, was inadvertent and should not be included within the boundary line in question.

Finally, TTB adds that it specifically solicited comments in Notice No. 105 regarding whether the petition contained sufficient evidence to warrant the establishment of the proposed viticultural area within the existing North Coast viticultural area and portions of the Alexander Valley and Northern Sonoma viticultural areas. TTB also invited comments about whether the approval of the proposed viticultural area with the overlap with the Alexander Valley viticultural area is appropriate and/or whether the Alexander Valley and Northern Sonoma viticultural areas should be curtailed to avoid the overlap or expanded to encompass the new area.

Although some supporting comments state that the proposed viticultural area is sufficiently distinct from the floor of the Alexander Valley to warrant the creation of a new viticultural area and concur with the evidence presented in the petition, TTB notes that no comments oppose the inclusion of part of the proposed Pine Mountain-Cloverdale Peak viticultural area within the Alexander Valley viticultural area. In addition, no comments specifically address the partial overlap of the proposed viticultural area with the Northern Sonoma viticultural area and the inclusion of the proposed viticultural area within the North Coast viticultural area.

#### **TTB Findings**

After careful review of the petition and the comments received in response to Notice Nos. 105 and 112, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area, subject to the following

alterations to the proposal in Notice No. 105:

- The name of the viticultural area should be "Pine Mountain-Cloverdale Peak," as was proposed by the petitioners in response to comments to Notice No. 105; and

- The boundary line for the viticultural area should be modified to avoid the inadvertent overlap with the Mendocino viticultural area that was created by the boundary line proposed in Notice No. 105.

With regard to the partial overlap between the proposed viticultural area and the Alexander Valley and Northern Sonoma viticultural areas, as stated above, the evidence set forth in the petition shows that there are detailed, significant differences between the topography, climate, and soils of the entire proposed viticultural area (including the overlap area) and such features of the greater portion of the Alexander Valley viticultural area. This evidence raises concerns that there may be insufficient similarity between the distinguishing features of the overlap area and distinguishing features of the rest of the Alexander Valley viticultural area. However, considering the possible alternatives, the strength of the evidence presented in support of the similarity of the distinguishing features within the proposed viticultural area, and the fact that the overlap area was specifically added to the Alexander Valley viticultural area by T.D. ATF-233, TTB believes that the establishment of the proposed viticultural area as described above is the best alternative for achieving the objectives of establishing viticultural areas set forth in the definition paragraph earlier in this document.

TTB has further determined that only the full name of the viticultural area, "Pine Mountain-Cloverdale Peak," is viticulturally significant as a result of the establishment of this new viticultural area because "Pine Mountain" is a commonly used geographic name for multiple locations within the United States, and, as noted in the comments to Notice No. 105, the names of "Pine Mountain-Cloverdale" or "Cloverdale" alone are geographically inaccurate and could cause consumers to erroneously associate the viticultural area with the nearby city of Cloverdale, which is not within the proposed boundary line.

Accordingly, under the authority of the Federal Alcohol Administration Act and part 4 of the TTB regulations, TTB establishes the "Pine Mountain-Cloverdale Peak" viticultural area in Mendocino County and Sonoma County, California, effective 30 days

from the date of publication 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, its name, "Pine Mountain-Cloverdale Peak," is recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the new regulation clarifies this point.

Once this final rule becomes effective, wine bottlers using "Pine Mountain-Cloverdale Peak" 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 "Pine Mountain-Cloverdale Peak" as an appellation of origin. The establishment of the Pine Mountain-Cloverdale Peak viticultural area will not affect the boundary line of any existing viticultural areas, and any wineries using Alexander Valley, Northern Sonoma, or North Coast as an appellation of origin or in a brand name for wines made from grapes grown within a portion of the Pine Mountain-Cloverdale Peak viticultural area that overlaps one of those viticultural areas will not be affected by the establishment of this new viticultural area.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term of viticultural significance appears in another reference on the label in a misleading manner, the bottler



would have to obtain approval of a new label.

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

#### Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. 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

Elisabeth C. Kann of the Regulations and Rulings Division drafted this notice.

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

Wine.

#### The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

#### PART 9—AMERICAN VITICULTURAL AREAS

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

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

#### Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.220 to read as follows:

##### § 9.220 Pine Mountain-Cloverdale Peak.

(a) *Name.* The name of the viticultural area described in this section is "Pine Mountain-Cloverdale Peak". For purposes of part 4 of this chapter, "Pine Mountain-Cloverdale Peak" is a term of viticultural significance.

(b) *Approved maps.* The three United States Geological Survey 1:24,000 scale topographic maps used to determine the boundary of the Pine Mountain-Cloverdale Peak viticultural area are titled:

(1) Asti Quadrangle—California, 1998;

(2) Cloverdale Quadrangle—California, 1960, photoinspected 1975; and

(3) Highland Springs Quadrangle—California, 1959, photorevised 1978.

(c) *Boundary.* The Pine Mountain-Cloverdale Peak viticultural area is located in Mendocino and Sonoma Counties, California. The boundary of the Pine Mountain-Cloverdale Peak viticultural area is as described below:

(1) The beginning point is on the Asti map at the intersection of Pine Mountain Road and the Sonoma-Mendocino County line, section 35, T12N, R10W. From the beginning point, proceed southwesterly on Pine Mountain Road to its intersection with a light duty road known locally as Green Road, section 33, T12N, R10W; then

(2) Proceed northerly on Green Road approximately 500 feet to its first intersection with the 1,600-foot contour line, section 33, T12N, R10W; then

(3) Proceed northwesterly along the meandering 1,600-foot contour line, crossing onto the Cloverdale map in section 32, T12N, R10W, and continue to the contour line's intersection with the eastern boundary line of section 31, T12N, R10W; then

(4) Proceed straight north along the eastern boundary line of section 31, crossing the Sonoma-Mendocino line, to the boundary line's intersection with the 1,600-foot contour line on the west side of Section 29, T12N, R10W; then

(5) Proceed northeasterly along the meandering 1,600-foot contour line to its intersection with the intermittent Ash Creek, section 29, T12N, R10W; then

(6) Proceed northeasterly in a straight line, crossing onto the Asti map, to the unnamed 2,769-foot peak located south of Salty Spring Creek, section 20, T12N, R10W; then

(7) Continue northeasterly in a straight line, crossing onto the Highland Springs map, to the unnamed 2,792-foot peak in the northeast quadrant of section 21, T12N, R10W; then

(8) Proceed east-southeasterly in a straight line, crossing onto the Asti map, to the unnamed 2,198-foot peak in section 23, T12N, R10W; and then

(9) Proceed south-southeasterly in a straight line, returning to the beginning point.

Signed: July 12, 2011.

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

Approved: September 16, 2011.

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

[FR Doc. 2011-27813 Filed 10-26-11; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### 29 CFR Part 2570

RIN 1210-AB49

#### Prohibited Transaction Exemption Procedures; Employee Benefit Plans

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This document contains a final rule that supersedes the existing procedure governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA), the Internal Revenue Code of 1986 (the Code), and the Federal Employees' Retirement System Act of 1986 (FERSA). The Secretary of Labor is authorized to grant exemptions from the prohibited transaction provisions of ERISA, the Code, and FERSA and to establish an exemption procedure to provide for such relief. This final rule clarifies and consolidates the Department of Labor's exemption procedures and provides the public with a more comprehensive description of the prohibited transaction exemption process.

**DATES:** *Effective Date:* This final rule is effective December 27, 2011, and applies to all exemption applications filed on or after that date.

**FOR FURTHER INFORMATION CONTACT:** Eric A. Raps, Office of Exemption Determinations, Employee Benefits Security Administration, Room N-5700, U.S. Department of Labor, Washington, DC 20210, telephone (202) 693-8532. This is not a toll-free number.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

On August 30, 2010, the Department published a Notice of Proposed Rulemaking in the **Federal Register** (75 FR 53172) that would update the existing procedure governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of ERISA, the Code, and FERSA, and invited written comments from the public concerning its contents. These comments are available for review at <http://www.regulations.gov> and also under "Public Comments" on the "Laws & Regulations" page of the Department's Employee Benefits Security Administration (EBSA) Web site at <http://www.dol.gov/ebsa>.