

During the comment period, we also received an informal verbal comment from a wine industry member who felt that the proposed regulatory language for § 24.203 was confusing. We agree and have changed the structure of this paragraph. We have not, however, altered the meaning.

We do not adopt the suggestion of Mr. Myers to create a separate category for low-alcohol honey wines. No separate category exists for low-alcohol grape or fruit wines. Therefore, we see no need to have one for agricultural wines.

Also, the terms proposed by Mr. Myers, "light honey wine" and "honey wine varietal," have other connotations that could cause consumer confusion when they are used in labeling wines. Section 4.21(a)(2) of the TTB regulations currently allows use of the term "light" on labels of grape wines that are less than 14 percent alcohol by volume. This authorization encompasses wines that are not usually considered low-alcohol. Creating a different meaning for "light" honey wines could confuse consumers.

In addition, we feel that the consumer associates the word "varietal" with grape varieties, not with agricultural products. In Notice No. 13, we stated that we would reconsider the creation of a separate category if we received sufficient comments that favor such a change over the lowering of the minimum Brix. We received no comments addressing this issue.

#### Technical Correction

While reviewing the regulations relating to agricultural wines, we noted a technical error in § 4.21(f)(1)(i) of the TTB regulations, which states that ameliorated agricultural wines may not have an alcohol content of more than 13 percent by volume that is derived from fermentation. This 13 percent limit is inconsistent with the IRC's treatment of other types of ameliorated wines. While the IRC does not contain a limit on alcohol content for ameliorated agricultural wines, it gives a 14 percent limit for ameliorated fruit and berry wines. Until corrected by T.D. ATF-458, §§ 4.21(d)(1)(i) and (e)(1)(i), the standards of identity for citrus and fruit wines respectively, also contained an incorrect limit of 13 percent. In order to establish consistency for all classes of wine, we amend § 4.21(f)(1)(i) to raise the alcohol content limit on ameliorated agricultural wines to 14 percent. Note that § 4.21(f)(1)(i) addresses only ameliorated agricultural wines and does not prohibit the production of nonameliorated agricultural wines that are greater than 14 percent alcohol by volume.

#### Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we certify that implementation of this regulation will not have a significant economic impact on a substantial number of small business entities. We expect no negative impact on small entities and are not enacting new reporting, recordkeeping, or other administrative requirements. Accordingly, a regulatory flexibility analysis is not required.

#### Executive Order 12866

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

#### Drafting Information

The principal author of this document is Jennifer Berry, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

#### List of Subjects

##### 27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

##### 27 CFR Part 24

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

#### Amendments to the Regulations

■ For the reasons discussed in the preamble, we amend 27 CFR parts 4 and 24 as follows:

#### PART 4—LABELING AND ADVERTISING OF WINE

■ 1. The authority citation for 27 CFR part 4 continues to read as follows:

**Authority:** 27 U.S.C. 205, unless otherwise noted.

##### § 4.21 [Amended]

■ 2. Amend § 4.21 by removing the phrase "13 percent" where it appears in the proviso in paragraph (f)(1)(i) and adding in its place the phrase "14 percent".

#### PART 24—WINE

■ 3. The authority citation for part 24 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111'5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364'5373, 5381'5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 4. Amend § 24.202 by revising the last sentence to read as follows:

##### § 24.202 Dried fruit.

\* \* \* After complete fermentation or complete fermentation and sweetening, the finished product may not have a total solids content that exceeds 35 degrees Brix. (26 U.S.C. 5387)

■ 5. Revise § 24.203 to read as follows:

##### § 24.203 Honey wine.

(a) Subject to paragraph (b) of this section, a winemaker, in the production of wine from honey, may add the following:

(1) Water to facilitate fermentation, provided the density of the honey and water mixture is not reduced below 13 degrees Brix;

(2) Hops in quantities not to exceed one pound for each 1,000 pounds of honey; and

(3) Pure, dry sugar or honey for sweetening. Sugar may be added only after fermentation is completed.

(b) After complete fermentation or complete fermentation and sweetening, the wine may not have an alcohol content of more than 14 percent by volume or a total solids content that exceeds 35 degrees Brix. (26 U.S.C. 5387)

Signed: November 18, 2004.

**Arthur J. Libertucci,**  
Administrator.

Approved: November 24, 2004.

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

[FR Doc. 05-911 Filed 1-14-05; 8:45 am]

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#### DEPARTMENT OF THE TREASURY

#### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[TTB T.D.-22; Re: Notice No. 12]

RIN 1513-AA63

#### Establishment of the McMinnville Viticultural Area (2002R-217P)

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

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

**SUMMARY:** This Treasury decision establishes the McMinnville viticultural area in Yamhill County, Oregon. The new McMinnville viticultural area is entirely within the existing Willamette Valley viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**EFFECTIVE DATE:** March 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Berry, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 18152, Roanoke, VA 24014; telephone (540) 344-9333.

**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 the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such 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.

**McMinnville Viticultural Area Petition**

In 2002, Mr. Kevin Byrd, of Youngberg Hill Vineyards in McMinnville, Oregon, filed a petition requesting the establishment of a viticultural area to be called "McMinnville" in Yamhill County, Oregon. The proposed viticultural area is located approximately 40 miles southwest of Portland, Oregon, just west of the city of McMinnville and north of the village of Sheridan. The McMinnville area is entirely within the existing Willamette Valley viticultural area (27 CFR 9.90). According to the petitioner, there were 14 wineries and 523 acres planted to vines within the proposed McMinnville viticultural area.

*Notice of Proposed Rulemaking and Comments Received*

TTB published Notice No. 12 regarding the proposed McMinnville viticultural area in the June 27, 2003, **Federal Register** (68 FR 38248). Three comments were received in response to this notice. Two of these were from Arthur and Linda Lindsay of Mystic Mountain Vineyards in McMinnville, Oregon. The Lindsays disagreed with the exclusion of land above 800 feet in elevation from the McMinnville viticultural area as the petitioner originally proposed. The third comment was from the petitioner, Kevin Byrd, who asked that TTB amend the originally petitioned boundaries to

eliminate the 800-foot elevation restriction, stating that he agreed with the information presented by the Lindsays in their comments. These comments are addressed in more detail below in the "Boundary Evidence" discussion.

Below, we summarize the evidence presented in the petition.

*Name Evidence*

The viticultural area is named for the city of McMinnville, the county seat of Yamhill County, which is located at the northeastern border of the viticultural area. Mr. Byrd stated that the area is considered part of greater McMinnville and noted that most of the wineries within the proposed boundaries have McMinnville addresses. He provided historical information on the name "McMinnville" from "Oregon Geographic Names" by Lewis L. McArthur (Oregon Historical Society, 1982). Mr. McArthur stated:

McMinnville was named by William T. Newby, who was born in McMinnville, Warren County, Tennessee, in 1820, and came to Oregon in 1843. He settled near the present site of McMinnville early in 1844, and in 1853 built a grist mill and founded the town. In 1854 he started a store. He was county assessor in 1848 and state senator in 1870. McMinnville post office was established on May 29, 1855, with Elbrige G. Edson postmaster. The name was later changed to the present spelling.

According to the petitioner, consumers know McMinnville as a wine-producing region. To demonstrate this, he submitted several quotes from Internet sites. The first quote is from the Web site of the Greater McMinnville Chamber of Commerce; the other two are from travel sites:

- "Nestled in the heart of Oregon's beautiful wine country, McMinnville is Oregon at its best." (See <http://www.mcminnville.org/welcome.html>.)
- "Before gaining its glamorous reputation as a wine-producing center, McMinnville was known as the home of Linfield College \* \* \*." (See <http://www.ohwy.com/or/m/mcminnvi.htm>.)
- "McMinnville is known for its picturesque vineyards that dot the foothills. Located in Yamhill County, the oldest county in Oregon, McMinnville is often compared to the wine regions of France and Germany." (See [www.el.com/to/mcminnville](http://www.el.com/to/mcminnville).)

In addition, the petitioner noted that McMinnville is the home of the International Pinot Noir Celebration, held every July since 1987 at the Linfield College campus.

*Boundary Evidence*

The McMinnville viticultural area's boundaries encompass Gopher Valley,

Dupee Valley, Muddy Valley, and the surrounding hills, all geographically part of the eastern foothills of the Coast Range. All land within the viticultural area is above 200 feet in elevation. According to the petitioner, this higher elevation causes the McMinnville viticultural area to have distinctive soils and climate when compared to other, lower parts of the Willamette Valley.

The petitioner stated that below the 200-foot elevation line the Willamette silt-based soils create growing conditions substantially different from those in the proposed viticultural area. The greater depth, water-holding capacity, and fertility of soils at these lower elevations extends the vegetative period of the vine and delays ripening of vineyards planted at those elevations. The soils of the proposed viticultural area are described in greater detail in the following section.

In addition, the petitioner noted that elevations below 200 feet are more prone to frost when compared to the higher elevations.

Initially, the petitioner proposed to exclude from the McMinnville viticultural area any land above 800 feet in elevation falling within the proposed boundaries, due to climatic differences with land below that elevation. In particular, the petitioner stated that land above 800 feet within the proposed McMinnville viticultural area experiences fewer degree growing days than lower elevations do, thus preventing the reliable ripening of wine grapes. Because of the unusual nature of the boundary proposal, TTB specifically asked in Notice No. 12 for comments regarding the proposed McMinnville viticultural area boundaries.

Mystic Mountain Vineyards submitted two comments disagreeing with the proposed elevation limitation—one signed by Linda Lindsay, the other by Arthur Lindsay. Mr. Lindsay noted that he and his wife own a vineyard within the proposed McMinnville viticultural area's boundary, but at an elevation of 1,200 feet. He stated that their records, dating back to 1999, show that their vineyard's degree growing days are sufficient to ripen their yearly crop. While Mr. Lindsay acknowledged that their vineyard's daily high temperatures are lower than those of vineyards at lower elevations, he argued that their nighttime temperatures are generally higher than those at lower elevations during the growing season. He pointed out that since degree growing days are calculated on a 24-hour basis, the degree growing days for their vineyard's elevation are as high as those found at lower elevations.

The petitioner, Kevin Byrd, wrote to request that TTB amend the McMinnville viticultural area's proposed boundary to eliminate the 800-foot elevation restriction. He stated that he researched the information provided by Mr. Lindsay and found that the degree growing days for the higher elevations within the McMinnville viticultural area are indeed comparable to those at lower elevations. He also noted that the Lindsays' vineyard has a history of producing quality grapes.

TTB believes that the information presented by the commenters provides an adequate basis for amending the McMinnville viticultural area boundary originally proposed in Notice No. 12. Accordingly, the proposed restriction limiting the McMinnville viticultural area to land below 800 feet within the described boundary has been eliminated in this final rule. All land within the described boundary is included within the McMinnville viticultural area regardless of elevation.

#### *Distinguishing Features*

The petitioner asserted that the geographic and climatic features of the McMinnville viticultural area distinguish it from surrounding areas of the Willamette Valley.

#### *Temperature and Precipitation*

According to the petitioner, the McMinnville viticultural area's location just east of the Coast Range and northeast of the Van Duzer Corridor greatly affects its growing season temperatures and precipitation. He submitted temperature and precipitation data from the Oregon Climate Service comparing McMinnville with two other sites in the western Willamette Valley—Dallas, Oregon, to the south of McMinnville, and Scoggins Dam, Oregon, to the north.

The submitted data show that McMinnville is, on average, warmer and drier than Dallas and Scoggins Dam. McMinnville averaged 2,178 degree growing days above 50 degrees (each degree that a day's mean temperature is above 50 degrees F counts as one degree day) during the growing season for the years 1971–2000, with average yearly precipitation of 41.66 inches. Dallas, for the same period, averaged 2,116 degree growing days above 50 degrees, with precipitation of 49.13 inches. Scoggins Dam, for the period, averaged 1,974 degree growing days above 50 degrees, with precipitation of 50.68 inches.

The petitioner explained that cooler and wetter conditions south of McMinnville viticultural area are due to the Van Duzer Corridor, a pass through Oregon's Coast Range. Cool, wet marine

air flows inland through this pass, causing cooler, wetter growing conditions in areas east of the pass. North and west of McMinnville, at Scoggins Dam for example, the petition stated that the land makes a rapid transition to the slopes of the Coast Range, which has much cooler temperatures and greater rainfall.

#### *Soils and Geology*

According to the petitioner, the soils and geology of the McMinnville viticultural area are different from those in surrounding areas, thus providing distinctive growing conditions for the area's grapes. To demonstrate the soil differences, the petitioner submitted soil survey maps published by the Soil Conservation Service of the U.S. Department of Agriculture. Several types of shallow (less than 40 inches deep) silty clay and clay loams that exhibit low total available moisture characterize the McMinnville viticultural area. These soils, primarily Yamhill, Nekia, Peavine, Willakenzie, and Hazelair, all have a typical depth to base materials of between 20 and 40 inches, while the average total available moisture for these soils ranges from 4.8 to 6.3 inches.

To the west and northwest of the McMinnville viticultural area, the petition notes, the soils transition to those of the Olyic and Hembre associations. While these soils are also shallow silty clay and clay loams, they tend to be acidic. To the north of the McMinnville area (within another proposed viticultural area named Yamhill-Carlton District), a greater percentage of the soils are of the Woodburn-Willamette association. These soils are of greater depth (60 inches) and have higher available moisture (12 to 13 inches). The Woodburn-Willamette soils also predominate to the south and southwest of the McMinnville area.

The petitioner stated that the most distinctive geological feature within the McMinnville viticultural area is the Nestucca Formation, a 2,000-foot thick bedrock formation that extends west from the city of McMinnville to the slopes of the Coast Range. This formation contains marine sandstone and mudstone with intrusions of marine basalts. These intrusions differentiate the formation from the pure basaltic parent materials found under the Red Hills and Chehalem Mountains and the pure marine sedimentary materials of the Yamhill Formation found on the valley floor.

Because of these marine basalts, the petition notes that the ground water composition of the McMinnville

viticultural area is significantly different from that of areas to the east. According to data obtained from Oregon State University's Drinking Water Program, it contains greater dissolved sodium (66 mg/L vs. 16 mg/L), less dissolved potassium (0.9 mg/L vs. 3.8 mg/L), and greater dissolved boron (230 µg/L vs. 20 µg/L) than the ground water east of McMinnville. The petitioner asserts that significant variations in these component materials can result in grapes with unique flavor and development characteristics.

#### *Boundary Description*

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

#### *Maps*

The petitioner(s) provided the required maps, and we list them below in the regulatory text.

#### **TTB Finding**

After careful review of the petition and the comments, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the "McMinnville" viticultural area in Yamhill County, Oregon, effective 60-days from this document's publication date.

#### **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, "McMinnville," is recognized as a name of viticultural significance. Consequently, wine bottlers using "McMinnville" in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

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 conditions listed in 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.

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.

#### **Regulatory Analyses and Notices**

##### *Regulatory Flexibility Act*

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

##### *Executive Order 12866*

This rule is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735). Therefore, it requires no regulatory assessment.

##### **Drafting Information**

Jennifer Berry of the Regulations and Procedures Division drafted this document.

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

Wine.

##### **The Final Rule**

■ For the reasons discussed in the preamble, we 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.

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

■ 2. Subpart C is amended by adding § 9.181 to read as follows:

##### **§ 9.181 McMinnville.**

(a) *Name.* The name of the viticultural area described in this section is "McMinnville."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the McMinnville viticultural area are five United States Geological Survey

(USGS) 1:24,000 scale topographic maps titled:

- (1) McMinnville, Oregon, 1957, revised 1992;
- (2) Muddy Valley, Oregon, 1979, revised 1992;
- (3) Stony Mountain, Oregon, 1979, revised 1992;
- (4) Sheridan, Oregon, 1956, revised 1992; and
- (5) Ballston, Oregon, 1956, revised 1992.

(c) *Boundary.* The McMinnville viticultural area is located in Yamhill County, Oregon, and is entirely within the Willamette Valley viticultural area. The boundary of the McMinnville viticultural area is as described below—

(1) The beginning point is on the McMinnville, Oregon, map where the 200-foot contour line intersects the common boundary between section 13, T4S, R5W, and section 18, T4S, R4W. From this point follow the meandering 200-foot contour line westerly for about 2 miles to its intersection with Baker Creek Road in section 54, T4W, R5W, on the Muddy Valley map;

(2) Then follow Baker Creek Road west about 2 miles through Happy Valley to the road's intersection with Power House Hill Road in section 50, T4S, R5W (Muddy Valley map);

(3) Proceed southwest on Power House Hill Road for about 1.4 miles to its intersection with Peavine Road in section 17, T4S, R5W (Muddy Valley map);

(4) Follow Peavine Road west and then northwest about 1.5 miles to its intersection with Gill Creek in section 18, T4S, R5W (Muddy Valley map);

(5) Follow Gill Creek southerly (downstream) for about 0.6 miles to its intersection with the 800-foot contour line in section 18, T4S, R5W, on the Muddy Valley map;

(6) From Gill Creek, follow the meandering 800-foot contour line westerly, crossing Deer Creek in section 14, T4S, R6W, on the Stony Mountain map, and, crossing back and forth four times between the Stony Mountain and Muddy Valley maps in section 24, T4S, R6W, continue southwesterly to the contour line's intersection with Thomson Mill Road in section 27, T4S, R6W, on the Stony Mountain map;

(7) Continue to follow the meandering 800-foot contour line southwesterly, crossing Cronin and Beaver Creeks, to the 800-foot contour line's intersection with Rock Creek Road in section 46, T5S, R6W, on the Stony Mountain map;

(8) Then follow Rock Creek Road south for about 5 miles to its intersection with the West Valley Highway in section 44, T5S, R6W, on the Sheridan map, and continue about

200 feet due south in a straight line to from that intersection to the 200-foot contour line, just north of the Yamhill River (Sheridan map);

(9) Then follow the meandering 200-foot contour line easterly, passing north of most of the village of Sheridan, crossing onto the Ballston map, and continue easterly and then northerly along the 200-foot contour line to its first intersection with Christensen Road at the common boundary between sections 27 and 34, T5S, R5W (Ballston map);

(10) Continue to follow the 200-foot contour line westerly and then northerly, passing onto the Muddy Valley map and then the Stony Mountain map, to the contour line's intersection with Deer Creek in section 64, T5S, R6W (Stony Mountain map);

(11) Cross Deer Creek and follow the 200-foot contour line southeasterly, crossing Dupree Creek in section 64, T5S, R6W, on the Muddy Valley map, and, crossing onto the Ballston map, continue southerly and then easterly along the 200-foot contour line to its intersection with State Route 18 at the hamlet of Bellevue, section 28, T5S, R5W (Ballston map);

(12) Continue westerly then northerly along the meandering 200-foot contour line, crossing Latham Road at the northern boundary of section 53, T5S, R5W, and, crossing onto the Muddy Valley map, continue northerly along the 200-foot contour line to its intersection with Muddy Creek in section 40, T5S, R5W (Muddy Valley map);

(13) Crossing Muddy Creek, follow the 200-foot contour line southerly, then easterly, and then northerly to its intersection with Peavine Road in the western extension of section 47, T4S, R5W (Muddy Valley map);

(14) From Peavine Road, continue northeasterly along the meandering 200-foot contour line, crossing Cozine Creek in section 46, T4S, R5W, and, crossing onto the McMinnville map, follow the 200-foot contour line across Redmond Hill Road in section 44, T4S, R5W, and return to the point of beginning (McMinnville map)

Signed: November 22, 2004.

**Arthur J. Libertucci,**  
Administrator.

Approved: December 9, 2004.

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

[FR Doc. 05-912 Filed 1-14-05; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 1

#### Privacy Act of 1974; Implementation

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury exempts a new Internal Revenue Service (IRS) system of records entitled "IRS 42.031—Anti-Money Laundering/Bank Secrecy Act (BSA) and Form 8300 Records" from certain provisions of the Privacy Act.

**EFFECTIVE DATE:** January 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** IRS National Anti-Money Laundering Program Manager, S: C: CP: RE: AML, 19th Floor, 1601 Market Street, Philadelphia, PA 19106, phone (215) 861-1547.

**SUPPLEMENTARY INFORMATION:** The IRS published a notice of proposed rulemaking on April 30, 2004 at 69 FR 23705-23706 exempting the new system of records from certain provisions of the Privacy Act of 1974, as amended. The IRS published the proposed system notice in its entirety at 69 FR 23854 on April 30, 2004. No comments were received by the IRS.

Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system is investigatory material compiled for law enforcement purposes. The exemption is from provisions 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) because the system contains investigatory material compiled for law enforcement purposes. The following are the reasons why this system of records maintained by the IRS is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974.

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

(i) The release of disclosure accounting would put the subject of an investigation on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature,

and purpose of each disclosure and the name and address of the person or agency to which disclosure was made. The release of such information to the subject of an investigation would provide the subject 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.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the subject and 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), (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 and 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: To notify an individual at the individual's request of the existence of an investigative file pertaining to such individual or to grant 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 such sources; and, disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(1). This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting this system of records from the foregoing are as follows:

(i) The IRS will limit the Anti-Money Laundering/Bank Secrecy Act (BSA) and Form 8300 Records to those relevant and necessary for identifying, monitoring, and responding to