

compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

#### **PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN**

1. The authority citation for 7 CFR part 930 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 930.200 is revised to read as follows:

#### **§ 930.200 Assessment rate.**

On and after October 1, 2010, the assessment rate imposed on handlers shall be \$0.0075 per pound of tart cherries grown in the production area and utilized in the production of tart cherry products. Included in this rate is \$0.005 per pound of cherries to cover the cost of the research and promotion program and \$0.0025 per pound of cherries to cover administrative expenses.

Dated: May 19, 2010.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2010–12466 Filed 5–26–10; 8:45 am]

**BILLING CODE P**

#### **DEPARTMENT OF THE TREASURY**

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

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

[Notice No. 105; Docket No. TTB–2010–0003]

RIN 1513–AB41

#### **Proposed Establishment of the Pine Mountain-Mayacmas Viticultural Area**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 4,600-acre “Pine Mountain-Mayacmas” American viticultural area in portions of Mendocino and Sonoma Counties, California. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

**DATES:** We must receive written comments on or before July 26, 2010.

**ADDRESSES:** You may send comments on this notice to one of the following addresses:

- *http://www.regulations.gov:* Use the comment form for this notice as posted within Docket No. TTB–2010–0003 on “Regulations.gov,” the Federal e-rulemaking portal, to submit comments via the Internet;

- *Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.

- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments we receive about this proposal within Docket No. TTB–2010–0003 at *http://www.regulations.gov*. A direct link to this docket is posted on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 105. You also may view copies of this notice, all supporting materials, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202–453–2270 to make an appointment.

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

#### **SUPPLEMENTARY INFORMATION:**

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

##### *TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits,

and malt beverages. The FAA Act requires that these regulations, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

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

#### *Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its 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 geographic 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.

#### **Pine Mountain-Mayacmas Petition**

Sara Schorske of Compliance Service of America prepared and submitted a petition on her own behalf and that 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 the river's Big Sulphur Creek tributary, and to the immediate west of the Mayacmas Mountains. About 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 Pine Mountain-Mayacmas viticultural area is totally within the multicounty North Coast viticultural area (27 CFR 9.30), and it overlaps the northernmost portions of the established 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 Pine Mountain-Mayacmas 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 Pine Mountain-Mayacmas vineyards generally are small, 5- to 20-acre plots located on flat or gently sloping patches of ground found within the proposed area's steep mountainous terrain, which contrast with the larger vineyards found on the valley floor.

We summarize below the supporting evidence presented in the petition.

#### *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 spanning north-northwest from approximately 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 in the petition, shows Pine Mountain 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 in 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 divides Lake County from Mendocino, Sonoma, and Napa Counties, and, the petition states, the range defines the northern side of the Alexander Valley. According to the petition, the mountains were named for the Mayacmas Indians. While the name is sometimes spelled "Mayacamas" or

"Maacama," "Mayacmas" is the official 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 since 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" since 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 (27 CFR 9.53), Napa Valley (27 CFR 9.23), and Sonoma Valley (27 CFR 9.29) viticultural areas. The petitioners believe 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 Pine Mountain-Mayacmas viticultural area encompasses those portions of Pine Mountain and its 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 Pine Mountain-Mayacmas viticultural area vineyard development is limited to the small, 5- to 20-acre plots of flatter ground found within the proposed area's steep terrain. Limiting factors for these mountain vineyard operations, the petition explains, include the needs for tractor use and economical erosion control. The mountain vineyards' patchwork arrangement, the petition continues, contrasts to the large 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, included within the proposed area's boundary, have favorable growing season solar orientation as compared with the less sunny sides of the mountain outside of the proposed

boundary line. Successful viticulture depends partially on a favorable solar orientation to provide adequate growing season sunshine and heat accumulation. The petition summarizes the rationale for the proposed Pine Mountain-Mayacmas viticultural area boundary as shown in the table below:

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. These included, the petition states, 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 the site is located inside the southwest boundary line of the proposed viticultural area. The winery site is shown on a 1956 State of California Division of Forestry map for the region included with the petition. The petition notes that remnants of the old winery building are still visible and that modern vineyards grow 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, 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 a map included in the petition, the former Preston vineyard lies about a mile outside of the western boundary line of the proposed

Pine Mountain-Mayacmas viticultural area.

*Distinguishing Features*

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

*Topography*

The proposed Pine Mountain-Mayacmas viticultural area is higher in elevation, with steeper terrain, than the lower, flatter Alexander Valley to the proposed viticultural area’s southwest. 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. Patches of flatter ground within this steep terrain allow 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 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 Pine Mountain-Mayacmas 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 sunnier summer growing conditions of the proposed viticultural area ensure that grape harvest starts at the same time as on the foggier valley floor. The petition also notes that the proposed 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 within and 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’s 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 Pine Mountain-Mayacmas 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 Pine Mountain-Mayacmas viticultural area averages 3 to 4 hours more sunlight

a 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 without fog. 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 at the same time as those grown in valley floor vineyards.

*Temperatures:* During the growing season, daytime high temperatures within the proposed Pine Mountain-Mayacmas viticultural area are consistently cooler, and overnight temperatures are consistently warmer, than those found on the Alexander Valley floor, according to the petition data. 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 in order 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 slopes relatively warmer as compared to the cooler valley air temperatures. 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 Pine Mountain-Mayacmas 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 unheard of on the Alexander Valley floor below, the petition explains.

**Soils**

According to the petition, the mountain soils within the proposed Pine Mountain-Mayacmas 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 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's soils. The petition describes the parent materials of the proposed Pine Mountain-Mayacmas viticultural area's 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 of the proposed viticultural area are deeper, less well-drained alluvial soils.

*Overlap With Established Viticultural Areas*

The Sonoma County portion of the proposed Pine Mountain-Mayacmas 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 Pine Mountain-Mayacmas viticultural area is distinguishable from those existing 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 Pine Mountain-Mayacmas 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. The large Northern Sonoma viticultural area includes the Alexander Valley (27 CFR 9.53), Knights Valley (27 CFR 9.76), Chalk Hill (27 CFR 9.52), Russian River Valley (27 CFR 9.66), 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 of the Northern Sonoma viticultural area stands in contrast to the uniform climate and terrain found within the proposed Pine Mountain-Mayacmas 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. While the proposed Pine Mountain-Mayacmas viticultural area has a somewhat similar climate, the petition notes, the proposed area is small, is limited to higher elevations, and is less foggy than the general North Coast area's climate.

#### TTB Determination

TTB concludes that the petition to establish the 4,600-acre Pine Mountain-Mayacmas American viticultural area merits consideration and public comment, as invited in this notice.

#### *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 AVA, 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 mountain area to the east is characterized primarily by the Goulding-Toomes-Guenoc and

Henneke-Maymen associations, but the valley floor, by the Yolo-Cortina-Pleasanton association. TTB notes that the temperature and frost-free season data concerning the valley and the mountainous area, though different, are not so different as to be considered significantly different.

The area in the Alexander Valley viticultural area that also overlaps the proposed Pine Mountain-Mayacmas viticulture area was added in Treasury Decision ATF-233, published in the **Federal Register** (51 FR 30353) 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 petitioner provides more detailed evidence regarding the geographical features that distinguish the entire proposed Pine Mountain-Mayacmas 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 Pine Mountain-Mayacmas 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 within the Northern Sonoma viticultural area, and the area of overlap is the same with respect to both the Northern Sonoma and Alexander Valley viticultural areas. In addition, the name recognition for the Northern Sonoma viticultural area does not extend into the portion of the proposed Pine Mountain-Mayacmas viticultural area beyond 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 in defining the boundary of the Northern Sonoma viticultural area.

T.D. ATF-204, which established the Northern Sonoma viticultural area, states:

Six approved viticultural areas are located entirely within the Northern Sonoma viticultural area as follows: Chalk Hill,

Alexander Valley, Sonoma County Green 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 those four areas with the exception of an area southwest of the Dry Creek Valley area and west of the Russian River Valley area.

**Note:** Sonoma County Green Valley was subsequently renamed Green Valley of Russian River Valley.

TTB also notes that the Northern Sonoma viticultural area has been adjusted twice in order to maintain its boundary as being formed by the outer boundaries of the four areas specified 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 discussed in this document concerning the North Coast viticultural area, TTB notes that this viticultural area, established by T.D. ATF-145, 48 FR 42973 (September 21, 1983), encompasses approximately 40 established viticultural areas, as well as the proposed Pine Mountain-Mayacmas viticultural area, in northern California. In the "Geographical Features" section, T.D. ATF-145 states that climate is the major factor in distinguishing the North Coast viticultural area from surrounding areas, and that all the areas within the North Coast viticultural area receive marine air and most receive fog. T.D. ATF-145 also states that "[due] to the enormous size of the North Coast, variations exist in climatic features such as temperatures, rainfall and fog intrusion."

The proposed Pine Mountain-Mayacmas viticultural area shares the basic geographical feature of North Coast, marine air that results in greater amounts of rain in the proposed viticultural area. However, the proposed viticultural area is much more uniform in its geographical features than the North Coast viticultural area. In this regard, T.D. ATF-145 specifically states, "approval of this viticultural area does not preclude approval of additional areas, either wholly contained within the North Coast, or partially overlapping the North Coast \* \* \* the smaller viticultural areas tend to be more

uniform in their geographical and climatic characteristics \* \* \*.”

#### *Boundary Description*

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

#### *Maps*

The petition included the required maps, and we list them below in the proposed regulatory text.

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

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, "Pine Mountain-Mayacmas," will be recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the proposed regulation clarifies this point.

If this proposed regulatory text is adopted as a final rule, wine bottlers using "Pine Mountain-Mayacmas" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the full name of the viticultural area as an appellation of origin. Additionally, TTB wishes to clarify that if this viticultural area is established as the "Pine Mountain-Mayacmas" viticultural area, this establishment would preclude the use of an alternate spelling, such as "Pine Mountain-Mayacamas," as the name of the viticultural area on a wine label. It would also preclude the use of an alternate spelling, such as "Pine Mountain-Mayacamas," in a brand name, including a trademark, or in another label reference as to the origin of the wine unless the product were eligible to use the established name of the viticultural area as an appellation of origin. For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term specified as having viticultural significance, 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. Accordingly, if a previously approved label uses the name "Pine Mountain-Mayacmas" for a wine that does not meet the 85 percent standard, the previously approved label will be subject to revocation upon the effective date of the approval of the Pine Mountain-Mayacmas viticultural area.

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.

#### **Public Participation**

##### *Comments Invited*

We invite comments from interested members of the public on whether we should establish the proposed Pine Mountain-Mayacmas viticultural area. We are interested in receiving comments on the sufficiency and accuracy of the name, boundary, climate, soils, and other required information submitted in support of the petition.

In addition, given the proposed Pine Mountain-Mayacmas viticultural area's location within the multicounty North Coast viticultural area and its overlap with the Alexander Valley and Northern Sonoma viticultural areas, we are interested in receiving comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates it from those existing viticultural areas, and, in general, 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.

Further, we note that the petitioner provides detailed evidence regarding the geographical features that distinguish the entire proposed Pine Mountain-Mayacmas viticultural area (including the overlap area) from the greater portion of the Alexander Valley viticultural area. We are interested in receiving comments on whether approval of the proposed viticultural area with the overlap is appropriate. That is, are the geographical features of the proposed viticultural area sufficiently different from those of the Alexander Valley viticultural area so that overlap is inappropriate, or are there geographical features of the proposed viticultural area that are

sufficiently similar to those of the Alexander Valley viticultural area so that overlap is appropriate? We are also interested in comments, based on any asserted lack of sufficient similarity between geographical features of the proposed viticultural area and those of the Alexander Valley viticultural area, on whether the potential overlap with the Alexander Valley and Northern Sonoma viticultural areas should be avoided by curtailing both the Alexander Valley and Northern Sonoma viticultural areas so that these existing viticultural areas would merely border on rather than overlap the proposed Pine Mountain-Mayacmas viticultural area, or whether both the Alexander Valley and Northern Sonoma viticultural areas should be extended to completely encompass the new area. Please provide any available specific information in support of your comments.

Because "Mayacmas" and "Mayacamas" are alternate spellings of the same name, we are interested in any comments concerning whether "Pine Mountain-Mayacmas" should be the name of this viticultural area or should the name be "Pine Mountain-Mayacamas". Additionally, because of the potential impact of the establishment of the proposed Pine Mountain-Mayacmas viticultural area on wine labels that include the term "Pine Mountain-Mayacmas" or an alternate spelling, such as "Pine Mountain-Mayacamas" as discussed above under Impact on Current Wine Labels, we are particularly interested in comments regarding whether there will be a conflict between either of these terms and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example, by adopting a modified or different name for the viticultural area.

##### *Submitting Comments*

You may submit comments on this notice by using one of the following three methods:

- *Federal e-Rulemaking Portal*: You may send comments via the online comment form linked to this notice in Docket No. TTB-2010-0003 on "Regulations.gov," the Federal e-rulemaking portal, at <http://www.regulations.gov>. A link to the docket is available under Notice No. 105 on the TTB Web site at <http://>

[www.ttb.gov/wine/wine-rulemaking.shtml](http://www.ttb.gov/wine/wine-rulemaking.shtml). Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, click on the site's Help or FAQ tabs.

- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 105 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please include the entity's name in the "Organization" blank of the comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

#### Confidentiality

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

#### Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, we will post, and the public may view, copies of this notice, selected supporting materials, and any electronic or mailed comments we receive about this proposal. A direct link to the Regulations.gov docket containing this notice and the posted comments received on it is available on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 105. You may also reach the docket containing this notice and the posted comments received on it through

the Regulations.gov search page at <http://www.regulations.gov>.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting.

You and other members of the public may view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our information specialist at the above address or by telephone at 202-453-2270 to schedule an appointment or to request copies of comments or other materials.

#### Regulatory Flexibility Act

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

#### Executive Order 12866

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

#### Drafting Information

Nancy Sutton of the Regulations and Rulings Division drafted this notice.

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

Wine.

#### Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter 1, 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. \_\_ to read as follows:

##### § 9. \_\_ Pine Mountain-Mayacmas.

(a) *Name.* The name of the viticultural area described in this section is "Pine Mountain-Mayacmas". For purposes of part 4 of this chapter, "Pine Mountain-Mayacmas" 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-Mayacmas 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-Mayacmas viticultural area is located in Sonoma and Mendocino Counties, California. The boundary of the Pine Mountain-Mayacmas 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 Sonoma-Mendocino County line at the northern boundary of section 31, T12N, R10W; then

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

(5) 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

(6) 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

(7) 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

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

Signed: May 24, 2010.

**John J. Manfreda,**  
Administrator.

[FR Doc. 2010-12868 Filed 5-26-10; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2009-0803]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Oakland Inner Harbor Tidal Canal, Oakland/Alameda, CA, Schedule Change

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to modify the drawbridge operation regulation for the Alameda County and the Army Corps of Engineers owned drawbridges across Oakland Inner Harbor Tidal Canal, between Oakland and Alameda, California so that four hours advance notice for openings would be required from the waterway user to the bridge owner, between the hours 4:30 p.m. and 9 a.m. daily. With the exception of Federal Holidays, openings at all other times would be on signal except during interstate rush hours, 8 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, when the drawbridges need not be opened for vessels. However, the draws would open during the above closed periods for vessels which must, for reasons of safety, move on a tide or slack water, if at least four hours advance notice is given. The proposed rule is requested by Alameda County to reduce the bridge staffing requirements during periods of reduced openings.

**DATES:** Comments and related material must reach the Coast Guard on or before August 25, 2010.

**ADDRESSES:** You may submit comments identified by the Coast Guard docket number USCG-2009-0803 using any one of the following methods:

(1) Federal eRulemaking Portal:  
<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey

Avenue, SE., Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail David H. Sulouff, Chief, Bridge Section, Waterways Management Branch, 11th Coast Guard District, telephone 510-437-3516, e-mail address [David.H.Sulouff@USCG.mil](mailto:David.H.Sulouff@USCG.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0803), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2009-0803" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

A request for comments has been published in the Coast Guard Local Notice to Mariners. All comments received will be included for the record in the electronic docket "USCG-2009-0803".

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2009-0803" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

##### Public Meeting

We do not now plan to hold a public meeting, but you may submit a request using one of the four methods under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we