

County, Minnesota. The boundary of the Alexandria Lakes viticultural area is as described below:

(1) The beginning point is on the Alexandria West, Minn. map between Lake Carlos and Lake Darling at benchmark (BM) 1366, which is an unmarked bridge on County Road 11, known as the Carlos-Darling Bridge. From this point the boundary line continues—

(2) Along the Carlos-Darling bridge and then northeasterly along the western shore of Lake Carlos on to the Alexandria East, Minn. map; then

(3) Along the shoreline until the point where the Lake Carlos shoreline parallels an unlabeled road known as County Road 38; then

(4) North along County Road 38 until it intersects with an unlabeled road known as County Road 62; then

(5) North along County Road 62 on to the Lake Miltona, East, Minn. map and then on to an unlabeled road known as Buckskin Road; then

(6) North on Buckskin Road to the point at BM 1411; then

(7) North from BM 1411 in a straight line to the south shoreline of Lake Miltona; then

(8) Generally west along the south shoreline of Lake Miltona onto the Lake Miltona West, Minn. map until the southern shoreline parallels an unlabeled road known as Krohnfeldt Drive; then

(9) South and then west along Krohnfeldt Drive until it intersects with an unlabeled road known as County Road 34; then

(10) South along County Road 34 until the point where County Road 34 runs parallel to Lake Ida's eastern shoreline; then

(11) South along Lake Ida's eastern shoreline, then onto the Alexandria West, Minn. map to the point where two unlabeled roads known as Burkey's Lane and Sunset Strip Road intersect; then

(12) South along Sunset Strip Road to the point where it intersects with an unlabeled road known as County Road 104; then

(13) Generally east along County Road 104 until it intersects with an unlabeled road known as County Road 34; then

(14) East along County Road 34 until it intersects with an unlabeled road known as County Road 11; then

(15) East along County Road 11 to the beginning point for the area at BM 1366, at the Carlos-Darling Bridge.

Signed: May 17, 2005.

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

Approved: May 31, 2005.

**Timothy E. Skud,**

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

[FR Doc. 05-13040 Filed 6-30-05; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[T.D. TTB-28; Re: Notice No. 27]

RIN 1513-AA91

#### Establishment of the Horse Heaven Hills Viticultural Area (2002R-103P)

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

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

**SUMMARY:** This Treasury decision establishes the 570,000-acre Horse Heaven Hills viticultural area in south-central Washington State. Located along the Columbia River in portions of Klickitat, Yakima, and Benton counties, the Horse Heaven Hills area is about 115 miles east of Vancouver, Washington, and lies entirely within the established Columbia 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.

**DATES:** *Effective Date:* August 1, 2005.

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

#### SUPPLEMENTARY INFORMATION:

##### Background on Viticultural Areas

##### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide 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.

##### Horse Heaven Hills Petition and Rulemaking

##### Background

TTB received a petition proposing the establishment of the Horse Heaven Hills

viticultural area in south-central Washington State from Paul D. Lucas, who filed the petition on behalf of wine grape growers within the area. Located in the portions of Klickitat, Yakima, and Benton counties north and west of the Columbia River and south of the Yakima Valley, the proposed Horse Heaven Hills viticultural area is about 115 miles east of Vancouver, Washington. At about 60 miles long and 22 miles wide, the Horse Heaven Hills viticultural area covers some 570,000 acres, of which about 6,040 acres are planted to grapes.

The large, existing Columbia Valley viticultural area (27 CFR 9.74) encompasses the proposed Horse Heaven Hills viticultural area, as well as the existing Yakima Valley (27 CFR 9.69), the Walla Walla Valley (27 CFR 9.91), and the Red Mountain (27 CFR 9.167) viticultural areas. The Horse Heaven Hills area lies southeast of the Yakima Valley area, south of Red Mountain area, and about 30 miles west of the Walla Walla Valley area, which is on the east, or opposite, side of the Columbia River.

The proposed Horse Heaven Hills viticultural area consists predominantly of open, dry plains and hills. The viticultural area includes a series of south-facing slopes and has dozens of drainages running in a spoke pattern from north to south and into the Columbia River. The strong winds that blow through the Columbia River Valley are the unique and distinctive feature of the Horse Heaven Hills area and directly affect the area's viticulture.

Below, we summarize the evidence presented in the petition.

#### *Name Evidence*

The range of hills in south-central Washington State in which the proposed Horse Heaven Hills viticultural area is located has been referred to by that name since 1857. The books "Benton County Place Names" and "Prosser—The Home County," explain that cattleman James Kinney named the hills that year while camping near Kiona, Washington. Kinney awoke to find that his animals had wandered up a mountainside and into an upland plain where they were dining on succulent bunch grass. According to the books, he commented to himself, "Surely this is Horse Heaven."

The first official use of the name Horse Heaven in conjunction with this area dates to 1884 with the founding of the Horse Heaven School, according to an untitled history of the region. This history also notes that the Horse Heaven Cemetery started in the garden of William Dennis, a local resident killed in an 1892 harvest accident. Local

newspapers, such as the Prosser Falls American (circa 1893), often referenced the Horse Heaven Hills name, as did books written about the area such as "Against Odds, A Personal Narrative of Life in Horse Heaven" (K. Elizabeth Sihler, Concordia Publishing House, St. Louis, Missouri, 1917). More recently, the Yakima-Herald published an online wine article in 2001 that mentions the Horse Heaven Ranch.

Today, the hills are still officially and popularly called the "Horse Heaven Hills" and have survived attempts to change the region's name to Benton Slope or Columbia Plains. For example, the United States Geological Survey (USGS) maps, as well as official State maps and atlases, consistently label this region as the "Horse Heaven Hills." The American Automobile Association map for the States of Oregon and Washington, published February 2003, also identifies the region in which the proposed viticultural area lies as the "Horse Heaven Hills."

#### *Viticultural History*

Growers have raised grapes in the Horse Heaven Hills region since 1972, when Don Mercer planted a 5-acre parcel of Cabernet Sauvignon at Phinny Hill, Washington. Between 1978 and 1981, Stimson Lane planted 2,000 acres in Paterson, Washington, including Merlot, Cabernet Sauvignon, Gewurztraminer, Riesling, Sauvignon Blanc, and Grenache grapes. By the mid 1980s, commercial wine production included the Mercer Ranch Vineyards' Cabernet Sauvignon, and St. Michelle's Gewurztraminer, Grenache Rose, and Cabernet Sauvignon.

Plantings continued from the mid 1980s through the early 1990s in the Horse Heaven Hills region, and greatly accelerated after the vineyards in the Horse Heaven Hills survived the hard freeze of 1996, which destroyed much of Washington State's grape crop. As of 2002, there are at least 20 vineyards, with over 6,040 acres planted, plus four commercial wineries within the region.

#### *Boundary Evidence*

The proposed Horse Heaven Hills viticultural area boundary is generally based on the hills' geographic extent and topography, and on a combination of their climate, terrain, and soils. These factors differentiate the Horse Heaven Hills from the surrounding geographic regions, as well as from the nearby, established viticultural areas of Yakima Valley, Walla Walla Valley, and Red Mountain and the larger, surrounding Columbia Valley area.

The Columbia River marks the natural eastern and southern boundary of the

Horse Heaven Hills and thus serves as the proposed viticultural area's eastern and southern boundary. To the west in Klickitat County, the Horse Heaven Hills give way to more extreme terrain. Here, Pine Creek and the 1,700-foot contour line are used to mark the viticultural area's western boundary. In the north, the slopes of the Horse Heaven Hills gradually rise to the crest of the ridge that separates the hills from the much lower Yakima Valley. This ridge, the Yakima Valley side of which is generally very steep, marks the northern limit of the proposed Horse Heaven Hills viticultural area as well.

#### *Distinguishing Features*

The proposed Horse Heaven Hills viticultural area is a unique grape-growing region distinguished from the nearby viticultural areas of Yakima Valley, Red Mountain, Walla Walla Valley, and from the larger, surrounding Columbia Valley viticultural area. The primary distinguishing factors of the Horse Heaven Hills area include its topography, wind, annual heat unit accumulation, and precipitation.

#### *Topography*

The proposed Horse Heaven Hills viticultural area is located in south-central Washington State, east of the Cascade Mountain Range and north and west of the Columbia River, which bisects eastern Washington State. The terrain within the viticultural area's 570,000 acres consists largely of south-sloping, open and dry plains, which have the geographical characteristics of a watershed, with dozens of drainages running north to south through the area in a wheel spoke pattern. Elevations range from 1,800 feet at the area's northern boundary to 200 feet at its southern boundary along the Columbia River, which forms the area's southern and eastern boundary.

To the north, the Yakima Valley borders the proposed Horse Heaven Hills viticultural area. The steep slope and cliffs of the Yakima Valley and the crest of the Horse Heaven Hills form a natural boundary between the two viticultural regions. Only three Washington State Department of Transportation-maintained road passes exist between the Horse Heaven Hills and the Yakima Valley. In the west, Pine Creek, which flows south to the Columbia River, and the 1,700-foot contour line mark the boundary between the south-facing slopes of the Horse Heaven Hills and the more extreme terrain found to the west.

Wind

A significant distinguishing feature of the proposed Horse Heaven Hills viticultural area is the heavy amount of strong wind the area receives. Based on the area's proximity to the Columbia River, and because the Columbia Gorge acts as a funnel, the Horse Heaven Hills area receives significantly more wind than surrounding areas.

In an article titled "The Columbia Gorge Wind Funnel" in the July 2003 issue of *Weatherwise* magazine (pages 104 through 107), Howard E. Graham of the National Weather Service's Portland, Oregon, office explains that the Columbia Gorge wind patterns are a function of the pressure differences between the west and east ends of this 120-mile long river canyon. The Gorge surrounds the Columbia River between Bridal Veil to the west, and Arlington to the east. The article emphasizes that the winds, rarely calm, always flow along the axis of the Gorge. The Pacific winds from the west bring moderating, mild maritime air into the Gorge. Conversely, the continental high winds from the east bring in dry air that is seasonably hot or cold. The heat of the Columbia Basin draws these intense winds north over Horse Heaven Hills after they exit the Columbia Gorge.

Wind through the Columbia Gorge is determined by Wind Run Miles (WRMs), a unit of measure for the force and speed of wind in one hour. The Horse Heaven Hills viticultural area records an average of 30 percent more WRMs than the Walla Walla Valley viticultural area to the east and the Yakima Valley viticultural area to the north, and 20 percent more than the Red Mountain viticultural area to the immediate north. The three surrounding viticultural areas, unlike the Horse Heaven Hills region, are not in the direct wind funnel path of the Columbia Gorge.

Viticultural area	Annual wind run miles
Horse Heaven Hills .....	46,200
Red Mountain .....	36,700
Walla Walla Valley .....	32,800
Yakima Valley .....	32,800

The wind's effect on viticulture is especially noted during the grapevine bud-break to fruit-set period, according to a 1982 article, "Influence of Windbreaks and Climatic Region on Diurnal Fluctuation of Leaf Water Potential, Stomatal Conductance, and Leaf Temperature of Grapevines," by Freeman, Kliewer, and Stern in the *American Journal of Enological Viticulture*, vol. 33:233-236. The most-

often observed consequences of the higher winds within the proposed Horse Heaven Hills viticultural area include a reduction in canopy size and density of grapes on the vines. Also, vines are less prone to disease, based on the wind's drying of wet plant surfaces on which fungal spores or bacteria can land. The volume of wind is also a key factor in determining the amount of irrigation needed for optimum vine growth.

Temperature

The proposed Horse Heaven Hills viticultural area has a relatively warm growing season within the Columbia Valley region of Washington State. This growing season warmth has a dramatic impact on harvest dates and fruit quality. The harvest time in the Horse Heaven Hills may start up to two weeks before the harvest in the Yakima Valley, 40 miles to the northwest. The Horse Heaven Hills growing season allows growers to ensure full maturity in mid-to late-season grape varieties while receiving the benefit of extended time on the vine. The length of the growing season produces unique fruit characteristics, resulting in many "single vineyard" designated wines. It also decreases the risk of fall frost and harvest time disease.

The Annual Heat Units index calculates the sum of the average daily temperatures above a threshold of 50 degrees Fahrenheit during the growing season. This method determines and compares the heat growing conditions of viticultural areas.

Viticultural areas	Annual heat units (ten year average)
Red Mountain .....	3,016
Walla Walla Valley .....	2,821
Horse Heaven Hills .....	2,801
Yakima Valley .....	2,568

Rainfall

Central and eastern Washington State receives most of its annual rainfall in the winter months when grapevines are dormant. As a result, all grape-growing areas in this region require supplemental irrigation. However, the low amount of precipitation received during the growing season reduces the risk of harmful diseases that may occur in the vineyard. The low amount of water that grapevines in the Horse Heaven Hills receive prevents excessive vine canopy growth, which may lead to grapes with vegetative flavors, excessive acidity, reduced color, and large berry size.

The proposed Horse Heaven Hills viticultural area receives about 9 inches

of rain annually. This is 45 percent less rainfall than the 19.7 inches in the Walla Walla Valley area to the east, 30 percent less than Chelan, Washington, at 13.2 inches rainfall, to the north, and 13 percent more than the Yakima Valley, at 7.8 inches, to the immediate north.

Soils

Three dominant parent materials form the soils found within the proposed Horse Heaven Hills viticultural area, according to Alan Busacca of the Department of Crop and Soil Sciences, Washington State University: (1) Eolian sand and silt (wind blown dunes and loess); (2) sediments from giant glacial outburst floods, including gravelly alluvium and stratified fine sands and silts (slackwater sediments); and (3) hill slope rubble from the Columbia River Basalt bedrock. The soils of each Washington State viticultural area are distinct, with variations in the proportion and distribution of the three parent materials noted above, according to Larry Meinert, a professor of Geology at Washington State University. The westerly wind transport predominant in the proposed Horse Heaven Hills area and the direction of glacial floods create a differing grain size distribution of the soils in the region as compared to the surrounding viticultural areas.

The proposed Horse Heaven Hills viticultural area's low annual precipitation and its hot summers act to weather the parent materials and soils. The soils are mainly classified as Aridisols (desert soils) and Mollisols (prairie soils), which are formed from various combinations of the three parent materials, according to the Soil Survey Staff in "Soil Taxonomy, A Basic System of Soil Classification for Making and Interpreting Soil Surveys," (Second Edition, 1999, USDA Natural Resources Conservation Service).

Boundary Description

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

Maps

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

Notice of Proposed Rulemaking

TTB published a notice of proposed rulemaking regarding the establishment of the Horse Heaven Hills viticultural area in the **Federal Register** as Notice No. 27 on January 24, 2005 (70 FR 3322). In that notice, TTB requested

comments by March 25, 2005, from all interested persons. TTB received six comments in response to the notice. All comments supported the establishment of the Horse Heaven Hills viticultural area based on its distinguishing viticultural features and the "Horse Heaven Hills" name, which accurately identifies this geographical region.

In this final rule, we altered the location of the Horse Heaven Hill viticultural area's proposed northern boundary between Webber and Badger Canyons in Benton County in order to simplify the boundary's description. The area's northern boundary remains the same as proposed up to the 1,745-foot peak on the western side of Webber Canyon. From that peak, rather than following a more complex series of contour and section lines between the two canyons, the finalized boundary continues southeasterly along a straight line to the 1,757-foot peak on the western side of Badger Canyon. From that peak the boundary proceeds due south to Smith Road, where it continues as proposed in Notice No. 27. This change makes this boundary section more consistent with the remainder of the viticultural area's northern boundary, which generally follows a series of straight lines drawn through peaks in the ridge separating the Horse Heaven Hills from the Yakima Valley. This boundary change increases the size of the Horse Heaven Hills area by less than 1,000 acres.

In addition, we altered the wording of several other boundary description paragraphs for clarity, but we did not change the location of the viticultural area's boundary except as noted above.

#### TTB Finding

After careful review of the Horse Heaven Hills viticultural area petition and the comments received, 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 "Horse Heaven Hills" viticultural area, located along the Columbia River in portions of Klickitat, Yakima, and Benton counties in south-central Washington State, effective 30-days from the publication date of this final rule.

#### 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, "Horse Heaven

Hills," is recognized as a name of viticultural significance. In addition, the name "Horse Heaven" standing alone is considered a term of viticultural significance since the names "Horse Heaven Hills" and "Horse Heaven" are often used interchangeably, and the name "Horse Heaven" applies to places within the boundary of the Horse Heaven Hills viticultural area. Consumers and vintners could, therefore, reasonably attribute the quality, reputation, or other characteristic of wine made from grapes grown in the Horse Heaven Hills viticultural area to the name Horse Heaven itself. Consequently, wine bottlers using "Horse Heaven Hills" or "Horse Heaven" 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 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

Nancy Sutton of the Regulations and Procedures Division drafted this document.

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

Wine.

#### The Regulatory Amendment

■ 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. Amend subpart C by adding § 9.188 to read as follows:

##### § 9.188 Horse Heaven Hills.

(a) *Name.* The name of the viticultural area described in this section is "Horse Heaven Hills". For purposes of part 4 of this chapter, "Horse Heaven Hills" and "Horse Heaven" are terms of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Horse Heaven Hills viticultural area are 28 United States Geological Survey (USGS) 1:24,000 scale topographic maps. They are titled:

- (1) Umatilla Quadrangle, Oregon—Washington, 1993;
- (2) Irrigon Quadrangle, Oregon—Washington, 1993;
- (3) Paterson Quadrangle, Washington—Oregon, 1993;
- (4) West of Paterson Quadrangle, Washington—Oregon, 1993;
- (5) Boardman Quadrangle, Oregon—Washington, 1993;
- (6) Crow Butte Quadrangle, Washington—Oregon, 1993;
- (7) Golgotha Butte Quadrangle, Washington—Oregon, 1993;
- (8) Heppner Junction Quadrangle, Oregon—Washington, 1962, photo revised, 1970;
- (9) Wood Gulch Quadrangle, Washington—Oregon, 1962, photo revised 1970, photo inspected 1975;
- (10) Crider Valley Quadrangle, Washington, 1962;
- (11) Douty Canyon Quadrangle, Washington, 1962;
- (12) Tule Prong Quadrangle, Washington, 1965;
- (13) Prosser SW Quadrangle, Washington, 1965, photo inspected 1975;

(14) Mabton West Quadrangle, Washington, 1965;

(15) Mabton East Quadrangle, Washington, 1965;

(16) Prosser Quadrangle, Washington, 1965;

(17) Whitstran Quadrangle, Washington, 1965;

(18) Whitstran NE Quadrangle, Washington, 1965;

(19) Corral Canyon Quadrangle, Washington, 1977;

(20) Webber Canyon Quadrangle, Washington, 1965;

(21) Badger Mountain Quadrangle, Washington, 1965, photo revised 1978;

(22) Taylor Canyon Quadrangle, Washington, 1965;

(23) Johnson Butte Quadrangle, 1964, photo revised 1978;

(24) Nine Canyon Quadrangle, 1964;

(25) Wallula Quadrangle, 1992;

(26) Juniper Canyon Quadrangle, 1966, photo revised 1978;

(27) Juniper Quadrangle, 1993; and

(28) Hat Rock Quadrangle, 1993.

(c) *Boundary.* The Horse Heaven Hills viticultural area is located in portions of Benton, Klickitat, and Yakima Counties, Washington. The boundary of the Horse Heaven Hills viticultural area is described below:

(1) Beginning on the Umatilla map at the intersection of Interstate Highway 82 and the north bank of the Columbia River in Benton County, Washington, proceed westerly (downstream) along the river's north bank, passing through the Irrigon, Paterson, West of Paterson, Boardman, Crow Butte, and Golgotha Butte maps, to the mouth of Pine Creek in section 32, T4N/R22E, on the Heppner Junction map in Klickitat County; then

(2) Follow Pine Creek northwesterly (upstream) for approximately 7.0 miles to the junction of Pine Creek and the western boundary of section 16, T4N/R21E, on the Wood Gulch map, then continue north along the section boundary to the point where East Road, which coincides with the section line at this point, crosses the 1,700-foot contour line, very near the southwestern corner of section 9, T4N, R21E; then

(3) Proceed northeasterly along the meandering 1,700-foot contour line through, and crossing between, the Crider Valley and Douty Canyon maps (crossing Alder Creek, Stegeman Canyon, Spring Canyon, Sand Ridge, and Willow Creek) to the point where the 1,700-foot contour line intersects Sand Ridge Road in section 4, T5N, R22E, on the Douty Canyon map; then

(4) Continue north-northeasterly along the meandering 1,700-foot contour line through, and crossing between, the Tule Prong and Douty Canyon maps (crossing

Tule Canyon, Tule Prong, and Dead Canyon) to the contour line's intersection with Alderdale Road in section 31, T7N/R23E, northeast of Coyote Canyon, on the Prosser SW map in Yakima County; then

(5) Follow Alderdale Road northwest, returning to the Tule Prong map, and continue northwest and then north along Alderdale Road to its intersection with Wandling Road in section 2, T7N/R22E; then

(6) From that intersection, proceed northeasterly in a straight line to the 2,011-foot peak near the northwest corner of section 1, T7N/R22E, on the Mabton West map, and continue northeasterly in a straight line to the 1,989-foot peak in the southeast corner of section 36, T8N/R22E, on the Mabton East map; then

(7) From that peak, proceed easterly in a straight line through the 1,860-foot benchmark along side Township Road in section 31, T8N/R23E, to the 2,009-foot peak in section 32, T8N/R23E, then northerly in a straight line to the 2,011-foot peak in the same section, then easterly to the 1,850-foot peak in the northwest quadrant of section 33, T8N/R23E, then east-northeasterly to the 1,964-foot peak beside the western boundary of section 27, T8N/R23E, then east-northeasterly through the 2,031-foot peak in the northwest corner of section 26, T8N/R23E, to the 2,064-foot peak in the northern portion of the same section; then

(8) From that peak, proceed east-southeast to the 2,093-foot peak in the northeastern quadrant of section 25, T8N/R23E on the Prosser map, then northeasterly in a straight line to the 2,193-foot peak of Horse Hill in the northeast corner of section 25, T8N/R23E, then northeasterly in a straight line, crossing into Benton County, to the 2,107-foot peak in section 19, T8N/R24E, then easterly to the 2,081-foot peak in section 21, T8N/R24E, then east-northeasterly through the 1,813-foot peak near the northwest corner of section 13, T8N/R24E, to the 1,861-foot peak marked with radio towers near the southern boundary of section 12, T8N/R24E; then

(9) From that peak, proceed northeasterly in a straight line to an unmarked 1,410-foot summit in the northeast corner of section 7, T8N/R25E, on the Whitstran map, then east-southeasterly to the 1,637-foot peak near the center of section 8, T8N/R25E, and then north-northeasterly to the intersection of State Route 221 and Carter Road near the southeast corner of section 5, T8N/R25E; then

(10) Follow Carter Road northerly to the point where it becomes an

unimproved road and continue northerly then easterly along the unimproved road to the 1,854-foot peak of Gibbon Hill in the northeast corner of section 4, T8N/R25E; then

(11) From that peak, proceed east-northeasterly in a straight line through the 1,745-foot peak in section 35, T9N/R25E, to the 1,976-foot peak in section 36, T9N/R25E, then east-northeasterly in a straight line onto the Whitstran NE map through the 1,808-foot peak in section 30, T9N/R26E, to the 1,818-foot peak in the same section; then

(12) From that peak, proceed due north in a straight line to the jeep trail above the 1,750-foot contour line near the northeast corner of section 30, T9N/R26E; then

(13) Follow the jeep trail east-northeasterly to the 2,046-foot peak of Chandler Butte in section 21, T9N/R26E, then east-northeasterly and then southeasterly along the jeep trail through sections 22 and 23, T9N/R26E, on the Corral Canyon map, to the intersection of the jeep trail and McBee Grade road near the gravel pit in the southeast corner of section 23, T9N/R26E, on the Whitstran NE map; then

(14) From that intersection, proceed southeasterly in a series of straight lines through the 1,689-foot peak in the southeast corner of section 23, T9N/R26E, and the 1,826-foot peak in section 25, T9N/R26E, on the Whitstran map, then, on the Webber Canyon map, through the 1,845-foot peak in section 30, T9N/R27E, the 1,808-foot peak in section 31, T9N/R27E, the 1,745-foot peak in section 32, T9N/R27E, and the 1,572-foot peak of Rome Hill in section 14, T8N/R27E, and then, on the Badger Mountain map, continue in a straight line to the 1,757-foot peak in section 30, T8N/R28E; then

(15) From the 1,757-foot peak, proceed due south in a straight line to the line's intersection with Smith Road near the northern boundary of section 6, T7N/R28E; then

(16) Continue southerly along Smith Road to the road's intersection with Clodfelter Road at the southern boundary of section 6, T7N/R28E, on the Taylor Canyon map; then

(17) Proceed east on Clodfelter Road to its intersection with Williams Road at the eastern boundary of section 5, T7N/R28E, and continue east on Williams Road to its intersection with the 1,800-foot contour line in section 4, T7N/R28E; then

(18) Follow the meandering 1,800-foot contour line southerly then easterly to the contour line's junction with the northeast corner of section 15, T7N/R28E; then

(19) From that point, proceed east-southeasterly in a straight line to the 1,680-foot benchmark in section 17, T7N/R29E, on the Johnson Butte map, and continue east-northeasterly in a straight line through the 2,043-foot peak of Johnson Butte in section 16, T7N/R29E, to the 2,220-foot peak of Jump Off Joe summit in section 12, T7N/R29E; then

(20) From that point, proceed southeasterly in a straight line, through the Nine Canyon map, to the 343-foot benchmark on the bank of the Columbia River at Palmer Pond in section 13, T6N/R30E, on the Wallula map; and then

(21) Follow the north bank of the Columbia River westerly (downstream), through the Juniper Canyon, Juniper, and the Hat Rock maps, to the beginning point at the intersection of Interstate Highway 82 and the north bank of the Columbia River on the Umatilla map.

Signed: May 17, 2005.

**John J. Manfreda,**  
Administrator.

Approved: May 27, 2005.

**Timothy E. Skud,**

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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## DEPARTMENT OF DEFENSE

### Defense Security Service

#### 32 CFR Part 321

[DSS Regulation 01-13-R]

#### Privacy Act; Implementation

**AGENCY:** Defense Security Service, DoD.

**ACTION:** Final Rule/Transfer.

**SUMMARY:** The Defense Security Service (DSS) is adding an exemption rule for the system of records V5-05, entitled 'Joint Personnel Adjudication System (JPAS)'. The system of records is being transferred from the Department of the Air Force's inventory (F031 DoD A, entitled 'Joint Personnel Adjudication System (JPAS)') to the DSS inventory of records. The exemption rule (32 CFR part 806b) for the Air Force system is being transferred and published as an exemption rule (32 CFR part 321.13) for the DSS system.

The rule was published as a final rule on May 9, 2003 at 68 FR 24881.

**DATES:** Effective July 1, 2005.

**ADDRESSES:** Defense Security Service, Chief Information Officer/Chief Operating Officer, 1340 Braddock Place, Alexandria, VA 22314-1651.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leslie R. Blake at (703) 325-9450.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

##### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been certified that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

##### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

##### Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been certified that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

##### Executive Order 13132, "Federalism"

It has been certified that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship

between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 321

Privacy.

■ Accordingly, 32 CFR part 321 is to be amended to read as follows:

#### PART 321—DEFENSE SECURITY SERVICE PRIVACY PROGRAM

■ 1. The authority citation for 32 CFR part 321 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Section 321.13 is amended by adding paragraph (h) to read as follows:

##### § 321.13 Exemptions.

\* \* \* \* \*

(h) System identifier: V5-05.

(1) System name: Joint Personnel Adjudication System (JPAS).

(2) Exemption: (i) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(3) Authority: 5 U.S.C. 552a(k)(5).

(4) Reasons: (i) From subsections (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(ii) From subsection (e)(1) because in the collection of information for investigatory purpose, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. It is only after the information is evaluated