

**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[Docket No. TTB–2015–0011; Notice No. 155]

RIN 1513–AC22

**Proposed Establishment of the Tip of the Mitt 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 (TTB) proposes to establish the approximately 2,760-square mile “Tip of the Mitt” viticultural area in all or portions of Charlevoix, Emmet, Cheboygan, Presque Isle, Alpena, and Antrim Counties in Michigan. The proposed viticultural area is not located within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

**DATES:** Comments must be received by October 5, 2015.

**ADDRESSES:** Please send your comments on this proposed rule to one of the following addresses (please note that TTB has a new address for comments submitted by U.S. mail):

- *Internet:* <http://www.regulations.gov> (via the online comment form for this proposed rule as posted within Docket No. TTB–2015–0011 at “Regulations.gov,” the Federal e-rulemaking portal);

- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

See the Public Participation section of this proposed rule for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or request copies of the petition and supporting materials.

**FOR FURTHER INFORMATION CONTACT:**

Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

**SUPPLEMENTARY INFORMATION:****Background on Viticultural Areas***TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated December 10, 2013, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

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

*Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine’s geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA 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 (27 CFR 4.25(e)(2)) outlines

the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

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

**Tip of the Mitt Petition**

TTB received a petition from the Straits Area Grape Growers Association, on behalf of vineyard and winery owners in the northern portion of the Lower Peninsula of Michigan, proposing the establishment of the “Tip of the Mitt” AVA. The proposed AVA contains approximately 2,760-square miles and has 41 commercial vineyards, covering approximately 94 acres, distributed across the proposed AVA. The proposed AVA also has eight bonded wineries. According to the petition, an additional 48 acres of vineyards and an additional 4 bonded wineries are planned in the near future. The distinguishing features of the proposed Tip of the Mitt AVA include climate and soils. Unless otherwise noted, all information and data contained in this proposed rule that pertains to the proposed AVA comes from the petition for the proposed Tip of the Mitt AVA and its supporting exhibits.

*Name Evidence*

The proposed Tip of the Mitt AVA derives its name from its location at the northernmost end of Michigan’s Lower Peninsula. The Lower Peninsula of Michigan is shaped like a mitten, and the proposed AVA is located at the northern tip of the “mitten.” The petition noted that “Tip of the Mitt” has long been used to describe the region in

which the proposed AVA is located, and the petitioner included copies of three postcards dated from the 1960s which were submitted to demonstrate the historical use of the phrase in connection with that region. The first postcard contains a photo of the Tip of the Mitt Motel in Mackinaw City, Michigan, which is located within the proposed AVA. The second postcard depicts a map of the northern portion of the Lower Peninsula and is labeled “The Tip of the Mitt.” The third postcard contains a photo of the Tip of the Mitt Restaurant in Topinabee, Michigan, a city located within the proposed AVA.

The petition included additional evidence that the region of the proposed AVA is currently known as “Tip of the Mitt.” The petitioner submitted as one piece of evidence an online guide of hiking trails<sup>1</sup> that divides Michigan into nine regions, including the “Tip of the Mitt” region in the northern portion of the Lower Peninsula. Several annual events held throughout the proposed AVA use the name “Tip of the Mitt,” including the Tip of the Mitt Paddle Fest, the Tip of the Mitt Tractor Show, the Tip of the Mitt Classic road bike race, and a sailing race known as Michigan Challenge: Tip of the Mitt. Finally, the petition included a list of 14 businesses and non-profit organizations

within the proposed AVA, including Tip of the Mitt Windshield Repair, Tip of the Mitt IT, Tip of the Mitt Sail & Power Squadron, Tip of the Mitt Antique Tractor Association, Tip of the Mitt Watershed Council, and Tip of the Mitt Flea Market.

*Boundary Evidence*

The proposed Tip of the Mitt AVA is located at the northernmost end of Michigan’s Lower Peninsula and includes all or portions of Charlevoix, Emmet, Cheboygan, Presque Isle, Alpena, and Antrim Counties. The western portion of the boundary follows the shorelines of Grand Traverse Bay, Little Traverse Bay, and Lake Michigan. The northern portion of the boundary follows the shorelines of the Straits of Mackinac and Lake Huron. The eastern portion of the boundary also follows the Lake Huron shoreline. The southern boundary follows county lines and a series of lines drawn between points on the USGS maps to separate the lake-influenced climate of the proposed Tip of the Mitt AVA from the cooler regions to the south.

*Distinguishing Features*

The distinguishing features of the proposed Tip of the Mitt AVA include its climate and soils. Because the proposed AVA is bordered by large

bodies of water to the west, north, and east, the climate and soil data from within the proposed AVA is only contrasted with data from the region directly to the south of the proposed AVA.

*Climate*

The climate of the proposed Tip of the Mitt AVA is generally warmer than that of the region to the south. According to the petition, the primary reason for the warmer temperatures within the proposed AVA is the westerly prevailing winds that distribute warmer air from the surface of Lake Michigan across the region. As a result of these warm winds, the proposed AVA has a suitable climate for growing cold-hardy hybrid grape varieties such as Frontenac, La Crescent, and Marquette.

The following table compares the average annual high and low temperatures, as well as the average annual extreme low temperature and the average number of days per year with high temperatures below 32 degrees Fahrenheit (F) and below 0 degrees F, for 6 weather stations within the proposed Tip of the Mitt AVA and 5 weather stations south of the proposed AVA.<sup>2</sup> A map showing the locations of the weather stations is included in Docket No. TTB–2015–0011 as Exhibit 1 to Appendix II of the petition.

TABLE 1—AVERAGE ANNUAL TEMPERATURES

Weather station	Average annual high	Average annual low	Average annual extreme low	Annual days with highs below 32 degrees F	Annual days with highs below 0 degrees F
<b>Within Proposed AVA</b>					
Alpena Waste Water Treatment Plant .....	52.7	36.5	– 8.3	66	10
Onaway State Park .....	56.2	34.6	– 20.0	59	17
Cross Village .....	53.0	35.6	– 14.2	65	13
Petoskey .....	53.5	32.2	– 13.3	71	24
Boyne Falls .....	56.8	35.1	– 21.3	61	15
East Jordan .....	56.9	34.5	– 16.7	55	13
<b>South of Proposed AVA</b>					
Alpena WSO Airport .....	54.0	33.4	– 17.8	77	22
Atlanta 2SW .....	53.4	32.5	– 19.6	77	17
Gaylord .....	53.6	33.5	– 19.7	76	26
Grayling .....	53.7	31.1	– 22.2	69	22
Lake City .....	54.0	32.5	– 18.1	68	17

The data shows that although temperatures within the proposed AVA are cold, the region to the south has average annual low temperatures that are generally lower than those within the proposed AVA. The region to the

south also generally has more days per year with high temperatures below 32 degrees F and also below 0 degrees F. The petition states that the number of very cold days is important to viticulture because only certain varieties

of grapes can withstand very low temperatures. The petition states that, according to data produced by Iowa State University, there are 17 less-hardy varieties of grapes that can tolerate temperatures between – 15 and – 20

<sup>1</sup> www.trails.com.

<sup>2</sup> Source: Midwest Climate Center database, Michigan State Climatology Office. Data covers the period from 1981 to 2010.

degrees F, including Marechel Foch and Leon Millot. Because the average annual extreme low temperatures for 4 of the 6 locations within the proposed AVA are warmer than -20 degrees, and half of the locations within the proposed AVA have extreme low temperatures above -15 degrees, these 17 varieties of grapes could reasonably be expected to survive and produce consistent crops

within the proposed AVA. However, because none of the locations south of the proposed AVA have annual extreme low temperatures above -15 degrees, it is less likely that these 17 varieties would thrive and produce crops reliably south of the proposed AVA.

The petition included information on growing season length and growing degree days (GDDs)<sup>3</sup> gathered from

locations both within and outside of the proposed AVA.<sup>4</sup> The data in the following tables shows that the growing season for most locations within the proposed AVA is longer than the growing season for most locations south of the proposed AVA, and that most locations within the proposed AVA have higher GDD accumulations than locations to the south.

TABLE 2—GROWING SEASON DATA

Weather station	Average last spring frost date	Average first fall frost date	Average length of growing season (days)
<b>Within Proposed AVA</b>			
Alpena Waste Water Treatment Plant ....	May 3 .....	October 11 .....	161
Onaway State Park .....	May 15 .....	September 29 .....	137
Cross Village .....	May 27 .....	October 9 .....	135
Petoskey .....	May 9 .....	October 13 .....	157
Boyne Falls .....	May 31 .....	September 18 .....	110
East Jordan .....	May 30 .....	September 24 .....	117
<b>South of Proposed AVA</b>			
Alpena WSO Airport .....	May 26 .....	September 24 .....	121
Atlanta 2SW .....	May 20 .....	September 24 .....	127
Gaylord .....	May 28 .....	September 21 .....	116
Grayling .....	June 2 .....	September 13 .....	103
Lake City .....	May 28 .....	September 22 .....	117

TABLE 3—GROWING DEGREE DAY DATA

Weather station	March GDDs	April GDDs	May GDDs	June GDDs	July GDDs	August GDDs	September GDDs	October GDDs	Total growing season GDDs
<b>Within Proposed AVA</b>									
Alpena Waste Water Treatment Plant .....	6	31.3	151.6	389.4	579.4	541.1	306.7	66	2,071.5
Onaway State Park .....	11.3	43.1	198.4	413.5	578.1	506.3	259.5	65.2	2,075.4
Cross Village .....	6	39.5	158.5	356	521.8	502.5	299.4	75.4	1,959.1
Petoskey .....	6.5	33.6	144.1	359.0	541.4	519.4	298.8	90.5	1,993.8
Boyne Falls .....	13.9	66	229.6	466.2	618.6	571.8	342.3	99.3	2,407.7
East Jordan .....	12.9	55.3	207.2	432.4	577.6	531.6	315.7	88.4	2,221.1
<b>South of Proposed AVA</b>									
Alpena WSO Airport .....	8	36.7	153.3	380.6	553.1	492.3	261.2	60.8	1,946.0
Atlanta 2SW .....	11.2	48.3	169.5	379.9	537.8	472.5	269.5	60.6	1,949.3
Gaylord .....	12.3	48.7	190.7	413.2	560.0	499.0	271.8	66.9	2,062.6
Grayling .....	8.6	41.3	170.2	389.4	531.7	467.6	237.1	54.1	1,900.0
Lake City .....	9.9	40	182.2	388.7	534.2	467.5	230.7	56.5	1,909.7

GDDs are important to viticulture because they represent how often the daily temperatures rise above 50 degrees F, which is the minimum temperature required for active vine growth and fruit development. Because the proposed AVA has a growing season that is generally longer, and GDD accumulations that are generally higher,

than the region to the south, vineyard owners are able to grow less-hardy grapes as well as mid-to-late season ripening varieties, such as Frontenac, which would not ripen as consistently if they were grown south of the proposed AVA. The higher GDD accumulations within the proposed Tip of the Mitt AVA compensate for the

relatively short growing season because the growing season temperatures rise above 50 degrees frequently enough during the growing season to allow the grapes to mature. For example, Boyne Falls has the shortest growing season of any location within the proposed AVA, and the growing season is shorter than all but one of the locations south of the

<sup>3</sup> In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual growing degree days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's

mean temperature is above 50 degrees, the minimum temperature required for grapevine growth. See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64.

<sup>4</sup> Source: Midwest Climate Center database, Michigan State Climatology Office. Data covers the period from 1981 to 2010.

proposed AVA. However, grapes are still able to ripen reliably in Boyne Falls because the average growing season GDD accumulation is 2,407.7. By contrast, even though four of the five locations south of the proposed AVA have longer growing seasons than Boyne Falls, all of the locations south of the proposed AVA still have significantly lower GDD accumulations.

#### Soils

The predominant soils within the proposed Tip of the Mitt AVA contain coarse-textured glacial till and Lacustrine sand and gravel. Soils that contain either glacial outwash sand and gravel or ice-contact sand and gravel are only present in small amounts. The soils of the proposed AVA have high levels of organic matter, which prevents nutrients from leaching rapidly. As a result, vineyard owners do not have to apply supplemental nutrients as frequently or heavily as in areas with soils that have lower levels of organic material. Soils with high levels of organic material also have a high water-holding capacity, so vineyard owners within the proposed AVA often take steps to limit accumulations of soil moisture, such as planting cover crops between the rows of vines to help absorb excess water. Finally, the soils of the proposed AVA do not heat up as quickly in the early spring as soils that contain higher levels of sand and gravel. The cool soil temperatures naturally prevent bud-break, often delaying new growth from forming until after the threat of damaging frost is over. According to the petition, delaying bud-break until after the threat of frost has passed is particularly important when growing cultivars that typically have an early bud-break such as Leon Millot or Marquette, which are both commonly grown in the proposed AVA.

South of the proposed AVA, the soils are primarily glacial outwash sand and gravel and ice-contact sand and gravel, which are low in organic matter. Lesser quantities of coarse-textured glacial till and end moraines of fine- and coarse-textured till also occur. Because the soils south of the proposed AVA contain low amounts of organic matter, they require heavier and more frequent additions of nutrients. The soils also have a lower water-holding capacity, increasing the need for supplemental irrigation. Vineyard owners also attempt to maintain plant-free conditions between rows, in order to maximize the amount of water available for the vines. Finally, the lower levels of organic matter, combined with higher levels of sand and gravel, allow soils south of the proposed AVA to warm up more rapidly

in the spring, which encourages bud-break before the last spring frost has occurred.

#### Summary of Distinguishing Features

In summary, the evidence provided in the petition indicates that the viticulturally significant geographic features of the proposed Tip of the Mitt AVA distinguish it from the surrounding regions in each direction. The proposed AVA is surrounded by large bodies of water to the west, north, and east. The region to the south of the proposed AVA is characterized by cooler temperatures, shorter growing seasons, lower GDD accumulations, and soils with low amounts of organic material and high amounts of sand and gravel.

#### TTB Determination

TTB concludes that the petition to establish the approximately 2,760-square mile Tip of the Mitt AVA merits consideration and public comment, as invited in this proposed rule.

#### Boundary Description

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

#### Maps

The petitioner provided the required maps, and they are listed 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. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name 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 AVA 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 an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR § 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, "Tip of the Mitt," will be recognized as a name of viticultural

significance under 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, if this proposed rule is adopted as a final rule, wine bottlers using the name "Tip of the Mitt" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin.

#### Public Participation

##### *Comments Invited*

TTB invites comments from interested members of the public on whether it should establish the proposed AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, soils, climate, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

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

##### *Submitting Comments*

You may submit comments on this proposed rule by using one of the following three methods (please note that TTB has a new address for comments submitted by U.S. Mail):

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this proposed rule within Docket No. TTB-2015-0011 on "Regulations.gov," the Federal e-rulemaking portal, at <http://www.regulations.gov>. A direct link to that docket is available under Notice No. 155 on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the "Help" tab.

- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.

- *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 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 155 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. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly indicate if you are commenting on your own behalf or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name, as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail or hand delivery/courier, 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 inappropriate for public disclosure.

#### *Public Disclosure*

TTB will post, and you may view, copies of this proposed rule, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB-2015-0011 on the Federal e-rulemaking portal, Regulations.gov, at <http://www.regulations.gov>. A direct link to that docket is available on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 155. You may also reach the relevant docket through the Regulations.gov search page at <http://www.regulations.gov>. For information on how to use

Regulations.gov, click on the site's "Help" tab.

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 email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this proposed rule, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- × 11-inch page. Please note that TTB is unable to provide copies of USGS maps or any similarly-sized documents that may be included as part of the AVA petition. Contact TTB's 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**

TTB certifies 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 an AVA 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**

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

#### **Drafting Information**

Karen A. Thornton of the Regulations and Rulings Division drafted this proposed rule.

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

Wine.

#### **Proposed Regulatory Amendment**

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

#### **PART 9—AMERICAN VITICULTURAL AREAS**

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

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

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

■ 2. Subpart C is amended by adding § 9. \_\_\_ to read as follows:

#### **§ 9. \_\_\_ Tip of the Mitt.**

(a) *Name.* The name of the viticultural area described in this section is "Tip of the Mitt". For purposes of part 4 of this chapter, "Tip of the Mitt" is a term of viticultural significance.

(b) *Approved maps.* The 2 United States Geological Survey (USGS) 1:250,000 scale topographic maps used to determine the boundary of the Tip of the Mitt viticultural area are titled:

- (1) Cheboygan, Michigan, 1955; revised 1981; and
- (2) Alpena, Mich., US—Ontario, Can.; 1954.

(c) *Boundary.* The Tip of the Mitt viticultural area is located in all or portions of Charlevoix, Emmet, Cheboygan, Presque Isle, Alpena, and Antrim Counties in Michigan. The boundary of the Tip of the Mitt viticultural area is as described below:

(1) The beginning point is on the Cheboygan map, at the point where the Mackinac Bridge intersects the southern shoreline of the Straits of Mackinac. From the beginning point, proceed east-southeasterly along the shoreline of the South Channel of the Straits of Mackinac and Lake Huron, crossing onto the Alpena map and continuing to follow the Lake Huron shoreline and then the Thunder Bay shoreline to the point where the Thunder Bay shoreline intersects the common T31N/T30N township line south of the city of Alpena and north of Bare Point; then

(2) Proceed northwesterly in a straight line to the intersection of an unnamed medium-duty road known locally as Long Rapids Road and an unnamed light-duty road known locally as Cathro Road; then

(3) Proceed west in a straight line to the line's intersection with State Highway 65 and an unnamed light-duty road known locally as Hibner Road; then

(4) Proceed northwesterly in a straight line to the intersection of the Presque Isle, Alpena, and Montmorency county lines; then

(5) Proceed west along the southern boundary of Presque Isle County, crossing onto the Cheboygan map, to the point where the Presque Isle county line

becomes the southern boundary of Cheboygan County, and continuing along the Cheboygan county line to the intersection of the Cheboygan county line with the eastern boundary of Charlevoix County; then

(6) Proceed south then east along the Charlevoix county line to the intersection of the Charlevoix county line with the eastern boundary of Antrim County; then

(7) Proceed south along the Antrim county line to the point where the county line turns due east; then

(8) Proceed west in a straight line to the eastern shoreline of Grand Traverse Bay; then

(9) Proceed north-northeasterly along the shorelines of Grand Traverse Bay, Lake Michigan, Little Traverse Bay, Sturgeon Bay, Trails End Bay, and the Straits of Mackinac, returning to the beginning point.

Signed: July 28, 2015.

**John J. Manfreda,**  
Administrator.

[FR Doc. 2015-19277 Filed 8-5-15; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

RIN 2900-AO19

#### Schedule for Rating Disabilities: The Hematologic and Lymphatic Systems

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend the portion of the VA Schedule for Rating Disabilities (Rating Schedule) that addresses the hematologic and lymphatic systems. The intended effect of this change is to incorporate medical advances that have occurred since the last review, update medical terminology, add medical conditions not currently in the Rating Schedule, and refine criteria for further clarity and ease of rater application.

**DATES:** Comments must be received by VA on or before October 5, 2015.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to RIN 2900-AO19—Schedule

for Rating Disabilities: The Hematologic and Lymphatic Systems. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Nick Olmos-Lau, M.D., Medical Officer (211C), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461-9695. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** As part of our ongoing revision of the VA Schedule for Rating Disabilities (Rating Schedule), we are proposing changes to 38 CFR 4.117, Schedule of ratings—hemic and lymphatic systems, and appendices A, B, and C of part 4 pertaining to this section. This section was last updated in 1995. By these revisions, we aim to update medical terminology; add medical conditions not currently in the Rating Schedule; and revise the rating criteria to reflect medical advances and to clarify them for ease of application.

#### Proposed Title Change: The Hematologic and Lymphatic Systems

“Hemic” is an adjective previously used to describe diseases of or related to the blood. The current medical term for diseases of the blood or blood-forming organs is “hematologic.” In addition, the 2013 National Library of Medicine-Medical Subject Headings (MESH) descriptor advisory discourages the use of the term “hemic” as too general, and recommends instead the use of the term “hematologic” as more specific ([http://www.nlm.nih.gov/cgi/mesh/2013/MB\\_cgi?mode=&index=6154&field=all&HM=&II=&PA=&form=&input=](http://www.nlm.nih.gov/cgi/mesh/2013/MB_cgi?mode=&index=6154&field=all&HM=&II=&PA=&form=&input=)).

VA therefore proposes to edit the header of § 4.117 to “The Hematologic and Lymphatic Systems” and the title of § 4.117 to “Schedule of ratings—hematologic and lymphatic systems.”

#### Modification and Reorganization of Current Diagnostic Code (DC) 7700 (Anemia, Hypochromic-Microcytic and Megaloblastic, Such as Iron-Deficiency and Pernicious Anemia)

Anemia is predominantly hereditary or secondary, a symptom of another condition. Secondary anemia is corrected by treatment of the underlying

condition. Examples of conditions that cause secondary anemia include osteomyelitis (DC 5000) and hypothyroidism (DC 7903). Anemia is most appropriately evaluated as part of the underlying service-connected disability causing the anemia. VA proposes to address in proposed DCs 7720, 7721, 7722, and 7723 anemias that are neither hereditary nor addressed under DCs for the causative conditions.

The title of current DC 7700 is “Anemia, hypochromic-microcytic and megaloblastic, such as iron-deficiency and pernicious anemia.” This title groups anemias based on red blood cell (RBC) morphology. VA proposes separate DCs and criteria for the major types of anemia. Separation would assist raters in distinguishing amongst and clarifying severity of anemias. Accordingly, VA proposes the removal of DC 7700 from the Rating Schedule, and adding DC 7720 Iron deficiency anemia, 7721 Folic acid deficiency, 7722 Pernicious anemia and Vitamin B<sub>12</sub> deficiency anemia, and 7723 Acquired hemolytic anemia.

Anemia is currently rated at levels of 100, 70, 30, 10, and 0-percent, depending on the hemoglobin level and the associated signs and symptoms. It is evaluated at 100-percent for hemoglobin of 5gm/100ml or less, with findings such as high-output congestive heart failure or dyspnea at rest. It is evaluated at 70-percent for hemoglobin of 7gm/100ml or less, with findings such as dyspnea on mild exertion, cardiomegaly, tachycardia (100 to 120 beats per minute) or syncope (three episodes in the last six months). It is evaluated at 30-percent for hemoglobin of 8gm/100ml or less, with findings such as weakness, easy fatigability, headaches, lightheadedness, or shortness of breath. It is evaluated at 10-percent for hemoglobin of 10gm/100ml or less, with findings such as weakness, easy fatigability, or headaches. It is evaluated at 0-percent for hemoglobin of 10gm/100ml or less and asymptomatic.

While there is a high correlation between hemoglobin levels and signs or symptoms of anemia in acute anemia, the correlation is less accurate in chronic anemia. As the duration of the anemia lengthens, the individual becomes more tolerant of lower hemoglobin levels and symptom manifestation decreases. The functional impact of chronic anemia is more accurately measured by mode and frequency of treatment. VA proposes rating criteria based on the specific mode(s) and frequency of treatment.

VA notes that the existing 100 and 70 percent categories for rating anemia are more descriptive of acute rather than