

the comment period for Notice No. 160, Proposed Revisions to Wine Labeling and Recordkeeping Requirements, a notice of proposed rulemaking published in the **Federal Register** on June 22, 2016. In Notice No. 160, TTB proposed to amend its labeling and recordkeeping regulations in 27 CFR part 24 to provide that any standard grape wine containing 7 percent or more alcohol by volume that is covered by a certificate of exemption from label approval may be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin only if the wine is labeled in compliance with the standards set forth in the appropriate sections of 27 CFR part 4 for that label information. TTB also proposed to amend its part 4 wine labeling regulations to include a reference to the new part 24 requirement. TTB is reopening the comment period in response to requests from two wine industry trade associations. In addition, this reopening of the comment period solicits comments from the public on issues that were raised in comments received in response to Notice No. 160.

**DATES:** The comment period for the proposed rule published on June 22, 2016 (81 FR 40584) is reopened. Written comments on Notice No. 160 are now due on or before December 7, 2016.

**ADDRESSES:** Please send your comments on Notice No. 160 to one of the following addresses:

- *Internet:* <https://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB-2016-0005 at "[Regulations.gov](https://www.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 Notice 160 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 document and any comments TTB receives about this proposal at <https://www.regulations.gov> within Docket No. TTB-2016-0005. A link to that docket is posted on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 160. You also may view copies of this

proposed rule and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202-453-2270 to make an appointment.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division; telephone 202-453-1039, ext. 275.

**SUPPLEMENTARY INFORMATION:** In Notice No. 160 (81 FR 40584, June 22, 2016), the Alcohol and Tobacco Tax and Trade Bureau (TTB) proposed to amend its labeling and recordkeeping regulations in 27 CFR part 24 to provide that any standard grape wine containing 7 percent or more alcohol by volume that is covered by a certificate of exemption from label approval may be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin only if the wine is labeled in compliance with the standards set forth in the appropriate sections of 27 CFR part 4 for that label information. TTB is also proposing to amend its part 4 wine labeling regulations to include a reference to the new part 24 requirement. The 60-day comment period for Notice No. 160 originally closed on August 22, 2016.

TTB has received two requests from California-based wine industry trade associations to extend the public comment period an additional 90 days. The first, dated August 2, 2016, was submitted by Wine Institute; the second, dated August 19, 2016, was submitted by the California Association of Winegrape Growers. Both associations state that additional time is needed to assess the proposal's effects on their membership, noting that their members are currently preoccupied with the grape harvest. The letters are posted as Comment 7 and Comment 41 within Docket No. TTB-2016-0005 at [www.regulations.gov](https://www.regulations.gov).

#### **Determination To Re-Open the Public Comment Period**

In response to the requests from Wine Institute and the California Association of Winegrape Growers to extend the comment period, TTB is reopening the comment period for Notice No. 160 for an additional 90 days. We believe this additional time is necessary for industry members and the public to fully consider the proposals outlined in Notice 160. Therefore, comments on Notice No. 160 are now due on or before December 7, 2016.

Based on comments TTB has received to date on Notice No. 160, TTB is

especially interested in comments regarding whether any geographic reference to the source of the grapes used in the wine could be included on a wine label in a way that would not be misleading with regard to the source of the wine. In light of the reopening of the comment period, TTB is asking that commenters consider this issue when commenting on Notice No. 160. Please provide any available specific information in support of your comments.

#### **Drafting Information**

Jennifer Berry of the Regulations and Rulings Division drafted this notice.

Dated: September 1, 2016.

**John J. Manfreda,**

*Administrator.*

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## **DEPARTMENT OF THE TREASURY**

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

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

[Docket No. TTB-2016-0007; Notice No. 161]

RIN 1513-AC26

#### **Proposed Establishment of the Cape May Peninsula 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 126,635-acre "Cape May Peninsula" viticultural area in Cape May and Cumberland Counties, New Jersey. The proposed viticultural area lies entirely within the Outer Coastal Plain 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 November 7, 2016.

**ADDRESSES:** Please send your comments on this notice to one of the following addresses:

- *Internet:* <https://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB-2016-0007 at "[Regulations.gov](https://www.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 notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or obtain copies of the petition and supporting materials.

**FOR FURTHER INFORMATION CONTACT:** Kate M. Bresnahan, 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. 151.

**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, dated December 10, 2013, (superseding Treasury Order 120-01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

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 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 the 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;
- 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.

**Cape May Peninsula Petition**

TTB received a petition from Alfred Natali, owner of Natali Vineyards, LLC, on behalf of the ad hoc Cape May Wine Growers Association, proposing the establishment of the "Cape May Peninsula" AVA. The proposed Cape May Peninsula AVA covers portions of Cape May and Cumberland Counties, New Jersey. The proposed AVA lies entirely within the established Outer Coastal Plain AVA (27 CFR 9.207) and does not overlap any other existing or proposed AVA. The proposed Cape May Peninsula AVA contains 126,635 acres,

with 6 commercially-producing vineyards covering approximately 115 acres distributed throughout the proposed AVA, and an additional 147 vineyard acres planned within the proposed AVA in the next few years. Grape varieties planted within the proposed AVA include Albariño, Dolcetto, Tempranillo, Nebbiolo, Merlot, Barbera, Moscato, Malvasia, and Viognier.

According to the petition, the distinguishing features of the proposed Cape May Peninsula AVA include its temperature and soils. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this document are from the petition for the proposed Cape May Peninsula AVA and its supporting exhibits.

*Name Evidence*

The proposed Cape May Peninsula AVA is located in southeastern New Jersey on Cape May, named after Dutch explorer Captain Cornelius May. Captain May began exploring the Delaware Bay and its surrounding areas including the Cape, which he named after himself, in 1620. The first settlement in Cape May County, in 1650, was the whaling community of Town Bank, just north of Cape May Point.

The petitioner provided several examples of the current use of "Cape May Peninsula" to refer to the region of the proposed AVA. A U.S. Fish and Wildlife Service brochure describing the wildlife of the region is titled "The Cape May Peninsula Is Not Like the Rest of New Jersey." Two scientific articles describing birds found in the region are titled "The Influence of Weather, Geography, and Habitat on Migrating Raptors on Cape May Peninsula"<sup>1</sup> and "Woodcock Banding on the Cape May Peninsula, New Jersey."<sup>2</sup> Finally, the petitioner provided two photos of the region from a commercial stock photo Web site which are titled "Aerial view of Cape May Peninsula, New Jersey" and "Salt marsh landscape, Cape May Peninsula, New Jersey."

The petitioner also provided multiple examples of the current use of "Cape May" to refer to the region of the proposed AVA. For example, numerous municipalities use the name "Cape May," including: Cape May County, Cape May Courthouse, Cape May Point, West Cape May, and North Cape May.

<sup>1</sup> Niles, Lawrence J., Joanna Berger, and Kathleen E. Clark. 1996. The influence of weather, geography, and habitat on migrating raptors on Cape May Peninsula. The Condor. 98: 382-394.

<sup>2</sup> Rieffenberger, Joseph C., and Fred Ferrigno. 1970. Bird-Banding. 41: 1-10.

Civic organizations such as the Cape May County Beach Plum Association and the Cape May and Cape May County Chamber of Commerce use the “Cape May” name, as does the Cape May County Board of Agriculture. In the Yellow Pages, over 100 entries contain the “Cape May” name, from Cape May Arcade to Cape May Wicker. Finally, one of the wineries in the proposed AVA is called “Cape May Winery and Vineyards.”

#### Boundary Evidence

The northern and northwestern boundaries of the proposed Cape May Peninsula AVA separate the proposed AVA from the New Jersey Pinelands, in which development is severely restricted by law. While permitted in the New Jersey Pinelands, grape growing is difficult due to extremely acidic soils. The eastern, western, and southern boundaries separate the proposed AVA from the wetlands and coastal communities along the Delaware Bay and Atlantic Ocean, which are unsuitable for viticulture due to marshy conditions and urban development. The Delaware Bay borders the proposed AVA to the south and west, and the Atlantic Ocean is to the east of the proposed AVA.

#### Distinguishing Features

The distinguishing features of the proposed Cape May Peninsula AVA are its temperature and soils.

#### Temperature

According to the petition, temperature is the most important distinguishing feature of the proposed Cape May Peninsula AVA. The petitioner compared temperature data from Cape May County Airport, Woodbine Airport, and a U.S. Department of Agriculture site in Swainton, New Jersey, all within the proposed AVA, with temperature data from Millville Airport, the southernmost weather station in the Outer Coastal Plain AVA outside the proposed AVA.

The petition included information on growing degree days (GDD)<sup>3</sup> from both inside and outside the proposed AVA. GDDs are important to viticulture because they represent how often daily temperatures rise above 50 °F, which is the minimum temperature required for

<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.

active vine growth and fruit development. Inside the proposed AVA, Cape May Airport and Swainton have averages of 3,491 GDDs and 3,331 GDDs, respectively, making the proposed AVA a Winkler Region III, which is defined as between 3,001 and 3,500 GDDs.<sup>4</sup> Millville Airport, outside of the proposed AVA, has an average of 3,516 GDDs per year, making that area a warmer Winkler Region IV, which is defined as between 3,501 and 4,000 GDDs.

However, the petition states that comparing only the average number of GDDs within and outside the proposed AVA can be misleading when it comes to determining the length of the growing season and the types of grapes that can grow inside and outside the proposed AVA. For example, the petition notes significant temperature differences in terms of extreme temperatures. The average summertime high temperature at Cape May Airport is 94 °F (F), while the average summertime high temperature at Millville Airport is 98 °F.<sup>5</sup> Average summertime high temperatures for Woodbine Airport and Swainton are not provided in the petition. The average wintertime low temperatures at Woodbine Airport, Swainton, and Cape May Airport are 7 °F, 9 °F, and 12 °F, respectively. The average wintertime low temperature at Millville Airport is 3 °F.<sup>6</sup> Plus 5 °F to minus 5 °F is the killing range for all but the most cold-hardy *Vitis vinifera* vines.

Another significant indicator of the climate difference between the proposed Cape May Peninsula AVA and the existing Outer Coastal Plain AVA is the number of frost-free days. A comparison of weather data from Millville and Swainton shows that the average number of frost-free days at Millville is 179, while the average number of frost-free days at Swainton is 207.<sup>7</sup> At Swainton, the last freeze usually occurs around April 15 and the first frost usually occurs around November 1. At Millville, the last freeze usually occurs in late April and the first frost usually occurs in mid-October. Due to the above

<sup>4</sup>The GDD data for Cape May Airport and Millville Airport was recorded between 1998 and 2013. The GDD data for Swainton was recorded between 1996 and 2013.

<sup>5</sup>Extreme high temperature data for Cape May Airport and Millville Airport was recorded between 1998 and 2013.

<sup>6</sup>Extreme low temperature data for Woodbine Airport and Swainton was recorded between 2005 and 2014. Extreme low temperature data for Cape May Airport and Millville Airport was recorded between 1998 and 2014.

<sup>7</sup>The average number of frost-free days per year at Millville Airport is based on data recorded between 1998 and 2013. The average number of frost-free days per year at Swainton is based on data recorded between 1996 and 2013.

differences in frost-free days and GDD totals, the proposed AVA accumulates fewer GDDs over a longer growing season than the Outer Coastal Plain AVA accumulates in a shorter season.

The combination of warmer wintertime temperatures and a longer growing season explains the proposed AVA's ability to grow cold-tender *Vitis vinifera* (more than 90 percent of its plantings) in preference to the hybrids and native plants grown throughout the existing Outer Coastal Plain AVA.

#### Soils

The soils in the proposed AVA are mostly loamy sand, whereas the soils in the existing Outer Coastal Plain AVA are a sandy loam. According to the petition, soils best suited to viticulture are well-drained, where the water table is a minimum of six feet or deeper. These types of soils include Downer, Evesboro, Sassafra, Fort Mott, Hooksan, Swainton, and Aura. All of these soils are present in the proposed AVA and in the Outer Coastal Plain AVA; however, the Outer Coastal Plain AVA contains additional soils not found in the proposed AVA, including Hammonton, Waterford, Galetown, and Metapeake.

The soils in the 126,635-acre proposed AVA are as follows:

- Hydric (unsuited to farming): 51,609 acres;
- Arable (suited to berry-type farming): 48,454 acres;
- Well-drained (suited to viticulture): 16,381 acres; and
- Municipal parks, airports, freshwater lakes, ponds, and tidal creeks: 10,191 acres.

The Cape May County Planning Department has identified the areas with the most well-drained soils as prospective sites for viticulture.

The New Jersey Pinelands to the north and west of the proposed AVA is an area of dense pine forest with acidic soils that are unsuitable for most farming, including viticulture. The Pinelands cover 22 percent of the state and nearly half of the existing Outer Coastal Plain AVA. The Pinelands consist of pygmy pines, swamp cedars, insect-eating plants, orchids, unique species of reptiles, endangered birds, self-contained springs, lakes, streams and bogs, and a sandy, extremely acidic and nutrient-poor surface soil. The only serious commercial crops in the Pinelands are acid-loving cranberries and blueberries. The petition states that during colonial times, people attempted to farm this land but failed due to the infertility of the soil and the low pH (the mean pH for the Pinelands is 4.4; grape vines require a pH in the 6 to 7 range). In order to improve the quality of the

soils in the Pinelands, one would have to apply and incorporate large amounts of lime over a long period of time.

#### Summary of Distinguishing Features

In summary, the temperature and soils of the proposed Cape May Peninsula AVA distinguish it from the surrounding regions. The proposed AVA is a Winkler Region III climate, while Millville, located in the existing Outer Coastal Plain AVA, is a Winkler Region IV climate. The proposed AVA also experiences more frost-free days and a longer growing season than the rest of the Outer Coastal Plain AVA. Warmer wintertime low temperatures and a longer growing season explain the proposed AVA's ability to grow *Vitis vinifera* grape varieties, which cannot grow in the cooler winter climate found throughout most of the Outer Coastal Plain AVA. Finally, due to sufficient soil depth above the water table, which allows for deep vine growth, the proposed AVA is suitable for growing grapes, while the New Jersey Pinelands to the north and west of the proposed AVA are unsuitable for most farming due to tremendously acidic soils that make the area infertile.

#### *Comparison of the Proposed Cape May Peninsula AVA to the Existing Outer Coastal Plain AVA*

##### Outer Coastal Plain AVA

T.D. TTB-58, which published in the **Federal Register** on February 9, 2007 (72 FR 6165), established the Outer Coastal Plain AVA in all of Cumberland, Cape May, Atlantic, and Ocean Counties and portions of Salem, Gloucester, Camden, Burlington, and Monmouth Counties, New Jersey. The Outer Coastal Plain AVA is described in T.D. TTB-58 as having well-drained soils with a low pH, elevations below 280 feet above sea level, and a generally warm climate strongly influenced by the Atlantic Ocean and the Delaware Bay.

Despite their differences, the proposed Cape May Peninsula AVA and the existing Outer Coastal Plain AVA have broadly similar characteristics. Developed during the Pleistocene Epoch, the surface layers in the proposed Cape May Peninsula AVA are composed of sand, gravel, clay-based silt, and peat. This is similar to the surface layers of the Outer Coastal Plain AVA. Additionally, both the established Outer Coastal Plain AVA and the proposed AVA have lower elevations, soils with lower amounts of fine silt, and longer growing seasons than the region outside the established AVA. Therefore, the proposed Cape May Peninsula AVA appears to share enough

similarities to remain within the established Outer Coastal Plain AVA.

#### TTB Determination

TTB concludes that the petition to establish the 126,635-acre Cape May Peninsula AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

#### 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, "Cape May Peninsula," 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, wine bottlers using the name "Cape May Peninsula" 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 if this proposed rule is adopted as a final rule. TTB is not proposing "Cape May," standing alone, as a term of viticultural significance if the proposed AVA is established, in order to avoid a potential conflict with a current label holder. Accordingly, the proposed part 9 regulatory text set forth in this

document specifies only the full name "Cape May Peninsula" as a term of viticultural significance for the purposes of part 4 of the TTB regulations.

The approval of the proposed Cape May Peninsula AVA would not affect any existing AVA, and any bottlers using "Outer Coastal Plain" as an appellation of origin or in a brand name for wines made from grapes grown within the Outer Coastal Plain would not be affected by the establishment of this new AVA. The establishment of the proposed Cape May Peninsula AVA would allow vintners to use "Cape May Peninsula" and "Outer Coastal Plain" as appellations of origin for wines made from grapes grown within the proposed Cape May Peninsula AVA, if the wines meet the eligibility requirements for the appellation.

#### 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. In addition, given the proposed Cape May Peninsula AVA's location within the existing Outer Coastal Plain AVA, TTB is interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the existing Outer Coastal Plain AVA. TTB is also interested in comments on whether the geographic features of the proposed AVA are so distinguishable from the surrounding Outer Coastal Plain AVA that the proposed Cape May Peninsula AVA should no longer be part of that AVA. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Cape May Peninsula AVA on wine labels that include the term "Cape May Peninsula" 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 AVA 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 notice by using one of the following three methods:

- **Federal e-Rulemaking Portal:** You may send comments via the online comment form posted with this notice within Docket No. TTB–2016–0007 on “*Regulations.gov*,” the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 161 on the TTB Web site at <https://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 notice. Your comments must reference Notice No. 161 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 state if you are commenting for yourself 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 notice, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2016–0007 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 <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 161. 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 notice, 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 Public Reading Room, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or other similarly-sized documents that may be included as part of the AVA petition. Contact TTB’s Public Reading Room at the above address or by telephone at 202–822–9904 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 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

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

Kate M. Bresnahan of the Regulations and Rulings Division drafted this notice of proposed rulemaking.

#### 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:

#### § \_\_\_\_ Cape May Peninsula.

(a) *Name.* The name of the viticultural area described in this section is “Cape May Peninsula”. For purposes of part 4 of this chapter, “Cape May Peninsula” is a term of viticultural significance.

(b) *Approved maps.* The 11 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Cape May Peninsula viticultural area are titled:

- (1) Ocean City, New Jersey, 1989;
- (2) Marmora, New Jersey, 1989;
- (3) Sea Isle City, New Jersey, 1952; photorevised, 1972;
- (4) Woodbine, New Jersey, 1958; photorevised, 1972;
- (5) Stone Harbor, New Jersey, 1955; photorevised, 1972;
- (6) Wildwood, New Jersey, 1955; photorevised, 1972;
- (7) Cape May, New Jersey, 1954; photorevised, 1972;
- (8) Rio Grande, New Jersey, 1956; photorevised, 1972;
- (9) Heislerville, New Jersey, 1957; photorevised, 1972;
- (10) Port Elizabeth, New Jersey, 1956; photorevised, 1972; and
- (11) Tuckahoe, New Jersey, 1956; photorevised, 1972.

(c) *Boundary.* The Cape May Peninsula viticultural area is located in

Cape May and Cumberland Counties, New Jersey. The boundary of the Cape May Peninsula viticultural area is as described below:

(1) The beginning point is on the Ocean City quadrangle at the intersection of the 10-foot elevation contour and the Garden State Parkway, on the southern shore of Great Egg Harbor, northwest of Golders Point. Proceed southeast, then generally southwest along the meandering 10-foot elevation contour, crossing onto the Marmora quadrangle, then onto the Sea Isle City quadrangle, to the intersection of the 10-foot elevation contour with an unnamed road known locally as Sea Isle Boulevard; then

(2) Proceed northwesterly along Sea Isle Boulevard to the intersection of the road with U.S. Highway 9; then

(3) Proceed southwesterly along U.S. Highway 9 to the intersection of the highway with the 10-foot elevation contour south of Magnolia Lake; then

(4) Proceed generally southwesterly along the meandering 10-foot elevation contour, crossing onto the Woodbine quadrangle, then briefly back onto the Sea Isle City quadrangle, then back onto the Woodbine quadrangle, to the intersection of the 10-foot elevation contour with the western span of the Garden State Parkway east of Clermont; then

(5) Proceed southwest along the Garden State Parkway to the intersection of the road with Uncle Aarons Creek; then

(6) Proceed westerly (upstream) along Uncle Aarons Creek to the intersection of the creek with the 10-foot elevation contour near the headwaters of the creek; then

(7) Proceed easterly, then southwesterly along the 10-foot elevation contour, crossing onto the Stone Harbor quadrangle, then onto the northwesternmost corner of the Wildwood quadrangle, then onto Cape May quadrangle, to the intersection of the 10-foot elevation contour with State Route 109 and Benchmark (BM) 8, east of Cold Spring; then

(8) Proceed southeast, then south, along State Route 109 to the intersection of the road with the north bank of the Cape May Canal; then

(9) Proceed northwest along the north bank of the Cape May Canal to the intersection of the canal with the railroad tracks (Pennsylvania Reading Seashore Lines); then

(10) Proceed south along the railroad tracks, crossing the canal, to the intersection of the railroad tracks with the south bank of the Cape May Canal; then

(11) Proceed east along the canal bank to the intersection of the canal with Cape Island Creek; then

(12) Proceed south, then northwest along the creek to the intersection of the creek with a tributary running north-south west of an unnamed road known locally as 1st Avenue; then

(13) Proceed north along the tributary to its intersection with Sunset Boulevard; then

(14) Proceed northwest along Sunset Boulevard to the intersection of the road with Benchmark (BM) 6; then

(15) Proceed south in a straight line to the shoreline; then

(16) Proceed west, then northwest, then northeast along the shoreline, rounding Cape May Point, and continuing northeasterly along the shoreline, crossing onto the Rio Grande quadrangle, then onto the Heislerville quadrangle, to the intersection of the shoreline with West Creek; then

(17) Proceed generally north along the meandering West Creek, passing through Pickle Factory Pond and Hands Millpond, and continuing along West Creek, crossing onto the Port Elizabeth quadrangle, and continuing along West Creek to the fork in the creek north of Wrights Crossway Road; then

(18) Proceed along the eastern fork of West Creek to the cranberry bog; then

(19) Proceed through the cranberry bog and continue northeasterly along the branch of West Creek that exits the cranberry bog to the creek's terminus south of an unnamed road known locally as Joe Mason Road; then

(20) Proceed northeast in a straight line to Tarkiln Brook Tributary; then

(21) Proceed easterly along Tarkiln Brook Tributary, passing through the cranberry bog, crossing onto the Tuckahoe quadrangle, and continuing along Tarkiln Brook tributary to its intersection with the Tuckahoe River and the Atlantic-Cape May County line; then

(22) Proceed easterly along the Atlantic-Cape May County line, crossing onto the Marmora and Cape May quadrangles, to the intersection of the Atlantic-Cape May County line with the Garden State Parkway on the Cape May quadrangle; then

(23) Proceed south along the Garden State Parkway, returning to the beginning point.

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

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1915

[Docket No. OSHA-2013-0022]

RIN 1218-AA68

#### Fall Protection in Shipyard Employment

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Request for information (RFI).

**SUMMARY:** OSHA is considering revising and updating its safety standards that address access and egress (including stairways and ladders), fall and falling object protection, and scaffolds in shipbuilding, ship repair, shipbreaking, and other shipyard related employment (collectively referred to as “shipyard employment” in this document). The Agency has not updated these standards since adopting them in 1971. To assist with this determination, OSHA requests comment, information and data on a number of issues, including: The workplace hazards these standards address, particularly fall hazards; the current practices employers in shipyard employment use to protect workers from those hazards; any advances in technology since OSHA adopted the standards in subpart E; and the revisions and updates to subpart E that stakeholders recommend. OSHA will use the information received in response to this RFI to determine what action, if any, it may take.

**DATES:** Submit comments and additional material on or before December 7, 2016.

**ADDRESSES:** Submit comments and additional material using one of the following methods:

*Electronically:* You may submit comments and attachments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions online for making electronic submissions.

*Facsimile (FAX):* You may fax submissions if they do not exceed 10 pages, including attachments, to the OSHA Docket Office at (202) 693-1648.

*Regular mail, express mail, hand (courier) delivery, or messenger service:* You may submit comments and any additional material (e.g., studies, journal articles) to the OSHA Docket Office, Docket No. OSHA-2013-0022, Technical Data Center, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington,