

**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9****[Docket No. TTB–2019–0007; Notice No. 185]****RIN 1513–AC51****Proposed Establishment of the Alisos Canyon 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 5,774-acre “Alisos Canyon” viticultural area in Santa Barbara County, California. The proposed viticultural area lies entirely within the established Central Coast 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 December 16, 2019.

**ADDRESSES:** You may electronically submit comments to TTB on this proposal, and view copies of this document, its supporting materials, and any comments TTB receives on it within Docket No. TTB–2019–0007 as posted on *Regulations.gov* (<https://www.regulations.gov>), the Federal e-rulemaking portal. Please see the “Public Participation” section of this document below for full details on how to comment on this proposal via *Regulations.gov*, U.S. mail, or hand delivery, and for full details on how to view or obtain copies of this document, its supporting materials, and any comments related to this proposal.

**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 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;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

**Alisos Canyon Petition**

TTB received a petition from Wesley D. Hagen, on behalf of local vineyard owners and winemakers, proposing the establishment of the “Alisos Canyon” AVA. The proposed Alisos Canyon AVA is located within Santa Barbara County, California. The proposed AVA lies entirely within the established Central Coast AVA (27 CFR 9.75) and contains approximately 5,774 acres. Nine commercially-producing vineyards are planted within the proposed AVA and cover a total of approximately 238 acres. There is also one winery within the proposed AVA.

According to the petition, the distinguishing features of the proposed Alisos Canyon AVA include its climate and soils. The petition also listed topography and geology as distinguishing features of the proposed AVA. However, based on the petition’s descriptions, topography and geology appear to be too integral to the region’s climate and soils, respectively, to be considered separately from those features. Therefore, TTB does not consider topography and geology to be separate distinguishing features of the proposed AVA. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this document are from the petition for the proposed Alisos Canyon AVA and its supporting exhibits.

### Name Evidence

The proposed Alisos Canyon AVA derives its name from a geographical feature that runs through the region. U.S.G.S. maps identify the feature as “Cañada de los Alisos,” which translates to “Canyon of the White Alder Trees.” The petition states that residents more commonly refer to the canyon as “Alisos Canyon.” As evidence of use of the proposed name to describe the region, the petition notes that a road running through the proposed AVA is known as “Alisos Canyon Road,” and a popular biking route is known as the “Alisos Canyon Loop.” The petition also included a page from a website for motorcycle enthusiasts that states, “Alisos Canyon also provides you with some looping opportunities utilizing Foxen Canyon, Hwy. 154 and Hwy. 101.”<sup>1</sup> Finally, the petition notes that an equestrian center adjacent to the proposed AVA is called “Alisos Canyon Equine Center.”

The petition also provided evidence that the name “Alisos Canyon” is used by the wine industry to describe the region of the proposed AVA. An article on a Santa Barbara County wine blog notes that, “Starting in the east, near the northern boundary of the Santa Ynez Valley AVA, we find perhaps the area’s most acclaimed sub-region: Alisos Canyon.”<sup>2</sup> The article also states, “For Rhones and fairly uniform in temperature from its mouth east of the 101 most of the way to Foxen Canyon.” An article in Wine Enthusiast is entitled “Alisos and Foxen Canyons: Santa Barbara’s Hidden Gems.”<sup>3</sup> An online wine store specializing in rare wines notes on its page about Sine Qua Non winery, “In the future, [winemaker Manfred] Krankl’s newest vineyard in Alisos Canyon will be an additional component part.”<sup>4</sup> Finally, the website for Thompson Vineyard, which is within the proposed Alisos Canyon AVA, features a quote from wine critic Robert Parker that says, “One of my favorite Central Coast sites is the Santa Barbara vineyard in the Alisos Canyon known as the Thompson Vineyard.”<sup>5</sup>

### Boundary Evidence

The proposed Alisos Canyon AVA is located in Santa Barbara County north of U.S. Highway 101. The established

Santa Maria Valley AVA (27 CFR 9.28) lies to the north of the proposed AVA, and the established Santa Ynez Valley AVA (27 CFR 9.54) is located to the south. The climate of the proposed Alisos Canyon AVA is influenced by the San Antonio Creek drainage system, and the proposed northern boundary separates this drainage system from the Santa Maria River drainage system. The eastern boundary approximates the limit of the marine-cooled air flowing inland from the Pacific Ocean via the San Antonio Creek drainage system. Additionally, the petition notes that the region east of the proposed AVA is a different geological feature commonly known as Foxen Canyon. The southern boundary separates the proposed AVA from the region of the Santa Ynez Valley AVA, whose climate is influenced by the Santa Ynez River drainage system. The western boundary separates the proposed AVA from the coastal region of Santa Barbara County, whose climate is more strongly influenced by marine air. The petition also notes that the western boundary separates the proposed AVA from a separate geological feature known as Cat Canyon.

### Distinguishing Features

The distinguishing features of the proposed Alisos Canyon AVA are its climate and soils.

#### Climate

The proposed Alisos Canyon AVA is located along the drainage system of San Antonio Creek, which flows into the Pacific Ocean. Cool marine air travels inland via the drainage system and affects temperatures. As the air travels up the San Antonio Creek and its drainage system, it becomes warmer. The proposed AVA is approximately 25 miles from the ocean and situated in a transitional region, between the cooler coastal regions and the warmer inland areas. According to the petition, the proposed AVA’s location is a “Goldilocks Rhone Zone,” meaning that temperatures are neither too hot nor too cold for growing Rhone wine varieties such as Syrah, which is the most common varietal grown in the proposed AVA.

The petition included information on the average growing degree day<sup>6</sup> (GDD) accumulations from 1981 through 2015 from two locations within the proposed

AVA and eight locations in the surrounding regions.

Average GDD accumulations from 1981–2015	
Location (direction from proposed AVA)	Average GDD accumulations
Proposed Alisos Canyon AVA—eastern end .....	2,617
Proposed Alisos Canyon AVA—western end .....	2,691
State Route 135 Corridor (northwest) .....	2,511
Sta. Rita Hills AVA (southwest) .....	2,512
Ballard Canyon AVA—southern end (south) .....	2,776
Ballard Canyon AVA—northern end (south) .....	3,182
Sisquoc (north) .....	2,915
Comasa Canyon (east) .....	3,097
Zaca Creek (east) .....	3,642
Happy Canyon of Santa Barbara AVA (southeast) .....	3,781

To the northwest and southwest of the proposed AVA, the GDD accumulations are lower due to the proximity of the Pacific Ocean and the greater cooling influence of the marine air. To the immediate north of the proposed AVA in Sisquoc, GDD accumulations are higher than within the proposed AVA because ridges and hills trap warm air and block the cool marine air from entering that region. East and southeast of the proposed AVA, GDD accumulations become significantly higher as one moves beyond the extent of the marine influence. South of the proposed AVA, within the existing Ballard Canyon AVA (27 CFR 9.230), the GDD accumulations are also higher. According to the petition, the east-west valleys that bring cool marine air inland end prior to reaching the Ballard Canyon AVA, resulting in warmer temperatures than are found in the proposed Alisos Canyon AVA.

#### Soils

According to the petition, the soils of the proposed Alisos Canyon AVA are primarily derived from sandstone and shale. The most common soils within the proposed AVA are the Paso Robles Formation and Careaga Sandstone, which comprise 63 percent and 13 percent of the total soils, respectively. The petition describes the Paso Robles Formation as conglomerate or gravel composed mostly of siliceous shale pebbles in sandy to somewhat clayey matrix. The petition states that the high calcium content from the shale pebbles increases the thickness of the skins of red varietal wine grapes, which in turn increases the color and tannin levels in the resulting wine. The clay content

<sup>1</sup> [http://sbc-rides/goption.com/StreetRides/hwy101/alisos/hwy101\\_alisos.html](http://sbc-rides/goption.com/StreetRides/hwy101/alisos/hwy101_alisos.html).

<sup>2</sup> [Winemerchantcafe.com/category/los-alamos](http://winemerchantcafe.com/category/los-alamos).

<sup>3</sup> [Winemag.com/gallery/californias-best-syrahs/#gallery-carousel-3](http://winemag.com/gallery/californias-best-syrahs/#gallery-carousel-3).

<sup>4</sup> <https://www.winehouse.com/product/2007-sine-qua-non-grenache-pictures-california-750ml>.

<sup>5</sup> [Thompsonvineyard.com/about-us/](http://Thompsonvineyard.com/about-us/).

<sup>6</sup> See Albert J. Winkler et al., *General Viticulture* 61–64 (Berkeley: University of California Press, 2nd ed. 1974). The Winkler method of calculating GDDs utilizes the monthly average above 50 degrees Fahrenheit (the minimum temperature required for grapevine growth) multiplied by the number of days in the month during the growing season.

aids in the uptake of nutrients to the vines.

Careaga sandstone is described as soft, fine-grained sandstone or sand, along with small marine shell fragments or pebbles. The petition states that the high sand content of the soil provides excellent drainage in vineyards, thus reducing the risks from certain pests such as nematodes and phylloxera. The low level of clay in the Careaga sandstone soils reduces the uptake of nutrients and reduces the vigor of the vines. As a result, the vines produce grapes that are smaller and have a higher skin-to-juice ratio than grapes of the same varietal grown in different soil.

The petition states that the soils to the north of the proposed Alisos Canyon AVA, in the Santa Maria Valley, have sandier topsoils than are found within the proposed AVA. South of the proposed AVA, the soils are characterized by Metz fine sandy loam. To the east of the proposed AVA, the soils are primarily derived from serpentine and chert, rather than sandstone and shale. To the west of the proposed AVA, the soils are described as deep, sandy soils of the Shedd, Chamise, and Point Sal Formation series.

#### *Summary of Distinguishing Features*

In summary, the climate and soils of the proposed Alisos Canyon AVA distinguish it from the surrounding regions. The proposed AVA has GDD accumulations that are higher than the marine-influenced regions to the northwest and southwest and are lower than the regions to the north, south, east, and southeast. The soils of the proposed AVA are derived primarily from sandstone and shale, and the most common soils are the Paso Robles Formation and Careaga sandstone. By contrast, the soils to the north of the proposed AVA contain more sand in the topsoil. The soils to the west of the proposed AVA are deeper and sandier than those of the proposed AVA, while the soils to the south of the proposed AVA are very fine sandy loams of the Mertz series. The soils to the east of the proposed AVA are derived from geologic parent materials that are not found within the proposed AVA.

#### *Comparison of the Proposed Alisos Canyon AVA to the Existing Central Coast AVA*

The Central Coast AVA was established by T.D. ATF-216, published in the **Federal Register** on October 24, 1985 (50 FR 43128). It includes all or portions of the California counties of Alameda, Contra Costa, Monterey, San Benito, San Francisco, San Luis Obispo,

San Mateo, Santa Barbara, Santa Clara, and Santa Cruz. T.D. ATF-216 describes the Central Coast AVA as extending from the city of Santa Barbara to the San Francisco Bay area, and east to the California Coastal Ranges. The only distinguishing feature of the Central Coast AVA discussed in T.D. ATF-216 is that all of the included counties experience marine climate influence due to their proximity to the Pacific Ocean.

The proposed Alisos Canyon AVA is located within the Central Coast AVA and shares the basic viticultural feature of that established AVA—the marine influence that moderates growing season temperatures in the area. The moderate GDD accumulations within the proposed AVA reflect a marine-influenced climate. However, the proposed AVA experiences a much smaller range of GDD accumulations within its proposed boundaries than the diverse, multicounty Central Coast AVA.

#### **TTB Determination**

TTB concludes that the petition to establish the 5,774-acre Alisos Canyon 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, "Alisos Canyon," 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 "Alisos Canyon" 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.

The approval of the proposed Alisos Canyon AVA would not affect any existing AVA, and any bottlers using "Central Coast" as an appellation of origin or in a brand name for wines made from grapes grown within the Central Coast AVA would not be affected by the establishment of this new AVA. The establishment of the proposed Alisos Canyon AVA would allow vintners to use "Alisos Canyon" and "Central Coast" as appellations of origin for wines made from grapes grown within the proposed Alisos Canyon 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 Alisos Canyon AVA's location within the existing Central Coast 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 AVA. TTB is also interested in comments on whether the geographic features of the proposed AVA are so distinguishable from the surrounding Central Coast AVA that the proposed Alisos Canyon 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 Alisos Canyon AVA on wine labels that include the term "Alisos Canyon" 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–2019–0007 on “*Regulations.gov*,” the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 185 on the TTB website 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. 185 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–2019–0007 on the Federal e-rulemaking portal, *Regulations.gov*, at <https://www.regulations.gov>. A direct link to that docket is available on the TTB website at [https://www.ttb.gov/wine/wine\\_rulemaking.shtml](https://www.ttb.gov/wine/wine_rulemaking.shtml) under Notice No. 185. You may also reach the relevant docket through the *Regulations.gov* search page at <https://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, Suite 400, 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 Regulations and Rulings Division at the above address, by email at [https://www.ttb.gov/webforms/contact\\_RRD.shtml](https://www.ttb.gov/webforms/contact_RRD.shtml), or by telephone at 202–453–1039, ext. 175, 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

Karen A. Thornton 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. Add § 9. \_\_\_\_ to read as follows: 9. \_\_\_\_ Alisos Canyon.

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

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

- (1) Foxen Canyon, CA, 1995; and
- (2) Zaca Creek, Calif., 1959.

(c) *Boundary*. The Alisos Canyon viticultural area is located in Santa Barbara County, California. The boundary of the Alisos Canyon viticultural area is as described in paragraphs (c)(1) through (8) of this section:

(1) The beginning point is on the Foxen Canyon map at an unnamed hilltop with a marked elevation of 1,137 feet, located west of the Cañada de los Coches in the La Laguna Grant. From

the beginning point, proceed east in a straight line for 3.71 miles to the intersection of two unnamed, unimproved roads north of Rancho San Juan; then

(2) Proceed east-southeast in a straight line for approximately 1.2 miles to an unnamed hilltop with a marked elevation of 1,424 feet in the La Laguna Grant; then

(3) Proceed southwest in a straight line for approximately 1.7 miles, crossing onto the Zaca Creek map, to a point designated "Oil," adjacent to the north fork of San Antonio Creek and the intersection of three unnamed light-duty roads in the Cañada del Comasa, La Laguna Grant; then

(4) Proceed west-southwest in a straight line for approximately 1.56 miles to the intersection of the north fork of San Antonio Creek and the 800-foot elevation contour in the Cañada del Comasa, La Laguna Grant; then

(5) Proceed west in a straight line 1.95 miles to an unnamed rectangular structure northeast of the terminus of an unnamed, unimproved road north of U.S. Highway 101 and BM 684 in the La Laguna Grant; then

(6) Proceed northwesterly in a straight line 0.32 mile to the intersection of Alisos Canyon Road and an unnamed, unimproved road east of the Cañada de los Coches in the La Laguna Grant; then

(7) Proceed north-northwest in a straight line for 1.68 miles, crossing onto the Foxen Canyon map, to an unnamed hilltop with a marked elevation of 997 feet in the La Laguna Grant; then

(8) Proceed northeast in a straight line for 0.5 mile to return to the beginning point.

Signed: August 6, 2019.

**Mary G. Ryan**

*Acting Administrator.*

Approved: September 23, 2019.

**Timothy E. Skud,**

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

[FR Doc. 2019-22264 Filed 10-11-19; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

#### RIN 2900-AQ71

#### Schedule for Rating Disabilities; The Genitourinary Diseases and Conditions

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend the portion of the Schedule for Rating Disabilities that addresses the genitourinary system. The purpose of this change is to update current medical terminology, incorporate medical advances that have occurred since the last review, and provide well-defined criteria in accordance with actual, standard medical clinical practice. In fashioning this proposed rule, VA considered the most up-to-date medical knowledge and clinical practice of nephrology and urology specialties. Contact information for that office is noted in the **ADDRESSES** section of this proposed rule.

**DATES:** Comments must be received on or before December 16, 2019.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1064, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AQ71—Schedule for Rating Disabilities; The Genitourinary Diseases and Conditions." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, 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 at [www.Regulations.gov](http://www.Regulations.gov).

**FOR FURTHER INFORMATION CONTACT:**

Ioulia Vvedenskaya, M.D., M.B.A., Medical Officer, Part 4 VASRD Regulations Staff (211D), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461-9752. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** As part of VA's ongoing revision of the Schedule for Rating Disabilities (VASRD), VA proposes changes to the portion of the VASRD that addresses the genitourinary system, which was last revised in 1994. See 59 FR 2523 (Jan. 18, 1994); see also 59 FR 46338 (Sep. 8, 1994). Through this revision, VA aims to eliminate ambiguities, include medical conditions not currently in the rating schedule,

implement current, well-refined medical criteria, and update terminology to reflect the most recent medical advances. For this proposed rule, VA considered the most up-to-date medical knowledge and clinical practice of nephrology and urology specialties, as well as feedback from a public forum held on January 27-28, 2011. Please email at [21\\_EXECASST.VBACO@va.gov](mailto:21_EXECASST.VBACO@va.gov) for a copy of the public forum transcript.

#### I. Proposed Changes to § 4.115

Currently, 38 CFR 4.115 ("Nephritis") does not adequately reflect current concepts of renal and urinary tract diseases and conditions. Regardless of specific disease pathology, kidney conditions generally produce the same symptomatology and lead to the same functional impairment. Therefore, for rating purposes, analysis of pathology, such as is currently presented in the first three sentences of § 4.115, is unnecessary and VA proposes to remove this language.

However, VA proposes to retain the remainder of the language in § 4.115, which addresses the assignment of ratings when both renal and cardiovascular conditions are present, but to replace the reference to "nephritis" in the first sentence of the proposed revised section with "renal disease" to more accurately reflect the applicability of the provision. VA proposes to retitle this provision as "Co-existence of renal and cardiovascular conditions" to better address the amended content.

#### II. Proposed Changes to § 4.115a

Under the current VASRD, diseases of the genitourinary system are listed at 38 CFR 4.115b with instructions directing rating personnel to various rating criteria found at 38 CFR 4.115a, when appropriate. The rating criteria in § 4.115a address impairment of the genitourinary system, including renal dysfunction, voiding dysfunction, and infections.

The introductory paragraph in § 4.115a states that when the VASRD refers a decision-maker to these areas of dysfunction, only the predominant area of dysfunction will be considered for rating purposes. VA proposes clarifying this statement by noting that distinct disabilities may be assigned separate evaluations under this section, consistent with the anti-pyramiding provisions in § 4.14. This statement is intended to reflect that when a particular diagnostic code refers to multiple dysfunctions, only the predominant dysfunction will be evaluated for that diagnostic code.