

**§ 200.926 Minimum property standards for one and two family dwellings.**

(a) \* \* \*

(3) *Applicability of standards to substantial improvement.* The standards in § 200.926d(c)(4)(i) through (iii) are also applicable to structures that are approved for insurance or other benefits prior to the start of substantial improvement, as defined in § 55.2(b)(10) of this title.

\* \* \* \* \*

■ 17. In § 200.926d, revise paragraphs (c)(4)(i) through (iii), remove paragraph (c)(4)(iv), and redesignate paragraphs (c)(4)(v) and (c)(4)(vi) as paragraphs (c)(4)(iv) and (c)(4)(v), respectively.

The revisions read as follows:

**§ 200.926d Construction requirements.**

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(i) *Residential structures located in Special Flood Hazard Areas.* The elevation of the lowest floor shall be at least two feet above the base flood elevation (see 24 CFR 55.2 for appropriate data sources).

(ii) *Residential structures located in FEMA-designated "coastal high hazard areas".* (A) Basements or any permanent enclosure of space below the lowest floor of a structure are prohibited.

(B) Where FEMA has determined the base flood level without establishing stillwater elevations, the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) and its horizontal supports shall be at least two feet above the base flood elevation.

(iii) *New construction or substantial improvement.* (A) In all cases in which a Direct Endorsement (DE) mortgagee or a Lender Insurance (LI) mortgagee seeks to insure a mortgage on a one- to four-family dwelling that is newly constructed or which undergoes a substantial improvement, as defined in § 55.12(b)(10) of this title (including a manufactured home that is newly erected or undergoes a substantial improvement) that was processed by the DE or LI mortgagee, the DE or LI mortgagee must determine whether the property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) are located on a site that is within a Special Flood Hazard Area, as designated on maps of the Federal Emergency Management Agency. If so, the DE mortgagee, before submitting the application for insurance to HUD, or the LI mortgagee, before submitting all the required data regarding the mortgage to HUD, must obtain:

(1) A final Letter of Map Amendment (LOMA);

(2) A final Letter of Map Revision (LOMR); or

(3) A signed Elevation Certificate documenting that the lowest floor (including basement) of the property improvements is at least two feet above the base flood elevation as determined by FEMA's best available information.

(B) Under the DE program, these mortgages are not eligible for insurance unless the DE mortgagee submits the LOMA, LOMR, or Elevation Certificate to HUD with the mortgagee's request for endorsement.

\* \* \* \* \*

Dated: September 27, 2016.

**Harriet Tregoning,**

*Principal Deputy Assistant Secretary for Community Planning and Development.*

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

[Docket No. TTB-2016-0009; Notice No. 163]

**RIN 1513-AC34****Proposed Establishment of the Petaluma Gap Viticultural Area and Modification of the North Coast 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 202,476-acre "Petaluma Gap" viticultural area in portions of Sonoma and Marin Counties in California. TTB also proposes to expand the boundary of the existing 3 million-acre North Coast viticultural area by 28,077 acres in order to include the entire proposed Petaluma Gap viticultural area within it. The proposed Petaluma Gap viticultural area would also partially extend outside of the established Sonoma Coast viticultural area, but TTB is not proposing to modify the boundary of the Sonoma 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 these proposals.

**DATES:** TTB must receive your comments on or before December 27, 2016.

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

- <https://www.regulations.gov> (via the online comment form for this document as posted within Docket No. TTB-2016-009 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 document 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, selected supporting materials, and any comments TTB receives about this proposal at <https://www.regulations.gov> within Docket No. TTB-2016-0009. A link to that docket is posted on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 163. You also may view copies of this document, all related petitions, maps or other supporting materials, 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:** 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, 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 its 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 that affect

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.

#### Petition to Establish the Petaluma Gap AVA and to Modify the Boundary of the North Coast AVA

TTB received a petition from the Petaluma Gap Winegrowers Alliance, proposing to establish the "Petaluma Gap" AVA and to modify the boundary of the existing multi-county North Coast AVA (27 CFR 9.30). The proposed AVA covers portions of Sonoma and Marin Counties, in California. There are 9 bonded wineries and 80 commercial vineyards, covering a total of approximately 4,000 acres, distributed throughout the 202,476-acre proposed AVA.

While the proposed Petaluma Gap AVA is largely located within the existing North Coast AVA, a small portion of the proposed Petaluma Gap AVA would, if established, extend outside the current southern boundary of the established North Coast AVA. To address the potential partial overlap of the two AVAs and account for viticultural similarities between the proposed Petaluma Gap AVA and the larger North Coast AVA, the petition also proposes to expand the boundary of the North Coast AVA so that the entire proposed Petaluma Gap AVA would be included within the North Coast AVA. The proposed expansion would increase the size of the 3 million-acre North Coast AVA boundary by 28,077 acres.

The proposed Petaluma Gap AVA, if established, would also partially overlap the southwestern boundary of the established Sonoma Coast AVA (27 CFR 9.116), but the Marin County portion of the proposed AVA, consisting of approximately 68,130 acres, would extend outside of the Sonoma Coast AVA. However, the petition does not propose to modify the boundary of the Sonoma Coast AVA for reasons which will be discussed later in this document, including the lack of use of the name "Sonoma Coast" outside of Sonoma County.

The distinguishing features of the proposed Petaluma Gap AVA are its topography and wind speeds. Unless otherwise noted, all information and

data contained in the following sections are from the petition to establish the proposed AVA and its supporting exhibits.

#### Proposed Petaluma Gap AVA

##### Name Evidence

The proposed Petaluma Gap AVA derives its name from the city of Petaluma and from the geographical feature known as the "Petaluma Gap," both of which are located within the proposed AVA. The "Petaluma Gap" geographical feature is an area of low-lying hills which allows cool winds to flow inland from the Pacific Ocean. The Bay Area Air Quality Management District (BAAQMD) Web site states, "The region from the Estero Lowlands to the San Pablo Bay is known as the Petaluma Gap. \* \* \* Wind patterns in the Petaluma and Cotati Valleys are strongly influenced by the Petaluma Gap."<sup>1</sup> In a study on the climate of Sonoma County, Paul Vossen, a farm advisor for the University of California Cooperative Extension Service in Sonoma County, wrote that cool marine winds extend inland "through river canyons and the Petaluma gap [sic] to Sonoma Mountain."<sup>2</sup>

The name "Petaluma Gap" is also associated with the wine industry within the proposed AVA. The petitioner provided summaries of several wine-related articles that refer to the region of the proposed AVA as "Petaluma Gap." In his blog "Fermentation: The Daily Wine Blog," Tom Wark writes, "The 'Petaluma Gap' might be a term you've heard of lately, particularly if you are an aficionado of Sonoma County wines."<sup>3</sup> A 2007 article by Rusty Gaffney on his "The Prince of Pinot" blog says, "The Petaluma Gap possesses a very unique microclimate."<sup>4</sup> A 2007 article in the magazine *Wine and Spirits* states, "You can practically smell the ocean, just a few miles away, in the wind that roars between the Sonoma mountains, through the hillside and valley floor vineyards, creating an inland pinot oasis called the Petaluma Gap."<sup>5</sup> A 2008 article titled "Mind the (Petaluma) Gap" in the *Tasting Panel* magazine describes

<sup>1</sup> [www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines%20May%202011.ashx?la=en](http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines%20May%202011.ashx?la=en).

<sup>2</sup> Vossen, Paul, *Sonoma County Climatic Zones*, University of California Cooperative Extension Service, Sonoma County, 1986.

<sup>3</sup> [http://fermentationwineblog.com/2006/05/wind\\_fog\\_wine\\_t/](http://fermentationwineblog.com/2006/05/wind_fog_wine_t/), "Wind, Fog, Wine: The Story of 'The Gap,'" May 8, 2006.

<sup>4</sup> <http://www.princeofpinot.com/article/281>, "Petaluma Gap: Fog Noir." January 15, 2007.

<sup>5</sup> Irwin, Heather. "The Wind Tunnel: Sonoma County's Best Kept Pinot Noir Secret." *Wine and Spirits*, August 2007.

the region of the proposed AVA as follows: “Located at the lower end of the Sonoma Coast AVA and distinguished by its close proximity to the Pacific Ocean, the Petaluma Gap is influenced on a daily basis by misty fog in the mornings, warm afternoons and chilly maritime winds in the evenings.”<sup>6</sup> A 2012 article in *Decanter* magazine describes several regions in California that are “the state’s most marginal sites,” including “the Petaluma Gap within the Sonoma Coast appellation \* \* \*.”<sup>7</sup> A 2012 article in the *Petaluma Post* newspaper states, “The wind and fog are the Petaluma Gap’s trademark.”<sup>8</sup> Finally, a 2014 article in the *Santa Rosa Press Democrat* newspaper states, “The Gap in Petaluma Gap is created by Pacific Ocean winds that flow between Tomales Bay and Bodega Bay through a 15-mile-wide gap in the coastal range mountains.”<sup>9</sup>

**Boundary Evidence**

The proposed Petaluma Gap AVA is located in southern Sonoma County and northern Marin County. The proposed AVA has a northwest-southeast orientation and extends from the Pacific Ocean to San Pablo Bay. The proposed western boundary follows the Pacific coastline from the point where Walker Creek enters Tomales Bay northward to the point where Salmon Creek enters the ocean, just north of Bodega Bay. The proposed northern boundary follows Salmon Creek, the 400-foot elevation contour, and a series of roads and lines drawn between marked elevation points in order to separate the lower elevations and rolling hills of the proposed AVA from the steeper, higher elevations to the north. The proposed eastern boundary follows a series of lines drawn between points on the USGS map, separating the proposed AVA from the higher elevations of Sonoma Mountain and the flatter terrain along Sonoma Creek and San Pablo Bay. The proposed southern boundary follows a series of lines drawn between marked elevation

points in order to separate the proposed AVA from the higher elevations to the south.

**Distinguishing Features**

According to the petition, the distinguishing features of the proposed Petaluma Gap AVA are its topography and wind speed.

**Topography**

Coastal highlands and mountain ranges are characteristic of the California coast. However, within the proposed Petaluma Gap AVA, the highlands are not as pronounced as they are north and south of the proposed AVA. Within the proposed AVA, the topography is characterized by low, rolling hills. Flat land is found along the Petaluma River, especially east of the City of Petaluma and near the mouth of San Pablo Bay. Small valleys and fluvial terraces are also present. Elevations within the proposed AVA do not exceed 600 feet, except in a few places within the ridgelines that form the proposed northern, eastern, and southern boundaries.

According to the petition, the low elevations and gently rolling terrain of the proposed Petaluma Gap create a corridor that allows marine winds to flow relatively unhindered from the Pacific Ocean to San Pablo Bay, particularly during the mid-to-late afternoon. As a result, cool air and marine fog enter the vineyards during the time of day when temperatures would normally be at their highest, bringing heat relief to the vines. The low elevations and rolling hills of the proposed AVA also allow the marine air to enter the proposed AVA at higher speeds than found in the surrounding areas, where higher, steeper mountains disrupt the flow of air. The effects of the high wind speeds on grapes are discussed in detail later in this document.

To the north of the proposed Petaluma Gap AVA, the elevations are much higher, with elevations over 1,000

feet not uncommon in northern Sonoma County. The broad Santa Rosa Plain is also located north of the proposed AVA and has a much flatter topography than the proposed AVA. East of the proposed AVA, the higher elevations of Sonoma Mountain prevent much of the marine airflow that enters the Petaluma Gap from travelling farther east. East of Sonoma Mountain is the Sonoma Valley, which has lower elevations and flatter terrain than the proposed AVA. To the south of the proposed AVA, the elevations can exceed 1,000 feet.

**Wind Speed**

According to the petition, marine air enters the proposed Petaluma Gap AVA at the Pacific coastline, between Bodega Bay and Tomales Bay. The air then flows southeasterly through the proposed AVA and exits at San Pablo Bay. Although marine breezes are present within the proposed AVA during most of the day, the wind speeds increase significantly in the afternoon hours. The petition states that in the mid-to-late afternoon, inland temperatures increase, causing the hot air to rise and pull the cooler, heavier marine air in from the coast and create steady winds. The following table, which was created by TTB from information included in the petition, shows the hourly average wind speed between noon and 6:00 p.m. for locations within the proposed AVA and the surrounding areas during the April–October growing season. Map 5a, included in Addendum 2 to the petition, shows the locations of the weather stations. Because the Pacific Ocean forms the western boundary of the proposed AVA, comparison data is only included from the regions to the north, east, and south of the proposed AVA. The data in the table shows that average hourly afternoon wind speeds within the proposed AVA are consistently higher than those in the surrounding regions.

**TABLE 1—AVERAGE HOURLY AFTERNOON GROWING SEASON WIND SPEEDS**

Location	Average wind speed (miles per hour)						
	12 noon	1 p.m.	2 p.m.	3 p.m.	4 p.m.	5 p.m.	6 p.m.
<b>Within proposed AVA</b>							
Valley Ford <sup>10</sup> .....	13.3	14.4	14.9	14.8	14.0	12.4	10.2
Bloomfield <sup>11</sup> .....	5.4	7.0	7.9	8.3	8.1	7.4	6.0
Mecham Landfill <sup>12</sup> .....	7.7	9.5	12.0	13.7	14.6	14.8	13.8

<sup>6</sup> Sawyer, Christopher. “Mind the (Petaluma) Gap.” The Tasting Panel. February 2008.

<sup>7</sup> Murphy, Linda. “California’s Coolest Pinot.” *Decanter*. March 2010. <http://www.decanter.com/>

*people-and-places/wine-articles/483749/cool-climate-california-pinot.*

<sup>8</sup> Hurson, Von. “The Gap Roars!” *Petaluma Post*. August 1, 2012. <http://www.petalumapost.com/08Aug2012-pages/index.htm>.

<sup>9</sup> Boone, Virginie. “Wines of Wind Country.” *The Press Democrat*. February 4, 2014. <http://www.pressdemocrat.com/news/1855471-181/wines-of-wind-country>.

TABLE 1—AVERAGE HOURLY AFTERNOON GROWING SEASON WIND SPEEDS—Continued

Location	Average wind speed (miles per hour)						
	12 noon	1 p.m.	2 p.m.	3 p.m.	4 p.m.	5 p.m.	6 p.m.
Middle Two Rock <sup>13</sup> .....	8.6	10.8	12.2	13.0	13.1	12.4	10.8
Azaya Vineyard <sup>14</sup> .....	5.2	6.5	7.6	8.1	8.1	7.5	6.4
Petaluma Airport <sup>15</sup> .....	9.5	11.1	12.1	12.2	11.5	10.3	9.0
Sun Chase Vineyard <sup>16</sup> .....	5.4	6.3	6.8	6.9	6.5	5.7	4.2
Sonoma Baylands <sup>17</sup> ....	10.5	11.4	12.0	12.4	12.4	12.0	10.7
<b>Outside proposed AVA (direction)</b>							
Occidental <sup>18</sup> (north) .....	2.0	2.3	2.5	2.5	2.3	2.0	1.6
Bellevue Ranch <sup>19</sup> .....							
(north) .....	2.2	3.0	3.6	3.8	3.8	3.3	2.7
Sonoma Valley <sup>20</sup> (east) .....	1.7	2.0	2.4	2.6	2.5	2.1	1.6
Novato <sup>21</sup> (south) .....	1.4	1.8	2.0	2.2	2.4	2.4	4.1

The petition also includes a table showing the frequency of hourly average afternoon wind speeds of at least 8 miles per hour for locations within the proposed Petaluma Gap AVA and the surrounding regions. The data is summarized in the following table. The period of record for each station is the same as used for Table 1.

TABLE 2—FREQUENCY OF HOURLY AVERAGE GROWING SEASON WIND SPEEDS THAT ARE GREATER THAN OR EQUAL TO 8 MILES PER HOUR

Location	Frequency (percent)
<b>Within proposed AVA</b>	
Valley Ford .....	89.9
Bloomfield .....	44.0
Mecham Landfill .....	81.2
Middle Two Rock .....	82.0
Azaya Vineyard .....	36.7
Petaluma Airport .....	79.5
Sun Chase Vineyard .....	30.3
Sonoma Baylands .....	82.8
<b>Outside proposed AVA (direction)</b>	
Occidental (north) .....	0.6
Novato (north) .....	5.3
Sonoma Valley (east) .....	1.8

<sup>10</sup> Period of record 2009–2014.  
<sup>11</sup> Period of record 2011–2014.  
<sup>12</sup> Period of record 2011–2014.  
<sup>13</sup> Period of record 2011–2014.  
<sup>14</sup> Period of record 2012–2014.  
<sup>15</sup> Period of record 1993–1997. This station stopped collecting hourly data in 1997.  
<sup>16</sup> Period of record 2011–2013. This station was a private weather station that experienced a mechanical failure in February 2014 and was not repaired until after the growing season.  
<sup>17</sup> Period of record 2009–2014.  
<sup>18</sup> Period of record 2009–2014.  
<sup>19</sup> Period of record 2010–2014.  
<sup>20</sup> Period of record 2012–2014.  
<sup>21</sup> Period of record 2009, 2012–2014. The 2010 and 2011 data for this station were largely incomplete and so were not included in the analysis.

TABLE 2—FREQUENCY OF HOURLY AVERAGE GROWING SEASON WIND SPEEDS THAT ARE GREATER THAN OR EQUAL TO 8 MILES PER HOUR—Continued

Location	Frequency (percent)
Bellevue Ranch (south) .....	9.2

The table shows that afternoon wind speeds for locations within the proposed AVA reach or exceed 8 miles per hour with greater frequency than for locations outside the proposed AVA. The petition states that when wind speeds reach 8 miles per hour, the stomata (or small pores) on the underside of the grape leaves close. When the stomata are closed, the rate of photosynthesis slows. The petition states that occasional periods of wind speeds of 8 miles per hour or higher typically have little effect on grape development. However, persistently high wind speeds, such as those found within the proposed Petaluma Gap AVA, reduce photosynthesis to the extent that the grapes have to remain on the vine longer in order to reach a given sugar level (a longer “hang time”), compared to the same grape varietal grown in a less windy location. Grapes grown in windy locations are also typically smaller and have thicker skins than the same varietal grown elsewhere. According to the petition, the smaller grape size, thicker skins, and longer hang time concentrate the flavor compounds in the fruit, allowing grapes that are harvested at lower sugar levels to still have the typical flavor characteristics of the grape varietal.

*Comparison of the Proposed Petaluma Gap AVA to the Existing North Coast AVA*

The North Coast AVA was established by T.D. ATF–145, which was published in the **Federal Register** on September 21, 1983 (48 FR 42973). The AVA includes all or portions of Napa, Sonoma, Mendocino, Solano, Lake, and Marin Counties in California and covers approximately 3 million acres. In the conclusion of the “Geographical Features” section of the preamble, T.D. ATF–145 states that “[d]ue to the enormous size of the North Coast viticultural area, variations exist in climatic features such as temperature, rainfall, and fog intrusion.”

The proposed Petaluma Gap AVA shares the basic viticultural feature of the North Coast AVA—the marine influence that moderates growing season temperatures in the area. However, the proposed AVA is much more uniform in its topography and its climate, as defined by wind speeds, than the diverse, multicounty North Coast AVA. In this regard, TTB notes that in the “Overlapping Viticultural Areas” section, T.D. ATF–145 specifically states that “approval of this viticultural area does not preclude approval of additional areas, either wholly contained within the North Coast, or partially overlapping the North Coast,” and that “smaller viticultural areas tend to be more uniform in their geographical and climatic characteristics, while very large areas such as the North Coast tend to exhibit generally similar characteristics, in this case the influence of maritime air off of the Pacific Ocean and San Pablo Bay.” Thus, the proposal to establish the Petaluma Gap AVA is consistent with what was envisaged when the North Coast AVA was established.

### Proposed Modification of the North Coast AVA

As previously noted, the petition to establish the proposed Petaluma Gap AVA also requests an expansion of the established North Coast AVA. The proposed Petaluma Gap AVA is located in the southwestern portion of the North Coast AVA, along the Sonoma–Marin County line. Most of the proposed Petaluma Gap AVA would, if established, be located within the current boundary of the North Coast AVA. However, unless the boundary of the North Coast AVA is modified, the southwestern portion of the proposed Petaluma Gap AVA in northwestern Marin County would be outside the North Coast AVA. This portion of the proposed Petaluma Gap AVA is roughly defined by the Pacific coastline on the western edge, the Sonoma–Marin County line on the northern edge, State Highway 1 on the eastern edge, and the mouth of Walker Creek on the southern edge. The proposed North Coast AVA boundary modification would increase the size of the established AVA by 28,077 acres and would result in the entire proposed Petaluma Gap AVA being within the North Coast AVA.

According to T.D. ATF–145, the North Coast AVA is characterized by a cool climate with growing degree day (GDD) totals that range from Region I to Region III on the Winkler scale.<sup>22</sup> T.D. ATF–145 states that the western portion of Marin County, which includes the southwestern portion of the proposed Petaluma Gap AVA, was excluded from the North Coast AVA because evidence submitted during the comment period showed that this portion of the county was significantly cooler than the rest of the North Coast AVA. The evidence included data from several Marin County weather stations, including a weather station on Point Reyes, which is southwest of both the North Coast AVA and the proposed Petaluma Gap AVA. In examining the public comment to T.D. ATF–145, TTB has found that the GDD total provided for Point Reyes was 759.

Although the original determination to exclude western Marin County from

the North Coast AVA was based on data from a Point Reyes weather station, which is southwest of the proposed Petaluma Gap AVA, TTB believes that GDD totals from that location are not an accurate basis for determining whether to include the southwestern corner of the proposed Petaluma Gap AVA within the North Coast AVA. The proposed Petaluma Gap AVA petition includes 2013 GDD data from a weather station located in Valley Ford, which is in the southwestern portion of the proposed AVA but outside of the current North Coast AVA boundary, as well as from weather stations within the proposed AVA, including one located two miles north of the town of Bodega Bay, that are within the current boundaries of the North Coast AVA.

The 2013 GDD total for the Valley Ford station was 1,102, which falls into the Region I category on the Winkler scale. For comparison, the 2013 GDD total for the Bodega Bay station was 1,194, which also falls into the Region I category on the Winkler scale. TTB believes, therefore, that this data shows that the climate of the southwestern portion of the proposed Petaluma Gap AVA is within the range of Winkler scale regions that characterizes the current North Coast AVA.

Additionally, in response to a question from TTB, the petitioners confirmed that there is at least one active vineyard growing Pinot Noir grapes in the southwest portion of the proposed Petaluma Gap AVA near Valley Ford, indicating that the GDD total for that region of the proposed AVA is not too low for commercial viticulture. Therefore, because the GDD total of the southwest portion of the proposed Petaluma Gap AVA is within the range of GDD totals that characterize the North Coast AVA and is high enough to support viticulture, TTB believes the petitioner's proposal to expand the North Coast AVA to include the southwest portion of the proposed Petaluma Gap AVA merits consideration and public comment.

#### *Comparison of the Proposed Petaluma Gap AVA to the Existing Sonoma Coast AVA*

The Sonoma Coast AVA was established by T.D. ATF–253, which was published in the **Federal Register** on June 11, 1987 (52 FR 22302). The Sonoma Coast AVA covers approximately 750 square miles within the western portion of Sonoma County. According to T.D. ATF–253, the AVA encompasses the portion of Sonoma County that is under “very strong marine climate influence,” including “persistent fog.” T.D. ATF–253 also

states that temperatures within the AVA are classified as “Coastal Cool” under the temperature classification system developed by Robert L. Sisson. “Coastal Cool” areas are defined as having a cumulative duration of less than 1,000 hours between 70 and 90 degrees Fahrenheit during the months of April through October. Temperatures within the Sonoma Coast AVA are described as significantly cooler than temperatures in the eastern portion of Sonoma County, which are classified as “Coastal Warm.” According to T.D. ATF–253, the average maximum July temperature for the Sonoma Coast AVA is 84 degrees Fahrenheit. T.D. ATF–253 did not distinguish the climate of the Sonoma Coast AVA from that of Marin County, located south of the AVA.

The proposed Petaluma Gap AVA is located in the southern portion of the Sonoma Coast AVA and shares the marine-influenced climate and coastal fog of the established AVA. Additionally, according to the climate data provided in the petition, the average maximum July temperature for the city of Petaluma, at the center of the proposed AVA, is 82 degrees Fahrenheit<sup>23</sup>, which is similar to that of the Sonoma Coast AVA. However, TTB notes that temperature is not a distinguishing feature of the proposed Petaluma Gap AVA, and that consistently high wind speeds and a topography of gently rolling hills are what distinguish the proposed AVA from the surrounding established AVA.

As previously noted, if established, the proposed Petaluma Gap AVA would partially overlap the Sonoma Coast AVA, but also would leave the 68,130-acre Marin County portion of the proposed AVA outside of the established Sonoma Coast AVA. However, the petition requests that TTB allow the partial overlap to remain, primarily because the name “Sonoma Coast” is associated only with the coastal region of Sonoma County and does not extend into Marin County.

Although TTB generally discourages partial overlaps of AVAs because of the potential for consumer confusion, TTB agrees with the petitioners that the Sonoma Coast AVA should not be expanded to include the Marin County portion of the proposed Petaluma Gap AVA. TTB believes that extending the Sonoma Coast AVA would likely cause consumer confusion because the name “Sonoma Coast” is associated with Sonoma County and use of the name does not extend into Marin County. TTB

<sup>22</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. The Winkler scale regions are defined as follows: Region I = less than 2,500 GDDs; Region II = 2,501–3,000 GDDs; Region III = 3,001–3,500 GDDs; Region IV = 3,501–4,000 GDDs; Region V = greater than 4,000 GDDs. See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64.

<sup>23</sup> Western Regional Climate Center, [www.wrcc.dri.edu/Climsum.html](http://www.wrcc.dri.edu/Climsum.html), Petaluma Fire Station 3 (046826).

does not believe the potential partial overlap should be resolved by limiting the proposed Petaluma Gap AVA to Sonoma County because the evidence in the petition demonstrates that both the Sonoma County and the Marin County portions of the proposed AVA share similar topographic characteristics and similar wind speeds. TTB also does not believe the proposed AVA should be removed entirely from the Sonoma Coast AVA because the proposed AVA and the established AVA share similar marine-influenced climates. Additionally, TTB notes that removing the proposed AVA from the Sonoma Coast AVA would potentially affect current label holders who use the "Sonoma Coast" appellation on their wines because wines made primarily from grapes grown in the removed region would no longer be eligible to be labeled with that AVA as an appellation of origin. For these reasons, TTB is proposing to leave the current boundaries of the Sonoma Coast AVA unchanged and to allow the partial overlap with the proposed Petaluma Gap AVA.

#### **TTB Determination**

TTB concludes that the petition to establish the 202,476-acre "Petaluma Gap" AVA and to concurrently modify the boundary of the existing North Coast AVA merits consideration and public comment, as invited in this document.

TTB is proposing the establishment of the new AVA and the modification of the existing AVA as one action. Accordingly, if TTB establishes the proposed Petaluma Gap AVA, then the proposed boundary modification of the North Coast would be approved concurrently. If TTB does not establish the proposed Petaluma Gap AVA, then the present North Coast AVA boundary would not be modified as proposed in this document.

#### *Boundary Description*

See the narrative boundary descriptions of the petitioned-for AVA and the boundary modification of the established AVA in the proposed regulatory text published at the end of this document.

#### *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

or with a brand name that includes 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 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 27 CFR 4.39(i)(2) for details.

If this proposed regulatory text is adopted as a final rule, wine bottlers using "Petaluma Gap" 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 viticultural area's full name "Petaluma Gap" as an appellation of origin.

If approved, the establishment of the proposed Petaluma Gap AVA and the proposed modification of the North Coast AVA boundary would allow vintners to use "Petaluma Gap" or "North Coast" as appellations of origin for wines made from grapes grown within the Petaluma Gap AVA, if the wines meet the eligibility requirements for the appellation. Additionally, vintners would be able to use "Sonoma Coast" as an appellation of origin on wines made primarily from grapes grown within the Sonoma County portion of the Petaluma Gap 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 TTB should establish the proposed Petaluma Gap AVA and concurrently modify the boundary of the established North Coast AVA. TTB is interested in receiving comments on the sufficiency and accuracy of the name, boundary, climate, topography, and other required information submitted in support of the Petaluma Gap AVA petition. In addition, given the proposed Petaluma Gap AVA's location within the existing North Coast AVA and Sonoma 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 AVAs. TTB is also interested in comments on whether the geographic features of the proposed AVA are so distinguishable from either the North Coast AVA or the Sonoma Coast AVA that the proposed Petaluma Gap AVA should not be part of one or either established AVA. Please provide any available specific information in support of your comments.

TTB also invites comments on the proposed expansion of the existing North Coast AVA. TTB is especially interested in comments on whether the evidence provided in the petition sufficiently demonstrates that the proposed expansion area is similar enough to the North Coast AVA to be included in the established AVA. Additionally, TTB is interested in comments on whether or not TTB should allow the Marin County portion of the proposed Petaluma Gap AVA to remain outside of the Sonoma Coast AVA. Comments should address the boundaries, climate, topography, soils, and any other pertinent information that supports or opposes the proposed North Coast AVA boundary expansion and/or the partial overlap of the proposed Petaluma Gap AVA with the Sonoma Coast AVA.

Because of the potential impact of the establishment of the proposed Petaluma Gap AVA on wine labels that include the term "Petaluma Gap" 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 proposed AVA.

##### *Submitting Comments*

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

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this document within Docket No. TTB-2016-0009 on "*Regulations.gov*," the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 163 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 at the top of the page.

- *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 document. Your comments must reference Notice No. 163 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

Your comment must clearly state if you are commenting on your own behalf or on behalf of an organization, business, or other entity. If you are commenting on behalf of an organization, business, or other entity, your comment must include the entity’s name as well as your name and position title. If you comment via *Regulations.gov*, please enter the entity’s name in the “Organization” blank of the online comment form. If you comment via postal mail, please submit your entity’s comment on letterhead.

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

#### Confidentiality

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

#### Public Disclosure

TTB will post, and you may view, copies of this document, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2016–0009 on the Federal e-rulemaking portal, *Regulations.gov*, at <https://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. 163. You may also reach the relevant docket through the *Regulations.gov* search page at <https://www.regulations.gov>. For instructions on how to use *Regulations.gov*, visit the site and click on the “Help” tab at the top of the page.

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 it considers unsuitable for posting.

You also may view copies of this document, all related petitions, maps and other supporting materials, and any electronic or mailed comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our information specialist at the above address or by telephone at 202–453–2265 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

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

#### Drafting Information

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

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

Wine.

#### Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter 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. Section 9.30 is amended as follows:
  - a. The introductory text of paragraph (b) is revised;
  - b. The word “and” is removed from the end of paragraph (b)(2);
  - c. The period is removed from the end of paragraph (b)(3) and a semicolon is added in its place;
  - d. Paragraphs (b)(4) and (5) are added;
  - e. Paragraphs (c)(1) and (2) are revised;
  - f. Paragraphs (c)(3) through (24) are redesignated as paragraphs (c)(7) through (28); and
  - g. Paragraphs (c)(3) through (6) are added.

The revisions and additions read as follows:

#### § 9.30 North Coast.

\* \* \* \* \*

(b) *Approved maps*. The appropriate maps for determining the boundaries of the North Coast viticultural area are five U.S.G.S. maps. They are entitled:

\* \* \*

(4) “Tomales, CA,” scale 1:24,000, edition of 1995; and

(5) “Point Reyes NE., CA,” scale 1:24,000, edition of 1995.

(c) \* \* \*

(1) Then follow the Pacific coastline in a generally southeasterly direction for 9.4 miles, crossing onto the Tomales map, to Preston Point on Tomales Bay;

(2) Then northeast along the shoreline of Tomales Bay approximately 1 mile to the mouth of Walker Creek opposite benchmark (BM) 10 on State Highway 1;

(3) Then southeast in a straight line for 1.3 miles to the marked 714-foot peak;

(4) Then southeast in a straight line for 3.1 miles, crossing onto the Point Reyes NE map, to the marked 804-foot peak;

(5) Then southeast in a straight line 1.8 miles to the marked 935-foot peak;

(6) Then southeast in a straight line 12.7 miles, crossing back onto the Santa Rosa map, to the marked 1,466-foot peak on Barnabe Mountain;

\* \* \* \* \*

- 3. Add § 9. \_\_\_\_\_ to read as follows:

#### § 9. \_\_\_\_\_ Petaluma Gap.

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

(b) *Approved maps*. The 12 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Petaluma Gap viticultural area are titled:

(1) Cotati, Calif., 1954; photorevised 1980;

(2) Glen Elle, Calif., 1954; photorevised 1980;

(3) Petaluma River, Calif., 1954; photorevised 1980;

(4) Sears Point, Calif., 1951; photorevised 1968;

(5) Petaluma Point, Calif., 1959; photorevised 1980;

(6) Novato, Calif., 1954; photorevised 1980;

(7) Petaluma, Calif., 1953; photorevised 1981;

(8) Point Reyes NE., CA, 1995;

(9) Tomales, CA, 1995;

(10) Bodega Head, Calif., 1972;

(11) Valley Ford, Calif., 1954;

photorevised 1971; and

(12) Two Rock, Calif., 1954; photorevised 1971.

(c) *Boundary.* The Petaluma Gap viticultural area is located in Sonoma and Marin Counties in California. The boundary of the Petaluma Gap viticultural area is as described below:

(1) The beginning point is on the Cotati map at the intersection of Grange Road, Crane Canyon Road, and the northern boundary of section 16, T6N/R7W. From the beginning point, proceed southeast in a straight line for 1 mile, crossing over Pressley Road, to the intersection of the 900-foot elevation contour and the eastern boundary of section 16, T6N/R7W; then

(2) Proceed east-southeasterly in a straight line for 0.5 mile, crossing onto the Glen Ellen map, to the terminus of an unnamed, unimproved road known locally as Summit View Ranch Road, just north of the southern boundary of section 15, T6N/R7N; then

(3) Proceed southeast in a straight line for 0.6 mile to the intersection of Crane Creek and the 1,200-foot elevation contour, section 22, T6N/R7W; then

(4) Proceed southeast in a straight line for 2.9 miles to the marked 2,271-foot peak on Sonoma Mountain, T6N/R6W; then

(5) Proceed southeast in a straight line for 10.5 miles, crossing over the northeastern corner of the Petaluma River map and onto the Sears Point map, to the marked 682-foot summit of Wildcat Mountain; then

(6) Proceed south-southeasterly in a straight line for 3.3 miles to the intersection of State Highway 121 (also known locally as Arnold Drive) and State Highway 37 (also known locally as Sears Point Road); then

(7) Proceed east-northeasterly along State Highway 37/Sears Point Road for approximately 0.1 mile to Tolay Creek; then

(8) Proceed generally south along the meandering Tolay Creek for 3.9 miles,

crossing onto the Petaluma Point map, to the mouth of the creek at San Pablo Bay; then

(9) Proceed southwesterly along the shore of San Pablo Bay for 2.7 miles, crossing the mouth of the Petaluma River, and continuing southeasterly along the bay's shoreline to Petaluma Point; then

(10) Proceed northwesterly in a straight line for 6.3 miles, crossing over the northeastern corner of the Novato map and onto the Petaluma River map, to the marked 1,558-foot peak of Burdell Mountain; then

(11) Proceed northwest in a straight line for 1.3 miles to the marked 1,193-foot peak; then

(12) Proceed west-southwesterly in a straight line for 2.2 miles, crossing onto the Petaluma map, to the marked 1,209-foot peak; then

(13) Proceed west-southwest in a straight line for 0.8 mile to the marked 1,296-foot peak; then

(14) Proceed west in a straight line for 1 mile to the marked 1,257-foot peak on Red Hill in section 31, T4N/R7W; then

(15) Proceed southwest in a straight line for 2.9 miles to the marked 1,532-foot peak on Hicks Mountain; then

(16) Proceed north-northwesterly in a straight line for 2.7 miles, crossing onto the Point Reyes NE map, to the marked 1,087-foot peak; then

(17) Proceed north-northwesterly in a straight line for 1.5 miles to the marked 1,379-foot peak; then

(18) Proceed west-northwesterly in a straight line for 2.9 miles to the marked 935-foot peak; then

(19) Proceed northwest in a straight line for 1.8 miles to the marked 804-foot peak; then

(20) Proceed west-northwesterly in a straight line for 3.1 miles, crossing onto the Tomales map, to the marked 741-foot peak; then

(21) Proceed northwesterly in a straight line for 1.3 miles to benchmark (BM) 10 on State Highway 1, at the mouth of Walker Creek in Tomales Bay; then

(22) Proceed southwesterly, then northwesterly along the shoreline of Tomales Bay to Sand Point, on Bodega Bay, and continuing northerly along the shoreline of Bodega Bay, crossing over the Valley Ford map and onto the Bodega Head map, circling the shoreline of Bodega Harbor to the Pacific Ocean and continuing northerly along the shoreline of the Pacific Ocean to the mouth of Salmon Creek, for a total of 19.5 miles; then

(23) Proceed easterly along Salmon Creek for 9.6 miles, crossing onto the Valley Ford map and passing Nolan Creek, to the second intermittent stream

in the Estero Americano land grant, T6N/R10W; then

(24) Proceed east in a straight line for 1 mile to vertical angle benchmark (VABM) 724 in the Estero Americano land grant, T6N/R10W; then

(25) Proceed south-southeasterly in a straight line for 0.8 mile to BM 61 on an unmarked light duty road known locally as Freestone Valley Ford Road in the Cañada de Pogolimi land grant, T6N/R10W; then

(26) Proceed southeast in a straight line for 0.6 mile to the marked 448-foot peak in the Cañada de Pogolimi land grant, T6N/R10W; then

(27) Proceed southeast in a straight line for 0.1 mile to the northern terminus of an unnamed, unimproved road in the Cañada de Pogolimi land grant, T6N/R10W; then

(28) Proceed northeasterly, then southeasterly for 0.9 mile along the unnamed, unimproved road to the 400-foot elevation contour in the Cañada de Pogolimi land grant, T6N/R10W; then

(29) Proceed easterly along the meandering 400-foot elevation contour for 6.7 miles, crossing onto the Two Rocks map, to Burnside Road in the Cañada de Pogolimi land grant, T6N/R10W; then

(30) Proceed south on Burnside Road for 0.1 mile to an unnamed medium duty road known locally as Bloomfield Road in the Cañada de Pogolimi land grant, T6N/R9W; then

(31) Proceed southeast in a straight line for 0.6 mile to the marked 610-foot peak in the Blucher land grant, T6N/R9W; then

(32) Proceed east-southeasterly in a straight line for 0.8 mile to the marked 641-foot peak in the Blucher land grant, T6N/R9W; then

(33) Proceed northeast in a straight line for 1.2 miles, crossing through the intersection of an intermittent stream with Canfield Road, to the common Range 8/9 boundary; then

(34) Proceed southeast in a straight line for 0.5 mile to the marked 542-foot peak; then

(35) Proceed southeast in a straight line for 0.8 mile to the intersection of an unnamed, unimproved road (leading to four barn-like structures) known locally as Carniglia Lane and an unnamed medium duty road known locally as Roblar Road, T6N/R8W; then

(36) Proceed south in a straight line for 0.5 mile to the marked 678-foot peak, T6N/R8W; then

(37) Proceed east-southeast in a straight line for 0.8 mile to the marked 599-foot peak, T5N/R8W; then

(38) Proceed east-southeast in a straight line for 0.7 mile to the marked 604-foot peak, T5N/R8W; then



(39) Proceed east-southeast in a straight line for 0.9 mile, crossing onto the Cotati map, to the intersection of Meacham Road and an unnamed light duty road leading to a series of barn-like structures, T5N/R8W; then

(40) Proceed north-northeast along Meacham Road for 0.8 mile to Stony Point Road, T5N/R8W; then

(41) Proceed southeast along Stony Point Road for 1.1 miles to the 200-foot elevation contour, T5N/R8W; then

(42) Proceed north-northeast in a straight line for 0.5 mile to the intersection of an intermittent creek with U.S. Highway 101, T5N/R8W; then

(43) Proceed north along U.S. Highway 101 for 1.5 miles to State Highway 116 (also known locally as Graverstein Highway), T6N/R8W; then

(44) Proceed northeast in a straight line for 3.4 miles to the intersection of Crane Creek and Petaluma Hill Road, T6N/R7W; then

(45) Proceed easterly along Crane Creek for 0.8 mile to the intersection of Crane Creek and the 200-foot elevation line, T6N/R7W; then

(46) Proceed northwesterly along the 200-foot elevation contour for 1 mile to the intersection of the contour line and an intermittent stream just south of Crane Canyon Road, T6N/R7W; then

(47) Proceed east then northeasterly along the northern branch of the intermittent stream for 0.3 mile to the intersection of the stream with Crane Canyon Road, T6N/R7W; then

(48) Proceed northeasterly along Crane Canyon Road for 1.2 miles, returning to the beginning point.

Signed: October 21, 2016.

**John J. Manfreda,**  
Administrator.

[FR Doc. 2016-25972 Filed 10-27-16; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Chapter XVII

#### Informal Discussion on Hazard Communication Rulemaking

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

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice is to advise interested persons that on Wednesday, November 16, 2016, OSHA will conduct a public meeting to informally discuss potential updates to the Hazard Communication Standard. The purpose

of this meeting is to invite stakeholders to identify topics or issues they would like OSHA to consider in the rulemaking.

**DATES:** Wednesday November 16, 2016.

**ADDRESSES:** OSHA's informal discussion on Hazard Communication rulemaking will be held Wednesday, November 16, 2016 from 9:00 a.m.–12:30 p.m. at the Mine Safety and Health Administration (MSHA) Headquarters, Suite 700, 201 12th Street South, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Ms. Maureen Ruskin, OSHA Directorate of Standards and Guidance, Department of Labor, Washington, DC 20210, telephone: (202) 693-1950, email: [ruskin.maureen@dol.gov](mailto:ruskin.maureen@dol.gov).

#### SUPPLEMENTARY INFORMATION:

*Advanced Meeting Registration:* OSHA requests that attendees pre-register for this meeting by completing the form at <https://www.surveymonkey.com/r/CRPK2YY>. Please note if you are attending in person MSHA, who is hosting this meeting, requires pre-registration seven days before the meeting. Failure to pre-register for this event will prevent your access into the MSHA Headquarters building. Additionally, if you are attending in-person, OSHA suggests you plan to arrive early to allow time for the security checks necessary to access the building. Conference call-in and WebEx capability will be provided for this meeting. Specific information on the MSHA Headquarters building access, and call-in and WebEx meeting access will be posted when available in the Highlights box on OSHA's Hazard Communication Web site at: <https://www.osha.gov/dsg/hazcom/index.html>. OSHA is beginning its rulemaking efforts to maintain alignment of the Hazard Communication Standard (HCS) with the most recent revision of the United Nations Globally Harmonized system of Classification and Labelling of chemicals (GHS). The purpose of this meeting is to request feedback from stakeholders and informally discuss potential topics or issues that OSHA should consider during a rulemaking to update the HCS. OSHA will also solicit suggestions about the types of publications stakeholders might find helpful in complying with the standard and which topics on which they would like OSHA to prepare additional compliance materials in the future.

*Authority and Signature:* This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, pursuant to sections 4, 6, and 8 of the Occupational

Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), and Secretary's Order 1-2012 (77 FR 3912), (Jan. 25, 2012).

Signed at Washington, DC, on October 24, 2016.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2016-26003 Filed 10-27-16; 8:45 am]

**BILLING CODE 4510-26-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO-P-2011-0030]

RIN 0651-AC58

#### Revision of the Duty To Disclose Information in Patent Applications and Reexamination Proceedings

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (Office or PTO) is proposing revisions to the materiality standard for the duty to disclose information in patent applications and reexamination proceedings (duty of disclosure) in light of a 2011 decision by the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). The Office previously issued a notice of proposed rulemaking on July 21, 2011, and due to the passage of time since the comment period closed in 2011, the Office considers it appropriate to seek additional comments from our stakeholders before issuing a final rulemaking. In the current notice of proposed rulemaking, the Office is seeking public comments on the rules of practice, as revised in response to the comments received from our stakeholders.

**DATES:** *Comment Deadline Date:* The Office is soliciting comments from the public on this proposed rule change. Written comments must be received on or before December 27, 2016 to ensure consideration. No public hearing will be held.

**ADDRESSES:** Comments concerning this notice should be sent by electronic mail message over the Internet (email) addressed to [AC58.comments@uspto.gov](mailto:AC58.comments@uspto.gov). Comments may also be submitted by postal mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Matthew