

Issued in Renton, Washington, on July 31, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. E8-18560 Filed 8-11-08; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 15

[Docket No. FR-5206-P-01]

RIN 2501-AD39

#### Public Access to HUD Records Under the Freedom of Information Act (FOIA) and Production of Material or Provision of Testimony by HUD Employees: Revisions to Policies and Practices Regarding Subpoenas and Other Demands for Testimony

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would modify HUD's policies and practices regarding responses to subpoenas and other demands for testimony of HUD employees, or for production of documents by HUD. This proposed rule would delegate authority to additional officials within HUD's Office of General Counsel and would revise the criteria used to evaluate such demands. Finally, this rule would eliminate unnecessary provisions covering HUD's response to demands in cases in which the United States is a party to the case in which testimony or documents are requested.

**DATES:** *Comment Due Date:* October 14, 2008.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly

encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All comments and communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-402-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Nancy Christopher, Associate General Counsel for Litigation, Office of Litigation, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10258, Washington, DC 20410-0500; telephone number 202-708-0300 (this is not a toll-free telephone number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

HUD's regulations at 24 CFR part 15 describe the policies and procedures governing public access to HUD records under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the policies and procedures governing the production of material or provision of testimony by HUD employees. On February 26, 2007 (72 FR 8580), HUD

published a final rule to clarify and explain the various types of requests for HUD documents and testimony by HUD employees that are intended to be covered by HUD's document production and testimony approval regulations. The final rule revised subparts C and D to describe the procedures to be followed by a party in making a demand to HUD for documents or testimony, and to explain the standards followed by HUD in determining whether production or testimony should be permitted. A technical correction to the final rule was published on September 20, 2007 (72 FR 53876).

##### II. This Proposed Rule—Proposed Amendments to Part 15

After implementing the revised procedures for consideration of demands for documents or testimony, HUD has determined that additional changes are necessary to ensure the careful and efficient processing of all such demands. The revisions proposed to be made to HUD's regulations at 24 CFR part 15 are as follows:

##### *Terminology*

This proposed rule would amend § 15.2 to add, in alphabetical order, the terms "Appropriate Associate General Counsel," "Appropriate Regional Counsel," and "Authorized Approving Official" to the list of definitions.

##### *Technical Changes*

This proposed rule would correct outdated references to Web sites in §§ 15.102(b) and 15.103(c). This proposed rule would also make technical changes to Appendix A of part 15 by directing the public to HUD's Web site to update the location information of HUD FOIA Reading Rooms and by providing the public with the contact information of HUD's Regional Counsel.

##### *Purpose and Scope*

This proposed rule would amend § 15.201 by providing guidance to persons engaged in private litigation, to which the United States is not a party, on the procedures to be followed when making a demand for documents or testimony on HUD. This proposed rule would provide that HUD's regulations in subpart C do not create any affirmative right or benefit, substantive or procedural, that would be enforceable against HUD.

##### *Production of Material or Provision of Testimony in Response to Demands in Legal Proceedings Among Private Litigants*

This proposed rule would amend §§ 15.202 through 15.206 by outlining

the procedures for making a demand for production of material or provision of testimony to HUD, and by delegating authority to officials at the Associate General Counsel, Regional Counsel, and Authorized Approving Official level to consider and approve demands for testimony or for documents. These officials are in the best position to evaluate the demands for testimony or documents and have previously been authorized to consider such demands through a delegation of authority. Additionally, this proposed rule would modify the criteria used to consider demands in order to allow for more efficient processing of these demands and to ensure that all legally cognizable objections to the release of the information are considered.

*Production of Material or Provision of Testimony in Response to Demands in Legal Proceedings in Which the United States Is a Party*

This proposed rule would amend §§ 15.302 through 15.304, and add a

new § 15.305, to address the production of material or provision of testimony in response to demands in legal proceedings in which the United States is a party. The proposed rule would prohibit the production of material or testimony, unless the prior approval of the attorney representing the United States has been obtained. The proposed rule would require the employee to immediately notify the Appropriate Associate General Counsel or Appropriate Regional Counsel of the demand, and consideration of such demands would be within the purview of the attorney representing the United States. Finally, the proposed rule would permit the Department to respond to authorized productions of material or testimony by producing authenticated copies of the documents, which shall serve to conform to the Federal Rules of Civil Procedure.

**III. Findings and Certifications**

*Paperwork Reduction Act*

The proposed information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

The public reporting burden for this collection of information is estimated to include the time for reviewing the instructions, for gathering and preparing the information required to be included in demands, and for completing and reviewing the information to be provided.

The following table provides information on the estimated public reporting burden:

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
§§ 15.203 .....	106	1	106	1.5	159

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting responses to be submitted electronically).

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must refer to the proposal by the proposal's name and docket number (FR–5206-P–01) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and

Regulations Division, Office of Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and subject to comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulatory amendments that would be made by this proposed rule are procedural and serve to advise on the process and procedures engaged in by the Department when producing material or providing testimony in response to demands in legal proceedings.

Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that

will meet HUD's objectives as described in the preamble to this rule.

*Environmental Impact*

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt

state law within the meaning of the Executive Order.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government, or on the private sector, within the meaning of UMRA.

**List of Subjects in 24 CFR Part 15**

Classified information, Courts, Freedom of information, Government employees, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 15 to read as follows:

**PART 15—PUBLIC ACCESS TO HUD RECORDS UNDER THE FREEDOM OF INFORMATION ACT AND TESTIMONY AND PRODUCTION OF INFORMATION BY HUD EMPLOYEES**

1. The authority citation for part 15 continues to read as follows:

**Authority:** 42 U.S.C. 3535(d). Subpart A also issued under 5 U.S.C. 552. Section 15.107 also issued under E.O. 12958, 60 FR 19825, 3 CFR Comp., p. 333. Subparts C and D also issued under 5 U.S.C. 301.

2. Amend § 15.2(b) to add, in alphabetical order, definitions of the terms “Appropriate Associate General Counsel,” “Appropriate Regional Counsel,” and “Authorized Approving Official,” to read as follows:

**§ 15.2 Definitions.**

\* \* \* \* \*

(b) \* \* \*

*Appropriate Associate General Counsel* means the Associate General Counsel for Litigation or the Associate General Counsel for HUD Headquarters employees in those programs for which the Associate provides legal advice.

*Appropriate Regional Counsel* means the Regional Counsel for the Regional Office having delegated authority over the project or activity with respect to which the information is sought. For assistance in identifying the Appropriate Regional Counsel, see Appendix A to this part.

*Authorized Approving Official* means the Secretary, General Counsel, Appropriate Associate General Counsel, or Appropriate Regional Counsel.

\* \* \* \* \*

3. In § 15.102(b), remove the reference to <http://www.hud.gov/ogc/bshelf2a.html> and, in its place, add a reference to <http://www.hud.gov>.

4. In § 15.103(c), remove the reference to <http://www.hud.gov/ogc/foiafree.html> and, in its place, add a reference to <http://www.hud.gov>.

5. Add § 15.201(c) to read as follows:

**§ 15.201 Purpose and scope.**

\* \* \* \* \*

(c) This subpart also provides guidance to persons engaged in private litigation, to which the United States is not a party, on the procedures to be followed when making a demand for documents or testimony on the Department of Housing and Urban Development. This subpart does not, and may not be relied upon to, create any affirmative right or benefit, substantive or procedural, enforceable against HUD.

6. Revise § 15.202 to read as follows:

**§ 15.202 Production of material or provision of testimony prohibited unless approved.**

Neither the Department nor any employee of the Department shall comply with any demand for production of material or provision of testimony in a legal proceeding among private litigants, unless the prior approval of the Authorized Approving Official has been obtained in accordance with this subpart. This rule does not apply to any legal proceeding in which an employee may be called to participate, either through the production of documents or the provision of testimony, not on official time, as to facts or opinions that are in no way related to material described in § 15.201.

7. Revise § 15.203 to read as follows:

**§ 15.203 Making a demand for production of material or provision of testimony.**

(a) Any demand made to the Department or an employee of the Department to produce any material or provide any testimony in a legal proceeding among private litigants must:

(1) Be submitted in writing to the Department or employee of the Department, with a copy to the Appropriate Associate General Counsel or Appropriate Regional Counsel, no later than 30 days before the date the material or testimony is required;

(2) State, with particularity, the material or testimony sought;

(3) If testimony is requested, state:

(i) The intended use of the testimony, and

(ii) Whether expert or opinion testimony will be sought from the employee;

(4) State whether the production of such material or provision of such testimony could reveal classified, confidential, or privileged material;

(5) Summarize the need for and relevance of the material or testimony sought in the legal proceeding and include a copy of the complaint, if available;

(6) State whether the material or testimony is available from any other source and, if so, state all such other sources;

(7) State why no document[s], or declaration[s] or affidavit[s], could be used in lieu of oral testimony that is being sought;

(8) Estimate the amount of time the employee will need in order to prepare for, travel to, and attend the legal proceeding, as appropriate;

(9) State why the production of the material or provision of the testimony is appropriate under the rules of procedure governing the legal proceeding for which it is sought (e.g., not be unduly burdensome or otherwise inappropriate under the relevant rules governing discovery); and

(10) Describe how producing such material or providing such testimony would affect the interests of the United States.

(b) If the Department determines that the requestor has failed to provide the information required by paragraph (a) of this section, or that the information provided is insufficient to consider the demand in accordance with § 15.204, the Department may require that additional information be provided by the requestor before the demand is considered.

(c) Whenever a demand is made upon the Department or an employee of the Department for the production of material or provision of testimony, the employee shall immediately notify the Appropriate Associate General Counsel or Appropriate Regional Counsel.

8. Revise § 15.204 to read as follows:

**§ 15.204 Consideration of demands for production of material or provision of testimony.**

(a) The Authorized Approving Official shall determine what material is to be produced or what testimony is to be provided, based upon the following standards:

(1) *Expert or opinion material or testimony.* In any legal proceeding among private litigants, no employee of the Department may produce material or provide testimony as described in § 15.201(a) that is of an expert or

opinion nature, unless specifically authorized by the Authorized Approving Official for good cause shown.

(2) *Factual material or testimony.* In any legal proceeding among private litigants, no employee of the Department may produce material or provide testimony as described in § 15.201(a) that is of a factual nature, unless specifically authorized by the Authorized Approving Official. The Authorized Approving Official shall determine whether any of the following factors are applicable. Such a demand may either be denied, or conditionally granted in accordance with § 15.204(c), if any such factors are applicable:

(i) Producing such material or providing such testimony would violate a statute or regulation;

(ii) Producing such material or providing such testimony would reveal classified, confidential, or privileged material;

(iii) Such material or testimony would be irrelevant to the legal proceeding;

(iv) Such material or testimony could be obtained from any other source;

(v) One or more documents, or a declaration or affidavit, could reasonably be provided in lieu of oral testimony;

(vi) The amount of employees' time necessary to comply with the demand would be unreasonable;

(vii) Production of the material or provision of the testimony would not be required under the rules of procedure governing the legal proceeding for which it is sought (*e.g.*, unduly burdensome or otherwise inappropriate under the relevant rules governing discovery);

(viii) Producing such material or providing such testimony would impede a significant interest of the United States; or

(ix) The Department has any other legally cognizable objection to the release of such information or testimony in response to a demand.

(b) Once a determination has been made, the requester will be notified of the determination. If the demand is denied, the requestor shall be notified of the reasons for the denial. If the demand is conditionally approved, the requestor shall be notified of the conditions that have been imposed upon the production of the material or provision of the testimony demanded, and the reasons for the conditional approval of the demand.

(c) The Authorized Approving Official may impose conditions or restrictions on the production of any material or provision of any testimony. Such

conditions or restrictions may include the following:

(1) A requirement that the parties to the legal proceeding obtain a protective order or execute a confidentiality agreement to limit access to, and limit any further disclosure of, material or testimony;

(2) A requirement that the requester accept examination of documentary material on HUD premises in lieu of production of copies;

(3) A limitation on the subject areas of testimony permitted;

(4) A requirement that testimony of a HUD employee be provided by deposition at a location prescribed by HUD or by written declaration;

(5) A requirement that the parties to the legal proceeding agree that a transcript of the permitted testimony be kept under seal or will only be used or only made available in the particular legal proceeding for which testimony was demanded;

(6) A requirement that the requester purchase an extra copy of the transcript of the employee's testimony from the court reporter and provide the Department with a copy at the requester's expense; or

(7) Any other condition or restriction deemed to be in the best interests of the United States, including reimbursement of costs to the Department.

(d) The determination made with respect to the production of material or provision of testimony pursuant to this subpart is within the sole discretion of the Authorized Approving Official and shall constitute final agency action from which no administrative appeal is available.

9. Revise § 15.205 to read as follows:

**§ 15.205 Method of production of material or provision of testimony.**

(a) Where the Authorized Approving Official has authorized the production of material or provision of testimony, the Department shall produce such material or provide such testimony in accordance with this section and any conditions imposed upon production of material or provision of testimony pursuant to § 15.204(c).

(b) In any legal proceeding where the Authorized Approving Official has authorized the production of documents, the Department shall respond by producing authenticated copies of the documents, to which the seal of the Department has been affixed, in accordance with its authentication procedures. The authentication shall be evidence that the documents are true copies of documents in the Department's files and shall be sufficient for the purposes of Rules

803(8) and 902 of the Federal Rules of Evidence and Rule 44(a)(1) of the Federal Rules of Civil Procedure.

(c) If response to a demand is required before the determination from the Authorized Approving Official is received, the U.S. Attorney, Department of Justice Attorney, or such other attorney as may be designated for the purpose will appear or make such filings as are necessary to furnish the court or other authority with a copy of the regulations contained in this subpart and will inform the court or other authority that the demand has been, or is being, as the case may be, referred for prompt consideration. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested determination from the Authorized Approving Official.

10. Revise § 15.206 to read as follows:

**§ 15.206 Procedure in the event of an adverse ruling regarding production of material or provision of testimony.**

If the court or other authority declines to stay the demand made in accordance with § 15.205(c) pending receipt of the determination from the Authorized Approving Official, or if the court or other authority rules that the demand must be complied with irrespective of the determination by the Authorized Approving Official not to produce the material or provide the testimony demanded or to produce subject to conditions or restrictions, the employee upon whom the demand has been made shall, if so directed by an attorney representing the Department, respectfully decline to comply with the demand. (*United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951)).

11. Revise § 15.302 to read as follows:

**§ 15.302 Production of material or provision of testimony prohibited unless approved.**

Neither the Department nor any employee of the Department shall comply with any demand for production of material or provision of testimony in a legal proceeding in which the United States is a party, unless the prior approval of the attorney representing the United States has been obtained in accordance with this subpart. This rule does not apply to any legal proceeding in which an employee may be called to participate, either through the production of documents or the provision of testimony, not on official time, as to facts or opinions that are in no way related to material described in § 15.301.

12. Revise § 15.303 to read as follows:

**§ 15.303 Procedure for review of demands for production of material or provision of testimony in any legal proceeding in which the United States is a party.**

Whenever a demand is made upon the Department or an employee of the Department for the production of material or provision of testimony, the employee shall immediately notify the Appropriate Associate General Counsel or Appropriate Regional Counsel.

13. Revise § 15.304 to read as follows:

**§ 15.304 Consideration of demands for production of material or provision of testimony.**

Consideration of demands shall be within the province of the attorney representing the United States, who may raise any valid objection to the production of material or provision of testimony in response to the demand.

14. Add § 15.305 to read as follows:

**§ 15.305 Method of production of material or provision of testimony.**

If the production of material or provision of testimony has been authorized, the Department may respond by producing authenticated copies of the documents, to which the seal of the Department has been affixed in accordance with its authentication procedures. The authentication shall be evidence that the documents are true copies of documents in the Department's files and shall be sufficient for the purposes of Rules 803(8) and 902 of the Federal Rules of Evidence and Rule 44(a)(1) of the Federal Rules of Civil Procedure.

15. Revise appendix A to read as follows:

**Appendix A to Part 15—Location Information for HUD FOIA Reading Rooms and Contact Information for Regional Counsel**

The Department maintains a reading room in Headquarters and in each of the Secretary's Representative's Offices. In addition, each of the Secretary's Representative's Offices has a Regional Counsel. The location and contact information for the HUD FOIA Reading Rooms and for the Regional Counsel can be found in HUD's Local Office Directory through HUD's Internet site at <http://www.hud.gov>.

Dated: July 14, 2008.

**Roy A. Bernardi,**

*Deputy Secretary.*

[FR Doc. E8-18282 Filed 8-11-08; 8:45 am]

BILLING CODE 4210-67-P

**DEPARTMENT OF THE TREASURY**

**Alcohol and Tobacco Tax and Trade Bureau**

**27 CFR Part 9**

[Notice No. 89; Docket No. TTB-2008-0008]

RIN 1513-AB52

**Proposed Establishment of the Happy Canyon of Santa Barbara Viticultural Area (2007R-311P)**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 23,941-acre "Happy Canyon of Santa Barbara" American viticultural area in Santa Barbara County, California. This area lies within the larger Santa Ynez Valley viticultural area and the multicounty Central Coast viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

**DATES:** We must receive written comments on or before October 14, 2008.

**ADDRESSES:** You may send comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB-2008-0008 at "Regulations.gov," the Federal e-rulemaking portal); or
- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments we receive about this proposal at <http://www.regulations.gov> within Docket No. TTB-2008-0008. A link to that docket is posted on the TTB Web site at [http://www.ttb.gov/wine/wine\\_rulemaking.shtml](http://www.ttb.gov/wine/wine_rulemaking.shtml) under Notice No. 89. You also may view copies of this notice, all related petitions, maps and other supporting materials, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220.

Please call 202-927-2400 to make an appointment.

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

**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 requires that these regulations, 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 regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

*Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

*Requirements*

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area.