

Dated: August 24, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–18625 Filed 8–28–23; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–124123–22]

RIN 1545–BQ57

#### **Corporate Bond Yield Curve for Determining Present Value; Hearing Cancellation**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of a public hearing on a proposed rulemaking.

**SUMMARY:** This document cancels a public hearing on proposed regulations specifying the methodology for constructing the corporate bond yield curve that is used to derive the interest rates used in calculating present value and making other calculations under a defined benefit plan, as well as for discounting unpaid losses and estimated salvage recoverable of insurance companies.

**DATES:** The public hearing scheduled for August 30, 2023, at 10 a.m. ET is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Vivian Hayes of the Publications and Regulations Branch, Associate Chief Counsel (Procedure and Administration) at (202) 317–6901 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and a notice of public hearing that appeared in the **Federal Register** on June 23, 2023 (88 FR 41047) announced that a public hearing being held in person and by teleconference was scheduled for August 30, 2023, at 10 a.m. ET. The subject of the public hearing is under 26 CFR part 1.

The public comment period for these regulations expired on August 22, 2023. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to testify and an outline of the topics to be addressed. We did not receive a request to testify at the Public Hearing. Therefore, the public hearing scheduled

for August 30, 2023, at 10 a.m. ET is cancelled.

**Oluwafunmilayo A. Taylor,**

*Branch Chief, Publications and Regulations Branch, Associate Chief Counsel, (Procedure & Administration).*

[FR Doc. 2023–18622 Filed 8–28–23; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–106228–22]

RIN 1545–BQ61

#### **Malta Personal Retirement Scheme Listed Transaction; Hearing Cancellation**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of a notice of public hearing on a proposed rulemaking.

**SUMMARY:** This document cancels a public hearing on proposed regulations that would identify transactions that are the same as, or substantially similar to, certain Malta personal retirement scheme transactions as listed transactions, a type of reportable transaction.

**DATES:** The public hearing scheduled for September 21, 2023, at 10 a.m. ET is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Vivian Hayes of the Publications and Regulations Branch, Associate Chief Counsel (Procedure and Administration) at (202) 317–6901 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and a notice of public hearing that appeared in the **Federal Register** on June 7, 2023 (88 FR 37186) announced that a public hearing being held in person and by teleconference was scheduled for September 21, 2023, at 10 a.m. ET. The subject of the public hearing is under 26 CFR part 1.

The public comment period for these regulations expired on August 7, 2023. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to testify and an outline of the topics to be addressed. We did not receive a request to testify at the Public Hearing. Therefore, the public hearing scheduled

for September 21, 2023, at 10 a.m. ET is cancelled.

**Oluwafunmilayo A. Taylor,**

*Branch Chief, Publications and Regulations Branch, Associate Chief Counsel, (Procedure & Administration).*

[FR Doc. 2023–18626 Filed 8–28–23; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB–2023–0006; Notice No. 224]

RIN 1513–AD02

#### **Proposed Establishment of the Upper Cumberland 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 establishing the approximately 2,186,689 acre “Upper Cumberland” viticultural area in Middle Tennessee. The proposed viticultural area is not within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

**DATES:** Comments must be received by October 30, 2023.

**ADDRESSES:** You may electronically submit comments to TTB on this proposal using the comment form for this document posted within Docket No. TTB–2023–0006 on the *Regulations.gov* website at <https://www.regulations.gov>. At the same location, you also may view copies of this document, the related petition and selected supporting materials, and any comments TTB receives on this proposal. A direct link to that docket is available on the TTB website at <https://www.ttb.gov/wine/notices-of-proposed-rulemaking> under Notice No. 224. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005. Please see the Public Participation section of this document for further information on the comments requested on this proposal and on the submission, confidentiality, and public disclosure of comments.

**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). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120-01.

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 preparing and submitting petitions to establish or modify 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, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

*Requirements*

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to 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 to establish or modify AVAs. Petitions to establish an AVA must include the following:

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

**Upper Cumberland Petition**

TTB received a petition from the Appalachian Region Wine Producers Association, proposing the establishment of the "Upper Cumberland" AVA. The proposed Upper Cumberland AVA covers all or portions of the following eight counties in Middle Tennessee: Cumberland, Fentress, Macon, Putnam, Overton, Smith, Warren, and White. The proposed AVA contains approximately 2,186,689 acres, with 55 vineyards totaling over 71 acres spread throughout the proposed AVA. There are also nine wineries within the proposed AVA. According to the petition, there is at least one vineyard in each of the counties within the proposed AVA, demonstrating that commercial viticulture and winemaking take place throughout the entire proposed AVA.

According to the petition, the distinguishing features of the proposed Upper Cumberland AVA include its geology and elevation, soils, and climate. Unless otherwise noted, all information and data pertaining to the proposed AVA is from the petition and its supporting exhibits.

*Name Evidence*

The proposed Upper Cumberland AVA is located within the watershed of the Cumberland and Tennessee Rivers or their tributaries, which traditionally includes a total of 14 counties. The proposed Upper Cumberland AVA originally included all 14 of these counties. However, at the request of TTB, the petitioners agreed to exclude those counties that currently lack commercial viticulture, leaving eight counties within the proposed AVA. TTB notes that petition included evidence that the six excluded counties have the same distinguishing features as the remaining eight counties. If the proposed Upper Cumberland AVA is established, TTB may consider future petitions to modify the boundary of the AVA if commercial viticulture develops in those six excluded counties.

The petition includes a map produced by the Upper Cumberland Tourism Association titled "Upper Cumberland Tennessee."<sup>1</sup> The map includes the counties that are entirely or partially within the proposed Upper Cumberland AVA. The maps also show several Tennessee towns that are within the proposed AVA, including Lafayette, Cookeville, Crossville, and McMinnville. The petition included a web page from another tourism site that bears the title "Welcome to Tennessee's Upper Cumberland" and encourages readers to click links to learn more information about the "friendly Chambers of Commerce in The [sic] Upper Cumberland Counties."<sup>2</sup> The counties listed as the "Upper Cumberland Counties" include the eight counties that are located within the proposed AVA. A website dedicated to forecasting the weather of the region of the proposed AVA is called "Upper Cumberland Weather."<sup>3</sup> The Upper Cumberland Medical Society "supports personal leadership development of physicians from any of the 14 counties of Upper Cumberland."<sup>4</sup> The 14 counties listed by the society include the counties that are within the proposed AVA. The Upper Cumberland Development District provides an array of services to individuals, businesses, and communities within the proposed

<sup>1</sup> See Exhibit 1 to the petition, which is included in Docket No. TTB-2023-0006 at [www.regulations.gov](http://www.regulations.gov).

<sup>2</sup> See Exhibit 2 to the petition, which is included in Docket No. TTB-2023-0006 at [www.regulations.gov](http://www.regulations.gov).

<sup>3</sup> [Uppercumberlandweather.com](http://Uppercumberlandweather.com). See Exhibit 6 to the petition, which is included in Docket No. TTB-2023-0006 at [www.regulations.gov](http://www.regulations.gov).

<sup>4</sup> See Exhibit 7 to the petition, which is included in Docket No. TTB-2023-0006 at [www.regulations.gov](http://www.regulations.gov).

AVA through a variety of organizations, including the Upper Cumberland Area Agency on Aging and Disability.<sup>5</sup> A web page for the 2019 Senior Olympics provides information about events in the “Upper Cumberland District,” which also includes all the counties within the proposed AVA.<sup>6</sup> Finally, the Upper Cumberland Genealogical Society serves residents within the proposed AVA.<sup>7</sup>

#### *Boundary Evidence*

According to the petition, Tennessee is divided into three main regions: East, Middle, and West. The proposed Upper Cumberland AVA is located entirely within the Middle region, within the watershed of the Cumberland River and its tributaries, as well as a small portion of the Tennessee River watershed. Middle Tennessee includes the western portion of the Cumberland Plateau, the Eastern Highland Rim, and the Inner and Outer Central Basin land regions. The proposed Upper Cumberland AVA encompasses portions of each of these regions, specifically the western portion of the Cumberland Plateau, the Eastern Highland Rim and the eastern portion of the Outer Central Basin.

The Tennessee–Kentucky State line forms the northern boundary of the proposed AVA in order to exclude areas not traditionally or currently associated with the name “Upper Cumberland.” The remaining boundaries largely follow county lines to exclude counties associated with the name “Upper Cumberland” that do not contain commercial viticulture, as well as any counties that are not associated with the name “Upper Cumberland” and have geological and climatic differences, which will be discussed in detail later in this document.

#### *Distinguishing Features*

The distinguishing features of the proposed Upper Cumberland AVA include its geology and elevation, soils, and climate.

#### *Geology and Elevation*

The proposed Upper Cumberland AVA encompasses portions of three distinct geographic regions. The eastern portion of the proposed AVA is located on the western portion of the Cumberland Plateau. This region was

formed from layers of sedimentary rocks, including sandstone, limestone, and shale, that were deposited when an ancient ocean covered the area. As the North American and African protocontinents came together, the sediment and rock stuck between them and the region of what is now the proposed AVA was uplifted, forming the Cumberland Plateau. Average elevations within this portion of the proposed AVA range from 1,500 to 1,800 feet.

The middle portion of the proposed Upper Cumberland AVA is located on the Eastern Highland Rim. The Eastern Highland Rim is a cuesta, which is a ridge where a harder sedimentary rock overlies a softer layer, with the whole ridge being tilted somewhat from the horizontal. The bedrock of the middle portion of the proposed AVA is comprised primarily of Mississippian-aged St. Louis and Warsaw limestones with Fort Payne chert underlain by Chattanooga shale. Elevations within this portion of the proposed AVA range from 600 to 1,000 feet.

The western portion of the proposed AVA lies on the Outer Central Basin. This region is mostly an escarpment, which the petition defines as a long, steep slope, especially one at the edge of a plateau or a slope separating areas of land at different heights. Underlying rocks in this region are limestone, chert, and shale. The Outer Central Basin gradually descends to the lower, flatter elevations of the Inner Central Basin, which is not within the proposed AVA. The petition did not include a range of elevations for this portion of the proposed AVA but noted that the elevations are higher than the average elevations of the Inner Central Basin region, located to the west.

According to the petition, the uplifted elevations of the proposed AVA allow vineyards to receive more direct and concentrated sunlight—the level of UV rays increases between 10 and 20 percent for every 1,000 feet of elevation—than vineyards at lower elevations. As a result of the greater levels of UV rays, grapes develop thicker skins, which increases the color concentration and tannins in the resulting wines.

To the north and south of the proposed AVA are continuations of the same geological features found within the proposed AVA. These areas were excluded from the proposed AVA primarily because they are not considered to be part of the region known as “Upper Cumberland.” The petition did not provide information on elevations within the regions to the north and south of the proposed AVA.

To the east of the proposed AVA is the Valley and Ridge Province of Tennessee, where the sediment and rock was folded and faulted by the collision of the ancient protocontinents, rather than being uplifted into a plateau. Elevations in the Valley and Ridge Province range from 1,100 to 1,500 feet in the ridges and from 700 to 1,000 feet in the valleys. To the west of the proposed AVA is the Inner Central Basin region, which formed when the collision of the continental plates pushed the sediment and rock into a bulging dome. Over time, the dome eroded and became lower and flatter. When the overlying rocks eroded, the softer underlying limestone began to erode quickly, forming a basin. Elevations within the Inner Central Basin are 300 to 400 feet lower than elevations within the adjacent Eastern Highland Rim portion of the proposed AVA.

#### *Soils*

According to the petition, the soils of the proposed Upper Cumberland AVA differ according to the physiographic region. Soils of the eastern portion of the proposed AVA, within the Cumberland Plateau region, are from the Inceptisols and Ultisols soil orders. Ultisols are defined as “strongly leached, acid forest soils with relatively low fertility.” Inceptisols “exhibit minimal horizon development” and “lack features characteristic of other soil orders.” They are often found in mountainous regions. The petition describes the soils as moderately deep, dominantly well-drained, and strongly acidic. They have a mesic soil temperature regime, meaning that soil temperatures at a depth of 20 inches generally range from 47 to 59 degrees Fahrenheit (F). The soils also have an udic soil moisture regime, meaning that water moves down through the soil at some time in most years, and the amount of soil moisture plus rainfall is approximately equal to or exceeds the amount of evapotranspiration.

The middle portion of the proposed AVA, within the Eastern Highland Rim region, has soils of the Ultisols and Inceptisols soil orders, as well as Alfisols soils. Alfisols soils are moderately-leached soils with relatively high native fertility. Soils in this region are in the udic soil moisture regime and are also predominantly in the thermic soil temperature regime, meaning that soil temperatures at a depth of 20 inches range from 59 to 72 degrees F. The petition describes the soils of this region of the proposed AVA as moderately-to-very deep, moderately well-drained, and loamy or clayey.

<sup>5</sup> See Exhibit 3 to the petition, which is included in Docket No. TTB–2023–0006 at [www.regulations.gov](http://www.regulations.gov).

<sup>6</sup> [Tsseniorolympics.com/upper-cumberland-district](https://tsseniorolympics.com/upper-cumberland-district). See Exhibit 5 to the petition, which is included in Docket No. TTB–2023–0006 at [www.regulations.gov](http://www.regulations.gov).

<sup>7</sup> See Exhibit 4 to the petition, which is included in Docket No. TTB–2023–0006 at [www.regulations.gov](http://www.regulations.gov).

The western portion of the proposed AVA, within the Outer Central Basin region, also has Ultisols, Inceptisols, and Alfisols soils. The soils have a thermic soil temperature regime and udic soil moisture regime, similar to portion of the proposed AVA that is within the Eastern Highland Rim region.

According to the petition, the acidic soils of the proposed Upper Cumberland AVA generally have better nutrient balance for vine growth than alkaline soils. The well-drained soils of the proposed AVA also provide the vines with enough water to thrive, but not so much that the roots become waterlogged and more prone to disease and rot. The petition also states that the characteristics of the proposed AVA’s soils allow grapes to retain acidity as

they ripen, resulting “brighter, more acidic finished wines.”

To the north and south, the soils are similar to those within the proposed AVA. To the east of the proposed AVA, within the Valley and Ridge Province, the soils are almost exclusively Ultisols soils. The soils generally have a thermic soil temperature regime and an udic soil moisture regime. To the west of the proposed AVA, in the Inner Central Basin region, the soils include Mollisols, which are not found in the proposed AVA. Mollisols soils are found in grassland ecosystems and are characterized by a thick, dark surface horizon. The Inner Central Basin also does not contain as many Ultisols soils as the proposed Upper Cumberland AVA.

Climate

The petition provided data on the average maximum and minimum annual temperatures, growing season mean temperatures, growing season length, growing degree days<sup>8</sup> (GDDs), USDA plant hardiness zones, and annual precipitation amounts for the proposed Upper Cumberland AVA and the surrounding regions. The data came from the PRISM Climate Group<sup>9</sup> and was calculated using 1981–2010 climate normals, the most recent climate normals data available at the time the petition was drafted. The following tables summarize the climate data from the petition.

TABLE 1—AVERAGE MAXIMUM AND MINIMUM ANNUAL AND AVERAGE MEAN GROWING SEASON TEMPERATURES [Degrees Fahrenheit]

Location	Average maximum annual temperature	Average minimum annual temperature	Mean growing season temperature
Proposed AVA .....	68.7	45.4	67.5
Northeast .....	67.5	43.3	65.8
East .....	68.6	45.2	67.7
Southeast .....	70	47	69
South .....	70.6	48.5	69.8
Southwest .....	69.8	45.8	68
West .....	70.5	46	69.2
Northwest .....	69	46.8	69

TABLE 2—MEAN GROWING SEASON LENGTH IN DAYS<sup>10</sup>

Location	Days
Proposed AVA .....	212
Northeast .....	194
East .....	208.25
Southeast .....	219
South .....	242
Southwest .....	222
West .....	210
Northwest .....	215

TABLE 3—AVERAGE GROWING DEGREE DAYS AND WINKLER REGIONS<sup>11</sup>

Location (direction from proposed AVA) <sup>12</sup>	GDDs	Winkler region
Allardt (within) .....	3,134.4	III
Crossville (within) .....	3,462	III
Cookeville (within) .....	3,700.8	IV
Lafayette (within) .....	4,266.2	V
McMinnville (within) .....	4,228.95	V
Sparta Water Plant (within) .....	3,941.7	IV
Carthage (within) .....	4,111.9	V
Newcomb (northeast) .....	3,599.85	IV
Oneida (northeast) .....	3,252.85	III
Kingston (east) .....	4,096.5	V

<sup>8</sup> See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64. 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 F, the

minimum temperature required for grapevine growth. The Winkler scale regions are as follows: Region Ia: 1,500–2,000 GDDs; Region Ib: 2,000–2,500 GDDs; Region II: 2,500–3,000 GDDs; Region III: 3,000–3,500 GDDs; Region IV: 3,500–4,000 GDDs; Region V: 4,000–4,900 GDDs.

<sup>9</sup> The PRISM Climate Group gathers climate observations from a wide range of monitoring

networks including weather stations, global positioning systems, and remote sensing equipment. Other factors used include elevation, longitude, and slope angles.

<sup>10</sup> See Table 6 to the petition in Docket No. TTB–2023–0006 at <https://www.regulations.gov>.

TABLE 3—AVERAGE GROWING DEGREE DAYS AND WINKLER REGIONS <sup>11</sup>—Continued

Location (direction from proposed AVA) <sup>12</sup>	GDDs	Winkler region
Norris (east) .....	3,545.9	IV
Oak Ridge (east) .....	4,114.75	V
Rockwood (east) .....	3,750.7	IV
Tazewell (east) .....	3,418.05	III
Cleveland (southeast) .....	4,088.8	V
Dayton (southeast) .....	4,047.05	V
Chattanooga (south) .....	4,556.45	V
Winchester (south) .....	3,923.15	IV
Lebanon (west) .....	4,145.85	V
Murfreesboro (west) .....	4,099.75	V
Clarksville (northwest) .....	4,101.3	V
Clarksville Outlaw Field Airport (northwest) .....	4,060.1	V
Clarksville Water Treatment Plant (northwest) .....	4,376.45	V
Springfield (northwest) .....	4,032.4	V

TABLE 4—USDA PLANT HARDINESS ZONES <sup>13</sup>

Location	Plant hardiness zone
Proposed AVA .....	6b–7a
Northeast .....	6b
East .....	7a
Southeast .....	7a–7b
South .....	7a–7b
Southwest .....	7a
West .....	7a
Northwest .....	6b–7a

TABLE 5—AVERAGE ANNUAL PRECIPITATION AMOUNTS

Location	Precipitation (inches)
Proposed AVA .....	50.02
Northeast .....	52.45
East .....	54.36
Southeast .....	54.67
South .....	52.69
Southwest .....	56.17
West .....	53.12
Northwest .....	51.02

According to the petition, the climate of the proposed Upper Cumberland AVA is suitable for growing a wide variety of wine grapes, including *vinifera*, hybrid, native, and muscadine varieties, which are all currently growing within the proposed AVA. Bud break generally occurs from the second week of April through the second week of May, and harvest generally occurs

from the last week of July through the end of August.

*Summary of Distinguishing Features*

In summary, the geology and elevation, soils, and climate of the proposed Upper Cumberland AVA distinguish it from the surrounding regions. The proposed AVA contains portions of three of the major geographic features of Tennessee: the Cumberland Plateau, which is an uplifted region of sandstone, limestone, and shale with elevations between 1,500 and 1,800 feet; the Eastern Highland Rim, a slightly-tilted cuesta of limestone, chert, and shale with elevations between 600 and 1,000 feet; and the Outer Central Basin, an escarpment of limestone, chert, and shale that has elevations that are typically 300 to 400 feet higher than in the adjacent Inner Central Basin region. Soils within the proposed AVA consist of Inceptisols, Ultisols, and Alfisols that

are generally well-drained, acidic, and moderately-to-strongly leached. The average growing season length is 212 days, with a mean growing season temperature of 67.5 degrees F and USDA Plant Hardiness Zones ranging from 6b to 7a. GDD accumulations range from 3,134.4 to 4,226.2, and Winkler Regions range from Zone III to Zone V. The average annual precipitation amount is 50.02 inches.

To the north and south of the proposed AVA, the geology, elevations, and soils are similar to those of the proposed AVA. However, these areas were excluded because they are not part of the region that is known as “Upper Cumberland.” The region to the south also has a generally warmer climate, with a mean growing season temperature of 69.8 degrees F, a 242-day growing season, USDA Plant Hardiness Zones ranging from 7a to 7b, and

<sup>11</sup> See Tables 1 and 7 to the petition in Docket No. TTB–2023–0006 at <https://www.regulations.gov>.

<sup>12</sup> Tables 1 and 7 in the petition include locations that are not within the revised boundary of the proposed AVA. Those locations have been excluded from the tables in this document.

<sup>13</sup> Plant Hardiness Zones are based on the average annual extreme minimum temperature for a region from the period of 1976–2005. Zone 6b = –5 to 0 degrees F; Zone 7a = 0 to 5 degrees F; Zone 7b = 5 to 10 degrees F. See Figure 12 to the petition in Docket No. TTB–2023–0006 at <https://www.regulations.gov>.

regions in Winkler Regions IV and V. The region to the south also has higher annual precipitation amounts.

To the east of the proposed AVA is the Valley and Ridge Province, which is comprised of folded and faulted rocks and sediments and has elevations from 700 to 1,000 feet in the valleys and 1,100 to 1,500 feet in the ridges. Soils in this region are almost exclusively Ultisols. The mean growing season temperature and USDA Plant Hardiness Zones are similar to that of the proposed AVA, but the growing season is slightly shorter, and GDD accumulations are slightly lower. Annual precipitation amounts are also higher in the region to the east of the proposed AVA.

To the west of the proposed AVA is the Inner Central Basin, which was formed by the erosion of a large, bulging dome of sediment and rocks. Soils in this region include Molisols, which are not found in the proposed AVA, and fewer Ultisols than the proposed AVA. The region is categorized as a Winkler Region V, with a higher mean growing season temperature than the proposed AVA and a USDA Plant Hardiness Zone rating of 7a. Due west of the proposed AVA, the growing season is shorter, but the regions to the northwest and southwest have longer growing seasons. Average annual precipitation amounts are also higher to the west of the proposed AVA.

#### **TTB Determination**

TTB concludes that the petition to establish the proposed Upper Cumberland AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

#### **Boundary Description**

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

#### **Maps**

The petitioner provided the required maps, and TTB lists them below in the proposed regulatory text. You may also view the proposed Upper Cumberland AVA boundary on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

#### **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions

listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, "Upper Cumberland," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using the name "Upper Cumberland" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if TTB adopts this proposed rule as a final rule.

#### **Public Participation**

##### *Comments Invited*

TTB invites comments from interested members of the public on whether it should establish the proposed Upper Cumberland AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of required information submitted in support of the petition. Please provide specific information in support of your comments.

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

##### *Submitting Comments*

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the *Regulations.gov* website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice No. 224 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You also may request a public hearing on this proposal. The TTB Administrator reserves the right to determine whether to hold a public hearing.

##### *Confidentiality and Disclosure of Comments*

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

TTB will post, and you may view, copies of this document, the related petition and selected supporting materials, and any comments TTB receives about this proposal within the related *Regulations.gov* docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings division by email using the web form available at <https://www.ttb.gov/contact-rrd>, or by telephone at 202-453-2265, if you have any questions about commenting on this proposal or to request copies of this document, the related petition and its supporting materials, or any comments received.

#### **Regulatory Flexibility Act**

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

#### **Executive Order 12866**

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

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

Wine.

**Proposed Regulatory Amendment**

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

**PART 9—AMERICAN VITICULTURAL AREAS**

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

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

**Subpart C—Approved American Viticultural Areas**

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

**§ 9. \_\_\_\_ Upper Cumberland.**

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

(b) *Approved maps.* The 8 United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Upper Cumberland viticultural area are:

- (1) Bowling Green, 1985;
- (2) Tompkinsville, 1985;
- (3) Corbin, 1981;
- (4) Nashville, 1984;
- (5) Cookeville, 1982;
- (6) Oak Ridge, 1979;
- (7) McMinnville, 1981; and
- (8) Watts Bar Lake, 1981.

(c) *Boundary.* The Upper Cumberland viticultural area is located in Cumberland, Fentress, Macon, Overton, Putnam, Smith, Warren, and White Counties, in Tennessee. The boundary of the viticultural area is as described as follows:

(1) The beginning point is on the Bowling Green map at the intersection of the shared Macon–Sumner County line and the shared Kentucky–Tennessee State line. From the beginning point, proceed south along the shared Macon–Sumner County line, crossing onto the Nashville map and continuing along the shared Macon–Sumner County line to its intersection with the Trousdale County line; then

(2) Proceed east, then southeast, then east along the shared Trousdale–Macon County line, crossing onto the Cookeville map and continuing east along the shared Trousdale–Macon County line to its intersection with the Smith County line; then

(3) Proceed southwesterly along the shared Smith–Trousdale County line,

crossing back onto the Nashville map and continuing southwesterly, then westerly along the shared Smith–Trousdale County line to its intersection with the Wilson County line; then

(4) Proceed southeasterly along the shared Wilson–Smith County line to its intersection with the DeKalb County line; then

(5) Proceed east along the shared Smith–DeKalb County line, crossing onto the Cookeville map and continuing east along the Smith–DeKalb County line to its intersection with the Putnam County line; then

(6) Proceed southeast along the shared DeKalb–Putnam County line to its intersection with the White County line; then

(7) Proceed southeast along the shared DeKalb–White County line, crossing onto the McMinnville map and continuing south along the DeKalb–White County line to its intersection with the Warren County line; then

(8) Proceed west along the shared DeKalb–Warren County line to its intersection with the Cannon County line; then

(9) Proceed southwesterly along the shared Warren–Cannon County line to its intersection with the Coffee County line; then

(10) Proceed southeast along the shared Warren–Coffee County line to its intersection with the Grundy County line; then

(11) Proceed east along the shared Warren–Grundy County line to its intersection with the Sequatchie County line; then

(12) Proceed east along the shared Warren–Sequatchie County line to its intersection with the Van Buren County line; then

(13) Proceed northwest, then north along the shared Warren–Van Buren County line to its intersection with the White County line; then

(14) Proceed east, then southerly along the shared White–Van Buren County line to its intersection with the shared Cumberland–Bledsoe County line; then

(15) Proceed east along the shared Bledsoe–Cumberland County line to its intersection with U.S. Highway 127/ State Road 29; then

(16) Proceed northeast in a straight line for a total of 21.81 miles, crossing over the Watts Bar Lake map and onto the Oak Ridge map to the intersection of the straight line with the shared Cumberland–Morgan County line east of Hebbertsburg; then

(17) Proceed northwesterly, then westerly, then northwesterly along the shared Cumberland–Morgan County

line to its intersection with the Fentress County line; then

(18) Proceed north, then northeast along the shared Fentress–Morgan County line to its intersection with the Scott County line; then

(19) Proceed northeast, then northwest along the shared Scott–Fentress County line, crossing onto the Corbin map and continuing along the shared Scott–Fentress County line to its intersection with the Pickett County line; then

(20) Proceed west, then northwesterly along the shared Fentress–Pickett County line, crossing over the Tompkinsville map and onto the Cookeville map and continuing along the shared Fentress–Pickett County line to its intersection with the Overton County line; then

(21) Proceed west, then northwesterly along the shared Pickett–Overton County line, crossing onto the Tompkinsville map and continuing along the shared Pickett–Overton County line to its intersection with the Clay County line; then

(22) Proceed southwesterly along the shared Overton–Clay County line, crossing onto the Cookeville map and continuing south along the shared Overton–Clay County line to its intersection with the Jackson County line; then

(23) Proceed southerly along the shared Overton–Jackson County line to its intersection with the Putnam County line; then

(24) Proceed westerly along the shared Putnam–Jackson County line to its intersection with the Smith County line; then

(25) Proceed westerly, then northerly along the shared Smith–Jackson County line to its intersection with the Macon County line; then

(26) Proceed north along the shared Macon–Jackson County line, crossing onto the Tompkinsville map and continuing along the shared Macon–Jackson County line to its intersection with the Clay County line; then

(27) Proceed north along the shared Macon–Clay County line to its intersection with the shared Tennessee–Kentucky State line; then

(28) Proceed west along the Tennessee–Kentucky State line, crossing onto the Bowling Green map and returning to the beginning point.

Signed: August 21, 2023.

**Mary G. Ryan,**  
Administrator.

Approved: August 22, 2023.

**Thomas C. West, Jr.,**  
Deputy Assistant Secretary (Tax Policy).

[FR Doc. 2023-18590 Filed 8-28-23; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Parts 350, 365, 385, 386, 387, and 395

[Docket No. FMCSA-2022-0003]

RIN 2126-AC52

#### Safety Fitness Determinations

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Advance notice of proposed rulemaking and request for comments.

**SUMMARY:** FMCSA is interested in developing a new methodology to determine when a motor carrier is not fit to operate commercial motor vehicles (CMVs) in or affecting interstate commerce. FMCSA requests public comment on the need for a rulemaking to revise the regulations prescribing the safety fitness determination process; the available science or technical information to analyze regulatory alternatives for determining the safety fitness of motor carriers; feedback on the Agency's current safety fitness determination (SFD) regulations, including the process and impacts; the available data and costs for regulatory alternatives reasonably likely to be considered as part of this rulemaking; and responses to specific questions in this advance notice of proposed rulemaking (ANPRM).

**DATES:** Comments on this notice must be received on or before October 30, 2023.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA-2022-0003 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2022-0003/document>. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of

Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stacy Ropp, (609) 661-2062, [SafetyFitnessDetermination@dot.gov](mailto:SafetyFitnessDetermination@dot.gov). FMCSA office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Public Participation and Request for Comments**

###### *A. Submitting Comments*

If you submit a comment, please include the docket number for this ANPRM (FMCSA-2022-0003), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2022-0003/document>, click on this ANPRM, click "Comment," and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and

actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the ANPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the ANPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the ANPRM. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

###### *B. Viewing Comments and Documents*

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2022-0003/document> and choose the document to review. To view comments, click this ANPRM, then click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

###### *C. Privacy*

DOT solicits comments from the public to better inform its regulatory process, in accordance with 5 U.S.C. 553(c). DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL 14—Federal Docket Management System (FDMS)), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

##### **II. Legal Basis for the Rulemaking**

This rulemaking is based primarily on 49 U.S.C. 31144(a) and (b)<sup>1</sup> which

<sup>1</sup> Enacted by Motor Carrier Safety Act of 1984 (1984 Act), sec. 215, Public Law 98-554, Title II,