

of the revenue in accord with all applicable laws and regulations.

Comments on this proposal were to have been received on or before February 16, 1988. Customs has received a request to extend the comment period an additional 30 days. In view of the complexity of issues involved we agree that some additional time for the preparation of responsible comments is appropriate. We, however, note that the proposal has been pending almost 60 days and that the processing of express consignment shipments is causing a significant impact on Customs resources and our ability to properly discharge our responsibilities. Accordingly, we are granting a limited extension of time to submit comments.

**DATE:** Comments are requested on or before March 1, 1988.

**ADDRESS:** Comments may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2324, 1301 Constitution Avenue NW., Washington, DC 20229.

All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days, at the above address.

**FOR FURTHER INFORMATION CONTACT:**

Operational aspects: Vincent Dantone, Office of Inspection and Control, (202) 566-5354

Legal aspects: Ken Paley, Entry Rulings Branch, Office of Regulations and Rulings (202) 566-2938 or (202) 566-5856.

Dated: February 12, 1988.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 88-3526 Filed 2-18-88; 8:45 am]

BILLING CODE 4820-02-M

## Internal Revenue Service

### 26 CFR Part 1

[EE-129-86]

#### Definitions of "Highly Compensated Employee" and "Compensation"; Notice of Proposed Rulemaking

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is

issuing temporary regulations relating to the scope and meaning of the terms "highly compensated employee" in section 414(q) and "compensation" in section 414(s) of the Internal Revenue Code of 1986. They reflect changes made by the Tax Reform Act of 1986 (TRA '86). The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking. These regulations will provide the public with guidance necessary to comply with the law and would affect sponsors of, and participants in, pension, profit-sharing and stock bonus plans, and certain other employee benefit plans.

**DATE:** Written comments and requests for a public hearing must be delivered or mailed April 19, 1988. In general, these regulations apply to years beginning on or after January 1, 1987, except as otherwise specified in TRA '86.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-129-86) Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Marks of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T). (202-566-3938) (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

The temporary regulations in the Rules and Regulations portion of this issue of the Federal Register amend 26 CFR by adding a new section 1.414(q)-1T under Part 1 to provide guidance with respect to the definitions of highly compensated employee and compensation within the meaning of Code section 414(q) and (s). The regulations are proposed to be issued under the authority contained in sections 414(s) and 7805 of the Code (100 Stat. 2453, 68A Stat. 917; 26 U.S.C. 414(s), 7805). For the text of the temporary regulations, see F.R. Doc. (T.D. 8173) published in the Rules and Regulations portion of this issue of the Federal Register.

#### Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that as regulatory impact analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5

U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

#### Comments and Requests for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

#### Drafting Information

The principal author of these proposed regulations is Nancy J. Marks of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

#### List of Subjects in 26 CFR 1.401-0-1.425-1

Income taxes, Employee benefit plans, Pensions.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 88-3417 Filed 2-18-88; 8:45 am]

BILLING CODE 4830-01-M

## Bureau of Alcohol, Tobacco and Firearms

### 27 CFR Part 9

[Notice No. 655]

#### Proposed Establishment of Fredericksburg in the Texas Hill Country Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Gillespie County, Texas, to be known as "Fredericksburg in the Texas Hill County." This proposal is the result of a petition from Mr. Karl W. Koch of the Pedernales Vineyards. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better

designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

**DATE:** Written comments must be received by April 4, 1988.

**ADDRESSES:** Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 655).

Copies of written comments received in response to this notice will be available during normal business hours at: ATF Disclosure Branch, Room 4412, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Robert L. White, Wine and Beer Branch, (202) 566-7626.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) Copies of the appropriate U.S.G.S. maps with the boundaries prominently marked.

**Petition**

ATF has received a petition from Mr. Karl W. Koch of the Pedernales Vineyard proposing an area in Gillespie County, Texas, as a viticultural area to be known as "Fredericksburg in the Texas Hill Country." This proposed viticultural area is located entirely in Gillespie County, Texas, in the central part of the State approximately 80 miles west of Austin. The proposed area consists of approximately 110 square miles. There are approximately eight vineyards in the area which are devoted to wine grapes with a total of about 50 acres under cultivation. Additionally, there are many commercial peach growers in the area with test plantings of grapes. The petitioner provides the following information as evidence that the proposed area meets the regulatory requirements discussed previously.

**Viticultural Area Name**

The name "Fredericksburg" can be found on several U.S.G.S. maps of the area surrounding the city of Fredericksburg. The area around Fredericksburg is described in various newspaper and magazine articles, as well as brochures published by the State of Texas, as the "Texas Hill Country." Therefore, the petitioner proposes to use the name "Fredericksburg in the Texas Hill Country" as the name of this proposed viticultural area.

**Local Viticultural History**

Fredericksburg was founded May 8, 1846, by German immigrants under the auspices of the Society for the Protection of German Immigrants in Texas. The first colonization was of New Braunfels in 1845. A few years later, Fort Martin Scott was established southeast of Fredericksburg.

The Commissioner General of the Society, also known as the "Adelsverein," was Baron Ottfried Hans Von Meusebach, a German nobleman who took the name of John O. Meusebach once settled in Fredericksburg.

The city of Fredericksburg derived its name from German nobleman Prince Frederick of Prussia, who was the highest ranking member of the "Adelsverein." This society sponsored the colonization of the Fisher-Miller Grant in Central Texas. Vineyards were confined during this time to a very small number of Germans in the eastern settlements. The few vineyards which were established often drew favorable comments from observers, who foresaw a great future for this agricultural specialty.

More common was the practice of making wine from wild grapes,

principally the variety known as the Mustang, which was found in abundance in the valleys of the Colorado, San Antonio, and Guadalupe rivers and their tributaries. The abundance of wild grapes convinced the early settlers that domesticated types would also thrive, and vine clippings brought from Europe were planted by Germans in the very first year at New Braunfels and shortly thereafter around Castroville. Experiments continued for a number of years in the western settlements, including the hills on the north side of Fredericksburg, but in the end it was realized that the imported European vines would not grow properly in Texas, and viticulture was, with few exceptions, abandoned. A commercial winery existed as late as the post-World War II period in Fredericksburg, selling products made from wild grapes and berries, but the wine was made primarily for home use to satisfy a cultural beverage preference. Currently, present day technology has made viticulture a more practical venture than a century or so ago. Consequently, recent efforts in viticulture in the Fredericksburg area show promise of producing a unique wine that will parallel and/or supplement the peach business for which the Fredericksburg area has long been well known.

**Geographical/Climatological Features**

The petitioner claims the proposed viticultural area is distinguished from surrounding areas by differences in geography, soil and climate. The petitioner bases these claims on the following:

(a) *Geography.* The proposed viticultural area is on the Edwards Plateau which is the result of the geological uplift phenomenon. The Pedernales watershed originates due west of Fredericksburg a few miles from the Gillespie-Kerr-Kimble county line at an elevation of 2200 feet. The Pedernales River flows easterly to Lake Travis (below 700 feet elevation) which is a part of the Austin city water supply. The elevation of the proposed viticultural area is between 1500 and 1900 feet. At an altitude above 1900 feet, there is a greatly increased risk of spring frost.

The proposed viticultural area is a "bowl" shaped area with a relatively flat bottom and relatively steep sides. It is the bottom of the bowl that is suitable for farming. There is no similar farming area for at least 100 miles west of Austin and San Antonio. Most of the surrounding area is ranching, not crops and orchards. The majority of the proposed area, including the town of

Fredericksburg, lies to the north of the Pedernales River.

(b) *Soil.* The soils of the proposed viticultural area consist of the contiguous Luckenbach-Pedernales-Heatly Soil Association which is on or near the Pedernales River and its tributaries at an approximate elevation of between 1500 and 1900 feet. These soils adjacent to the river, and the riverbed itself, near Fredericksburg contain an abundance of flint or chert which is hydrated silica from the ancient seabed that formed the Edwards Plateau. The Spanish word "Pedernale," from which the river derived its name, actually means "flintstone."

The higher elevations of the Pedernales River watershed are the source of the Alluvial Valley Soils of the proposed area. The Luckenbach-Pedernales-Heatly Soil Association is composed of deep, sandy to loamy, gently sloping soils on uplands and terraces.

The Soil Conservation Service, U.S. Department of Agriculture, describes the Luckenbach-Pedernales-Heatly Soil Association as a sandy loam topsoil (mostly quartz with limited organic matter) over a reddish clay. This clay is high in the nutrients, phosphorus, potassium, and calcium, as well as other minerals. The red color is due to iron which helps peaches (and grapes) avoid a chloritic condition. About one-half of this Soil Association in Gillespie County is cultivated. The crops are sorghums, small grain, peaches, grapes, and tame pasture. The remaining one-half is used for rangeland and wildlife habitat.

(c) *Climate.* The Fredericksburg area, at latitude 30 degrees north, is far enough south to escape harsh winters. At an elevation of 1,747 feet and a distance of more than 200 miles inland from the coast, the Fredericksburg area escapes the hot, humid summers characteristic of many southern climates. Summer temperatures are more characteristic of the High Plains than of southern Texas. Smog is unknown, and severe storms are very rare.

Total annual precipitation averages 27.44 inches. The lack of rainfall is due to the distance north and west of the Gulf of Mexico. A result of the dry climate is an abundance of sunshine which is a requirement for quality fruit. The dry climate also reduces disease problems.

The Fredericksburg area is generally cooler than surrounding areas. Summer nights at Fredericksburg average four to five degrees Fahrenheit cooler than at lower elevations east of the Hill Country. The growing season (freeze-free period) in the Fredericksburg area

averages 219 days. The average date of the last occurrence of 32 degrees in spring and the first occurrence in fall are April 1 and November 6, respectively.

The altitude of the area serves two purposes. In winter there are over 850 hours per year at below 40 degrees Fahrenheit. This maintains a proper winter dormancy factor. A second altitude benefit is that of temperature change between night and day. A difference in temperature is required to properly mature a fruit. Because of the higher elevation of the Fredericksburg area, the temperature difference between night and day is more pronounced than in surrounding areas.

Weather maps published by the Bureau of Business Research at the University of Texas show that the proposed Viticultural area is located at or near departure or change points from surrounding areas for temperature, precipitation and relative humidity. The Fredericksburg area is generally cooler than areas to the north and east while about the same mean annual temperature as areas to the immediate south and west. The mean annual precipitation for the proposed area is about the same as the area to the north, more than the area to the west, and less than the areas to the east and south. The mean annual relative humidity for the Fredericksburg area is about the same as the areas to the north and south, lower than the area to the east, and higher than the area to the west.

#### Proposed Boundary

The boundary of the proposed Fredericksburg in the Texas Hill Country viticultural area may be found on six United States Geological Survey maps. The maps are 7.5 minute series with a scale of 1:24,000. The six maps are titled Stonewall Quadrangle (1961), Cain City Quadrangle (1963), Fredericksburg East Quadrangle (1967, photorevised 1982), Cave Creek School Quadrangle (1961), Fredericksburg West Quadrangle (1967, photorevised 1982), and Lady Bird Johnson Park Quadrangle (1964, photoinspeted 1979). The specific description of the boundaries of the proposed viticultural area is found in the proposed regulations which immediately follow the preamble to this notice of proposed rulemaking.

#### Executive Order 12291

It has been determined that this proposed regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual

industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

#### Public Participation

ATF requests comments from all interested parties. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed

regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

#### Drafting Information

The principal author of this document is Robert L. White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

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

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

#### Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Area, is proposed to be amended as follows:

### PART 9—AMERICAN VITICULTURAL AREAS

**Paragraph 1.** The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

**Par. 2.** The Table of Sections in Subpart C is amended to add the title of § 9.125 to read as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.

\* \* \* \* \*  
9.125 Fredericksburg in the Texas Hill Country.

**Par. 3.** Subpart C is amended by adding § 9.125 to read as follows:

#### Subpart C—Approved American Viticultural Areas

\* \* \* \* \*

#### § 9.125 Fredericksburg in the Texas Hill Country.

(A) *Name.* The name of the viticultural area described in this section is "Fredericksburg in the Texas Hill Country."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Fredericksburg in the Texas Hill Country viticultural area are six U.S.G.S. topographical maps of the 1:24,000 scale. They are titled:

- (1) Stonewall Quadrangle (1961);
- (2) Cain City Quadrangle (1963);
- (3) Fredericksburg East Quadrangle (1967, photorevised 1982);
- (4) Cave Creek School Quadrangle (1961);
- (5) Fredericksburg West Quadrangle (1967, photorevised 1982); and

(6) Lady Bird Johnson Park Quadrangle (1964, photoinspected 1979).

(c) *Boundaries.* The Fredericksburg in the Texas Hill Country viticultural area is located entirely in Gillespie County, Texas, in the central part of the State approximately 80 miles west of Austin. The beginning point is on the Stonewall Quadrangle map near Blumenthal at a point on U.S. route 290 approximately .1 mile east of bench mark (BM) 1504, at the junction of a light-duty road known locally as Jung Road.

(1) From the beginning point, the boundary proceeds on Jung Road in a northwesterly direction across the Pedernales River.

(2) Then northwesterly approximately 1 mile along Jung Road as it parallels the Pedernales River.

(3) Then north along Jung Road approximately 3.9 miles to a point where Jung Road meets a medium-duty road known locally as Texas Ranch Road 2721.

(4) Then westerly approximately .1 mile on Texas Ranch Road 2721 to a point where it meets a medium-duty road known locally as Texas Ranch Road 1631.

(5) Then northeasterly along Texas Ranch Road 1631 approximately 1 mile to a point where Texas Ranch Road 1631 crosses the 1,800 foot contour line.

(6) Then northwesterly in a meandering manner along the 1800-foot contour line to the point where the 1,800-foot contour line crosses State Route 16.

(7) Then in a generally westerly direction along the 1,800-foot contour line to the point where the 1,800-foot contour line crosses State Route 965.

(8) Then in a northwesterly and then generally a southeasterly direction along the 1800-foot contour line to a point where the 1,800-foot contour line goes just south of the Kordzik Hills approximately 1 mile due east of the city of Fredericksburg.

(9) Then continuing on the 1800-foot contour line in a generally northwesterly, southerly, and again northwesterly direction to the point where the 1,800-foot contour line crosses Loudon Road approximately 4 miles northwest of Fredericksburg.

(10) Then continuing on the 1800-foot contour line in a northwesterly, then generally a southeasterly, westerly and finally a southerly direction to a point where the 1,800-foot contour line crosses a light-duty road known locally as Hayden Ranch Road about 50 yards north of Texas Ranch Road 2093.

(11) Then 50 yards south on Hayden Ranch Road to Texas Ranch Road 2093 and then east on Texas Ranch Road 2093 approximately .15 mile to an unimproved, southbound, gravel and dirt

county road known locally as Beverly Gold's Road.

(12) Then approximately 2.6 miles south on Beverly Gold's Road to a point where it joins Texas State Route 16.

(13) Then approximately 1.5 miles northeast on State Route 16 to a light-duty county road known locally as Bear Creek Road.

(14) Then approximately 1 mile in a southeasterly, northeasterly, and then a southerly direction along Bear Creek Road to the point where the road crosses the 1700-foot contour line.

(15) Then in a generally easterly direction for approximately 10 miles along the 1700-foot contour line to a point where the 1700-foot contour line crosses Texas Ranch Road 1376.

(16) Then approximately 3.1 miles southeast along Texas Ranch Road 1376 to a light-duty road at Luckenbach known locally both as Kunz-Klien Road and Luckenbach Road.

(17) Then approximately 1.3 miles in a generally northeasterly and then an easterly direction along Luckenbach Road and continuing along Luckenbach Road in a northerly direction about 2.5 miles to the point where Luckenbach Road joins U.S. Route 290.

(18) Then west approximately .2 mile on U.S. Route 290 to the intersection with Jung Road, the point of beginning.

Approved: February 8, 1988.

W.T. Drake,

Acting Director.

[FR Doc. 88-3528 Filed 2-18-88; 8:45 am]

BILLING CODE 4810-31-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 946

#### Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to Virginia Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** OSMRE is announcing the receipt of proposed amendments to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendments, if approved, will establish alternate standards for permitting, bonding, and