

## 27 CFR Part 9

[Notice No. 380]

**Establishment of Leelanau Peninsula Viticultural Area**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the State of Michigan to be known as "Leelanau Peninsula." This proposal is the result of a petition submitted by an industry member.

In accordance with Executive Order 12291, this proposed rule is not considered a major rule.

**DATES:** Written comments must be received by November 3, 1981.

**ADDRESS:** Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (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 also 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 viticultural areas.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures 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 characteristics (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 features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

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

**Petition**

ATF has received a petition to establish a viticultural area in the State of Michigan to be known as "Leelanau Peninsula." The proposed area is located in the northwestern portion of the state's lower peninsula and consists of the mainland portion of Leelanau County, excluding the offshore islands. This area is a triangular-shaped peninsula covering 330 square miles. On the western side of the peninsula is Lake Michigan, on the eastern side is the West Arm of Grand Traverse Bay and the southern boundary is the Leelanau-Grand Traverse county line.

The petitioner furnished information which identified the proposed area as a fruit-growing region for over 100 years. More recently, the area has been identified as a distinctive grape-growing region. There are four wineries in the area, all of which were established within the last ten years. As a peninsula, the area is isolated and distinguishable from the surrounding area by virtue of natural boundaries and unique geographical features. The petitioner bases his claim for a viticultural designation on the following:

(a) The name Leelanau (initially spelled Leelinau) first appeared in written records of the State of Michigan in 1840 as a result of a treaty with the Indians. In the 1836 Treaty of Washington, the upper western half of the State's lower peninsula was ceded by the Indians to the State of Michigan. The Leelanau area was officially designated as a county in 1862.

(b) The proposed area is distinguished from the surrounding area by virtue of being a peninsula. The area's climate is tempered from two sides by Lake

Michigan and the West Arm of Grand Traverse Bay. The petitioner furnished information relating to the moderating effect of the lakes and how this effect creates suitable growing conditions for many types of fruit and vegetables.

The proposed area is one of Michigan's two wine-grape regions. These two areas are 200 miles apart along the Lake Michigan shore. The number of frost-free growing days in these two grape-growing regions differ by approximately 20 days. The southern region averages 160-170 days and the northern region (the proposed area) averages 140-150 days.

The soils in the proposed area vary widely, as is always the case when land is formed by glacial action and deposits. The soil levels consist of granite and limestone bedrock, clay subsoils, with sand and gravel loam surface soils. This area is characterized by large deep inland lakes which add an additional moderating effect to the climate, high-rolling and heavily-timbered hills in the north, and undulating plateaus in the south which rise 250 to 400 feet above Lake Michigan.

(c) The boundaries of the proposed area are distinguishable on three sides by natural features; Lake Michigan on the west and north, and the West Arm of Grand Traverse Bay on the east. The Leelanau-Grand Traverse county line is the proposed southern boundary. The area is shown on four U.S.G.S. maps which are listed in the proposed regulations.

**Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 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 is not expected to have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens 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 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.

**Public Participation—Written Comments**

ATF requests comments from all interested persons concerning this proposed viticultural area. Furthermore, while this document proposes possible boundaries for the Leelanau Peninsula viticultural area, suggestions concerning other alternative boundaries will be given consideration prior to any final decision.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material and comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any 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 a request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

**Drafting Information**

The principal author of this document is Norman P. Blake, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

**Authority**

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

**PART 9—AMERICAN VITICULTURAL AREAS**

**Paragraph 1.** The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.40 as follows:

**Subpart C—Approved American Viticultural Areas.**

Sec.  
\* \* \* \* \*  
9.40 Leelanau Peninsula.

**Paragraph 2.** Subpart C is amended by adding § 9.40 as follows:

**Subpart C—Approved American Viticultural Areas**

\* \* \* \* \*

**§9.40 Leelanau Peninsula.**

(a) *Name.* The name of the viticultural area described in this section is "Leelanau Peninsula."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Leelanau Peninsula viticultural area are four U.S.G.S. maps. They are entitled:

- (1) "Empire Quadrangle, Michigan," 15 minute series;
- (2) "Maple City Quadrangle, Michigan," 15 minute series;
- (3) "Traverse City Quadrangle, Michigan," 15 minute series; and
- (4) "Northport Quadrangle, Michigan," 15 minute series.

(c) *Boundaries.* The Leelanau Peninsula viticultural area encompasses all of Leelanau County, Michigan, excluding the offshore islands.

Signed May 28, 1981.  
G. R. Dickerson,  
Director.

Approved: June 16, 1981.  
John P. Simpson,

*Acting Assistant Secretary (Enforcement and Operations).*

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**27 CFR Parts 240 and 252**

[Notice No. 377]

**Transfer of Wine, Without Payment of Tax, to Customs Bonded Warehouses for Embassy Removals and Other Purposes**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Proposed rulemaking cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations portion of this Federal Register, the Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing temporary regulations regarding implementation of Section 2 of Public Law 96-601 (Tax Administrative Provisions Revisions). The temporary regulations also serve as a notice of proposed rulemaking for final regulations.

**EFFECTIVE DATE:** The effective date of the temporary regulation is retroactive to April 1, 1981. Written comments must be delivered or mailed by October 5, 1981.

**FOR FURTHER INFORMATION CONTACT:** Steven C. Simon, Research and Regulations Branch, Bureau of Alcohol,

Tobacco and Firearms, Washington, D.C. 20226, Telephone: 202-566-7626.

**ADDRESS:** Send comments to the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044. [Notice No. 377]

**SUPPLEMENTARY INFORMATION:** The temporary regulations in the Rules and Regulations portion of this issue of the Federal Register revise and add new regulations in 27 CFR Parts 240 and 252. For the text of the temporary regulations, see the Rules and Regulations portion of this issue of the Federal Register.

It has been determined that these temporary regulations are not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because they will not have an annual effect on the economy of \$100 million or more; they 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 they will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the temporary regulations, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from Pub. L. 96-601 and not the proposed implementing regulations. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from small entities through comments, either formal or informal.

Accordingly, the Secretary of the Treasury has certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the temporary regulations, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.