

(ii) In the case of a plan or trust that includes a salary reduction or a cash or deferred arrangement in existence on June 27, 1974, this paragraph applies to plan years beginning after December 31, 1979 (or, in the case of pre-ERISA money purchase plan, as defined in § 1.401(k)-1(g), plan years beginning after July 18, 1984). For plan years of such plans or trusts beginning prior to January 1, 1980 (or, in the case of pre-ERISA money purchase plan, plan years beginning before July 19, 1984), the taxable year of inclusion in gross income of the employee of any amount so contributed by the employer to the trust shall be determined in a manner consistent with Rev. Rul. 56-497, 1956-2 CB 284, Rev. Rul. 63-180, 1963-1 CB 189, and Rev. Rul. 68-89, 1968-1 CB 402.

(iii) A cash or deferred arrangement shall be considered as in existence on June 27, 1974, if, on or before such date, it was reduced to writing and adopted by the employer (including, in the case of a corporate employer, formal approval by the employer's board of directors and, if required, shareholders), even though no amounts had been contributed pursuant to the terms of the arrangement as of such date.

(iv) For plan years beginning after December 31, 1979 (or in the case of pre-ERISA money purchase plan, plan years beginning after July 18, 1984) and before January 1, 1988, a reasonable interpretation of the rules set forth in section 401(k) of the Code (as in effect during those years) may be relied upon to determine whether contributions were made under a qualified cash or deferred arrangement. Operation in accordance with the proposed regulations published in the *Federal Register* on November 10, 1981, 46 FR 55544, will be deemed a reasonable interpretation of section 401(k).

**PART 602—OMB CONTROL NUMBER UNDER THE PAPERWORK REDUCTION ACT**

Par. 6. The authority citation for part 602 continues to read:

Authority: 26 U.S.C. 7805.

**§ 602.101 [Amended]**

Par. 7. Section 602.101(c) is amended by inserting in the appropriate place in the table,

§ 1.401(k)-1..... 1545-1069.

Lawrence B. Gibbs,  
*Commissioner of Internal Revenue.*

Approved: July 7, 1988.

O. Donaldson Chapoton,  
*Assistant Secretary of the Treasury.*

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BILLING CODE 4830-01-M

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

[T.D. ATF-276; Ref. Notice No. 642]

**Warren Hills Viticultural Area**

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

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) has decided to establish a viticultural area in northwestern New Jersey to be known as "Warren Hills." This decision is the result of a petition submitted by a group of wineries and grape growers from the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising enables winemakers to label wines more precisely and helps consumers to better identify the wines they purchase.

**EFFECTIVE DATE:** September 7, 1988.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve Simon, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566-7626.

**SUPPLEMENTARY INFORMATION:**

**Background**

ATF regulations in 27 CFR Part 4 provide for 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. Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25(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.

**Petition**

ATF received a petition prepared by Mr. Rudolf Marchesi of Alba Vineyard and submitted on behalf of a group of wineries and grape growers from Warren County, New Jersey. The group consists of Alba Vineyard, Marble Mountain Vineyards, Four Sisters Winery, Tamuzza Vineyards, and Mr. Daniel Campanelli (an individual grape

grower). The petition proposed establishment of a viticultural area to be known as "Warren Hills."

The "Warren Hills" area is located entirely within Warren County. The area contains approximately 226 square miles, within which there are approximately 77 acres planted to winegrapes. Three wineries are operating within the area. Just to the south is the approved "Central Delaware Valley" viticultural area.

**Notice of Proposed Rulemaking**

In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 642, in the *Federal Register* on Tuesday, September 29, 1987 (52 FR 36432). The notice proposed establishment of the "Warren Hills" viticultural area with boundaries as described in the petition, and solicited public comment with respect to the proposal.

**Public Comment**

In response to the notice of proposed rulemaking, ATF received no public comments. Accordingly, this Treasury decision establishes "Warren Hills" as a new viticultural area with the name and boundaries as proposed in Notice No. 642.

**Geography of the Area**

Geographically, the "Warren Hills" area consists of a series of narrow, parallel valleys formed by tributaries of the Delaware River. The petitioner submitted evidence that the area is distinguished from surrounding areas by soil, topography, and climatic conditions.

According to the petitioner, the "Warren Hills" soils are less acidic than those of some surrounding areas, "due to the nature of the bedrock." He explained that "The vineyard soils of the Warren Hills region are formed from Dolomitic Limestone which has a high concentration of calcium and magnesium," while the soils of surrounding areas "are formed from shale and other sources." The relative pH values of vineyard soils within and to the north of the "Warren Hills" are contrasted as follows:

"Warren Hills" soils	Soils to the north
Hazen loam 5.6-7.8.....	Bath soils 4.5-6.5.
Annandale gravelly loam 5.1-6.5.	Nassau soils 4.5-5.5.
Washington loam 5.6-6.3....	Swartswood soils 3.6-5.5.

The higher pH values of the "Warren Hills" soils indicate less acidity. These

values show that the "Warren Hills" vineyard soils range from moderately acidic to slightly alkaline. This feature contrasts with soils to the south, as well as with those to the north. Typical vineyard soils in the "Central Delaware Valley" viticultural area (south of the "Warren Hills") have been described, in soil surveys published by the U.S. Department of Agriculture, as: "Natural reaction is strongly acid," and "Natural reaction ranges from medium acid to strongly acid."

The soils to the northeast of the new viticultural area are also distinguishable, but in a different way. The northeastern boundary of the area corresponds generally to the terminal moraine of a glacial advance known as the "Wisconsin." According to the petitioner, there was once a large glacier, which covered the land just northeast of the "Warren Hills" but did not extend into the viticultural area itself. When the glacier receded from the adjacent area, it left deposits behind, which became mixed with the native soil there, rendering it less suitable for viticulture. By contrast, the "Warren Hills" soil generally does not contain glacial deposits.

Westward, across the Delaware River, limestone soils like those of the "Warren Hills" reappear. However, such soils are less prevalent west of the river, and the topography there is significantly different from the "Warren Hills." For these reasons, the Delaware River does form a proper viticultural area boundary, despite a similarity of soils.

Concerning the difference in topography, the farmland west of the Delaware River lies mostly in a single broad valley (the Lehigh Valley), while in the "Warren Hills" area there are about five narrower valleys. These narrow valleys run southwest to northeast, creating numerous south-facing or southeast-facing slopesides. Such slopesides make the best vineyard sites, because they receive more direct sunlight. Consequently, they have microclimates with warmer than average temperatures, especially in winter.

Further, the valleys of the "Warren Hills" create a desirable air drainage situation, in which cool air drains downward, away from the hillside vineyards. This feature is important in the spring and fall, when there may be a danger of untimely frost.

Another way in which the distinctive topography of the "Warren Hills" area affects its viticulture is by channeling the prevailing southwest winds. Since the area's valleys parallel the wind direction, they form channels through which the winds may travel with

minimal obstruction. The winds cool the vines on hot summer afternoons and reduce relative humidity. These effects, together with the favorable air drainage already mentioned, "assist in the control of mold and mildew on the vines," according to the petitioner.

Topography also forms a basis for the northwestern and southeastern boundaries of the "Warren Hills." The northwestern boundary marks the beginning of a more mountainous area: Kittatinny Mountain, a member of the Pocono chain. Similarly, the southeastern boundary of the new viticultural area marks the division between two geological regions of New Jersey: The "Upland Valley" region (in which the "Warren Hills" lie) and the "Piedmont" region. The Piedmont's rolling hills contrast with the straight, narrow valleys of the "Warren Hills." (This distinction was previously cited by ATF in the rulemaking for the "Central Delaware Valley" viticultural area.)

The "Warren Hills" viticultural area is also contrasted with surrounding areas on the basis of climate. In particular, the eastern boundary of the area lies where the growing season drops off to less than 150 days. Inside the area, according to the petitioner's evidence, the growing season "averages 175 frost-free days, but is often longer on selected sites." This difference is significant for viticulture, because it means that certain late-repening varieties, such as vidal blanc, seyval blanc, and cabernet sauvignon, could not be grown in the area to the east.

Some of the climatic features that affect viticulture in the "Warren Hills" are directly caused by the area's unique topography. Specifically, the combination of sunny microclimates on the southward-facing vineyard slopes, together with the funneling of prevailing winds by the long, narrow valleys, results in warm days and cool nights during the growing season. This feature significantly benefits the grapes, according to the petitioner.

#### **Name of the Area**

The petitioner submitted evidence that the area is locally known by the name "Warren Hills." Such evidence included a page from the local telephone directory, listing the "Warren Hills Family Health Center." The petitioner also demonstrated that both a "Warren Hills High School" and a "Warren Hills Junior High School" exist in the area.

The Warren Hills High School draws students from most parts of the new viticultural area. The northern part of Warren County, outside the viticultural area, is served by a different high school, named the "North Warren

Regional High School." The Warren Hills Junior High School is near the Warren Hills High School, and the two schools draw students from approximately the same area.

The name "Warren Hills" derives from Warren County and from the area's topography. The county was named in the early nineteenth century after a Revolutionary War patriot from the area who died in the Battle of Bunker Hill.

#### **Boundaries of the Area**

The area is bounded by the Delaware River, the Musconetcong River, the Warren County/Sussex County line, and Paulins Kill (a stream). The boundaries may be found on 13 U.S.G.S. maps of the 7.5 minute series; namely, the Riegelsville, Easton, Bangor, Bloomsbury, Belvidere, Portland, High Bridge, Washington, Blairstown, Hackettstown, Tranquility, Flatbrookville, and Newton West Quadrangles. The boundaries of the area are fully described in new § 9.121, as added to regulations by this Treasury decision.

#### **Miscellaneous**

ATF does not want to give the impression by approving "Warren Hills" as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct but not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage can only come from consumer acceptance of "Warren Hills" wines.

#### **Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule, because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities. Further, the final rule will not 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 this final rule will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12291**

In compliance with Executive Order 12291 of Feb. 17, 1981, the Bureau has determined that this final rule is not a major rule, since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or
- (c) 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.

**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 final rule, because no requirement to collect information is imposed.

**Drafting Information**

The principal author of this document is Steve Simon of the Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

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

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

**Issuance**

Accordingly, 27 CFR Part 9 is amended as follows:

**PART 9—AMERICAN VITICULTURAL AREAS**

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

Authority: 27 U.S.C. 205.

**Par. B.** The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.121, to read as follows:

\* \* \* \* \*

**Subpart C—Approved American Viticultural Areas**

Sec.

9.121 Warren Hills.

\* \* \* \* \*

**Part. C.** Subpart C of 27 CFR Part 9 is amended by adding § 9.121, which reads as follows:

**§ 9.121 Warren Hills.**

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Warren Hills viticultural area are thirteen U.S.G.S. maps of the 7.5 minute series. They are titled:

- (1) Riegelsville Quadrangle, Pennsylvania—New Jersey, 1956 (photorevised 1968 and 1973).
- (2) Bloomsbury Quadrangle, New Jersey, 1955 (photorevised 1970).
- (3) High Bridge Quadrangle, New Jersey, 1954 (photorevised 1970).
- (4) Washington Quadrangle, New Jersey, 1954 (photorevised 1971).
- (5) Hackettstown Quadrangle, New Jersey, 1953 (photorevised 1971, photoinspected 1976).
- (6) Tranquility Quadrangle, New Jersey, 1954 (photorevised 1971).
- (7) Newton West Quadrangle, New Jersey, 1954 (photorevised 1971).
- (8) Flatbrookville Quadrangle, New Jersey—Pennsylvania, 1954 (photorevised 1971).
- (9) Blirstown Quadrangle, New Jersey—Warren Co., 1954 (photorevised 1971).
- (10) Portland Quadrangle, Pennsylvania—New Jersey, 1955 (photorevised 1984).
- (11) Belvidere Quadrangle, New Jersey—Pennsylvania, 1955 (photorevised 1984).
- (12) Bangor Quadrangle, Pennsylvania—New Jersey, 1956 (photorevised 1968 and 1973).
- (13) Easton Quadrangle, New Jersey—Pennsylvania, 1956 (photorevised 1968 and 1973).

(c) *Boundary*—(1) *General.* The Warren Hills viticultural area is located in Warren County, New Jersey. The beginning point of the following boundary description is the junction of the Delaware River and the Musconetcong River, at the southern tip of Warren County (on the Riegelsville map).

(2) *Boundary Description*—(i) From the beginning point, the boundary goes northeastward along the Musconetcong River about 32 miles (on the Riegelsville, Bloomsbury, High Bridge, Washington, Hackettstown, and Tranquility maps) to the point where it intersects the Warren County-Sessex County line;

(ii) Then northwestward along that county line for about 10 miles (on the Tranquility, Newton West, and Flatbrookville maps) to Paulins Kill;

(iii) Then generally southwestward along Paulins Kill (on the Flatbrookville,

Blirstown and Portland maps) to the Delaware River;

(iv) Then generally south-southwestward along the Delaware River (on the Portland, Belvidere, Bangor, Easton, and Riegelsville maps) to the beginning point.

Signed: July 6, 1988.

Stephen E. Higgins,  
Director.

Approved: July 23, 1988.

John P. Simpson,  
Deputy Assistant Secretary, (Regulatory,  
Trade, and Tariff Enforcement).

[FR Doc. 88-17847 Filed 8-5-88; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 100**

[CGD 05-88-35]

**Special Local Regulations for Marine Events; Delaware River, Vicinity of Penns Landing, Philadelphia, PA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** Permanent special local regulations are adopted for the Delaware River in the vicinity of the Penns Landing area of downtown Philadelphia, Pennsylvania. This area is the site of several marine events each year, including Independence Day Celebrations, New Years Eve Celebrations, Jazz Festival, fireworks displays, etc. The special local regulations govern vessel activities during these events. Notices of precise dates and times that the regulations are effective is published in the Fifth District Local Notice to Mariners and a Federal Register Notice. The special local regulations are considered necessary due to the potential dangers to the waterway users and the expected spectator craft congestion at the time of the events.

**EFFECTIVE DATE:** Section is added August 8, 1988. This regulation will be effective from 6:30 p.m. to 10:30 p.m. on August 19, 1988.

**FOR FURTHER INFORMATION CONTACT:** Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.