

**§ 4.27 Vintage wine.**

(a) *General.* Vintage wine is wine labeled with the year of harvest of the grapes and made in accordance with the standards prescribed in classes 1, 2, or 3 of § 4.21. The wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling). The appellation must be shown in direct conjunction with the designation required by § 4.32(a)(2), in lettering substantially as conspicuous as that designation. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in that winery during the year indicated by the vintage date. The following additional rules apply to vintage labeling:

(1) If an American or imported wine is labeled with a viticultural area appellation of origin, at least 95 percent of the wine must have been derived from grapes harvested in the labeled calendar year; or

(2) If an American or imported wine is labeled with an appellation of origin other than a country or viticultural area, at least 85 percent of the wine must have been derived from grapes harvested in the labeled calendar year.

\* \* \* \* \*

Signed: May 31, 2005.

**John J. Manfreda,**  
*Administrator.*

Approved: June 16, 2005.

**Timothy E. Skud,**  
*Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).*

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**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
**29 CFR Part 1610**
**RIN 3046-AA75**
**Freedom of Information Act Fee Schedule**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Equal Employment Opportunity Commission (EEOC or the Commission) is seeking comments on proposed revisions to its Freedom of Information Act (FOIA) fee schedule. The updated schedule of fees reflects increases in the direct costs incurred by the Commission in responding to requests for records.

**DATES:** The agency must receive comments on or before August 30, 2005.

**ADDRESSES:** Written comments should be submitted to Stephen Llewellyn, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments of six pages or less transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663-4114. This is not a toll free number. The six-page limitation is necessary to assure access to the equipment. Receipt of FAX transmissions will not be acknowledged although a sender may request confirmation by calling the Executive Secretariat at (202) 663-4070 (voice) or (202) 663-4074 (TTY). These are not toll free numbers. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, NW., Washington, DC, between the hours of 9:30 a.m. and 5 p.m. Additionally, members of the public may submit comments through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Thomas J. Schlageter, Assistant Legal Counsel, or Michelle Zinman, Senior General Attorney at (202) 663-4640 (voice) or (202) 663-7026 (TTY). This notice is also available in the following formats: large print, Braille, audiotape and electronic file on computer disk. Requests for this notice in an alternative format should be made to EEOC's Publication Center at 1-800-669-3362.

**SUPPLEMENTARY INFORMATION:** EEOC is proposing to amend 29 CFR part 1610. This section contains a schedule of fees utilized by the Commission for purposes of assessing costs to individuals who seek access to records under the FOIA, 5 U.S.C. 552. The present fee schedule was last amended in 1983 and has become outdated. It does not reflect increases in direct costs to the Commission for manual search and review of records. Also, it does not account for technological advances, including computer searches, the direct costs of retrieving records from federal records centers, or the direct costs of making records available in electronic and alternative formats. The changes are being made in accordance with the Office of Management and Budget's Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 FR 10012 (1987).

The higher costs of manual search and review are attributable to increases in the salaries of the involved personnel.

We surveyed our field offices to determine who was conducting the FOIA searches and reviews. We found that the vast majority were done by clerical or paralegal staff, although some offices used professional staff. A small number of field offices reported that managers sometimes conducted searches and reviews. Further, at headquarters, managers and Senior Executive Service (SES) employees occasionally conduct searches and reviews. In order to more accurately reflect the actual efforts and costs involved, we are replacing the current two-tier fee schedule (clerical and professional) with a five-tier schedule (clerical, paralegal, professional, managerial, and Senior Executive Service (SES) employees). Based upon our field survey, we determined that the average grade and step level for clerical personnel performing these functions was GS 6/Step 5; for paralegals was GS 11/Step 8; and for professional personnel was GS 12/Step 5. We calculated the proposed fees for these three categories by using the hourly rates in the U.S. Office of Personnel and Management's (OPM) 2005 Salary Table paid to persons at the average grade/step indicated in the previous sentence and adding 16 percent for benefits, as prescribed by the OMB guidance referred above. For managers (GS-15) and SES employees, we used the average GS-15 and added 16 percent for benefits.

We added several definitions for clarification. The terms "direct cost," "search," and "duplication" have been defined using standard language that can be found in the FOIA regulations of several other government agencies, including OMB. We also clarified that requesters will be charged other direct costs when applicable, *e.g.*, computer search time, record retrieval costs, computer duplication costs, etc. Finally, we have increased the fees for attestation and certification of records to better reflect the actual costs of preparing these documents, and defined both terms to differentiate them from each other. The fees for attestation and certification of records under EEOC's Privacy Act regulations will subsequently be amended to mirror these fee changes under the FOIA.

**Regulatory Procedures**

*Executive Order 12866*

Pursuant to Executive Order 12866, EEOC has determined that the regulation will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State or local tribal governments or communities. Therefore, a detailed cost-benefit assessment of the regulation is not required.

#### *Paperwork Reduction Act*

This proposal contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

#### *Regulatory Flexibility Act*

The Commission, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act of 1995*

This proposed rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **List of Subjects in 29 CFR Part 1610**

Freedom of information.

For the Commission.

**Cari M. Dominguez,**  
*Chair.*

Accordingly, for the reasons set forth in the preamble, EEOC proposes to amend 29 CFR part 1610 as follows:

#### **PART 1610—AVAILABILITY OF RECORDS**

1. The authority citation for part 1610 continues to read as follows:

**Authority:** 42 U.S.C. 2000e-12(a), 5 U.S.C. 552 as amended by Pub. L. 93-502, Pub. L. 99-570, and Pub. L. 105-231; for § 1610.15, non-search or copy portions are issued under 31 U.S.C. 9701.

2. Section 1610.1 is amended by adding paragraphs (e) through (i) as follows:

##### **§ 1610.1 Definitions.**

\* \* \* \* \*

(e) *Direct costs* refers to those expenses that EEOC actually incurs in searching for and duplicating (and, in the case of commercial requesters, reviewing) records to respond to a request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of

pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space and heating or lighting of the facility in which the records are stored.

(f) *Search* refers to the time spent looking for and retrieving material that is responsive to a request. It includes page-by-page or line-by-line identification of information within documents and also includes reasonable efforts to locate and retrieve information from records maintained in electronic formats. EEOC employees should ensure that searching for materials is done in the most efficient and least expensive manner reasonably possible. For example, employees shall not search line-by-line when merely duplicating a document would be quicker and less expensive.

(g) *Duplication* refers to the process of making a copy of a record or document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, electronic formats (for example magnetic tape or disk), among others. Employees shall honor a requester's specified preference of format of disclosure if the record is readily reproducible with reasonable efforts in the requested form by the office responding to the request.

(h) *Attestation* refers to the authentication of copies of Commission documents by an affidavit or unsworn declaration from the records custodian without the Commission Seal.

(i) *Certification* refers to the authentication of copies of Commission documents by an affidavit or unsworn declaration from the records custodian under the Commission Seal.

3. Revise § 1610.15(c) to read as follows:

##### **§ 1610.15 Schedule of fees and method of payment for services rendered.**

\* \* \* \* \*

(c) Except as otherwise provided, the following specific fees for direct costs shall be applicable with respect to services rendered to members of the public under this subpart:

(1) For manual search and review time:

(i) By clerical personnel—at the rate of \$5.00 per quarter hour.

(ii) By paralegals—at the rate of \$9.00 per quarter hour.

(iii) By professional personnel—at the rate of \$10.00 per quarter hour.

(iv) By managers—at the rate of \$17.50 per quarter hour.

(v) By SES employees—at the rate of \$20.00 per quarter hour.

(2) For computer searches of records, requesters will be charged at the actual direct cost of providing the service. This includes the operator/programmer salary apportionable to the search based on the rates listed in paragraph (c)(1) of this section.

(3) For copies made by photocopy—\$0.15 per page (maximum of 10 copies). For copies prepared by computer, such as tapes or printouts, EEOC will charge the direct cost incurred by the agency, including operator time. For other forms of duplication, EEOC will charge the actual costs of that duplication.

(4) For attestation of documents—\$25.00 per authenticating affidavit or declaration. Additionally, there may be search and review charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(5) For certification of documents—\$50.00 per authenticating affidavit or declaration. Additionally, there may be search and review charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(6) For each signed statement of negative result of search for record—\$10.00. Additionally, there may be search charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(7) For retrieval of records from a Federal Records Center—the amount charged to EEOC for retrieval of such records.

(8) All other direct costs of search, review, duplication or delivery (other than normal mail), shall be charged to the requester as appropriate in the same amount as incurred by the agency.

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#### **DEPARTMENT OF HOMELAND SECURITY**

##### **Coast Guard**

##### **33 CFR Part 167**

[USCG-2005-21650]

##### **Port Access Routes Study: In the Waters of Montauk Channel and Block Island Sound**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of study; request for comments.

**SUMMARY:** The Coast Guard is conducting a Port Access Route Study (PARS) to evaluate the applicability of and the need for modifications to current vessel routing measures in the