

Encryption commodities, software and components available to both “government end-users” and to non-“government end-users”—describe how they are not restricted by the provisions of § 740.17(b)(2).

\* \* \* \* \*

#### PART 744—[AMENDED]

■ 13. The authority citation for part 744 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

■ 14. In § 744.9, revise paragraph (a) to read:

#### § 744.9 Restrictions on technical assistance by U.S. persons with respect to encryption items.

(a) *General prohibition.* No U.S. person may, without authorization from BIS, provide technical assistance (including training) to foreign persons with the intent to aid a foreign person in the development or manufacture outside the United States of encryption commodities and software that, if of United States origin, would be controlled for EI reasons under ECCN 5A002 or 5D002. Technical assistance may be exported and reexported immediately to nationals of the countries listed in Supplement 3 to part 740 of the EAR (except for technical assistance to government end-users for cryptanalytic items), provided that the exporter has submitted to BIS a completed encryption review request by the time of export (as described in § 740.17(a)(3) of the EAR, for technical assistance not otherwise authorized under § 740.17(a)(1) of the EAR). Note that this prohibition does not apply if the U.S. person providing the assistance has a license or is otherwise entitled to export the encryption commodities and software in question to the foreign person(s) receiving the assistance. Note in addition that the mere teaching or discussion of information about cryptography, including, for example, in an academic setting or in the work of groups or bodies engaged in standards development, by itself would not establish the intent described in this

section, even where foreign persons are present.

\* \* \* \* \*

#### PART 772—[AMENDED]

■ 15. The authority citation for part 772 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

■ 16. In § 772.1, add a sentence to the end of the definition of “hold without action” to read as follows:

#### § 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

\* \* \* \* \*

*Hold Without Action (HWA).* \* \* \* Encryption review requests may be placed on hold without action status as provided in § 740.17(d)(2) and § 742.15(b)(2) of the EAR.

Dated: December 2, 2004.

**Peter Lichtenbaum,**  
*Assistant Secretary for Export Administration.*

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BILLING CODE 3510–33–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 11

[Docket No. RM05–3–000]

#### Update of the Federal Energy Regulatory Commission’s Fees Schedule for Annual Charges for the Use of Government Lands

December 3, 2004.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule; update of Federal land use fees.

**SUMMARY:** In accordance with the Commission’s regulations, the Commission by its designee, the Executive Director, is updating its schedule of fees for the use of government lands. The yearly update is based on the most recent schedule of fees for the use of linear rights-of-way prepared by the United States Forest Service. Since the next fiscal year will cover the period from October 1, 2004 through September 30, 2005 the fees in this notice will become effective October 1, 2004. The fees will apply to fiscal year 2005 annual charges for the use of government lands.

The Commission has concluded, with the concurrence of the Administrator of

the Office of Information and Regulatory Affairs of OMB that this rule is not a “major rule” as defined in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C 804(2).

**DATES:** *Effective Date:* October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Fannie Kingsberry, Division of Financial Services, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; (202) 502–6108.

**SUPPLEMENTARY INFORMATION:** Document Availability: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC’s Home Page (<http://www.ferc.gov>) and in FERC’s Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC’s Home Page on the Internet, this information is available in the eLibrary (formerly FERRIS). The full text of this document is available on eLibrary in PDF and MSWord format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

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#### List of Subjects in 18 CFR Part 11

Electric power, Reporting and recordkeeping requirements.

**Thomas R. Herlihy,**

*Executive Director, Office of the Executive Director.*

■ Accordingly, the Commission, effective October 1, 2004, amends part 11 of chapter I, Title 18 of the Code of Federal Regulations, as follows:

#### PART 11—[AMENDED]

■ 1. The authority citation for part 11 continues to read as follows:

**Authority:** 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

■ 2. In part 11, Appendix A is revised to read as follows.

#### Appendix A to Part 11—Fee Schedule for FY 2005

State	County	(Fee/acre/yr)
Alabama .....	All Counties .....	\$27.23
Arkansas .....	All Counties .....	20.43
Arizona .....	Apache .....	6.79
	Cochise	
	Gila	
	Graham	
	La Paz	
	Mohave	
	Navajo	
	Pima	
	Yavapai	
	Yuma	
	Coconino (North of Colorado R.)	
	Coconino (South of Colorado R.) .....	27.23
	Greenlee	
	Maricopa	
	Pinal	
	Santa Cruz	
California .....	Imperial .....	13.61
	Inyo	
	Lassen	
	Modoc	
	Riverside	
	San Bernardino	
	Siskiyou .....	20.43
	Alameda .....	34.03
	Alpine	
	Amador	
	Butte	
	Calaveras	
	Colusa	
	Contra Costa	
	Del Norte	
	El Dorado .....	34.03
	Fresno	
	Glenn	
	Humboldt	
	Kern	
	Kings	
	Lake	
	Madera	
	Mariposa	
	Mendicino	
	Merced	
	Mono	
	Napa	
	Nevada	
	Placer	
	Plumas	
	Sacramento	
	San Benito	
	San Joaquin	
	Santa Clara	
	Shasta	
	Sierra	
	Solano	
	Sonoma	
	Stanislaus	
	Sutter	
	Tehama	
	Trinity	
	Tulare Kings	
	Tuolumne	
	Yolo	
	Yuba	
	Los Angeles .....	40.86
	Marin	
	Monterey	
	Orange	
	San Diego	
	San Francisco	
	San Luis Obispo	
	San Mateo	
	Santa Barbara	

State	County	(Fee/acre/yr)
Colorado .....	Santa Cruz Ventura Adams ..... Arapahoe Bent Cheyenne Crowley Elbert El Paso Huerfano Kiowa Kit Carson Lincoln Logan Moffat Montezuma Morgan Pueblo Sedgewick Washington Weld Yuma	6.79
	Baca ..... Bloomfield Dolores Garfield Las Animas Mesa Montrose Otero Prowers Rio Blanco Routt San Miguel	13.61
	Alamosa ..... Archuleta Boulder Chaffee Clear Creek Conejos Costilla Custer Denver Delta Douglas Eagle ..... Fremont Gilpin Grand Gunnison Hinsdale Jackson Jefferson Lake La Plata Larimer Mineral Ouray Park Pitkin Rio Grande Saguache San Juan Summit	27.23
	Teller All Counties .....	27.23
Connecticut .....	All Counties .....	6.79
Florida .....	Baker ..... Bay Bradford Calhoun Clay Columbia Dixie Duval	40.86

State	County	(Fee/acre/yr)
	Escambia	
	Franklin	
	Gadsden	
	Gilchrist	
	Gulf	
	Hamilton	
	Holmes	
	Jackson	
	Jefferson	
	Lafayette	
	Leon	
	Liberty	
	Madison	
	Nassau	
	Okaloosa .....	40.86
	Santa Rosa	
	Suwannee	
	Taylor	
	Union	
	Wakulla	
	Walton	
	Washington	
	All Other Counties .....	68.05
Georgia .....	All Counties .....	40.86
Idaho .....	Cassia .....	6.79
	Gooding	
	Jerome	
	Lincoln	
	Minidoka	
	Oneida	
	Owyhee	
	Power	
	Twin Falls	
	Ada .....	20.43
	Adams	
	Bannock	
	Bear Lake	
	Benewah	
	Bingham	
	Blaine	
	Boise	
	Bonner	
	Bonneville	
	Boundary	
	Butte	
	Camas	
	Canyon	
	Caribou	
	Clark	
	Clearwater	
	Custer	
	Elmore	
	Franklin	
	Fremont	
	Gem	
	Idaho .....	20.43
	Kootenai	
	Latah	
	Lemhi	
	Lewis	
	Madison	
	Nez Perce	
	Payette	
	Shoshone	
	Teton .....	20.43
	Valley	
	Washington	
Illinois .....	All Counties .....	20.43
Indiana .....	All Counties .....	34.03
Kansas .....	Morton .....	13.61
	All Other Counties .....	6.79
Kentucky .....	All Counties .....	20.43
Louisiana .....	All Counties .....	40.86
Maine .....	All Counties .....	20.43

State	County	(Fee/acre/yr)
Michigan .....	Alger .....	20.43
	Baraga	
	Chippewa	
	Delta	
	Dickinson	
	Gogebic	
	Houghton	
	Iron	
	Keweenaw	
	Luce	
	Mackinac	
	Marquette	
	Menominee	
	Ontonagon	
	Schoolcraft	
	All Other Counties .....	27.23
Minnesota .....	All Counties .....	20.43
Mississippi .....	All Counties .....	27.23
Missouri .....	All Counties .....	20.43
Montana .....	Big Horn .....	6.79
	Blaine	
	Carter	
	Cascade	
	Chouteau	
	Custer	
	Daniels	
	McCone	
	Meagher	
	Dawson	
	Fallon	
	Fergus	
	Garfield	
	Glacier	
	Golden Valley	
	Hill	
	Judith Basin	
	Liberty	
	Musselshell	
	Petroleum	
	Phillips	
	Pondera	
	Power River	
	Prairie	
	Richland	
	Roosevelt	
	Rosebud	
	Sheridan	
	Teton	
	Toole	
	Treasure	
	Valley	
	Wheatland	
	Wibaux	
	Yellowstone	
	Beaverhead .....	20.43
	Broadwater	
	Carbon	
	Deer Lodge .....	20.43
	Flathead	
	Gallatin	
	Granite	
	Jefferson	
	Lake	
	Lewis & Clark	
	Lincoln	
	Madison	
	Mineral	
	Missoula	
	Park	
	Powell	
	Ravalli	
	Sanders	
	Silver Bow	
	Stillwater	

State	County	(Fee/acre/yr)
Nebraska	Sweet Grass All Counties	6.79
Nevada	Churchill	3.40
	Clark	
	Elko	
	Esmeralda	
	Eureka	
	Humboldt	
	Lander	
	Lincoln	
	Lyon	
	Mineral	
	Nye	
	Pershing	
	Washoe	
	White Pine	
	Carson City	34.03
	Douglas	
	Story	
New Hampshire	All Counties	20.43
New Mexico	Chaves	6.79
	Curry	
	De Baca	
	Dona Ana	6.79
	Eddy	
	Grant	
	Guadalupe	
	Harding	
	Hidalgo	
	Lea	
	Luna	
	McKinley	
	Otero	
	Quay	
	Roosevelt	
	San Juan	
	Socorro	
	Torrence	
	Rio Arriba	13.61
	Sandoval	
	Union	
	Bernalillo	27.23
	Catron	
	Cibola	
	Colfax	
	Lincoln	
	Los Alamos	
	Mora	
	San Miguel	
	Santa Fe	
	Sierra	
	Taos	
	Valencia	
New York	All Counties	27.23
North Carolina	All Counties	40.86
North Dakota	All Counties	6.79
Ohio	All Counties	27.23
Oklahoma	Beaver	13.61
	Cimarron	
	Roger Mills	
	Texas	
	De Flore	20.43
	McCurtain	
	All Other Counties	6.79
Oregon	Harney	6.79
	Lake	
	Malheur	
	Baker	13.61
	Crook	
	Deschutes	
	Gilliam	
	Grant	
	Jefferson	
	Klamath	

State	County	(Fee/acre/yr)
	Morrow	
	Sherman	
	Umatilla	
	Union	
	Wallowa	
	Wasco	
	Wheeler	
	Coos .....	20.43
	Curry	
	Douglas	
	Jackson	
	Josephine	
	Benton .....	27.23
	Clackamas	
	Clatsop	
	Columbia	
	Hood River	
	Lane	
	Lincoln	
	Linn	
	Marion	
	Multnomah	
	Polk	
	Tillamook	
	Washington	
	Yamhill	
Pennsylvania .....	All Counties .....	27.23
Puerto Rico .....	All .....	40.86
South Carolina .....	All Counties .....	40.86
South Dakota .....	Butte .....	20.43
	Custer	
	Fall river	
	Lawrence	
	Mead	
	Pennington	
	All Other Counties .....	6.79
Tennessee .....	All Counties .....	27.23
Texas .....	Culberson .....	6.79
	El Paso	
	Hudspeth	
	All Other Counties .....	40.86
Utah .....	Beaver .....	6.79
	Box Elder	
	Carbon	
	Duchesne	
	Emery	
	Garfield	
	Grand	
	Iron	
	Juab	
	Kane	
	Millard	
	San Juan	
	Tooele	
	Uintah	
	Wayne	
	Washington .....	13.61
	Cache .....	20.43
	Daggett	
	Davis	
	Morgan	
	Piute	
	Rich .....	20.43
	Salt Lake	
	Sanpete	
	Sevier	
	Summit	
	Utah	
	Wasatch	
	Weber	
Vermont .....	All Counties .....	27.23
Virginia .....	All Counties .....	27.23
Washington .....	Adams .....	13.61
	Asotin	

State	County	(Fee/acre/yr)
	Benton	
	Chelan	
	Columbia	
	Douglas	
	Franklin	
	Garfield	
	Grant	
	Kititas	
	Klickitat	
	Lincoln	
	Okanogan	
	Spokane	
	Walla Walla	
	Whitman	
	Yakima	
	Ferry .....	20.43
	Pend Oreille	
	Stevens	
	Clallam .....	27.23
	Clark	
	Cowlitz	
	Grays Harbor	
	Island	
	Jefferson	
	King	
	Kitsap	
	Lewis	
	Mason	
	Pacific .....	27.23
	Pierce.	
	San Juan	
	Skagit	
	Skamania	
	Snohomish	
	Thurston	
	Wahkiakum	
	Whatcom	
West Virginia .....	All Counties .....	27.23
Wisconsin .....	All Counties .....	20.43
Wyoming .....	Albany .....	6.79
	Campbell	
	Carbon	
	Converse	
	Goshen	
	Hot Springs	
	Johnson	
	Laramie	
	Lincoln	
	Natrona	
	Niobrara	
	Platte	
	Sheridan	
	Sweetwater	
	Freemont	
	Sublette	
	Uinta	
	Washakie	
	Big Horn	20.43
	Crook	
	Park	
	Teton	
	Weston	
All Other Zones .....	.....	6.06

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**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[TTB T.D.-20; Re: Notice No. 19]

RIN 1513-AA59

**Establishment of the Yamhill-Carlton District Viticultural Area (2002R-216P)****AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision establishes the Yamhill-Carlton District viticultural area in Yamhill and Washington Counties, Oregon. The new Yamhill-Carlton District viticultural area is entirely within the existing Willamette Valley viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** *Effective Date:* February 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** N. A. Sutton, Program Manager, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., #158, Petaluma, CA 94952; telephone 415-271-1254.

**SUPPLEMENTARY INFORMATION:****Background on Viticultural Areas***TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and 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) contains the list of approved viticultural areas.

*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 distinguishable by geographical features, the boundaries of which have been recognized and defined 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 its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area 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 outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

**Yamhill-Carlton District Petition***General Background*

TTB received a petition from Alex Sokol-Blosser, Secretary of the North Willamette Valley AVA Group, on behalf of Yamhill-Carlton District winegrowers, proposing a new viticultural area to be called the "Yamhill-Carlton District." Ken Wright was the author of the petition. The proposed Yamhill-Carlton District viticultural area is located about 35 miles southwest of Portland, Oregon, and 25 miles inland from the Pacific

Ocean. The proposed area is wholly within Yamhill and Washington Counties in northwestern Oregon and is entirely within the existing Willamette Valley viticultural area (27 CFR 9.90). As of the 2002 Yamhill-Carlton District petition, there were 26 vineyards within the area, with about 650 acres planted to grapes.

The proposed Yamhill-Carlton District viticultural area is distinguished primarily by elevation, soil, and climate. Within the viticultural area's described boundary the defined viticultural area is limited to elevations between 200 feet and 1,000 feet, yielding size of 8,500 acres. A precedent exists for elevation as a distinguishing factor with the establishment of the Mendocino Ridge viticultural area in Mendocino County, California, which includes land only at or above the 1,200-foot elevation (*see* 27 CFR 9.158 and T.D. ATF-392 at 62 FR 55512, October 27, 1997).

*Name Evidence*

This viticultural area is locally known as the "Yamhill-Carlton District," according to the petition. The viticultural area surrounds the towns of Yamhill and Carlton, Oregon, which lie 3 miles apart along State Route 47 in Yamhill County. While the two towns operate independently, they have had strong ties since their separate incorporations over 100 years ago. The hyphenated expression of the cities' names has been used since 1853 with the establishment of the Yamhill-Carlton Pioneer Cemetery.

In modern times, the Yamhill-Carlton Union High School has existed since 1955 and operates under the supervision of the Yamhill-Carlton School District. The two cities share a newspaper, the Carlton-Yamhill Review. The USGS Carlton map identifies the towns of Yamhill and Carlton and the Yamhill-Carlton Pioneer Cemetery.

*Boundary Evidence*

Geographically, the Yamhill-Carlton District viticultural area is a south-facing bowl containing a series of horseshoe-shaped eroded hills composed of sedimentary parent material. To the area's west is the higher-elevation Coast Range, to the south is a cooler maritime-influenced area, and to the east and north are natural lowland drainages. The area's western boundary is based on the change to sedimentary soils from the volcanic soils of the Coast Range. The higher elevations of the coastal hills to the west, generally ranging from 1,000–2,000 feet, are much cooler and have proven unsuitable for grape growing.