

Rules and Regulations

Federal Register

Vol. 58, No. 117

Monday, June 21, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2641

RIN 3209-AA14

Post-Employment Conflict of Interest Restrictions; Revision of Agency Component Designations for the Executive Branch

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; amendments.

SUMMARY: At the request of two agencies, the Office of Government Ethics is issuing this rule to revoke the designation of an agency component and to change the name of another agency's component for purposes of the one-year statutory post-employment restriction applicable to former "senior" employees of the executive branch. These changes reflect the current organizational structure of the two agencies.

EFFECTIVE DATE: This rule is effective June 21, 1993, except for the removal of the listing for the Federal Emergency Management Agency which will be effective September 20, 1993.

FOR FURTHER INFORMATION CONTACT: Julia Loring Eirinberg, Office of Government Ethics, telephone (202/FTS) 523-5757, FAX (202/FTS) 523-6325.

SUPPLEMENTARY INFORMATION:

A. Substantive Discussion

The Director of OGE is authorized by 18 U.S.C. 207(h) to designate separate departmental and agency components in the executive branch for purposes of 18 U.S.C. 207(c), the one-year post-employment restriction applicable to former "senior" employees of the executive branch. The representational bar of 18 U.S.C. 207(c) usually extends to any department or agency in which a former senior employee served in any capacity during the one-year period

prior to termination from senior service. However, eligible senior employees may be permitted to communicate to or appear before components of their former department or agency if those components have been designated as separate agencies or bureaus by OGE. Relevant criteria relating to designation are set forth in § 2641.201(e)(6).

Section 2641.201(e)(3)(ii) provides that a designated agency ethics official may recommend to the Director of OGE that a current component designation be revoked. Section 2641.201(e)(iii) states that the Director "shall by rule . . . revoke a component designation after considering the recommendation of the designated agency ethics official."

By letter of November 24, 1992, the designated agency ethics official for the Federal Emergency Management Agency (FEMA) recommended the revocation of the separate component status of the United States Fire Administration, FEMA's sole separate designated component. After reviewing FEMA's request in light of the criteria set forth in § 2641.201(e)(6), the Director of OGE has determined to revoke the designation of the United States Fire Administration as a distinct and separate FEMA component. As provided in § 2641.201(e)(4), the revocation of this designation shall be effective 90 days after the effective date of this rule, but shall not be effective as to any individuals who terminate senior service prior to the expiration of that 90-day period.

At the request of the Department of Transportation, appendix B of this part has also been amended to indicate that the name of the Urban Mass Transit Administration has been changed to the Federal Transit Administration.

B. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, the Director of OGE finds that good cause exists for waiving the general notice of proposed rulemaking and 30-day delayed effective date. It is important that the designation or revocation by OGE of separate agency components be published in the Federal Register as promptly as possible. Furthermore, since this rule is interpretive in nature, it is exempt from the notice and delayed effectiveness requirements of 5 U.S.C. 553.

E.O. 12291, Federal Regulation

As Director of the OGE, I have determined that this is not a major rule as defined under section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

As Director of the OGE, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects current and former Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this rule does not contain an information collection requirement that requires the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2641

Conflict of interests, Government employees.

Approved: May 11, 1993.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending part 2641 of subchapter B of chapter XVI of title 5 of the Code of Federal Regulations as follows:

PART 2641—[AMENDED]

1. The authority citation for part 2641 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978, secs. 402 and 404); 18 U.S.C. 207; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

2. Appendix B is amended by removing the listing for the Federal Emergency Management Agency and the sole component thereunder, and by revising the listing for the Department of Transportation to read as follows:

Appendix B to 5 CFR Part 2641— Agency Components for Purposes of 18 U.S.C. 207(c)

* * * * *

Parent: Department of Transportation
Components:

Federal Aviation Administration
Federal Highway Administration
Federal Railroad Administration

Federal Transit Administration
 Maritime Administration
 National Highway Traffic Safety
 Administration
 Saint Lawrence Seaway Development
 Corporation
 United States Coast Guard
 * * * * *

[FR Doc. 93-14353 Filed 6-18-93; 8:45 am]
 BILLING CODE 9345-01-J

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV93-905-2]

Oranges, Grapefruit, Tangerines, and Tangelos Grown In Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule will authorize expenditures and establish an assessment rate for the 1993-94 fiscal year under Marketing Order No. 905. Authorization of this budget enables the Citrus Administrative Committee (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective August 1, 1993, through July 31, 1994. Comments received by July 21, 1993, will be considered prior to any finalization on this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456 or by Facsimile (202) 720-5698. Three copies of all written material shall be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: John R. Toth, Officer-In-Charge, Southeast Marketing Field Office, Fruit & Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone (813) 299-4770; or Britthany Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington,

DC 20090-6456; telephone: (202) 690-0992.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 905, as amended [7 CFR part 905], regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, oranges, grapefruit, tangerines, and tangelos grown in Florida are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable citrus fruit during the 1993-94 fiscal year, beginning August 1, 1993, through July 31, 1994. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his/her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly

or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 citrus handlers subject to regulation under the marketing order covering fresh oranges, grapefruit, tangerines, and tangelos grown in Florida, and approximately 10,200 producers of these fruits in Florida. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. A minority of these handlers and a majority of these producers may be classified as small entities.

This marketing order, administered by the Department, requires that the assessment rate for a particular fiscal period shall apply to all assessable citrus fruit handled from the beginning of such period. An annual budget of expenses and assessment rate is prepared by the committee and submitted to the Department for approval. The committee members are handlers and producers of Florida citrus. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate appropriate budgets. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by the expected cartons (¼ bushels) of fruit shipped. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. The annual budget and assessment rate are usually recommended by the committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

The committee met April 27, 1993, and unanimously recommended a budget with expenditures of \$200,000 for the 1993-94 fiscal year, which is the same expenditure amount approved for 1992-93 fiscal year. The expense items