

30-day or 45-day maximum limitations and any annual leave accrued while serving in the SES is carried forward and becomes subject to the 90-day maximum limitation on accrued annual leave for SES members.

Example: A GS-15 employee who has 300 hours of accumulated annual leave (i.e., 60 hours in excess of the 240-hour (30-day) leave ceiling) is appointed to an SES position on June 14, 1995. The employee earns 100 additional hours of annual leave in the SES before the end of the 1995 leave year. If the SES member uses only 40 of the 60 hours of excess annual leave during the remainder of the 1995 leave year, his or her leave balance at the beginning of the 1996 leave year will be 340 hours (the maximum 240 hours carried over as a GS-15 employee, plus the 100 hours earned while in the SES). The remaining 20 hours of excess leave will be forfeited at the beginning of the 1996 leave year. If the SES member uses more than 60 hours of excess annual leave (e.g., 80 hours) during the remainder of the 1995 leave year, his or her leave balance at the beginning of the 1996 leave year will be 320 hours (the maximum 240 hours carried over as a GS-15 employee, plus the 100 hours earned while in the SES, minus the 20 hours of leave used above the 60 hours of excess annual leave).

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

### List of Subjects in 5 CFR Part 630

Absence and leave.

U.S. Office of Personnel Management.  
**James B. King,**  
*Director.*

Accordingly, OPM is amending 5 CFR part 630 as follows:

### PART 630—ABSENCE AND LEAVE

1. The authority citation for part 630 is revised to read as follows:

**Authority:** 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103-356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102-484, 106 Stat. 2722 and Pub. L. 103-337, 108 Stat. 2663; subpart D also issued under Pub. L. 103-329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332 and Pub. L. 100-566, 102 Stat. 2834 and 103-103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362 and Pub. L. 100-566 and 103-103; subpart K also issued under Pub. L. 102-25, 105 Stat. 92; and subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103-3, 107 Stat. 23.

### Subpart C—Annual Leave

2. In § 630.301, paragraph (b) is revised to read as follows:

#### § 630.301 Annual leave accumulation—Senior Executive Service.

\* \* \* \* \*

(b) When an employee in a position outside of the Senior Executive Service moves to a position in the Senior Executive Service, any annual leave accumulated prior to movement shall remain to the employee's credit.

(1) Annual leave accumulated prior to movement to the Senior Executive Service that is in excess of the amount allowed for the former position by 5 U.S.C. 6304 (a), (b), or (c) and that is not used by the beginning of the first full biweekly pay period in the next leave year shall be subject to forfeiture.

(2) If an employee serves less than a full pay period under an appointment in the Senior Executive Service, only that portion of accrued annual leave that is attributable to service in the Senior Executive Service shall be subject to the 90-day (720-hour) limitation on accumulation of annual leave provided in paragraph (a) of this section. Annual leave accrued during the remainder of the pay period shall be subject to the limitations in 5 U.S.C. 6304(a), (b), and (c), as appropriate.

\* \* \* \* \*

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 1

[FV-94-705FR]

### Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment will expand the scope and applicability of the Department of Agriculture's uniform rules of practice governing adjudicatory proceedings to include actions initiated under the Fluid Milk Promotion Act of 1990; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993; the Lime Research, Promotion, and Consumer Information Act of 1990, as amended; the Mushroom Promotion, Research, and Consumer Information Act of 1990; the Pecan Promotion and Research Act of 1990; the Sheep Promotion, Research,

and Information Act of 1994; and the Soybean Promotion, Research, and Consumer Information Act.

**EFFECTIVE DATE:** June 28, 1995.

#### FOR FURTHER INFORMATION CONTACT:

Richard Schultz, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535-S, Washington, D.C. 20090-6456, telephone: (202) 720-5976.

**SUPPLEMENTARY INFORMATION:** The Fluid Milk Promotion Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6401-6417]; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993 [Pub. L. 103-190, 7 U.S.C. 6801-6814]; the Lime Research, Promotion, and Consumer Information Act of 1990, as amended, [Pub. L. 101-624, 7 U.S.C. 6201-6212]; the Mushroom Promotion, Research, and Consumer Information Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6101-6112]; the Pecan Promotion and Research Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6001-6013]; the Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7101-7111]; and the Soybean Promotion, Research, and Consumer Information Act [Pub. L. 101-624, 7 U.S.C. 6301-6311]; each authorizes the assessment of civil penalties and the issuance of cease and desist orders against any person found to be in violation of the respective Act, order, plan, or regulation issued thereunder.

The Department of Agriculture has established uniform rules of practice [7 CFR part 1, subpart H], which govern the conduct of adjudicatory proceedings under numerous statutes. In order to insure consistency and uniformity in the conduct of the Department's administrative proceedings, it has been determined that proceedings initiated under the Acts listed above should also be governed by these uniform procedures.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect, and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

The provisions of the Administrative Procedure Act concerning notice and opportunity for comment on agency rulemaking [5 U.S.C. 553] do not apply to the promulgation of agency rules of practice. Further, this action simply extends the applicability of the Department's uniform rules of practice

to newly passed statutes. Accordingly, this action is made effective upon publication in the **Federal Register**.

In consideration of the foregoing, 7 CFR part 1, subpart H, is amended as follows:

#### **PART 1—AMENDED**

1. The authority citation for part 1, subpart H is revised to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 61, 87e, 149, 150gg, 162, 163, 164, 228, 268, 499o, 608c(14), 1592, 1624(b), 2151, 2621, 2714, 2908, 3812, 4610, 4815, 4910, 6009, 6107, 6207, 6307, 6411, 6808, 7107; 15 U.S.C. 1828; 16 U.S.C. 620d, 1540(f), 3373; 21 U.S.C. 104, 111, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 43 U.S.C. 1740; 7 CFR 2.35, 2.41.

#### **§ 1.131 [Amended]**

Section 1.131(a) is amended by inserting the following statutory references in the list of statutes in alphabetical order: Fluid Milk Promotion Act of 1990, section 1999L [7 U.S.C. 6411], Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993, section 9 [7 U.S.C. 6808], Lime Research, Promotion, and Consumer Information Act of 1990, as amended, section 1958 [7 U.S.C. 6207], Mushroom Promotion, Research, and Consumer Information Act of 1990, section 1928 [7 U.S.C. 6107], Pecan Promotion and Research Act of 1990, section 1914 [7 U.S.C. 6009], Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7107], and Soybean Promotion, Research, and Consumer Information Act, section 1972 [7 U.S.C. 6307].

Dated: June 22, 1995.

**Lon Hatamiya,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 95-15856 Filed 6-27-95; 8:45 am]

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#### **Agricultural Marketing Service**

#### **7 CFR Part 905**

[Docket No. FV95-905-2IFR]

#### **Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Expenses and Assessment Rate for 1995-96 Fiscal Year**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule authorizes expenses and establishes an assessment rate for the 1995-96 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, 1995, through July 31, 1996. Comments received by July 28, 1995, 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 Fax: (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:** Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-5127; or William Pimental, Southeast Marketing Field Office, Fruit & Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (813) 299-4770.

**SUPPLEMENTARY INFORMATION:** This interim final rule is issued under Marketing Agreement and Marketing Order No. 905 (7 CFR part 905), as amended, 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.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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 1995-96 fiscal year, beginning August 1, 1995, through July 31, 1996. 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 or 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 \$5,000,000. 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