

# Rules and Regulations

Federal Register

Vol. 60, No. 191

Tuesday, October 3, 1995

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Parts 2608, 2612 and 2635

RIN 3209-AA04

#### Removal of Two Previously Reserved Parts No Longer Needed and Correction of One Regulatory Citation

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule; technical amendments.

**SUMMARY:** The Office of Government Ethics is removing two previously reserved parts, which it has determined are no longer needed, from OGE's chapter of the Code of Federal Regulations. In addition, OGE is correcting one citation in its executive branch standards of ethical conduct regulation.

**EFFECTIVE DATE:** October 3, 1995.

**FOR FURTHER INFORMATION CONTACT:**

William E. Gressman, Office of Government Ethics, telephone: 202-523-5757, FAX: 202-523-6325.

**SUPPLEMENTARY INFORMATION:** In accordance with Executive Order 12861, Elimination of One-Half of Executive Branch Internal Regulations, OGE has reviewed its own internal regulations and directives not mandated by law or necessary for the provision of essential services in order to achieve at least a 50% reduction of unnecessary issuances. As part of that review, OGE has determined that two previously reserved parts in its chapter XVI of 5 CFR are unnecessary and should be removed. The two parts are 5 CFR part 2608, "Rules of practice" [Reserved], and part 2612, "Use of penalty mail in the location and recovery of missing children" [Reserved]. As a small agency, the Office of Government Ethics does not have a need for internal regulations on these two subjects.

In this rulemaking document, the Office of Government Ethics is also

correcting one out-of-date citation, to General Services Administration regulations on frequent traveler benefits, in the OGE executive branchwide standards of ethical conduct regulation as codified in a note following 5 CFR 2635.203(b)(7).

#### Administrative Procedure Act

Pursuant to 5 U.S.C. 553 (b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking and 30-day delay in effectiveness as to these minor revisions. The notice and delayed effective date are being waived because these technical amendments and correction to certain OGE regulations concern matters of agency organization, practice and procedure and because it is in the public interest that the obsolete parts be removed and that the one citation be updated as soon as possible.

#### Executive Order 12866

In promulgating these technical amendments to its regulations, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These amendments and corrections have not been reviewed by the Office of Management and Budget under that Executive order, as they deal with agency organization, management and personnel matters and are not, in any event, deemed "significant" thereunder.

#### Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this technical amendments rulemaking does not contain any information collection requirements that require the approval of the Office of Management and Budget.

#### List of Subjects in 5 CFR Part 2635

Conflict of interests, Executive branch standards of ethical conduct, Government employees.

Approved: September 25, 1995.

Stephen D. Potts,

*Director, Office of Government Ethics.*

For the reasons set forth in the preamble, the Office of Government Ethics is amending chapter XVI of 5 CFR by removing parts 2608 and 2612, which were previously reserved, and by amending part 2635 as follows:

#### PART 2635—[AMENDED]

1. The authority citation for part 2635 continues to read as follows:

Authority: 5 U.S.C. 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 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.

#### § 2635.203(b)(7), note [Amended]

2. In the last sentence of the note following § 2635.203(b)(7), the citation "41 CFR 301-1.6(b)" is revised to read "41 CFR 301-1.103 (b) and (f)".

[FR Doc. 95-24564 Filed 10-2-95; 8:45 am]

BILLING CODE 6345-01-U

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 810

#### Special Grade Designations

##### CFR Correction

In Title 7 of the Code of Federal Regulations, parts 700 to 899, revised as of January 1, 1995, on page 565, § 810.108 was inadvertently removed. The correct text of the section as published in title 7 revised as of January 1, 1988, reads as follows:

#### § 810.108 Special grade designations.

Special grade designations are shown as prescribed in § 810.106. Multiple special grade designations will be listed in alphabetical order. In the case of treated wheat, the official certificate shall show whether the wheat has been scoured, limed, washed, sulfured, or otherwise treated.

BILLING CODE 1505-01-D

**Agricultural Marketing Service****7 CFR Part 982****[Docket No. FV95-982-1FIR]****Filberts/Hazelnuts Grown in Oregon and Washington; Expenses and Assessment Rate****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, with appropriate changes, the provisions of an interim final rule that authorized expenses and established an assessment rate that generated funds to pay those expenses under Marketing Order No. 982 for the 1995-96 marketing year. Authorization of this budget enables the Filbert/Hazelnut Marketing Board (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

**EFFECTIVE DATE:** July 1, 1995, through June 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 982, both as amended (7 CFR part 982), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order are 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect, Oregon-Washington filberts/hazelnuts are subject to assessments. Funds to administer the Oregon-Washington filbert/hazelnut order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable filberts/hazelnuts during the 1995-96 marketing year which began

July 1, 1995, and ends June 30, 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 608c(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 request 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 the date of the entry of the ruling.

Pursuant to the 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 the 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 1,000 producers of Oregon and Washington filberts/hazelnuts under this marketing order, and approximately 25 handlers. 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. The majority of Oregon and Washington filbert/hazelnut producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 marketing year was prepared by the Filbert/Hazelnut Marketing Board, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of filberts/hazelnuts. They are familiar with the

Board's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by the expected quantity of assessable filberts/hazelnuts handled. Because that rate will be applied to the actual quantity of filberts/hazelnuts, it must be established at a rate that will provide sufficient income to pay the Board's expenses.

The Board, in a mail vote conducted last April, unanimously recommended a 1995-96 budget of \$483,685, \$23,325 less than the previous year. Budget items for 1995-96 which had increased compared to those budgeted for 1994-95 (in parentheses) are: Personal services (salaries), \$50,735 (\$48,000), postage, \$3,000 (\$1,800), communications, \$1,200 (\$1,100), printing and publishing, \$2,400 (\$2,300), insurance, \$700 (\$650), rent, \$5,650 (\$5,560), utilities, \$850 (\$800), equipment maintenance and rental, \$1,500 (\$1,400), and office supplies, \$2,000 (\$1,500). Items which had decreased compared to those budgeted for 1994-95 (in parentheses) are: Computer services, \$750 (\$1,500), furniture, \$250 (\$1,500), equipment, \$250 (\$1,500), and research (\$25,000) for which no funding was recommended this year. All other items were budgeted at last year's amounts, including \$250,000 for promotion.

The Board also unanimously recommended an assessment rate of \$0.007 per pound, the same as last year. At the time of the mail vote, assessable shipments were estimated at 60,000,000 pounds. This rate, when applied to anticipated shipments of 60,000,000 pounds, yields \$420,000 in assessment income. This, along with \$5,000 in interest income, \$2,572 from the Nut Growers Society in payment for services performed by the Board under an agreement with the Society, and \$56,113 from the Board's authorized reserve, was adequate to cover budgeted expenses. Funds in the reserve as of July 31, 1995, were \$286,673, which is within the maximum permitted by the order of one marketing year's expenses.

An interim final rule was published in the Federal Register on August 7, 1995 (60 FR 40061). That interim final rule added § 982.339 to authorize expenses and establish an assessment rate for the Board. That rule provided that interested persons could file written comments through September 6, 1995. The manager informed the Department of the Board's August 28, 1995, meeting recommendation to increase the level of authorized expenses.

Subsequent to the recommendation of the initial budget, a new Board employee was hired, necessitating increased funding for personal services. At its August 28, 1995, meeting the Board recommended this increase, plus changes in five other line item categories. Budget items for 1995-96, which have increased compared to the interim budget (in parentheses) are: Personal services, \$60,735 (\$50,735), auditing, \$4,000 (\$3,500), furniture, \$750 (\$250), equipment, \$2,250 (\$250), and emergency fund \$202,800 (\$140,000). The item which has decreased compared to the interim budget (in parentheses) is: Promotion, \$244,200 (\$250,000). These changes will result in a total budget of \$553,685, \$70,000 more than the interim budget, and \$46,675 more than the 1994-95 budget.

Based on current crop information, the Board anticipates a 10,000,000 pound increase in assessable shipments to 70,000,000 pounds. This will result in an additional \$70,000 in assessment income. As a consequence, total assessment income will total \$490,000. This together with funds from the sources mentioned earlier will provide adequate funds to cover the increased expenses, so no change in the assessment rate was recommended.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal period began on July 1, 1995. The marketing order requires that the rate of assessment for the fiscal period apply to all assessable filberts/hazelnuts handled during the fiscal period. In addition, handlers are aware of this rule which was unanimously recommended by the

Board in a mail vote, published in the Federal Register as an interim final rule, and subsequently reviewed at a public meeting.

#### List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

Accordingly, the interim final rule adding § 982.339 which was published at 60 FR 40061 on August 7, 1995, is adopted as a final rule with the following change:

#### **PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON**

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 982.339 is revised to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

#### **§ 959.339 Expenses and assessment rate.**

Expenses of \$553,685 by the Filbert/Hazelnut Marketing Board are authorized, and an assessment rate of \$0.007 per pound of assessable filberts/hazelnuts is established for the marketing year ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: September 27, 1995.  
Sharon Bomer Lauritsen,  
Deputy Director, Fruit and Vegetable Division.  
[FR Doc. 95-24571 Filed 10-2-95; 8:45 am]  
BILLING CODE 3410-02-P

### **FEDERAL RESERVE SYSTEM**

#### **12 CFR Part 229**

[Regulation CC; Docket No. R-0895]

#### **Availability of Funds and Collection of Checks**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Board is publishing technical amendments to Regulation CC to correct errors, delete obsolete provisions, and facilitate the usefulness of the commentary. The Board's Regulation CC implements the Expedited Funds Availability Act and requires banks to make funds deposited into transaction accounts available for

withdrawal within specified time frames.

**EFFECTIVE DATE:** November 2, 1995.

**FOR FURTHER INFORMATION CONTACT:** Louise Roseman, Associate Director (202/452-2789), Division of Reserve Bank Operations and Payment Systems; Stephanie Martin, Senior Attorney (202/452-3198), Legal Division; Manley Williams, Staff Attorney, (202/736-5565), Division of Consumer and Community Affairs. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** The Board's Regulation CC (12 CFR part 229) implements the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*) and requires banks<sup>1</sup> to make funds deposited into transaction accounts available for withdrawal within specified time frames. Regulation CC also contains disclosure requirements, as well as rules governing the check collection and return process.

The Board is publishing technical amendments to Regulation CC to correct minor errors, delete obsolete provisions, and facilitate use of the Commentary by adding headings and paragraph numbers.

#### **References to Temporary Schedule**

Regulation CC provided temporary availability schedules that applied to checks deposited during the period from September 1, 1988, through August 31, 1990. The permanent availability schedule became effective on September 1, 1990. These technical amendments update the regulation, commentary, and model forms to remove obsolete references to the temporary schedule. For example, the definitions of "check clearing association" (§ 229.2(l)) and "participant" (§ 229.2(y)) were required only under the temporary schedule. Accordingly, the Board has removed those sections from the regulation and Commentary. The Commentary to § 229.12, discussing the permanent schedule, often referred back to the Commentary to § 229.11. As the Board is removing the Commentary to § 229.11, major portions of that Commentary have been incorporated into the Commentary to § 229.12. Throughout the regulation and appendices, the Board has removed references to the temporary availability schedule, and deleted the word

<sup>1</sup> The term *bank* refers to any depository institution, including commercial banks, savings institutions, and credit unions.