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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2635

RINs 3209-AA04, 3209-AA15

#### Further Grace Period Extension for Certain Existing Agency Standards of Conduct

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

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

**SUMMARY:** The Office of Government Ethics is granting a further grandfathering grace period extension of just over eight months for certain existing executive agency standards of conduct, dealing with financial interest prohibitions and prior approval for outside employment and activities, which have been temporarily preserved. This further action (two previous extensions have been granted) is necessary because many agencies still have not been able to issue, with OGE concurrence and co-signature, interim or final supplemental regulations during the prior grace periods. This further extension will help ensure that agencies which in conjunction with OGE are actively working on draft supplementals will have adequate time to issue, if they so desire, successor regulatory provisions to replace grandfathered financial interest prohibitions and prior approval requirements.

**EFFECTIVE DATE:** January 3, 1996.

**FOR FURTHER INFORMATION CONTACT:** William E. Gressman, Office of Government Ethics, telephone: 202-523-5757, FAX: 202-523-6325.

**SUPPLEMENTARY INFORMATION:** The Office of Government Ethics is granting under the executive branch standards of ethical conduct a further extension of time for just over eight months, until August 7, 1996, for certain agencies' existing conduct standards dealing with

prohibited financial interests and prior approval for outside employment and activities. When OGE published its ethical conduct standards for executive branch employees in the Federal Register on August 7, 1992 (as now codified at 5 CFR part 2635), it provided that most existing individual agency standards of conduct would be superseded once the executive branchwide standards took effect on February 3, 1993. However, OGE also provided, by means of notes following 5 CFR 2635.403(a) and 2635.803, that any existing agency standards dealing with the two types of restrictions noted above would be preserved for one year, until February 3, 1994, or until the agency concerned issued (with OGE concurrence and co-signature) a supplemental regulation, whichever occurred first. See 57 FR 35006-35067, as corrected at 57 FR 48557 and 52583 and 60 FR 51667. In February of 1994 and 1995, OGE extended that original grace period for a total of a year and eleven months, until January 3, 1996 (or until agency issuance of a supplemental regulation), for those executive branch departments and agencies that had not yet been able to issue final or interim final successor rules. See 59 FR 4779-4780 (February 2, 1994) and 60 FR 6390-6391 (February 2, 1995), as well as appendixes A and B which were added to part 2635.

Through OGE's liaison efforts, the Office of the Federal Register (OFR) has assigned new chapters, including parts, at the end of title 5 of the Code of Federal Regulations to accommodate agencies' future supplemental standards regulations (on these two and other appropriate subject areas), as well as any supplemental agency regulations under OGE's executive branchwide financial disclosure provisions at 5 CFR part 2634. Almost 60 agencies have had such chapters reserved, including those which have by now already issued, with OGE concurrence and co-signature, interim final or final supplemental ethics regulations. However, many agencies have still not yet had the time to issue their planned supplemental standards regulations in interim or final form.

The Office of Government Ethics has therefore determined to permit a further preservation of existing agency regulatory standards of conduct setting forth financial interest prohibitions and

outside employment and activities prior approval requirements for just over eight more months, until August 7, 1996 (or until issuance by each agency of its supplemental regulation, whichever comes first), for those agencies which are actively working in conjunction with OGE on draft supplemental standards regulations. The agencies subject to this further grandfathering grace period extension (including the Social Security Administration which statutorily separated from the Department of Health and Human Services during the past year), as provided in the notes (which are hereby being further amended) following 5 CFR 2635.403(a) and 2635.803, are enumerated at new appendix C which OGE is adding to part 2635. The agencies are listed in the order of the assignment of their chapter numbers at the end of 5 CFR. Agencies not listed either have not expressed an interest in issuing supplemental agency ethics regulations, have indicated to OGE that they are no longer interested in a further grace period extension, or have already issued final or interim final supplemental standards.

The Office of Government Ethics notes that it is not by this rulemaking setting a deadline for agencies to submit supplemental ethics regulations. Agencies can, with OGE concurrence and co-signature, issue supplementals at any time. Further, they can, at any time, have new title 5 CFR chapters reserved through OGE and OFR for such purpose if they have not already done so. Moreover, if an agency's prohibited financial interest (and/or prior approval) restrictions are based on a separate statute, they are not superseded by the 5 CFR part 2635 executive branchwide standards. If any related regulatory provisions were located in its old agency standards of conduct, the agency concerned could, after consultation with OGE, retain them in their existing place in the agency's own CFR title and chapter or move the provisions to another appropriate part of its regulations. See 5 CFR 2635.105(c)(3). Only prior standards of conduct provisions that are purely regulatory in nature are subject to supersession from the executive branchwide regulation at 5 CFR part 2635, with entitlement to the successive grace periods for the two enumerated types of provisions as provided in the further amended notes

at §§ 2635.403(a) and 2635.803 as well as appendixes A, B and C.

**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 this further grace period extension. The notice and delayed effective date are being waived because this rulemaking concerns a matter of agency organization, practice and procedure. Furthermore, it is in the public interest that those agencies concerned have adequate time to promulgate successor provisions to another their existing standards of conduct regulations in these two areas without a lapse in necessary regulatory restrictions.

**Executive Order 12866**

In promulgating this grace period extension technical amendment, the Office of Government Ethics 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. This amendment has not been reviewed by the Office of Management and Budget under that Executive order, as it is not 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 rulemaking does not contain 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, Government employees.

Approved: December 14, 1995.  
Stephen D. Potts,  
*Director, Office of Government Ethics.*

Accordingly, pursuant to its authority under title IV of the Ethics in Government Act and Executive Order 12674/12731, the Office of Government Ethics is amending 5 CFR 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.

2. The notes following both §§ 2635.403(a) and 2635.803 are amended by adding a new sentence at the end of each to read as follows:

Note: \* \* \* Provided still further, that for those agencies listed in appendix C to this part, the grace period for any such existing provisions shall be further extended until August 7, 1996 or until issuance by each individual agency concerned of a supplemental regulation, whichever occurs first.

3. A new appendix C is added at the end of part 2635 to read as follows:

**Appendix C to Part 2635—Agencies Entitled to Another Further (Third) Grace Period Extension Pursuant to Notes Following §§ 2635.403(a) and 2635.803**

1. Department of the Treasury
2. Department of Energy
3. Federal Energy Regulatory Commission
4. Department of the Interior
5. Department of Commerce
6. Department of Justice
7. Federal Communications Commission
8. Securities and Exchange Commission
9. Office of Personnel Management
10. Thrift Depositor Protection Oversight Board
11. United States Information Agency
12. Occupational Safety and Health Review Commission
13. Department of State
14. Department of Labor
15. National Science Foundation
16. Small Business Administration
17. Department of Health and Human Services
18. Department of Transportation
19. Pension Benefit Guaranty Corporation
20. Environmental Protection Agency
21. National Transportation Safety Board
22. General Services Administration
23. Board of Governors of the Federal Reserve System
24. National Labor Relations Board
25. Equal Employment Opportunity Commission
26. Department of Housing and Urban Development
27. National Archives and Records Administration
28. Peace Corps
29. Tennessee Valley Authority
30. Consumer Product Safety Commission
31. Executive Office of the President
32. Department of Agriculture
33. Federal Mine Safety and Health Review Commission

34. Agency for International Development
35. Social Security Administration

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 923**

[Docket No. FV94-923-1FR]

**Sweet Cherries Grown in Designated Counties in Washington: Establishment of Minimum Size and Maturity Requirements for Rainier Variety Cherries**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction amendment.

SUMMARY: This docket contains a correction to the final regulation which was published Tuesday, June 21, 1994, (59 FR 31917). The final rule established a minimum size requirement of 11 row size (61/64 inch diameter) and a minimum maturity requirement of 17 percent soluble solids for Rainier variety cherries that can be shipped to fresh market outlets. The rule inadvertently omitted some regulatory text, and this action corrects those errors.

EFFECTIVE DATE: The correcting amendments are effective December 27, 1995.

FOR FURTHER INFORMATION CONTACT: Britthany E. Beadle, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523-S., P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5127 or FAX (202) 720-5698; or Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, OR 97204-2807; telephone: (509) 326-2724 or FAX (509) 326-7440.

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulation that is the subject of this correction inadvertently omitted several paragraphs of regulatory language which should be added. These paragraphs were omitted from the June 21, 1994, final rule (59 FR 31917) regulating minimum size and maturity requirements for Rainier variety cherries effective and resulted in an incomplete text of the regulatory requirements for the handling of cherries.