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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.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

5 CFR Chapter LXVI

RIN 3095-AA60, 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the National Archives and Records Administration

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: The National Archives and Records Administration, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for NARA employees that supplement the Standards of Ethical Conduct for Employees of the Executive Branch, as issued by OGE, with a requirement to obtain prior approval for outside employment.

EFFECTIVE DATE: These regulations are effective August 5, 1996.

FOR FURTHER INFORMATION CONTACT: Christopher Runkel or Amy Krupsky at NARA, telephone 202-501-5535.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, OGE published new Standards of Ethical Conduct for Employees of the Executive Branch (standards). See 57 FR 35006-35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, with additional grace period extensions at 59 FR 4779-4780, 60 FR 6390-6391, and 60 FR 66857-66858. Codified at 5 CFR part 2635, the new standards became effective on February 3, 1993.

With the concurrence of OGE, 5 CFR 2635.105 authorizes agencies to publish agency-specific supplemental regulations that are necessary to implement their respective ethics programs. NARA, with OGE's concurrence, has determined that the

following supplemental rules being codified in a new chapter LXVI, part 7601 of 5 CFR are necessary to the success of its ethics program.

II. Analysis of the Regulations

Section 7601.101 General

Section 7601.101 explains that these regulations apply to all NARA employees and supplement the executive branch-wide standards of ethical conduct.

Section 7601.102 Prior Approval of Outside Employment

The standards, at 5 CFR 2635.803, specifically recognize that an agency may find it necessary or desirable to issue a supplemental regulation requiring its employees to obtain approval before engaging in outside employment or activities. NARA standards of conduct have long required employees to obtain written permission prior to engaging in outside employment. NARA has found this requirement useful in ensuring that the outside employment activities of employees conform with all applicable laws and regulations. In accordance with 5 CFR 2635.803, NARA has determined that it is necessary to the administration of its ethics program to continue to require such prior approval. This final rule, for codification at 5 CFR 7601.102, will require employees of NARA, other than special Government employees, who desire to engage in outside employment to obtain prior approval of such employment. The rule directs employees to the NARA Administrative Procedures Manual, ADMIN. 201, for information about the procedures to be followed in seeking approval of outside employment.

III. Matters of Regulatory Procedure

Administrative Procedure Act

NARA has found that good cause exists under 5 U.S.C. 553(b) and (d)(3) for waiving as unnecessary, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to these rules. The supplemental regulations are essentially a restatement of rules previously contained in the NARA standards of conduct contained in the NARA Administrative Procedures Manual, and NARA believes that it is important to a smooth transition from NARA's standards of conduct to the executive branch standards that these

rules become effective as soon as possible. In addition, NARA believes that this rule is exempt as a procedural rule under 5 U.S.C. 553(b)(3)(A) of the Administrative Procedures Act.

Regulatory Flexibility Act

NARA has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that these regulations will not have a significant impact on small business entities because they affect only NARA employees.

Paperwork Reduction Act

NARA has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

Executive Order 12866

This regulation is not a significant regulatory action under E.O. 12866, and is not required to be submitted to the Office of Management and Budget for review.

List of Subjects in 5 CFR Part 7601

Conflict of interests, Government employees.

Dated: July 22, 1996.

John W. Carlin,

Archivist of the United States.

Approved: July 26, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the National Archives and Records Administration, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations by adding a new chapter LXVI, consisting of part 7601 to read as follows:

CHAPTER LXVI—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

PART 7601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Sec.

7601.101 General.

7601.102 Prior approval of outside employment.

Authority: 5 U.S.C. 7301; 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; 5 CFR 2635.105, 2635.803.

§ 7601.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the National Archives and Records Administration (NARA) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the standards in 5 CFR part 2635 and this part, employees of NARA are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2634.

§ 7601.102 Prior approval of outside employment.

(a) *Prior approval requirement.* An employee, other than a special Government employee, must obtain written approval before engaging in any outside employment, whether or not for compensation. Requests for approval shall be submitted in accordance with procedures set forth in the NARA Administrative Procedures Manual, ADMIN. 201, copies of which can be obtained from the NARA designated agency ethics official.

(b) *Standard of approval.* Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(c) *Scope of approval.* Approval will be for a period not to exceed three years, after which renewed approval must be sought in accordance with this section. Upon a significant change in the nature or scope of the outside employment or in the employee's NARA position, the employee shall submit a revised request for approval.

(d) *Definition of employment.* For purposes of this section, employment means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless the participation involves the provision of professional services or advice for

compensation other than reimbursement for actual expenses.

[FR Doc. 96-19742 Filed 8-2-96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV96-920-1 IFR]

Kiwifruit Grown in California; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the Kiwifruit Administrative Committee (Committee) under Marketing Order No. 920 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

DATES: Effective on August 1, 1996. Comments received by September 4, 1996, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX (202) 720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mary Kate Nelson, Marketing Assistant, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, (209) 487-5901, FAX (209) 487-5906, or Charles L. Rush, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone (202) 720-5127, FAX (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing

Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax # (202) 720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The marketing 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning August 1, 1996, and continuing until amended, suspended, or terminated. 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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.