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OFFICE OF GOVERNMENT ETHICS

5 CFR Parts 2634, 2635 and 2636

RINs 3209-AA00, 3209-AA04 and 3209-AA13

Corrections and Updating to Certain Regulations of the Office of Government Ethics

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; technical amendments.

SUMMARY: The Office of Government Ethics is correcting and updating some of the sections of its executive branch regulations on financial disclosure, standards of ethical conduct and outside employment limitations.

EFFECTIVE DATE: January 14, 1999.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, telephone: 202-208-8000, ext. 1110; TDD: 202-208-8025; FAX: 202-208-8037.

SUPPLEMENTARY INFORMATION:

The Office of Government Ethics is amending a few sections of its executive branch ethics regulations on financial disclosure, standards of ethical conduct (the Standards), and outside employment and affiliations, as codified at 5 CFR parts 2634, 2635 and 2636. These technical amendments correct a couple of typographical errors and make some minor updates.

The updates include a revised citation in 5 CFR 2635.203 of the Standards regulation to the new travel promotional materials and frequent traveler programs regulation of the General Services Administration (now codified at 41 CFR part 301-53). In addition, OGE is adding the citation to the Foreign Agents Registration Act, as codified at 22 U.S.C. 611 through 621, to paragraph (q) of § 2635.902 of the Standards, which

references related statutes. The Office of Government Ethics is also making a minor revision to the first part of the citation in paragraph (o) of that section of the Standards to the political activities restrictions in order to specify the particular sections of 5 U.S.C. concerned (sections 7321 through 7326). Furthermore, OGE is amending the citation in paragraph (z) of § 2635.902 to one of the statutory prohibitions against disclosure of classified information, now found at 50 U.S.C. 783(a) as redesignated and somewhat revised.

In addition, OGE is updating references in the definition of "covered noncareer employee" in 5 CFR 2636.303(a) and Example 1 thereto to positions "above GS-15" in the General Schedule (or non-General Schedule positions for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule). In accordance with section 4(b) of Pub. L. No. 102-378, which amended title V of the Ethics in Government Act of 1978 (the Ethics Act), at 5 U.S.C. appendix, title V, and consistent with section 101 (c) and (d) of the Federal Employees Pay Comparability Act of 1990, section 529 of Pub. L. No. 101-509, at 5 U.S.C. 5376 note, these references replace the old references to the now superseded "GS-16, step 1" General Schedule positions as the threshold rate of basic pay for the application to certain noncareer employees of the limitations on outside earned income, employment and affiliations under title V of the Ethics Act. Finally, OGE is removing from 5 CFR 2636.304(a)(4) an out-of-date reference to a prior Office of Personnel Management regulation formerly codified at 5 CFR 305.601.

Matters of Regulatory Procedure

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, opportunity for public comment and 30-day delay in effectiveness as to these minor corrections and updates. The notice, comment and delayed effective date provisions are being waived in part because these minor amendments concern matters of agency organization, practice and procedure. Further, it is in

the public interest that correct and up-to-date information be contained in the affected sections of OGE's regulations as soon as possible.

Executive Order 12866

In promulgating these minor amendments, 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 have not been reviewed by the Office of Management and Budget under that Executive order, since they are 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 amendatory rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects

5 CFR Part 2634

Administrative practice and procedure, Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

5 CFR Part 2635

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

5 CFR Part 2636

Administrative practice and procedure, Conflict of interests, Government employees, Penalties.

Approved: January 7, 1999.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, the Office of Government Ethics pursuant to its authority under the Ethics in Government Act and Executive Order 12674, as modified by E.O. 12731, is

amending and correcting 5 CFR parts 2634, 2635 and 2636 as follows:

PART 2634—[AMENDED]

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; 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.

§ 2634.304 [Corrected]

2. Section 2634.304 is amended by removing the word "proceeding" between the words "the" and "statement" in the last sentence of paragraph (f)(3)(iii) and adding in its place the word "preceding".

§ 2634.904 [Corrected]

3. Section 2634.904 is amended by removing the word "of" between the words "industry" and "other" in the last sentence of paragraph (b) (before the examples) and adding in its place the word "or".

PART 2635—[AMENDED]

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

Authority: 5 U.S.C. 7301, 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.

§ 2635.207 [Amended]

5. Section 2635.203 is amended by removing the citation "41 CFR 301-1.103(b) and (f)" from the end of the last sentence of the Note following paragraph (b)(7) and adding in its place the citation "41 CFR part 301-53".

6. Section 2635.902 is amended by removing the terms "*et seq.*" from the first part of the citation in paragraph (o) and adding in their place the terms "through 7326", by removing the section citation "783(b)" from the second statute cited in paragraph (z) and adding in its place the section citation "783(a)", and by revising paragraph (q) to read as follows:

§ 2635.902 Related statutes.

(q) The general prohibition (18 U.S.C. 219) against acting as the agent of a foreign principal required to register under the Foreign Agents Registration Act (22 U.S.C. 611 through 621).

PART 2636—[AMENDED]

7. The authority citation for part 2636 continues to read as follows:

Authority: 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.

8. Section 2636.303 is amended by removing the words "set forth in § 305.601 of this title" from paragraph (a)(4), by removing the two references to "GS-16, Step 1" from Example 1 following the undesignated text after paragraph (a)(4) and adding in their place in each instance the reference "a position above GS-15", and by revising the introductory text of paragraph (a) to read as follows:

§ 2636.303 Definitions.

* * * * *

(a) *Covered noncareer employee* means an employee, other than a Special Government employee as defined in 18 U.S.C. 202, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule, and who is:

* * * * *

[FR Doc. 99-769 Filed 1-13-99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV99-982-1 IFR]

Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 1998-99 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes final free and restricted percentages for domestic inshell hazelnuts for the 1998-99 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board),

which is the agency responsible for local administration of the order.

DATES: Effective January 15, 1999. Comments which are received by March 15, 1999, 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 to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 205-6632, or E-mail: moabdocket_clerk@usda.gov. All 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:

Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326-2724, Fax: (503) 326-7440 or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632, or E-mail: Jay_N_Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Order No. 982 (7 CFR Part 982), both as amended, regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the "order." 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 of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice