

# Rules and Regulations

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## FEDERAL LABOR RELATIONS AUTHORITY

### 5 CFR Part 2430

#### Amendment of Equal Access to Justice Act Attorney Fees Regulations

**AGENCY:** Federal Labor Relations Authority.

**ACTION:** Final rule.

**SUMMARY:** The Federal Labor Relations Authority (FLRA) amends its regulations implementing the Equal Access to Justice Act (EAJA) to conform to and carry out the intent of the March 29, 1996 amendments to the EAJA. Specifically, as provided in the EAJA's amendments, the amended regulation will permit recovery, in conjunction with adversary adjudications commenced on or after March 29, 1996, of attorney fees not to exceed \$125.00 per hour.

**EFFECTIVE DATE:** June 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** Peter Constantine, Office of Case Control, Federal Labor Relations Authority, 607 14th Street, NW, Room 415, Washington, DC 20424-0001, or by telephone at (202) 482-6540.

**SUPPLEMENTARY INFORMATION:** The FLRA amends its regulation pertaining to the maximum per hour rate for attorney fees under the EAJA, 5 U.S.C. 504(b)(1)(A) (1994 & Supp. III 1997), in conformance with the amendments to the EAJA adopted as part of the Contract with America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847.

In conjunction with adversary adjudications commenced on or after March 29, 1996, the EAJA's amendments permit recovery of attorney fees not to exceed \$125.00 per hour. The FLRA's revised regulation, as set forth below, simply incorporates this change to the EAJA and makes the change applicable to FLRA proceedings. Because this amendment to the FLRA's

regulation merely reiterates the specific terms of the EAJA's amendment in this regard, this regulatory action comes within the "good cause" exemptions of the Administrative Procedure Act, 5 U.S.C. 553(b)(B) and 553(d). As a result, the notice and comment and effective date provisions of the Administrative Procedure Act are inapplicable.

This action was announced by the FLRA in 55 FLRA No. 72 (Apr. 30, 1999). That decision also noted that the FLRA would engage in rulemaking to consider appropriate criteria for increasing the maximum rate based on cost of living and other special factors. The Authority will subsequently promulgate the proposed rule and provide an opportunity for comment.

#### Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that this regulation, as amended, will not have a significant economic impact on a substantial number of small entities. The amendment is procedural in nature and is required to implement amendments to the EAJA.

#### Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### Paperwork Reduction Act of 1995

The amended regulation contains no additional information collection or record keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq.

#### List of Subjects in 5 CFR Part 2430

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons stated in the preamble, the FLRA amends 5 CFR part 2430 as follows:

#### PART 2430—AWARDS OF ATTORNEY FEES AND OTHER EXPENSES

1. The authority citation for part 2430 is revised to read as follows:

**Authority:** 5 U.S.C. 504(c)(1).

2. Amend § 2430.4(a) by revising the first sentence to read as follows:

#### § 2430.4 Allowable Fees and Expenses.

(a) No award for the fee of an attorney or agent under these rules may exceed \$125.00 per hour, or for adversary adjudications commenced prior to March 29, 1996, \$75.00 per hour. \* \* \*

Dated: June 4, 1999.

**Solly Thomas,**

*Executive Director.*

[FR Doc. 99-14598 Filed 6-8-99; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 37

[Docket Number LS-99-04]

RIN 0581-AB58

#### Program to Assess Organic Certifying Agencies

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

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

**SUMMARY:** This rule establishes a voluntary, fee-for-service program, under the Agricultural Marketing Agreement Act of 1946, to verify that State and private organic certifying agencies comply with the requirements prescribed under the International Organization for Standardization/