

must be a minimum of 1,800 private enterprise employees in establishments within the scope of a NAF survey for a separate wage area to be established. San Joaquin County has more than 139,000 private enterprise employees in surveyable establishments.

The Department of Defense conducted the first full-scale wage survey in the San Joaquin wage area in February 2002. NAF FWS employees in San Joaquin County were placed on the new San Joaquin wage schedule on the first day of the first applicable pay period beginning on or after April 13, 2002, the effective date of the first new wage schedule for the wage area. The Federal Prevailing Rate Advisory Committee, the national labor-management committee that advises OPM on FWS pay matters, recommended these changes by consensus.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

#### List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C 5343, the interim rule (67 FR 3035) amending 5 CFR part 532 published on January 23, 2002, is adopted as final with no changes.

Office of Personnel Management.

**Kay Coles James,**

*Director.*

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2634

RIN 3209-AA00

#### Technical Amendments to Regulations Governing Filing Extensions and Late Filing Fee Waivers

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

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

**SUMMARY:** The Office of Government Ethics is issuing a final rule to amend the executive branchwide regulations that describe procedures for granting filing extensions and late filing fee waivers under the public financial disclosure system to delegate certain

authority to employing departments and agencies. These amendments will expedite both processes and free up OGE resources.

**EFFECTIVE DATE:** September 3, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Donald A. Williams, Senior Desk Officer, Program Services Division, Office of Government Ethics; Telephone: 202-208-8000, extension 1151; TDD: 202-208-8025; FAX: 202-208-8039.

**SUPPLEMENTARY INFORMATION:** In this rulemaking, OGE is making technical amendments to subparts B and G of its executive branchwide financial disclosure regulation codified at 5 CFR part 2634. Section 2634.201(f) of subpart B sets forth procedures for granting public financial disclosure report filers extensions of time for filing which shall not exceed a total of 90 days, including the existing maximum 45 days that can be granted by the agency reviewing official and the additional not-to-exceed 45 days that can be granted by the Director of the Office of Government Ethics. The Office of Government Ethics is revising this provision to provide the agency reviewing official the authority to grant public filers the additional extensions of time currently granted by the OGE Director, which shall not exceed 45 days.

Section 2634.704 of subpart G sets forth procedures governing requests for, and the granting of, late filing fee waivers for public filers who submit their reports more than 30 days after the due date. Under section 2634.704(b), the OGE Director may waive the late filing fee if she determines that the delay in filing was caused by extraordinary circumstances that made the delay reasonably necessary. The Office of Government Ethics is revising this provision to provide the designated agency ethics official the authority to waive the late filing fee. The revision expands the definition of extraordinary circumstances to include administrative oversight culminating in the failure to notify a new entrant, first-time annual, or termination public filer of the filing requirement.

The Office of Government Ethics believes that the delegations of authority and other changes embodied in these technical amendments are consistent with its oversight responsibilities pursuant to the Ethics in Government Act of 1978, 5 U.S.C appendix, as well as the applicable provisions (sections 101(g) and 104(d) dealing with filing extensions and late filing fee waivers, respectively) of the Act. Furthermore, these changes will expedite both processes, grant agencies additional

authority to make determinations affecting their employees, and free up OGE resources to pursue other important Government ethics responsibilities.

#### 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 and the opportunity for public comment as to these revisions. The notice and comment are being waived because these technical amendments concern matters of agency organization, practice and procedure. Moreover, it is in the public interest that these technical revisions which grant additional authority to the agencies take effect promptly.

##### *Executive Order 12866*

In promulgating these technical 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 the Executive order since they are not deemed "significant" thereunder.

##### *Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

##### *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 because it only affects executive branch public financial disclosure report filers and the administration of the reporting system within executive branch agencies.

##### *Paperwork Reduction Act*

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

*Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

*Congressional Review Act*

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and has submitted a report thereon to the United States Senate, House of Representatives and General Accounting Office in accordance with that law.

**List of Subjects in 5 CFR Part 2634**

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

Approved: July 25, 2002.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

For the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2634 as follows:

**PART 2634—EXECUTIVE BRANCH  
FINANCIAL DISCLOSURE, QUALIFIED  
TRUSTS, AND CERTIFICATES OF  
DIVESTITURE**

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; Pub. L. 101-410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104-134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); 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.

**Subpart B—Persons Required To File  
Public Financial Disclosure Reports**

2. Section 2634.201 is amended by revising paragraph (f) to read as follows:

**§ 2634.201 General requirements, filing  
dates, and extensions.**

\* \* \* \* \*

(f) *Extensions.* The reviewing official may, for good cause shown, grant to any public filer or class thereof an extension of time for filing which shall not exceed 45 days. The reviewing official may, for

good cause shown, grant an additional extension of time which shall not exceed 45 days. The employee shall set forth in writing specific reasons why such additional extension of time is necessary. The reviewing official must approve or deny such requests in writing. Such records shall be maintained as part of the official report file. (For extensions on confidential financial disclosure reports, see § 2634.903(d).)

**Subpart G—Penalties**

3. Section 2634.704 is amended by revising paragraph (b) to read as follows:

**§ 2634.704 Late filing fee.**

\* \* \* \* \*

(b) *Exceptions.* (1) The designated agency ethics official may waive the late filing fee if he determines that the delay in filing was caused by extraordinary circumstances, including the agency's failure to notify a new entrant, first-time annual filer, or termination filer of the requirement to file the public financial disclosure report, which made the delay reasonably necessary.

(2) Employees requesting a waiver of the late filing fee from the designated agency ethics official must request the waiver in writing with supporting documentation. The designated agency ethics official's determination must be made in writing to the employee with a copy placed in the employee's public financial disclosure report file. The designated agency ethics official may consult with the Office of Government Ethics prior to approving any waiver of the late filing fee.

\* \* \* \* \*

[FR Doc. 02-19369 Filed 7-31-02; 8:45 am]

**BILLING CODE 6345-01-P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 1160**

**[Doc.# DA-02-02]**

**Fluid Milk Promotion Order**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Fluid Milk Promotion Order (Order) by revising certain provisions in conformance with the Farm Security and Rural Investment Act of 2002. The amendments modify the definition of *fluid milk product* to be consistent with that term as it is defined under the

Federal milk marketing orders. The definition of *fluid milk processor* is also revised to increase the exemption standard from 500,000 pounds to 3,000,000 pounds.

**EFFECTIVE DATE:** August 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** David R. Jamison, Chief, USDA/AMS/Dairy Programs, Promotion and Research Branch, Stop 0233, Room 2958 South Building, 1400 Independence Avenue, SW, Washington, DC 20250-0233, (202) 720-6909, e-mail address [David.Jamison2@usda.gov](mailto:David.Jamison2@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Small businesses in the fluid milk processing industry have been defined by the Small Business Administration as those processors employing not more than 500 employees. For purposes of determining a processor's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. Currently, there are approximately 225 fluid milk processors subject to the provisions of the Fluid Milk Promotion Order. The implementation of this rule will reduce the number of fluid milk processors subject to the Fluid Milk Promotion Order by 60. Most of these processors are considered small entities.

The Fluid Milk Promotion Order (7 CFR Part 1160) is authorized under the Fluid Milk Promotion Act of 1990 (Act) (7 U.S.C. 6401 *et seq.*). The final rule amends certain order provisions in conformance with Section 1506 of the Farm Security and Rural Investment Act of 2002, Public Law 107-171d (2002 Farm Bill). The amendments modify the definition of *fluid milk product* to be consistent with the term as defined under Federal milk marketing orders (*i.e.*, Section 1000.15 of Title 7 CFR). The definition of *fluid milk processor* also is revised to increase the exemption standard from 500,000 pounds to 3,000,000 pounds of fluid milk products that are processed and marketed commercially in consumer-type packages in the 48 contiguous United States and the District of Columbia, excluding fluid milk products that are delivered directly to the residence of a consumer.

The amendments to the Order will not add any burden to regulated parties because they relate to provisions that define which fluid milk processors and fluid milk products will be assessed