

Rules and Regulations

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2604

RIN 3209-AA37

Technical Amendments to Office of Government Ethics Freedom of Information Act Regulation: Designations Under E.O. 13392 and Updates to Contact Numbers and Addition of E-Mail Address

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; technical amendments.

SUMMARY: The Office of Government Ethics is amending its Freedom of Information Act (FOIA) regulation to indicate certain designations under Executive Order 13392 on FOIA improvement and to provide updated OGE contact numbers and an E-mail address for FOIA requests.

DATES: Effective Date: August 28, 2007.

FOR FURTHER INFORMATION CONTACT:

William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, telephone: 202-482-9245; TDD: 202-482-9293; FAX: 202-482-9237.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is amending its FOIA regulation to indicate certain designations under Executive Order 13392 of December 14, 2005 on Improving Agency Disclosure of Information, to update telephone and contact numbers, and to add OGE's e-mail address for FOIA requesters who want to send their requests electronically.

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 amendments. The notice, comment and delayed effective date provisions are being waived because these technical FOIA regulation amendments concern matters of agency organization, practice and procedure.

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 technically amends designation and contact portions of OGE's FOIA rules.

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.

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, 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 will submit a report thereon to the U.S. Senate, House of Representatives and Government Accountability Office in accordance with that law when the rule is transmitted to the Office of the Federal Register for publication.

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

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and Budget under that 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.

List of Subjects in 5 CFR Part 2604

Administrative practice and procedure, Archives and records, Confidential business information, Conflict of interests, Freedom of information, Government employees.

Approved: August 21, 2007.

Robert I. Cusick,

Director, Office of Government Ethics.

■ Accordingly, the Office of Government Ethics, pursuant to its authority under the Ethics in Government Act and the Freedom of Information Act, is amending 5 CFR part 2604 as follows:

PART 2604—FREEDOM OF INFORMATION ACT RULES AND SCHEDULE OF FEES FOR THE PRODUCTION OF PUBLIC FINANCIAL DISCLOSURE REPORTS

■ 1. The authority citation for part 2604 is revised to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; E.O. 13392, 70 FR 75373, 3 CFR, 2005 Comp., p. 216.

■ 2. Section 2604.103 is amended by adding in alphabetical order definitions for "Chief FOIA Officer," "FOIA Requester Service Center," and "FOIA Public Liaison" to read as follows:

§ 2604.103 Definitions.

* * * * *

Chief FOIA Officer means the OGE official, the OGE Deputy General Counsel, designated under E.O. 13392 to provide oversight of all of OGE's FOIA program operations.

* * * * *

FOIA Public Liaison means the OGE official, the OGE FOIA Officer, designated under E.O. 13392 to review upon request any concerns of FOIA requesters about the service received from OGE's FOIA Requester Service

Center and to address any other FOIA-related inquiries.

FOIA Requester Service Center means the OGE unit designated under E.O. 13392 to answer any questions requesters have about the status of OGE's processing of their FOIA requests. The Center may be contacted at telephone number: 202-482-9210 (TDD: 202-482-9293).

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§ 2604.201 [Amended]

■ 3. Section 2604.201(a)(1) is amended by removing the phrase "telephone at 202-208-8000 or FAX 202-208-8037," in the second sentence and adding in its place the phrase "telephone: 202-482-9300, TDD: 202-482-9293, or FAX: 202-482-9237".

§ 2604.301 [Amended]

■ 4. In § 2604.301(a), the first sentence is amended by:

- A. Removing the phrase "telephone, 202-208-8000, or FAX, 202-208-8037," and adding in its place the phrase "telephone: 202-482-9300, TDD: 202-482-9293, or FAX: 202-482-9237,"; and
- B. By adding between the ZIP Code "20005-3917" and the word "or" the phrase ", by E-mail: *usoge@oge.gov*,".

§ 2604.602 [Amended]

■ 5. Section 2604.602(b) is amended by adding between the words "guidance" and "and" the phrase ", including regarding Executive Order 13392 (Improving Agency Disclosure of Information),".

[FR Doc. E7-16940 Filed 8-27-07; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. AMS-FV-07-0030; FV07-916/917-4 FIR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule eliminating grade, size, maturity, pack, container and inspection requirements for all California nectarines and peaches except those

packed in containers labeled "California Well Matured" or "CA WELL MAT." This rule also continues in effect seasonal adjustments to the handling requirements applicable to well matured fruit and the removal of certain handler reporting requirements that are deemed no longer necessary. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule reduces handler costs while enabling handlers to continue to meet the demands of their buyers.

EFFECTIVE DATE: September 27, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Garcia, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906; or E-mail: *Jennifer.Garcia3@usda.gov* or *Kurt.Kimmel@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos. 916 and 917, both as amended (7 CFR parts 916 and 917), regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the "orders." The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. 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 USDA 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. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule continues in effect the provisions of an interim final rule action that: (1) Eliminated grade, size, maturity, pack, container and inspection requirements for all California nectarines and peaches except those packed in containers labeled "California Well Matured" or "CA WELL MAT;" (2) made seasonal adjustments to the handling requirements applicable to California Well Matured fruit; and (3) removed certain handler reporting requirements that are deemed no longer necessary.

These changes allow industry handlers to reduce costs and provide them greater flexibility in meeting buyer preferences. Also, adjustments are made in light of the newly implemented California State marketing program.

Sections 916.52 and 917.41 of the orders provide authority for handling regulations for fresh California nectarines and peaches. The regulations may include grade, size, maturity, quality, pack, and container requirements. The orders also provide that whenever such requirements are in effect, the fruit subject to such regulation must be inspected by the Federal or Federal-State Inspection Service (FSIS) and certified as meeting the applicable requirements.

The nectarine order has been in effect since 1939, and the peach program has been in effect since 1958. The orders have been used over the years to establish a quality control program that includes minimum grades, sizes, and maturity standards. That program has helped improve the quality of product moving from the farm to market, and has helped growers and handlers more effectively market their crops. Additionally, the orders have been used to ensure that only satisfactory quality nectarines and peaches reach the consumer. This has helped increase and maintain market demand over the years.

Sections 916.53 and 917.42 authorize the modification, suspension, or termination of regulations issued under 916.52 and 917.41, respectively. Changes in regulations have been implemented to reflect changes in