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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2600

RIN 3209-AA21

Updating Amendments to Office of Government Ethics Organization and Functions Regulation

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is updating its organization and functions regulation. These amendments are necessary because of organizational changes that have occurred within OGE since the regulation was first published in 1990. In addition, OGE is making other minor changes to improve the regulation and to make information concerning OGE programs more readily available to the public and to other Federal agencies.

EFFECTIVE DATE: July 15, 2003.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Horton, Attorney Advisor, Office of Government Ethics; Telephone: 202-482-9300; TDD (Telecommunications Device for the Deaf and Speech Impaired): 202-482-9293; FAX: 202-482-9237.

SUPPLEMENTARY INFORMATION: In recent years, the Office of Government Ethics has made several changes to its organizational structure. These changes were made to improve OGE's internal agency operations, provide more emphasis on its education programs, increase emphasis on its annual and termination financial disclosure systems for Presidential appointees confirmed by the Senate, and to expand many of the other ethics program services that OGE provides to executive branch agencies.

Among these changes, OGE created a new Office of Agency Programs (OAP) to replace the former Office of Program

Assistance and Review. OAP was later reorganized to include three divisions: the Education Division, the Program Services Division, and the Program Review Division.

Since OGE's organization and functions regulation was published in 1990, as codified at 5 CFR part 2600, OGE has also established the Office of Government Relations and Special Projects (OGRSP). Over the past several years, OGE has received requests from U.S. foreign policy-making entities and has provided technical assistance through the OGRSP to foreign governments and multinational organizations concerning preventive programs (like OGE's) which are part of larger anticorruption efforts.

The Office of Administration and Information Management (OAIM) was added as a separate office within OGE due to the increased use of information technology within OGE and by other Federal agencies in fulfilling their respective missions. The OAIM assists OGE in its continuing efforts to provide improved customer service, to persons both within and outside the executive branch of the Federal Government.

Part 2600 is now being amended to reflect the addition of these offices and to provide a short description of the functions of each.

The statement of the functions of the Office of the Director in paragraph (b) of § 2600.103 has been modified to reflect additional responsibilities that have been acquired by the OGE Director since 1990 and to accommodate recent changes made to that office's organization. Pursuant to Executive Order 12805, the Director serves as a member of both the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE). These councils were established to coordinate and enhance Governmental efforts to promote integrity and efficiency and to detect and prevent fraud, waste, and abuse in Federal programs. The Director also serves, pursuant to Executive Order 12993, as a member of the Integrity Committee. This committee receives, reviews and refers for investigation certain allegations of wrongdoing against Inspectors General and certain staff members of the Inspector General's Offices.

The Director's responsibilities also include leading many of OGE's outreach

activities with private and nongovernmental sector entities. These activities are designed to promote awareness of OGE and its mission as well as to share ideas and best practices. We have amended § 2600.103 to reflect these new responsibilities.

Finally, other changes being made in part 2600 include providing OGE's Internet Web site address, providing OGE's new main telephone numbers, and updating the information in the section describing OGE's history. Other minor changes were made to some section headings in this part and to the regulation's language in a few places.

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 this regulatory revision. The notice, comment and delayed effective date are being waived because this regulation concerns matters of agency organization, practice and procedure.

Executive Order 12866

In promulgating these 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.

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.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

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 General Accounting Office in accordance with that law at the same time this rulemaking document is sent to the Office of the Federal Register for publication in the **Federal Register**.

List of Subjects in 5 CFR Part 2600

Conflict of interests, Government employees, Organization and functions (Government agencies).

Approved: July 1, 2003.

Amy L. Comstock,

Director, Office of Government Ethics.

■ Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is revising 5 CFR part 2600 to read as follows:

PART 2600—ORGANIZATION AND FUNCTIONS OF THE OFFICE OF GOVERNMENT ETHICS

Sec.

2600.101 Mission and history.

2600.102 Contact information.

2600.103 Office of Government Ethics organization and functions.

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.

§ 2600.101 Mission and history.

(a) The Office of Government Ethics (OGE) was established by the Ethics in Government Act of 1978, Public Law 95–521, 92 Stat. 1824 (1978). OGE exercises leadership in the executive branch of the Federal Government to prevent conflicts of interest on the part of executive branch employees and resolve those conflicts of interest that do occur. In partnership with executive branch departments and agencies, OGE fosters high ethical standards for executive branch employees which, in turn, strengthens the public's confidence that the Government's business is conducted with impartiality and integrity.

(b) Originally an entity within the Office of Personnel Management, OGE

became a separate executive branch agency on October 1, 1989, pursuant to section 3 of the Office of Government Ethics Reauthorization Act of 1988, Public Law 100–598, 102 Stat. 3031 (1988). OGE is the supervising ethics office for all executive branch officers and employees pursuant to the Ethics Reform Act of 1989, Public Law 101–194, 103 Stat. 1716 (1989), as amended by Public Law 101–280, 104 Stat. 149 (1990). Additionally, OGE has various responsibilities under Executive Order 12674 of April 12, 1989, “Principles of Ethical Conduct for Government Officers and Employees” (3 CFR, 1989 Comp., pp. 215–218), as modified by Executive Order 12731 of October 17, 1990 (3 CFR, 1990 Comp., pp. 306–311).

§ 2600.102 Contact information.

(a) *Address.* The Office of Government Ethics is located at 1201 New York Avenue, NW., Suite 500, Washington, DC 20005–3917. OGE does not have any regional offices.

(b) *Web site.* Information about OGE and its role in the executive branch ethics program as well as copies of publications that have been developed for training, educational and reference purposes are available electronically on OGE's Internet Web site (<http://www.usoge.gov>). The Web site has copies of various Executive orders, statutes, and regulations that together form the basis for the executive branch ethics program. The site also contains ethics advisory opinions and letters published by OGE, as well as other information pertinent to the Office.

(c) *Telephone numbers.* OGE's main telephone number is 202–482–9300. Persons who are deaf or speech impaired may contact OGE at the following TDD (Telecommunications Device for the Deaf and Speech Impaired) number: 202–482–9293. The main OGE FAX number is 202–482–9237.

§ 2600.103 Office of Government Ethics organization and functions.

(a) The Office of Government Ethics is divided into the following offices:

- (1) The Office of the Director;
- (2) The Office of General Counsel and Legal Policy;
- (3) The Office of Government Relations and Special Projects;
- (4) The Office of Agency Programs; and
- (5) The Office of Administration and Information Management.

(b) *Office of the Director.* The Director of the Office of Government Ethics is appointed by the President and confirmed by the Senate. The Director advises the White House and executive

branch Presidential appointees on Government ethics matters; maintains a liaison and provides guidance on ethics to executive branch departments and agencies; and oversees and coordinates all OGE rules, regulations, formal advisory opinions and major policy decisions. The Director also serves as a member of the President's Council on Integrity and Efficiency; the Executive Council on Integrity and Efficiency; the Integrity Committee; and on such other boards, councils, and committees as may be required by statute, Executive order or regulation. The Director represents the agency in various public outreach initiatives.

(c) *Office of General Counsel and Legal Policy.* (1) The Office of General Counsel and Legal Policy develops regulations and legislative proposals pertaining to conflict of interest statutes and standards of ethical conduct applicable to executive branch officers and employees, and executive branch public and confidential financial disclosure requirements. In addition, this Office provides advice and counseling to agency ethics officials through formal and informal advisory opinions, policy memoranda, and consultations. This Office also manages OGE's review and certification of financial disclosure reports filed by persons nominated by the President for positions requiring Senate confirmation; oversees the creation and operation of qualified and blind trusts and the issuance of certificates of divestiture; and responds to press inquiries.

(2) The General Counsel is the principal deputy of the Director of OGE.

(d) *Office of Government Relations and Special Projects.* The Office of Government Relations and Special Projects provides liaison to the Office of Management and Budget and to the Congress regarding legislative matters, coordinates OGE's support of U.S. Government efforts concerning international anticorruption and ethics initiatives, and is responsible for certain OGE special projects.

(e) *Office of Agency Programs.* (1) The Office of Agency Programs provides services to, and monitors, Federal executive branch agency ethics programs through three divisions: the Education Division, the Program Services Division, and the Program Review Division.

(i) The Education Division develops ethics-related, instructor-led and Web-based training programs for executive agency ethics officials. The division also develops training for ethics officials to deliver to their employees. The division conducts annual surveys to determine the training needs of ethics officials and

tailors its program to address those needs.

(ii) The Program Services Division is OGE's primary liaison to ethics officials in executive branch departments and agencies. Through its desk officers, the division assists ethics officials in developing, maintaining and improving all systems within their ethics programs. The division also discloses upon proper request copies of public financial disclosure reports that are filed with OGE, collects semiannual reports of payments accepted under 31 U.S.C. 1353, and works closely with ethics officials to ensure that annual and termination public financial disclosure reports and ethics agreements comply with ethics laws and regulations.

(iii) The Program Review Division monitors compliance with executive branch ethics laws and regulations in executive branch departments and agencies, regional offices, and military bases through on-site ethics program reviews. Reviews are conducted to identify and report strengths and weaknesses of agency ethics programs according to an annual program plan.

(2) In addition to the functions performed by its three divisions, the Office of Agency Programs holds an annual ethics conference and collects annual reports concerning certain aspects of agency ethics programs.

(f) *Office of Administration and Information Management.* The Office of Administration and Information Management provides support to all OGE operating programs through two divisions: The Administration Division and the Information Resources Management Division.

(1) The Administration Division is responsible for personnel, payroll, fiscal resource management, travel, procurement, and the publishing and printing of materials.

(2) The Information Resources Management Division is responsible for telecommunications, graphics, records management, program management of information, and Web site technologies.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Docket No. FV03-925-2 FIR]

Grapes Grown in a Designated Area of Southeastern California; Establishment of Safeguards and Procedures for Suspension of Packing Holidays

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 which established safeguards and procedures for the suspension of packing holidays prescribed under the California grape marketing order (order). The order regulates the handling of grapes grown in a designated area of Southeastern California and is administered locally by the California Desert Grape Administrative Committee (Committee). The procedures and safeguards will be used by the Committee when considering and making decisions on packing holiday suspension requests. Additionally, this rule continues in effect the clarification of existing maturity requirements for Flame Seedless variety grapes and the correction of errors in the regulatory text regarding references to the California Code of Regulations (CCR).

EFFECTIVE DATE: August 14, 2003.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, 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.

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 No. 925 (7 CFR part 925), regulating the

handling of grapes grown in California, hereinafter referred to as the "order." The 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."

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 rule continues in effect established safeguards and procedures for suspension of packing holidays prescribed under the California grape order. The explicitly stated procedures and safeguards will be used for all requests received to suspend packing holidays. Additionally, this rule continues in effect the clarification of existing maturity requirements for Flame Seedless variety grapes and the correction of errors in the regulatory text regarding references to the CCR.

Establishment of Safeguards and Procedures for Suspension of Packing Holidays

Section 925.52(a)(5) of the order's rules and regulations provides authority to establish holidays by prohibiting the packing of all varieties of grapes during a specified period or periods.

Previously, § 925.304(e) of the order's rules and regulations provided that the Committee may suspend the prohibition against packing or repacking grapes on any Saturday, Sunday, or on the Memorial Day or Independence Day holidays of each year, to permit the handling of grapes provided such