

List of Subjects in 5 CFR Part 2635

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

Approved: July 24, 2000.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2635 as follows:

PART 2635—STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

1. 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.

Subpart H—Outside Activities

2. Section 2635.807 is amended by:

- Removing the word “or” at the end of paragraph (a)(2)(iii)(B);

- Removing the period at the end of paragraph (a)(2)(iii)(C) and adding in its place a semicolon followed by the word “or”;

- Adding a new paragraph (a)(2)(iii)(D); and

- Adding a Note and four Examples following new paragraph (a)(2)(iii)(D).

The additions read as follows:

§ 2635.807 Teaching, speaking and writing.

- (a) * * *
- (2) * * *
- (iii) * * *

(D) In the case of an employee other than a covered noncareer employee as defined in 5 CFR 2636.303(a), travel expenses, consisting of transportation, lodgings or meals, incurred in connection with the teaching, speaking or writing activity.

Note to Paragraph (a)(2)(iii): Independent of § 2635.807(a), other authorities, such as 18 U.S.C. 209, in some circumstances may limit or entirely preclude an employee's acceptance of travel expenses.

Example 1 to paragraph (a)(2)(iii): A GS-15 employee of the Forest Service has developed and marketed, in her private capacity, a speed reading technique for which popular demand is growing. She is invited to speak about the technique by a representative of an organization that will be substantially affected by a regulation on land management which the employee is in the process of drafting for the Forest Service. The representative offers to pay the employee a \$200 speaker's fee and to reimburse all her travel expenses. She may accept the travel reimbursements, but not the speaker's fee. The speech is related to her duties under

§ 2635.807(a)(2)(i)(C) and the fee is prohibited compensation for such speech; travel expenses incurred in connection with the speaking engagement, on the other hand, are not prohibited compensation for a career GS-15 employee.

Example 2 to paragraph (a)(2)(iii): Solely because of her recent appointment to a Cabinet-level position, a Government official is invited by the Chief Executive Officer of a major international corporation to attend firm meetings to be held in Aspen for the purpose of addressing senior corporate managers on the importance of recreational activities to a balanced lifestyle. The firm offers to reimburse the official's travel expenses. The official may not accept the offer. The speaking activity is related to duties under § 2635.807(a)(2)(i)(B) and, because she is a covered noncareer employee as defined in § 2636.303(a) of this chapter, the travel expenses are prohibited compensation as to her.

Example 3 to paragraph (a)(2)(iii): A GS-14 attorney at the Federal Trade Commission (FTC) who played a lead role in a recently concluded merger case is invited to speak about the case, in his private capacity, at a conference in New York. The attorney has no public speaking responsibilities on behalf of the FTC apart from the judicial and administrative proceedings to which he is assigned. The sponsors of the conference offer to reimburse the attorney for expenses incurred in connection with his travel to New York. They also offer him, as compensation for his time and effort, a free trip to San Francisco. The attorney may accept the travel expenses to New York, but not the expenses to San Francisco. The lecture relates to his official duties under paragraphs (a)(2)(i)(E)(1) and (a)(2)(i)(E)(2) of § 2635.807, but because he is not a covered noncareer employee as defined in § 2636.303(a) of this chapter, the expenses associated with his travel to New York are not a prohibited form of compensation as to him. The travel expenses to San Francisco, on the other hand, not incurred in connection with the speaking activity, are a prohibited form of compensation. If the attorney were a covered noncareer employee he would be barred from accepting the travel expenses to New York as well as the travel expenses to San Francisco.

Example 4 to paragraph (a)(2)(iii): An advocacy group dedicated to improving treatments with severe pain asks the National Institutes of Health (NIH) to provide a conference speaker who can discuss recent advances in the agency's research on pain. The group also offers to pay the employee's travel expenses to attend the conference. After performing the required conflict of interest analysis, NIH authorizes acceptance of the travel expenses under 31 U.S.C. 1353 and the implementing General Services Administration regulation, 41 CFR part 304-1, and authorizes an employee to undertake the travel. At the conference the advocacy group, as agreed, pays the employee's hotel bill and provides several of his meals. Subsequently the group reimburses the agency for the cost of the employee's airfare and some additional meals. All of the payments by the advocacy group are

permissible. Since the employee is speaking officially and the expense payments are accepted under 31 U.S.C. 1353, they are not prohibited compensation under § 2635.807(a)(2)(iii). The same result would obtain with respect to expense payments made by non-Government sources properly authorized under an agency gift acceptance statute, the Government Employees Training Act, 5 U.S.C. 4111, or the foreign gifts law, 5 U.S.C. 7342.

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[FR Doc. 00-22612 Filed 9-1-00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. FV96-983-1PR;
AO F&V-983-1]

Pistachios Grown in California, Arizona, Nevada, New Mexico, and Utah; Termination of Proceeding on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding.

SUMMARY: This action terminates the proceeding to establish a marketing agreement and order for pistachios grown in California, Arizona, Nevada, New Mexico, and Utah. At the request of the pistachio industry, the Agricultural Marketing Service held a public hearing in August 1996 to receive evidence on a program proposed by the California Pistachio Commission and the Western Pistachio Association. The program would have authorized quality and container requirements and mandatory inspection. Subsequent to the hearing, the proponent industry groups requested that the proceeding be terminated. Given the lack of support for the proposal currently under consideration, the Department is terminating the proceeding.

DATES: The action is terminated as of September 6, 2000.

FOR FURTHER INFORMATION CONTACT: Kurt Kimmel, 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 Anne Dec, 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) 720-5698.

Small businesses may request information on this action 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) 720-5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of hearing issued on July 26, 1996, and published in the **Federal Register** on July 31, 1996 (61 FR 39911).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12866.

This action is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

Preliminary Statement

In January 1996, the California Pistachio Commission (CPC) and the Western Pistachio Association (WPA), representing the U.S. pistachio industry, requested that the Department hold a public hearing to consider a proposed marketing agreement and order for pistachios grown in California, Arizona, Nevada, New Mexico, and Utah. The proposed program would have authorized quality and container requirements and mandatory inspection.

A notice of hearing was published in the **Federal Register** on July 31, 1996. The hearing was held in Fresno, California, August 20 through 23, 1996. At the conclusion of the hearing, the Administrative Law Judge fixed October 31, 1996, as the date for interested parties to file post-hearing briefs. Three briefs were received, all in opposition to the proposed order.

Based on a review of hearing evidence and post-hearing briefs, on April 9, 1997, the Department announced its plans to reopen the hearing to take additional evidence relating to the economic and marketing conditions that justified the need for a pistachio marketing order as well as the economic impact of the proposed order on the industry. We asked for public input on scheduling the hearing by May 9, 1997. On July 22, 1997, the Department extended to September 1, 1997, the period during which it would accept public comment on reopening the hearing. On October 3, 1997, we further extended the comment period until January 31, 1998. No comments were received during the period provided.

On June 22, 2000, the CPC and WPA requested that the proceeding be terminated.

Termination of Proceeding

In view of the above, the proceeding is hereby terminated.

List of Subjects in 7 CFR Part 983

Marketing agreements, Pistachios, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601-674.

Dated: August 28, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00-22577 Filed 9-1-00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 206

[PSA-2000-01-a]

RIN 0580-AA71

Swine Packer Marketing Contracts

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing to amend its regulations to implement the Swine Packer Marketing Contracts subtitle of the Livestock Mandatory Reporting Act of 1999. GIPSA is proposing new regulations to establish a library or catalog of types of swine marketing contracts used by packers to purchase swine and to make information about the types of contracts available to the public. GIPSA is also proposing new regulations to establish monthly reports of estimates of the numbers of swine committed for delivery to packers under types of existing contracts contained in the library or catalog.

DATES: Comments must be received on or before October 5, 2000. Comments on the information collection and recordkeeping requirements must be received on or before November 6, 2000.

ADDRESSES: Send comments to the Deputy Administrator, Packers and Stockyards Programs, GIPSA, USDA, Stop 3641, 1400 Independence Avenue, SW, Washington, DC 20250-3641. Comments may also be sent via facsimile to 202-205-3941 or via e-mail to comments@gipsadc.usda.gov. Please

state that your comment refers to Swine Packer Marketing Contracts (PSA-2000-01-a), RIN 0580-AA71. Comments received may be inspected during normal business hours in the Office of the Deputy Administrator, Packers and Stockyards Programs, room 3039 (same address as listed above).

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Caughlin, Jr., Director, Office of Policy/Litigation Support, (202) 720-6951.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the swine industry has undergone fundamental changes in its structure and marketing practices. In 1998, four firms slaughtered about 55 percent of all swine. On the producer side, about 2000 large swine operations held about 47 percent of the swine inventory and the remaining 96,000 smaller operations held about 53 percent in 1999 based on the December 1999 issue of Hogs and Pigs Report published by the National Agricultural Statistics Service (NASS).

Many packers have entered into private contractual marketing arrangements, especially with larger producers. In the last few years, swine packers have begun procuring the majority of their livestock through such contractual arrangements rather than spot market transactions. With these procurement methods, such as forward contracts, formula pricing, and exclusive purchase agreements, prices and terms of sale are not publicly disclosed. Because prices and terms of sale are not publicly disclosed, these procurement methods make it difficult for producers, particularly smaller ones, to evaluate alternative marketing arrangements. Packers and larger producers have more resources to assemble market and pricing information, putting smaller producers at a disadvantage in negotiating the best possible marketing arrangements for their swine.

In recent years, various industry, trade, and producer groups began to ask State and Federal lawmakers for mandatory reporting of information concerning the availability and terms of these arrangements. Many market participants claimed they were no longer able to obtain information, such as actual purchase prices of swine and other terms of marketing arrangements, on which to base their production and marketing decisions. Many large producers also indicated they were unable to evaluate and compare contracts because of the unknown premium and discount schedules,