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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 731

RIN 3206-AG36

#### Suitability, Personnel Security and Related Programs, Investigations, and Suitability Disqualification Actions

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is adopting as final an interim rule that revoked the section of its interim regulations that established the OPM Review Panel (5 CFR Part 731, subpart E), and issued a new subpart E that spells out procedures for appealing adverse suitability determinations to the Merit Systems Protection Board.

**EFFECTIVE DATE:** October 17, 1994.

**FOR FURTHER INFORMATION CONTACT:** John J. Lafferty, Deputy Associate Director for Investigations, (202) 376-3800.

**SUPPLEMENTARY INFORMATION:** On September 16, 1994, OPM published an interim rule announcing its decision to revoke the section of its interim regulations establishing the OPM Review Panel, thereby abolishing the Review Panel, and promulgating new regulations that provide individuals the opportunity to appeal adverse suitability determinations to the Merit Systems Protection Board (59 FR 47527, September 16, 1994). OPM received no comments in response to this notice.

#### EO 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with EO 12866.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on

a substantial number of small entities because they relate to internal personnel matters within the Federal Government.

#### List of Subjects in 5 CFR Part 731

Administrative practice and procedure, Government employees.

Accordingly, under authority of 5 U.S.C. 3301, the interim rule amending 5 CFR Part 731 published on September 16, 1994 (59 FR 47527), is adopted as final without any changes.

Office of Personnel Management.

**James B. King,**

*Director.*

[FR Doc. 95-6217 Filed 3-13-95; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1209

[FV-92-701FR]

RIN 0581-AA49

#### Mushroom Promotion, Research, and Consumer Information Order

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture is adopting with change as a final rule an interim final rule which specified the general rules and regulations under the Mushroom Promotion, Research, and Consumer Information Order (Order). The interim final rule implemented provisions of the Order concerning the nomination and appointment of members to the Mushroom Council; the preparation and submission of financial statements; the payment of assessments, including the application of late payment and interest charges; the procedures for claiming an exemption from assessments; and the filing of reports.

**EFFECTIVE DATE:** March 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Richard Schultz, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535-S, Washington, D.C. 20090-6456, telephone: (202) 720-5976.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under the Mushroom Promotion, Research, and Consumer

Information Order [7 CFR Part 1209], hereinafter referred to as the Order. The Order is authorized by the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101-6112], hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. Section 1930 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, and industry information organized and operated under the United States or any State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1927 of the Act, a person subject to the Order may file with the Secretary of Agriculture (Secretary) 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 requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition, which will be final if in accordance with the law. The Act provides that the district courts, of the United States in any district in which a person who is a petitioner resides or carries on business, are vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling of the Secretary.

#### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act [5 U.S.C. 601 et seq.] (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The most recent Department estimate of mushroom growers in the United States indicates that there are 355

growers. There are approximately 125 growers who fall under the definition of producer as defined in the Act and are subject to the Order. In addition, there are approximately 100 handlers, including producers who are also handlers, and no more than 5 importers who are subject to the Order.

Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$500,000, and small agricultural service firms, which include mushroom handlers and importers, have been defined as those having annual receipts of less than \$5 million.

While a majority of the handlers and importers who are subject to the Order are classified as small entities, a majority of the producers who are subject to the Order are not so classified.

This action provides for the continuance of provisions implemented in an interim final rule. Generally, producers, first handlers, and importers will be most affected by the provisions on nominating members to the Mushroom Council (Council); paying assessments, including the application of late payment and interest charges; claiming an exemption from assessments; and filing reports.

The nomination procedures specified in this action relate to the conduct of regional caucuses and mail balloting. Although there will be economic costs to persons participating in the nomination process relative to opportunity costs, travel costs, and postage costs, these costs will not be significant relative to the benefits to be gained. These procedures provide an opportunity for persons subject to the Order to nominate individuals and to be nominated as individuals to serve on the Council in an orderly and timely manner.

The procedures for payment of assessments specified in this action relate to the collection and remittance of assessments and the application of late payment and interest charges. Although there will be economic costs to persons subject to the Order relative to opportunity costs, assessment collection costs, and assessment remittance costs, these costs will not be significant relative to the benefits to be gained. These procedures provide such persons with an equitable and practicable framework to collect and remit assessments in an orderly and timely manner.

The exemption procedures specified in this action allow persons not subject to the Order to obtain an exemption from paying assessments or, in the case of importers, a reimbursement for

assessments collected. Although there will be economic costs to persons applying for such exemption or reimbursement relative to opportunity costs and postage costs, these costs will not be significant relative to the benefits to be gained. These procedures provide such persons with a practicable means of obtaining exemptions or reimbursements in an orderly and timely manner.

The filing of reports by persons subject to the Order is required by the Act. The economic costs to persons filing these reports has been reduced to a minimum and, consequently, these costs will not be significant relative to the potential benefits to be gained. These filings are necessary for the effective and efficient administration of the program.

Accordingly, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection requirements contained in this action regarding a nominee background statement form, a first handler's report, an exemption application, and an importer reimbursement application have been approved by the OMB. The first handler's report, the exemption application, and the importer reimbursement application are assigned OMB control number 0581-0093. The nominee background statement form is assigned OMB control number 0505-0001.

#### **Background**

On January 8, 1993, the Order became effective. The Order authorizes the development of a nationally coordinated program of promotion, research, consumer information, and industry information designed to strengthen the mushroom industry's position in the fresh market; maintain and expand existing markets and uses for fresh mushrooms; and develop new markets and uses for fresh mushrooms. The Order is administered by the Council whose members were appointed by the Secretary in June 1993.

An interim final rule was published in the February 11, 1993, issue of the **Federal Register**. The rule provided rules and regulations that were needed to implement provisions of the Order concerning the nomination and appointment of members to the Council; the preparation and submission of financial statements; the payment of

assessments, including the application of late payment and interest charges; the procedures for claiming an exemption from assessments; and the filing of reports.

The interim final rule provided that interested persons could file written comments through May 12, 1993. No written comments were received.

One change is made to the rule by the Department for the purpose of conforming to industry practice.

This change to § 1209.260 of the rule is made to conform with the industry's practice of using a producer's tax identification number rather than farm identification number for reporting purposes. Therefore, a first handler will be required to provide the tax identification number, rather than the farm identification number, of each producer with whom the first handler has dealt with during the reporting period.

It is found that the rules and regulations, as set forth in the February 11 interim final rule and adopted with change by this final rule, will tend to effectuate the declared policy of the Act.

Pursuant to the provisions of 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action continues in effect rules and regulations which were previously implemented on an interim basis, except for one change to conform to industry practice; (2) producers, first handlers, and importers are already aware of this action and will not need any additional time to comply with it; and (3) no useful purpose will be served by a delay of the effective date.

#### **List of Subjects in 7 CFR Part 1209**

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Mushrooms, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR Part 1209 which was published at 58 FR 8194 on February 11, 1993, is adopted as a final rule with the following change:

#### **PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER**

1. The authority citation for Part 1209 continues to read as follows:

**Authority:** 7 U.S.C. 6101-6112.

#### **§ 1209.260 [Amended]**

2. Section 1209.260 is amended by removing the word "farm" and adding in its place "tax".

Dated: March 8, 1995.

**Patricia Jensen,**

*Acting Assistant Secretary, Marketing and Regulatory Programs.*

[FR Doc. 95-6227 Filed 3-13-95; 8:45 am]

BILLING CODE 3410-02-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 50, 55, and 73

RIN 3150-AF18

#### Reduction of Reporting Requirements Imposed on NRC Licensees

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to reduce reporting requirements currently imposed on water-cooled nuclear power reactor, research and test reactor, and nuclear material licensees. This rule reduces the regulatory burden on NRC licensees; and partially implements a recent NRC initiative to revise or eliminate duplicative or unnecessary reporting requirements. The amendments will: Eliminate the current requirement for licensees to submit summary reports of containment leakage rate tests to the NRC (10 CFR Part 50—Appendix J), but preserve the requirements in §§ 50.72 and 50.73 under which licensees currently report any instances of leakage exceeding authorized limits in the technical specifications of the license; revise 10 CFR 55.25 to refer licensees to a similar reporting requirement in 10 CFR 50.74(c) and require notification of operator incapacity only in case of permanent disability or illness; and eliminate the requirement for quarterly submittal of safeguards event logs presently contained in 10 CFR 73.71(c)(2) and Appendix G to Part 73.

**EFFECTIVE DATE:** April 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** Naiem S. Tanius, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-6103.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 7, 1994, the Executive Director for Operations (EDO) sent to the Commission SECY-94-003, "Plan for Implementing Regulatory Review Group Recommendations." The Commission approved these recommendations for reducing regulatory burden on its licensees. This

final rule is one of several rulemakings and other regulatory actions currently being developed by the NRC staff to implement the Regulatory Review Group recommendations to eliminate duplicative or unnecessary reporting requirements. The NRC believes that this action will reduce the regulatory burden on NRC licensees without causing adverse effects on the protection of public health and safety.

On November 2, 1994 (59 FR 54843), the NRC published the notice of proposed rulemaking that reduces reporting requirements on licensees under Parts 50, 55, and 73. Specifically, the proposed amendments were intended to: (1) Eliminate the current requirement for licensees to submit summary reports of containment leakage rate tests to the NRC (10 CFR part 50—appendix J), but preserve the requirements in §§ 50.72 and 50.73 under which licensees currently report any instances of leakage exceeding authorized limits in the technical specifications of the license; (2) revise 10 CFR 55.25 to refer licensees to a similar reporting requirement in 10 CFR 50.74(c) and require notification of operator incapacity only in case of permanent disability or illness; and (3) eliminate the requirement for quarterly submittal of safeguards event logs presently contained in 10 CFR 73.71(c)(2) and Appendix G to Part 73. The public comment period expired December 19, 1994.

#### Analysis of Public Comments on the Proposed Rule

The NRC received seven comments: one from Nuclear Energy Institute (NEI), an organization that represents the nuclear power industry, five from the nuclear power industry, and one from Ohio Citizens for Responsible Energy, Inc. (OCRE). The comments from NEI and the nuclear power industry are supportive of the proposed rule to reduce the reporting requirements. OCRE opposes the proposed rule. However, all commenters believe that elimination of these reports will not adversely impact public health and safety. The following section addresses the public comments received and provides NRC's response to them.

Of the six comments received which favor the proposed rule, several of those endorsing the rule pointed out that the proposed changes eliminate unnecessary or redundant requirements and conserve both NRC and licensee resources. Two of the commenters felt that the NRC should assess additional reporting requirements to determine whether they can be eliminated or reduced in frequency. As discussed in

the background section of this rulemaking, the NRC has underway several regulatory activities to implement the Regulatory Review Group's recommendations to eliminate duplicative or unnecessary reporting requirements. This rulemaking is limited to the requirements set out in the proposed rulemaking.

#### *Licensees do not Need to Assemble the Summary Report*

One commenter from the nuclear power industry states that the requirement to generate but not submit a summary report for the containment leakage tests provides no additional benefit and is an unnecessary burden since the summary report contains data readily available from other sources. The commenter suggests that the requirement to generate the summary report be eliminated.

The NRC disagrees. The NRC believes that the results of containment leakage tests, the licensee analysis verifying the acceptability of the results, as well as any necessary interpretations of the results, is necessary information which might not be documented absent this documentation requirement. Furthermore, the assembly of a summary report will provide access by NRC inspectors and auditors to this information in a more timely fashion.

#### *Public Participation in the NRC Regulatory Process Will Diminish*

OCRE opposes the proposed rule because it believes that adoption of the rule will diminish the public's access to information. OCRE states that the public's health and safety is not the only factor to consider when NRC proposes to eliminate some licensee reports. Access to these reports, OCRE states, is vital for effective public participation in the regulatory process.

To that end, OCRE has filed a petition for rulemaking with the NRC (59 FR 30308, June 13, 1994). The purpose of the petition is to establish public right-to-know provisions which would ensure public access to licensee-held information.

In each case where the NRC considers eliminating a reporting requirement, the NRC first considers the public health and safety impact of the proposed elimination. If there is no direct impact on public health and safety, the NRC also considers the reduced administrative burden on the licensee and the extent to which the proposed elimination will deprive the public of important health and safety information. OCRE's comments have raised the generic issue of the incremental and cumulative effect of this and similar