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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 5 CFR Chapter XXIV

#### 18 CFR Part 3c

RIN 3209-AA15

[Docket No. RM95-1-000; Order No. 589]

### Supplemental Standards of Ethical Conduct for Employees of the Federal Energy Regulatory Commission

Issued August 16, 1996.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for employees of the Commission, including members of the Commission, which supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The supplemental regulations are necessary and appropriate in view of the particular needs of the Commission as a regulatory body with quasi-judicial functions. The supplemental regulations establish prohibitions on holding securities of certain companies substantially affected by Commission regulation and require Commission employees to seek approval from the Designated Agency Ethics Officer of the Commission (DAEO) prior to engaging in certain outside activities. The supplemental regulations also require employees to document recusals in writing. The Commission is also repealing its existing standards of conduct and inserting in their place a cross-reference to other ethics regulations, and a provision establishing standards of cooperation with the Inspector General.

**EFFECTIVE DATE:** These regulations take effect August 23, 1996.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Arnold, Office of the General Counsel, General and Administrative Law, Room 91-18, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426; telephone 202-208-0457.

#### SUPPLEMENTARY INFORMATION:

##### Availability of Documents

In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Washington, D.C. 20426.

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#### I. Background

On August 7, 1992, OGE published new Standards of Ethical Conduct for Employees of the Executive Branch (Standards). See 57 FR 35006-35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, with additional grace period extensions at 59 FR 4779-4780, 60 FR 6390-6391, and 60 FR 66857-66858. Codified at 5 CFR part 2635, the new Standards became effective on February 3, 1993, superseding most agency-specific standards of conduct on that date.

In February 1993, the Commission repealed portions of its standards of conduct regulations that were superseded by OGE's Standards. 58 FR 7486. The repealed sections included most of the Commission's conflict of interest and ethical conduct regulations, and provisions relating to the reporting of outside employment and financial interests. The Commission retained for a temporary OGE-approved period its preexisting prohibition against the ownership or purchase of the securities of jurisdictional companies. The Commission also retained on the basis of independent statutory authority provisions barring the disclosure of audit information and information relating to the nature and timing of future Commission action.

With the concurrence of OGE, agencies are authorized to publish agency-specific supplemental regulations that are necessary to implement properly their respective ethics programs. The Commission, with OGE's concurrence, has determined that the following supplemental regulations, to be codified in part 3401 of new chapter XXIV of 5 CFR, are necessary and appropriate to the successful implementation of the Commission's ethics program. By this rulemaking, the Commission is also revising its own regulations at 18 CFR part 3c to delete the conflicts of interest provision being superseded by the new supplemental regulations and to establish standards of cooperation with the Inspector General.

The Commission is issuing these regulations pursuant to its authority as an independent regulatory body within the Department of Energy (DOE). The

Energy Department published its own supplemental regulations in the Federal Register on July 5, 1996, which are not applicable to Commission employees. See 61 FR 35085-35088. The Commission has the statutory responsibility to manage its own operations, including the supervision of its staff. Its officers and employees, in the performance of their functions, are not responsible or subject to the supervision of any officer or employee of any other part of DOE. 42 U.S.C. 7171. The Commission is authorized to prescribe rules, regulations and policy statements, including such procedural and administrative rules as are necessary to the exercise of its functions, and is issuing these regulations, with the concurrence of OGE, pursuant to its authority to do so, independent of DOE. 42 U.S.C. 7171(f) and 7172(h).

## II. Analysis of the Regulations

### *Section 3401.101 General*

Section 3401.101 explains that the regulations contained in the rule apply to all Commission employees, which include members of the Commission, and are supplemental to the Standards. It also notes that employees are required to comply with 5 CFR part 2635, the executive branch financial disclosure regulations at 5 CFR part 2634, additional rules of conduct published in 5 CFR part 735, and the Commission's Standards of Conduct at 18 CFR part 3c.

### *Section 3401.102 Prohibited Financial Interests*

The Standards at 5 CFR 2635.403(a), provide that individual agencies may adopt supplemental regulations prohibiting or restricting employees from acquiring or holding certain financial interests or classes of financial interests if the acquisition or holding would cause a reasonable person to question the impartiality with which the agency's programs are administered. Where it is necessary to the efficiency of the service, such prohibitions may be extended to employees' spouses and minor children.

Under 18 CFR part 3c, the Commission has long prohibited employees, their spouses and minor children, from owning the securities of certain entities directly or indirectly subject to the jurisdiction of the Commission. The Commission has determined that a supplemental regulation is needed to retain the general prohibition against financial holdings in those companies that are substantially affected by Commission regulation in order to protect the

integrity of the Commission's programs and processes. New section 3401.102 is generally similar to the Commission's prior prohibition and identifies the types of entities the securities of which employees are prohibited from holding or acquiring. The restrictions also will help to maintain public confidence that sensitive information relating to agency operations is not misused for private gain and will help accomplish the Commission's mission by avoiding widespread disqualification of employees from the performance of their official duties.

The Commission has determined that application of the securities restrictions in § 3401.102 to spouses and minor children is necessary to avoid interference with the ability of employees to do their jobs, which must be performed with impartiality, and to enable the Commission to carry out its mission effectively. As evidence by provisions long included in 18 CFR part 3c, the Commission believes it is important to the success of its mission for regulated entities and others affected by agency decisions to have this additional degree of assurance that agency decisions are not influenced by considerations of personal gain on the part of Commission personnel.

The DAEO will compile annually a Prohibited Securities List (PSL) cataloguing the financial interests that employees may not own. The PSL is intended to serve as a reference source to assist employees in identifying prohibited interests. Whether or not a holding is included in the PSL is not conclusive as to its status as a prohibited holding.

Section 3401.102(b) gives the DAEO authority to grant a written waiver of the application of § 3401.102(a) based upon a determination that the waiver is not inconsistent with law and the executive branch-wide Standards and meets the waiver standard established in § 3401.102(b). An employee may be required under the waiver to disqualify himself or herself from a particular matter or take other appropriate action.

The waiver provision is intended, in appropriate cases, to ease the burden that the prohibited financial interests section may impose on the private lives of Commission employees, while ensuring that employees do not engage in actions that may interfere with the objective and impartial execution of their official duties or raise questions about possible misuse of their official positions.

### *Section 3401.103 Procedures for Accomplishing Disqualification*

Section 3401.103 requires that where employees disqualify themselves from a particular matter before the Commission, whether because of a conflicting financial interest, a question of the employee's impartiality, or because the employee is seeking employment with a person who could be affected by the performance of the employee's duties, written notification of the recusal must be provided to a supervisor and the ethics officer. Under the executive branch-wide Standards, employees who become aware of the need to disqualify themselves from participation in a particular matter to which they have been assigned should notify the person responsible for the assignment. An employee is not required under those Standards to file a written disqualification statement unless asked by an agency ethics official or the person responsible for the assignment to file a written disqualification statement. 5 CFR 2635.402(c), 2635.502(e), and 263.604.

The Commission has determined that where a disqualification is necessary, a written record of the recusal is required to protect both the disqualified employee and the Commission. A written recusal statement avoids possible questions about the scope and terms of the recusal and ensures that the agency will be able to provide adequate staffing for the matter from which the employee is recused. The Commission has in the past requested written notifications of recusal for members of the staff. Accordingly, a written notification requirement is being included in these supplemental regulations. The written notification provision contained in § 3401.103 is not applicable to members of the Commission, who have no supervisors, and who indicate their nonparticipation in public matters on the public record. In practice, such matters comprise the vast majority of items that came before the Commission.

The supplemental rule merely establishes disqualification procedures when recusal is otherwise appropriate. It establishes no independent standards as to when recusal is necessary. Moreover, it is not the Commission's purpose to impose a technical requirement that would result in disciplining an employee for failure to provide written notice by some arbitrary deadline. Thus, the notice requirement imposed by this regulation is phrased to give an employee flexibility in determining precisely when to give notice of disqualification from a matter

to which the employee has been assigned. Notice is to be given when the employee becomes aware of the need to disqualify himself from participation in the matter. In no way does the notice requirement affect the employee's obligation not to participate in the matter.

#### *Section 3401.104 Prior Approval for Outside Employment*

Under 5 CFR 2635.803, an agency that determines it is necessary or desirable for the purpose of administering its ethics program may, by supplemental regulation, require its employees to obtain written approval before engaging in outside employment. The Commission's conduct regulations at 18 CFR part 3c, prior to the repeal of portions of the regulations following the effective date of the Standards, required prior notification of all proposed outside employment, and was, in essence a prior approval requirement. The Commission has determined to reinstitute a narrower version of the advance notification requirement in the form of a prior approval requirement. The Commission does not believe there is a need for a general requirement of prior approval for all outside employment. However, in order to protect the interests of the Commission by ensuring that employees are not engaged in activities that are prohibited by statute or Federal regulation, including 5 CFR part 2635, the Commission has determined that it is necessary to the administration of its ethics programs to require Commission employees to obtain written approval before accepting outside employment with a prohibited source. Therefore, § 3401.104(a) of this supplemental rule requires that a FERC employee who wishes to engage in outside employment with a prohibited source must obtain prior written approval from the DAEO through normal supervisory channels before engaging in such outside employment. Prohibited sources include, for example, entities regulated by the Commission, parties to Commission proceedings, and contractors doing business or seeking to do business with the Commission.

This prior approval requirement applies to outside employment concurrent with Commission employment. The requirement does not apply to employment that will be engaged in after an employee terminates Federal service. Standards governing post-employment conflicts of interest are found at 18 U.S.C. 207 and 5 CFR part 2641. Nor will the prior approval requirement apply to negotiations for employment. The standards governing

such negotiations are at 18 U.S.C. 208(a) and subpart F of 5 CFR part 2635. The prior approval requirement does not apply to special Government employees.

To ensure that § 3401.104 is not itself construed as authority to deny permission to engage in outside employment, paragraph (b) states that approval shall be granted unless a determination is made that the outside employment is expected to involve conduct prohibited by statutes or Federal regulation, including 5 CFR part 2635.

At § 3401.104(c), "employment" is broadly defined to cover any form of compensated non-Federal employment or business relationship or activity involving the provision of personal service by the employee. "Compensation" is defined to exclude actual and necessary expenses incurred by the employee in connection with the outside activity.

#### III. Repeal and Revision of the Commission's Standards of Conduct for Employees

The final rule repeals those portions of the regulations at 18 CFR 3c governing Commission employees' responsibilities and conduct that were preserved pending issuance of the final rule.

These repeals leave in 18 CFR part 3c and redesignate those provisions that the Commission has authority to issue independent of 5 CFR part 2635. The prohibition against the disclosure of audit materials merely summarizes statutory provisions in section 301(b) of the Federal Power Act (16 U.S.C. 825(c)) and section 8(b) of the Natural Gas Act (15 U.S.C. 717g). The requirement that Commission employees must treat information about proposed Commission action as confidential is a designation of covered information as confidential that is not inconsistent with 5 CFR part 2635 and which the agency is free to promulgate apart from the supplemental regulations. The provision is founded on the Commission's statutory authority to adopt such procedural and administrative rules as are necessary to exercise its functions. 42 U.S.C. 7171(f). These provisions are being redesignated as § 3c.2 and will follow a new § 3c.1 which provides a cross-reference to ethics and other conduct-related regulations.

Section 3c.3 assists employees in adhering to the general principle of ethical conduct at 5 CFR 2635.101(b)(11), under which an employee shall disclose waste, fraud, abuse, and corruption to appropriate authorities. It identifies the Inspector

General as an authority to which it would be appropriate for an employee to disclose waste, fraud, abuse and corruption, and requires employees to cooperate with official inquiries by the Inspector General. 5 U.S.C. app., sections 2 and 6. This section is adopted at the request of the Inspector General and replaces a similar provision formerly applicable both to DOE and the Commission. 10 CFR 1010.217.

The separate conflict of interest provisions applicable to "supervisory employees" of DOE and the Commission under Title VI of the Department of Energy Organization Act have been repealed by Congress. See National Defense Authorization Act for Fiscal Year 1996, Public Law 104-106, section 4304(b)(6), 110 Stat. 642. The implementing DOE regulations, which were applicable to the Commission, have also been repealed. See 61 FR 5085. Accordingly, those provisions are no longer in effect and are not being included in 18 CFR part 3c.

#### IV. Matters of Regulatory Procedure *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601-612) generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission certifies that, pursuant to section 605(b) of the RFA, this rule will not have a significant economic impact on a substantial number of small entities. This is a procedural rule affecting Federal employees and their immediate families. It does not impact small entities as defined in the RFA.

#### *Environmental Impact*

The Commission concludes that issuance of this rule would not represent a major Federal action having a significant adverse effect on the human environment under the Commission regulations implementing the National Environmental Policy Act (see 18 CFR part 380). This rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required. See 18 CFR 380.4(a)(1).

#### *Paperwork Reduction Act Statement*

The Paperwork Reduction Act of 1995 (Pub. L. 104-13, 109 Stat. 163 (1995)) and the Office of Management and Budget's (OMB's) regulations (5 CFR part 1320) require that OMB approve certain information collection

requirements imposed by agency rule. However, this rule contains no information collection requirements and therefore is not subject to OMB approval.

#### *Administrative Procedure Act*

The Administrative Procedure Act (APA) (5 U.S.C. 551-559) requires rulemakings to be published in the Federal Register. The APA generally mandates that an opportunity for comment be provided when an agency promulgates regulations. Notice and comment are not required, however, where a rule relates to agency personnel or agency organization, procedure or practice or when the "agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest" (5 U.S.C. 553 (a)(2) and (b)(3)).

The Commission finds that notice and comment are unnecessary for this rulemaking. The rulemaking concerns agency personnel and agency organization, procedure, and practice, and for the most part, restates provisions previously contained in earlier Commission ethics rules or internal administrative requirements or DOE regulations applicable to FERC. The Commission, therefore, finds good cause in accordance with 5 U.S.C. 553(d)(3) to make these rules effective upon publication in the Federal Register.

#### *Congressional Notification*

The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain final rules prior to their effective dates. 5 U.S.C. 801. That reporting requirement does not apply to this final rule because it falls within a statutory exception for rules relating to agency management or personnel. 5 U.S.C. 804(3)(B).

#### List of Subjects

##### *5 CFR Part 3401*

Conflict of interests, Government employees, Standards of conduct.

##### *18 CFR Part 3c*

Government employees, Standards of conduct.

Adopted: August 9, 1996.

By the Commission.  
Lois D. Cashell,  
*Secretary, Federal Energy Regulatory Commission.*

Approved: August 15, 1996.

Marilyn L. Glynn,  
*Deputy General Counsel, Office of Government Ethics.*

For the reasons set forth in the preamble, the Commission, with the concurrence of the Office of Government Ethics, is amending title 5 and title 18, chapter I of the Code of Federal Regulations as set forth below.

#### **Title 5—[Amended]**

1. A new chapter XXIV, consisting of part 3401, is added to title 5 of the Code of Federal Regulations to read as follows:

#### **CHAPTER XXIV—FEDERAL ENERGY REGULATORY COMMISSION**

#### **PART 3401—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL ENERGY REGULATORY COMMISSION**

Sec.

3401.101 General.

3401.102 Prohibited financial interests.

3401.103 Procedures for accomplishing disqualification.

3401.104 Prior approval for outside employment.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 42 U.S.C. 7171, 7172; 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; 5 CFR 2635.105, 2635.402(c), 2635.403, 2635.502(e), 2635.604, 2635.803.

##### **§ 3401.101 General.**

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Federal Energy Regulatory Commission (Commission) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the standards in 5 CFR part 2635 and this part, employees are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2634, additional regulations on responsibilities and conduct at 5 CFR part 735, and Commission specific provisions contained in 18 CFR part 3c.

##### **§ 3401.102 Prohibited financial interests.**

(a) *General prohibition.* Except as provided in paragraphs (b) and (c) of this section, an employee, or the spouse or minor child of an employee, shall not acquire or hold any securities of:

- (1) A natural gas company;
- (2) An interstate oil pipeline;

(3) A hydroelectric licensee or exemptee;

(4) A public utility;

(5) Any electric utility engaged in the wholesale sale or transmission of electricity or having obtained an interconnection or wheeling order under Part II of the Federal Power Act; or

(6) The parent company of an entity identified in paragraphs (a)(1) through (a)(5) of this section.

(b) *Waiver.* The DAEO may grant a written waiver from this section based on a determination that the waiver is not inconsistent with part 2635 of this title or otherwise prohibited by law and that, under the particular circumstances, application of the provision is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Commission programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

(c) *Definitions.* For purposes of this section:

(1) The term *securities* includes all interests in debt or equity instruments. The term includes, without limitation, secured and unsecured bonds, debentures, notes, securitized assets, and commercial paper, as well as all types of preferred and common stock. The term encompasses both current and contingent ownership interests, including any beneficial or legal interest derived from a trust. It extends to any right to acquire any long or short position in such securities and includes, without limitation, interests convertible into such securities, as well as options, rights, warrants, puts, calls and straddles with respect thereto. It does not include an interest in a publicly traded or publicly available mutual fund or other collective investment fund, or in a widely held pension or similar fund, provided that the fund's prospectus does not indicate the objective or practice of concentrating its investments in entities identified in paragraphs (a)(1) through (a)(6) of this section, and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund.

(2) The term *parent* means a company that possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an entity identified in paragraphs (a)(1) through (a)(5) of this section.

**§ 3401.103 Procedures for accomplishing disqualification.**

(a) An employee, other than a member of the Commission, who is required, in accordance with 5 CFR 2635.402(c), 2635.502(e), or 2635.604(a), to disqualify himself from participation in a particular matter before the Commission shall provide written notice of disqualification to his supervisor and to the DAEO when he becomes aware of the need to disqualify himself from participation in the matter. This procedure is required notwithstanding the guidance in 5 CFR 2635.402(c)(2), 2635.502(e)(2), and 2635.604(c).

(b) An employee may withdraw written notice under paragraph (a) of this section upon determining that disqualification from participation in the matter is no longer required. A withdrawal of disqualification shall be in writing and shall be provided to the employee's supervisor and to the DAEO.

**§ 3401.104 Prior approval for outside employment.**

(a) *Prior approval requirement.* An employee, other than a special Government employee, must obtain written approval from the DAEO through normal supervisory channels before engaging in outside employment with any person who is a "prohibited source" as that term is defined at 5 CFR 2635.203(d).

(b) *Approval of requests.* Approval under this section shall be denied only upon a determination by the DAEO that the outside activity is expected to involve conduct prohibited by statute or Federal regulations, including 5 CFR part 2635.

(c) *Definitions.* For purposes of this section, "employment" means any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for compensation other than reimbursement of actual and necessary expenses. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee.

**Title 18—[Amended]****CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION**

2. Part 3c of 18 CFR is revised to read as follows:

**PART 3c—STANDARDS OF CONDUCT****Sec.**

3c.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

3c.2 Nonpublic information.

3c.3 Reporting fraud, waste, abuse, and corruption and cooperation with official inquiries.

Authority: 15 U.S.C. 717g; 16 U.S.C. 825(b); 42 U.S.C. 7171, 7172.

**§ 3c.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.**

Employees of the Federal Energy Regulatory Commission (Commission) are subject to the executive branch-wide financial disclosure regulations at 5 CFR part 2634, the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the Commission regulations at 5 CFR part 3401 which supplement the Standards of Ethical Conduct, and the executive branch-wide employee responsibilities and conduct regulation at 5 CFR part 735.

**§ 3c.2 Nonpublic information.**

(a) Section 301(b) (16 U.S.C. 825(b)) of the Federal Power Act and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act prohibit any employee, in the absence of Commission or court direction, from divulging any fact or information which may come to his or her knowledge during the course of examination of books or other accounts.

(b) The nature and time of any proposed action by the Commission are confidential and shall not be divulged to anyone outside the Commission. The Secretary of the Commission has the exclusive responsibility and authority for authorizing the initial public release of information concerning Commission proceedings.

**§ 3c.3 Reporting fraud, waste, abuse, and corruption and cooperation with official inquiries.**

(a) Employees shall, in fulfilling the obligation of 5 CFR 2635.101(b)(11), report fraud, waste, abuse, and corruption in Commission programs, including on the part of Commission employees, contractors, subcontractors, grantees, or other recipients of Commission financial assistance, to the Office of Inspector General or other appropriate Federal authority.

(b) All alleged violations of the ethical restrictions described in § 3c.1 that are reported in accordance with paragraph (a) of this section to an appropriate authority within the Commission shall in turn be referred by that authority to the Designated Agency Ethics Official or his or her designee, or the Inspector General.

(c) Employees shall cooperate with official inquiries by the Inspector General; they shall respond to questions truthfully under oath when required, whether orally or in writing, and must

provide documents and other materials concerning matters of official interest. An employee is not required to respond to such official inquiries if answers or testimony may subject the employee to criminal prosecution.

[FR Doc. 96-21412 Filed 8-22-96; 8:45 am]

BILLING CODE 6717-01-M

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 958**

[Docket No. FV96-958-2 FIR]

**Idaho-Eastern Oregon Onions; Assessment Rate**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, with a correction, the provisions of an interim final rule that established an assessment rate for the Idaho-Eastern Oregon Onion Committee (Committee) under Marketing Order No. 958 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**DATES:** Effective on July 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, FAX 202-720-5698, or Robert J. Curry, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724, FAX 503-326-7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-2491, FAX 202-720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 130 and Order No. 958, both as