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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206-A125

Voluntary Early Retirement Authority; Correction

AGENCY: Office of Personnel Management.

ACTION: Interim rule; correction.

SUMMARY: The Office of Personnel Management (OPM) is correcting the date section of an interim rule published October 4, 1999 (64 FR 53581), and the technical amendment to those interim regulations issued December 27, 1999 (64 FR 72256) to indicate that the correct effective date is October 1, 1999. The interim rule and technical amendment did not correctly state the effective date of two sections and failed to remove the sunset date. This document corrects that error.

DATES: These regulations are effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Gray at (202) 606-0960, FAX (202) 606-2329, e-mail cwgray@opm.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 1999, OPM published interim regulations (64 FR 53581) which amended 5 CFR 831.114 and 842.213 consistent with the section 651, Public Law 106-58 (113 Stat. 430, September 29, 1999). The October 4, 1999, interim regulations were published to remove the September 30, 1999, expiration date included in 5 CFR 831.114 and 842.213, allowing continuity of operation of the voluntary early retirement program as provided by Public Law 106-58.

However, because these regulations were published with an effective date after October 1, 1999 (*i.e.*, October 4,

1999), the interim regulations did not effectively remove the sunset date. This document corrects that error and ensures continuity of operations of voluntary early retirement regulations, programs, and authorities.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations only affect Federal employees.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30 days. The general notice of proposed rulemaking and delay in the effective date are being waived because the corrected effective date for these interim regulations allows OPM to fully implement statutory language in Sec. 651 of Public Law 106-58 governing voluntary early retirements which was effective May 1, 1998, and to give full effect to benefits extended by that statute.

In interim rule FR Doc. 99-25707 published October 4, 1999 (64 FR 53581), make the following correction:

1. The **DATES** section is revised to read as follows:

DATES: Effective October 1, 1999. This regulation removes the sunset dates for §§ 831.114 and 842.213. Comments must be received by December 3, 1999.

In interim rule FR Doc. 99-33365 published December 27, 1999 (64 FR 72256), make the following correction:

1. The **DATES** section is revised to read as follows:

DATES: These regulations are effective October 1, 1999.

U.S. Office of Personnel Management.

Janice R. Lachance,
Director.

[FR Doc. 00-1060 Filed 1-13-00; 8:45 am]

BILLING CODE 6325-01-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV99-966-1 FIR]

Tomatoes Grown in Florida; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the Florida Tomato Committee (Committee) for the 1999-2000 and subsequent fiscal periods from \$0.03 per 25-pound container to \$0.025 per 25-pound container of tomatoes handled. The Committee is responsible for local administration of the marketing order which regulates the handling of tomatoes grown in Florida. Authorization to assess tomato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: February 14, 2000.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883-2276; telephone: (863) 299-4770, Fax: (863) 299-5169; or George Kelhart, Technical Advisor, 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 complying with this regulation 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: This rule is issued under Marketing Agreement

No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Florida tomatoes beginning August 1, 1999, and continue until amended, suspended, or terminated. 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 the 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 request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary 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 the Secretary'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 to decrease the assessment rate established for the Florida Tomato Committee for the 1999-2000 and subsequent fiscal periods from \$0.03 per 25-pound container to \$0.025 per 25-pound container of tomatoes.

The Florida tomato marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate

budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996-97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on September 10, 1999, and unanimously recommended 1999-2000 expenditures of \$2,088,900 and an assessment rate of \$0.025 per 25-pound container of tomatoes. In comparison, last year's budgeted expenditures were \$1,926,000. The assessment rate of \$0.025 is \$0.005 lower than the rate previously in effect. For the previous fiscal period (1998-99), the Committee had planned to use funds from its authorized reserves to cover some of its approved expenses. The reserve fund was larger than the Committee believed it needed for program operations. However, there was a larger than expected supply of assessable tomatoes during 1998-99, and instead of the reduction, the amount in the reserve fund increased. In another effort to reduce the amount in the reserve fund, the Committee unanimously recommended reducing the assessment rate and using reserve funds to pay some of its operating expenses during 1999-2000.

The major expenditures recommended by the Committee for the 1999-2000 fiscal period include \$436,000 for salaries, \$241,000 for research, \$1,000,000 for education and promotion, and \$150,000 for Market Assess Program export promotion. Budgeted expenses for these items in 1998-99 were \$364,000, \$212,000, \$900,000, and \$200,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes. Tomato shipments for the year are estimated at 50,000,000 25-pound containers which should provide \$1,250,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently \$1,879,557) will be kept within the maximum permitted by the order (\$966.44; approximately one fiscal period's expenses).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1999-2000 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 75 producers of tomatoes in the production area and approximately 65 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Based on industry and Committee data for the 1998-99 season, the average annual f.o.b. price for fresh Florida tomatoes during the 1998-99 season was around \$7.17 per 25-pound container, and total fresh shipments for the 1998-99 season approximated 56.7 million 25-pound containers of tomatoes. Committee data indicates that approximately 20 percent of the Florida

handlers handle 80 percent of the total volume shipped outside the regulated area. Based on this information, the shipment information for the 1998–99 season, and the 1998–99 season average price, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes also may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from \$0.03 per 25-pound container to \$0.025 per 25-pound container of tomatoes. The Committee unanimously recommended 1999–2000 expenditures of \$2,088,900 and an assessment rate of \$0.025 per 25-pound container. The assessment rate of \$0.025 is \$0.005 lower than the 1998–99 rate. The quantity of assessable tomatoes for the 1999–2000 season is estimated at 50,000,000 25-pound containers. Thus, the \$0.025 rate should provide \$1,250,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 1999–2000 year include \$436,000 for salaries, \$241,000 for research, \$1,000,000 for education and promotion, and \$150,000 for Market Assess Program export promotion. Budgeted expenses for these items in 1998–99 were \$364,000, \$212,000, \$900,000, and \$200,000, respectively.

For the 1998–99 fiscal period, the Committee decided to use reserve funds to cover some of its authorized expenses. The reserve fund was larger than the Committee believed it needed for program operations. However, there was a larger than expected supply of assessable tomatoes in 1998–99, and instead of the anticipated reduction, the amount in the reserve fund increased. In another effort to reduce the amount in the reserve fund, the Committee unanimously recommended reducing the assessment rate. The funds collected from assessments, along with money from the reserve fund will be adequate to cover the Committee's expenditures for the 1999–2000 fiscal year. Pursuant to § 966.44, the Committee is authorized to maintain an operating reserve not to exceed approximately one fiscal period's expenses.

The Committee reviewed and unanimously recommended 1999–2000 expenditures of \$2,088,900 which included increases in salaries, research, and education and promotion programs.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, Finance Subcommittee, Research Subcommittee, and Education and Promotion Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the Florida tomato industry. The assessment rate of \$0.025 per 25-pound container of assessable tomatoes was then determined by dividing the total recommended budget by the quantity of assessable commodity, estimated at 50,000,000 25-pound containers for the 1999–2000 fiscal period. This is approximately \$624,900 below the anticipated expenses, which the Committee determined to be acceptable as a means of reducing its operating reserves.

A review of historical information and preliminary information pertaining to the 1999–2000 fiscal period indicates that the grower price for 1999–2000 could range between \$6.09 and \$9.70 per 25-pound container of tomatoes. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue could range between .26 and .41 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 10, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on October 25, 1999 (64 FR

57361). Copies of that rule were also mailed or sent via facsimile to all tomato handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on December 27, 1999, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

Tomatoes Grown in Florida

Accordingly, the interim final rule amending 7 CFR part 966 which was published at 64 FR 57361 on October 25, 1999, is adopted as a final rule without change.

Dated: January 10, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–978 Filed 1–13–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 312, 327, 350, and 381

[Docket No. 96–037C]

Sanitation Requirements for Official Meat and Poultry Establishments; Technical Corrections

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains five technical corrections to the final regulations governing sanitation in official meat and poultry establishments, published on October 20, 1999, in the **Federal Register** (64 FR 56400). The corrections prevent