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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

5 CFR Chapter LXII

29 CFR Parts 1600 and 1650

RIN 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission

AGENCY: Equal Employment Opportunity Commission (EEOC or Commission).

ACTION: Interim rule with request for comments.

SUMMARY: The Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics (OGE), is issuing a regulation for employees of EEOC that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The EEOC is also repealing its existing agency standards of conduct regulations that have been superseded by OGE's Standards of Ethical Conduct, OGE's financial disclosure regulation and this interim rule.

DATES: This rule is effective on February 26, 1996. Written comments on the interim rule must be received on or before April 26, 1996.

ADDRESSES: Comments should be submitted to the Office of the Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's Library, room 6502, 1801 L Street, NW., Washington, DC between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Associate Legal Counsel, Thomas J. Schlageter, Assistant Legal Counsel, or Kathleen Oram,

Senior Attorney, at (202) 663-4669 or TDD (202) 663-7026. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to EEOC's Publications Center at 1-800-669-3362.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) for codification at 5 CFR part 2635. See 57 FR 35006-35067, as corrected at 57 FR 48557 and 57 FR 52583 with an additional grace period extension at 59 FR 4779-4780. The Standards, effective February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel.

Section 2635.105 of the uniform Standards authorizes agencies, with the concurrence of OGE, to publish agency-specific supplemental regulations that are necessary to properly implement their respective ethics programs. The Commission, with OGE's concurrence, has determined that the following interim supplemental rule is necessary for successful implementation of its ethics program.

II. Analysis of the Regulations

Section 7201.101 General

Section 7201.101 explains that the regulations apply to all employees of the EEOC, including members of the Commission and the General Counsel, and that they supplement the OGE Standards.

Section 7201.102 Prohibited Outside Employment

5 CFR 2635.802 provides that an employee shall not engage in outside employment if it is prohibited by agency supplemental regulation. The Commission is issuing § 7201.102 as a supplemental regulation. This section details three categories of prohibited outside employment for EEOC employees. First, the section prohibits EEOC employees from engaging in any outside employment with persons currently and substantially affected by the employee's performance of his or her official duties because the person is a party or representative of a party to a

particular matter involving specific parties. This provision prohibits employees from working for a charging party, respondent, or attorney representing either. Second, the section prohibits EEOC employees from receiving any compensation for representational services or the rendering of advice or analysis regarding any equal employment law or its application. Finally, the section prohibits EEOC employees from engaging in outside employment involving any particular matter pending at EEOC or any equal employment opportunity case in which EEOC or the Federal government is a party. This final prohibition is not intended to prevent EEOC employees from providing behind-the-scenes assistance (e.g., conducting legal research, drafting documents, giving advice or other non-advocacy work) to immediate family members in matters pending at EEOC or any equal employment opportunity case in which EEOC or the Federal government is a party. The Commission has determined that these three prohibitions, which are similar to prohibitions that have applied to EEOC employees under superseded 29 CFR 1600.735-204, will help to ensure that reasonable persons will not question the impartiality and objectivity of EEOC's employees.

While the second and third prohibitions of this section do not apply to special Government employees, the prior approval section discussed below does apply to them. This acknowledges the transitory or part-time nature of the service special Government employees provide EEOC, but also enables EEOC to carefully review all outside employment interests of special Government employees on a case-by-case basis to ensure that violations of applicable statutes and regulations do not occur.

Section 7201.103 Prior Approval for Outside Employment

Under 5 CFR 2635.803, agencies may, by supplemental regulation, require employees to obtain prior approval before engaging in outside employment or activities. Under superseded 29 CFR 1600.735-204, the Commission has had a requirement for prior approval of compensated and other outside employment activities. Because this requirement has helped to ensure that employees' outside activities conform to

applicable statutes and regulations, the Commission will continue to require prior approval. Section 7201.103 provides that an EEOC employee, including a special Government employee, must obtain advance written approval from his or her Deputy Ethics Counselor or designee before engaging in any outside employment. In addition to that approval, employees must also obtain prior written approval from the Designated Agency Ethics Official or designee to engage in compensated outside employment, the uncompensated practice of law or uncompensated outside employment that involves representational services or the rendering of advice or analysis regarding any equal employment law, or to serve as an officer or director of an organization whose activities are devoted substantially to equal employment opportunity matters.

"Employment" is broadly defined in § 7201.103(d) to cover any form of non-Federal employment or business relationship involving the provision of personal services, including writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organizations, unless such activities involve the provision of professional services or advice, are for compensation other than reimbursement of expenses, or the organization's activities are devoted substantially to matters relating to equal employment law and the employee will serve as officer or director of the organization.

Section 7201.103(c) provides that approval will not be granted if the outside employment is expected to involve conduct inconsistent with or prohibited by any statute or federal regulation, including 5 CFR part 2635 and these supplemental regulations.

III. Repeal and Redesignation of Portions of the EEOC Conduct Regulations and Related Modifications

The Commission is replacing its existing standards of conduct regulations at 29 CFR part 1600 and replacing them with a cross-reference to 5 CFR parts 2634 and 2635 and to the supplemental regulations at 5 CFR part 7201 adopted by this interim rule. With the exception of subpart E and the material that was preserved pending the issuance of this interim rule by the notes following 5 CFR 2635.403(a) and 2635.803, part 1600 was superseded by OGE's two executive branch-wide regulations, the Standards of Ethical

Conduct for Employees of the Executive Branch, 5 CFR part 2635, and Financial Disclosure, Qualified Trusts, and Certificates of Divestiture For Executive Branch Employees, 5 CFR part 2634. See 57 FR 11800-1130, as amended at 57 FR 21854-21855 and 57 FR 62605. EEOC is redesignating subpart E of part 1600, Procedures for the Collection of Debts by Salary Offset, as subpart A of 29 CFR part 1650.

IV. Matters of Regulatory Procedure

The Commission has determined that these rules relate solely to agency organization, procedure and practice. In addition, similar rules have been applicable to Commission employees under EEOC's superseded standards of conduct contained at 29 CFR part 1600. Therefore, the requirements of the Administrative Procedure Act are not applicable. EEOC is publishing its supplemental ethics regulation as an interim rule to effect a smooth transition from its standards of conduct to OGE's Government-wide standards of conduct regulation.

In promulgating this interim rule, the Commission 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. This regulation has not been reviewed by the Office of Management and Budget under that Executive order as it deals with agency organization, management, and personnel matters and is not, in any event, deemed "significant" thereunder. As required by the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this interim rule will not have a significant impact on small business entities. In addition, the Commission has determined that this interim rule does not impose any information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects

5 CFR Part 7201

Conflict of interests, Government employees.

29 CFR Part 1600

Conflict of interests, Government employees.

29 CFR Part 1650

Debt collection.

Dated at Washington, DC, this 8th day of February 1996.

For the Equal Employment Opportunity Commission.

Gilbert F. Casellas,
Chairman.

Approved: February 16, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and title 29, chapter XIV, of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

1. A new chapter LXII, consisting of part 7201, is added to Title 5 of the Code of Federal Regulations to read as follows:

5 CFR Chapter LXII—Equal Employment Opportunity Commission

PART 7201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sec.

7201.101 General.

7201.102 Prohibited outside employment.

7201.103 Prior approval for outside employment.

Authority: 5 U.S.C. 7301; 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; 5 CFR 2635.105, 2635.403(a), 2635.802 and 2635.803.

§ 7201.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to all employees of the Equal Employment Opportunity Commission (EEOC), including members of the Commission and the General Counsel, and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

§ 7201.102 Prohibited outside employment.

(a) No employee of the Equal Employment Opportunity Commission may engage in outside employment with a person who is currently and substantially affected by the employee's performance of his or her official duties because the person is a party or representative of a party to a particular matter involving specific parties.

(b) No employee of the Equal Employment Opportunity Commission, other than a special Government employee, may receive compensation for representational services, or the rendering of advice or analysis,

regarding any equal employment law or its application.

(c) No employee of the Equal Employment Opportunity Commission, other than a special Government employee, may engage in outside employment involving a particular matter pending at EEOC or an equal employment opportunity matter in which EEOC or the Federal Government is a party. An employee may, however, provide behind-the-scenes assistance to immediate family members in matters pending at EEOC or equal employment opportunity matters in which EEOC or the Federal government is a party.

§ 7201.103 Prior approval for outside employment.

(a) Before engaging in any outside employment, with or without compensation, an employee of the Equal Employment Opportunity Commission must obtain written approval from his or her Deputy Ethics Counselor or designee.

(b) In addition to approval under paragraph (a) of this section, an employee must obtain prior written approval from the Designated Agency Ethics Official or designee to engage in:

- (1) Compensated outside employment;
- (2) The uncompensated practice of law; or
- (3) Uncompensated outside employment that involves representation or the rendering of advice or analysis regarding any equal employment law, or serving as an officer or director of an organization whose activities are devoted substantially to equal employment opportunity matters.

(c) Approval will not be granted if the outside employment is expected to involve conduct inconsistent with or prohibited by a statute or Federal regulation, including 5 CFR part 2635 and this part.

(d) For purposes of this section, "employment" means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization unless:

- (1) The employee's participation involves the provision of professional services or advice;
- (2) The employee will receive compensation other than reimbursement of expenses; or
- (3) The organization's activities are devoted substantially to matters relating to equal employment law and the employee will serve as officer or director of the organization.

29 CFR CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1600—[AMENDED]

2. The authority citation for part 1600 is revised to read as follows:

Authority: 5 U.S.C. 7301.

3. Subparts A through D, consisting of §§ 1600.735-101 through 1600.735-106, 1600.735-201 through 1600.735-206, 1600.735-301, and 1600.735-401 through 1600.735-406, respectively, and appendix A to part 1600 are removed.

4. A new § 1600.101 is added to read as follows:

§ 1600.101 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Equal Employment Opportunity Commission (EEOC) are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the EEOC regulation at 5 CFR part 7201, which supplements the executive branch-wide standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

PART 1650—[AMENDED]

1. The authority citation for part 1650 is revised to read as follows:

Authority: 5 U.S.C. 5514; 31 U.S.C. 3720A; 5 CFR 550.1101.

2. Subpart E of part 1600 is redesignated as new subpart A in part 1650 as indicated in the table below:

Old section	New section
1600.735-501	1650.101
1600.735-502	1650.102
1600.735-503	1650.103
1600.735-504	1650.104
1600.735-505	1650.105
1600.735-506	1650.106
1600.735-507	1650.107
1600.735-508	1650.108
1600.735-509	1650.109
1600.735-510	1650.110
1600.735-511	1650.111
1600.735-512	1650.112
1600.735-513	1650.113
1600.735-514	1650.114
1600.735-515	1650.115
1600.735-516	1650.116

Old section	New section
1600.735-517	1650.117
1600.735-518	1650.118
1600.735-519	1650.119

[FR Doc. 96-4115 Filed 2-23-96; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[FV96-989-1IFR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for the 1995-96 Crop Year for Natural (Sun-Dried) Seedless, Zante Currant, and Other Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes final free and reserve percentages for 1995-96 crop Natural (sun-dried) Seedless (NS), Zante Currant (ZC), and Other Seedless (OS) raisins. The percentages are 79 percent free and 21 percent reserve, 70 percent free and 30 percent reserve, and 51 percent free and 49 percent reserve for NS, ZC, and OS raisins, respectively. These percentages are intended to stabilize supplies and prices and to help counter the destabilizing effects of the burdensome oversupply situation facing the raisin industry. This rule was unanimously recommended by the Raisin Administrative Committee (Committee), the body which locally administers the marketing order.

DATES: This interim final rule becomes effective February 26, 1996, and applies to all NS, ZC, and OS raisins acquired from the beginning of the 1995-96 crop year. Comments which are received by March 27, 1996 will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, or faxed to 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.