

rules and regulations

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[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Deputy Assistant Secretary for Domestic Economic Policy Coordination is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3314(b)(3) is added as set out below:

§ 213.3314 Department of Commerce.

(b) *Office of the Assistant Secretary for Policy.* * * *

(3) One Special Assistant to the Deputy Assistant Secretary for Domestic Economic Policy Coordination.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc. 78-2347 Filed 1-26-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Section 213.3106(b)(7) of Schedule A is revoked as all positions under cryptologic intelligence activities are no longer excepted. A new authority showing the kinds of positions under cryptologic intelligence activities which are now excepted is added.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3106(b)(7) is revoked and 5 CFR 213.3106(d)(2) is added.

§ 213.3106 Department of Defense.

(b) *Entire Department* * * *
(7) [Revoked]

(d) *General.* * * *

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, or estimation of intelligence information or in the planning, programing, and management of intelligence resources.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc. 78-2348 Filed 1-26-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Staff Assistant to the Assistant Secretary for Congressional Relations is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(c)(6) is added as set out below:

§ 213.3304 Department of State.

(c) *Office of the Assistant Secretary for Congressional Relations.* * * *

(6) One Staff Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc. 78-2346 Filed 1-26-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 130]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 29-February 4, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing

agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on January 24, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier on 115's and larger, steady on 140's and 165's.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER. (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.430 Lemon regulation 130.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 29, 1978, through February 4, 1978, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 25, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-2511 Filed 1-26-78; 8:45 am]

[3410-07]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER 5—PERSONNEL

[FmHA Instructions 409.1 and 2045-JJ]

PART 1815—RURAL DEVELOPMENT—UTILIZATION OF GRATUITOUS SERVICES

PART 2045—GENERAL

Subpart JJ—Rural Development—Utilization of Gratuitous Services

Redesignation—Revision

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: This rule redesignates FmHA regulations concerning voluntary and gratuitous services as part of a general reorganization of Farmers Home Administration (FmHA) regulations. This redesignation is intended to provide clarity and uniformity in FmHA codification.

DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Bourne, telephone 202-447-2783.

SUPPLEMENTARY INFORMATION: The FmHA is establishing under Chapter XVIII, Title 7, a new Subchapter S, "Personnel"—Part 2045, "General," in the Code of Federal Regulations, Subchapter JJ, "Rural Development—Utilization of Gratuitous Services," (§§ 2045.1751-2045.1800) of this new Part 2045 is, transferred, and redesignated from Part 1815 of this Chapter XVIII. Overall, this rule sets forth the FmHA program's objective of full cooperation with appropriate agencies of any State, territory or political subdivision concerning voluntary and gratuitous services. Also added to the regulation in this publication, as Exhibit A, is the "Agreement For Utilization of Employees by Farmers Home Administration." The use of this document is required under this regulation. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This rule, however, is not published for proposed rulemaking since the purpose of the redesignation is administration in nature, being a part of a general reorganization of FmHA regulations and, therefore, public procedure thereon is unnecessary.

Accordingly, 7 CFR Chapter XVIII is amended as follows:

1. Part 1815—Rural Development—Utilization of Gratuitous Services §§ 1815.1-1815.6 [Removed].

2. FmHA hereby promulgates new Subchapter S, Part 2045, Subpart JJ, to Chapter XVIII, and adds §§ 2045.1751 through 2045.1800 under 7 CFR as set forth below:

Subpart JJ—Rural Development—Utilization of Gratuitous Services

Sec.

2045.1751 General
2045.1752 Policy
2045.1753 Authority to Accept Gratuitous Services
2045.1754 Scope of Gratuitous Services Performed
2045.1755 Preparation and Disposition of Agreement Forms
2045.1756 Records and Reports
2045.1757-2045.1800 [Reserved]

EXHIBIT A—Agreement—For Utilization of Employees of (——) by the Farmers Home Administration.

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

PART 2045—GENERAL

Subpart JJ—Rural Development—Utilization of Gratuitous Services

§ 2045.1751 General.

Section 331(b) of the Consolidated Farm and Rural Development Act (Pub. L. 92-419), and section 506(a) of the Housing Act of 1949, empower the Secretary of Agriculture to accept and utilize voluntary and uncompensated services in carrying out the provisions of the above cited Acts. The Secretary has delegated those authorities to the Administrator of the Farmers Home Administration (FmHA) in 7 CFR 2.70 (a) (1) and (2).

§ 2045.1752 Policy.

Voluntary and uncompensated (gratuitous) services may be accepted with the consent of the agency concerned, from the following sources under the conditions set forth in Exhibit A, "Agreement for Utilization of Employee of (Enter Official Title of Governing Body or Other Authorized Organization) By the Farmers Home Administration" (Agreement Form).

(a) Any agency of State government or of any territory or political subdivision.

(b) Non-profit, educational, and charitable organizations, provided that no partisan, political, or profit motive is involved either explicitly or implicitly.

§ 2045.1753 Authority to accept gratuitous services.

(a) State Directors, Director, Personnel Division, and Director, Finance Office, are hereby authorized to accept and utilize gratuitous services offered by the governmental agencies listed in § 2045.1752(a).

(b) An offer received by an FmHA State or County Office from a source

listed in § 2045.1752(b) shall be transmitted to the National Office, Attention: Director, Personnel Division, for decision. The offer will be accompanied by copies of the Articles of Incorporation and By-laws (if the organization is incorporated), a statement that the organization accepts the conditions set forth in the Agreement Form, and evidence that the organization is financially able to meet the required fiscal obligations of the agreement.

§ 2045.1754 Scope of gratuitous services performed.

(a) Gratuitous services accepted in accordance with this Subpart may be utilized to perform any function performed by regular FmHA employees (excluding Committee members). Such services must not result in the displacement of employees. Most of the gratuitous services should be performed at the County Office level and conform to a standard FmHA position description. A nonstandard position description may be developed and used, depending on current agency needs in a particular office and gratuitous skills available.

(b) Orientation and other training will be provided by FmHA so that gratuitous services may be performed in accordance with current FmHA procedure.

(c) Persons performing authorized gratuitous services will be held to the same standard as regular FmHA employees performing similar duties. The issuance of, and accountability for, identification cards and clearance of employee accountability will be as prescribed in FmHA Instruction 2024-B which is available in all FmHA Offices. Such persons, except Construction Inspectors may, when under direct supervision of County Supervisors, act as Collection Officers and be allowed to use receipt books in accordance with FmHA Instructions 2024-C and 451.2 (Part 1862 of this Chapter and other applicable regulations available in all FmHA Offices).

§ 2045.1755 Preparation and disposition of agreement forms.

(a) Agreements to accept and utilize gratuitous services *MUST BE IDENTICAL* to the attached Exhibit A (Agreement Form) with such exceptions as may be authorized by the Office of the General Counsel, Department of Agriculture.

(b) Two copies of each signed Agreement Form will be forwarded to the Personnel Division. One copy will be retained in the State or Finance Office.

§ 2045.1756 Records and reports.

The FmHA official signing the Agreement Form will maintain records to show the names, duty assignments,

time worked and work locations of all persons performing gratuitous services. Copies of time reports submitted to the persons' employers should suffice. These records will be necessary to respond to occasional requests for reports on the acceptance and utilization of gratuitous services in the FmHA.

§ 2045.1757-2045.1800 [Reserved]

AGREEMENT

FOR UTILIZATION OF EMPLOYEES OF (OFFICIAL TITLE OF GOVERNING BODY OR OTHER AUTHORIZED ORGANIZATION, I.E., PICKENS COUNTY, ALA., BOARD OF COMMISSIONERS)

BY THE FARMERS HOME ADMINISTRATION

1. This Agreement, dated—between—, a (political subdivision), (educational), (charitable), (or non-profit) an organization of the State of—(hereinafter called the Agency) and the United States of America acting through Farmers Home Administration, U.S. Department of Agriculture (hereinafter called the Administration) is entered into for the purpose of permitting certain employees of the Agency (hereinafter called the Agency employees) to assist in the Administration's effort to provide agricultural, housing and other assistance for rural people of the State of—in accordance with Section 331(b) of the Consolidated Farm and Rural Development Act and Section 506(a), Title V of the Housing Act of 1949.

2. The Administration certifies that it is empowered by the current Federal laws cited above, and related rules and regulations, to accept personnel assistance from the Agency as provided in paragraphs 4 and 5 below; and that the work assigned to Agency employees will be useful, in the public interest, could not otherwise be provided, and will not result in the displacement of employed workers.

3. The Agency certifies that it has the authority under the laws of the State of—to enter into this Agreement and to provide the services agreed upon in the manner provided for.

4. The Administration hereby supplies the Agency with a narrative description which is made a part of this Agreement as Attachment "A," explicitly setting forth the duties, knowledge, skills, and abilities to be required of Agency employees.

5. The Administration agrees to:

(a) Provide training for and responsible supervision of qualified and acceptable Agency employees in accordance with Attachment "A."

(b) Provide work within the State of—for qualified and acceptable Agency employees for periods not to exceed eight hours per day and 40 hours per week.

(c) Provide the office space, tools, equipment, and supplies to be used by Agency employees in performing work for the Administration.

(d) Report to the Agency, as required, the time worked by and work accomplishments of Agency employees.

(e) Consult with the Agency, as necessary, on situations involving delinquency, misconduct, neglect of work, and apparent conflicts of interest of Agency employees.

(f) Reimburse Agency employees for proper and reasonable travel and per diem expenses incurred in performing official duties for the Administration, in accordance with Administration travel regulations.

(g) Consider Agency employees to be Federal employees for the purposes of the Federal Employees Compensation Act (5 U.S.C. 8101) and of the Federal Tort Claims Act (28 U.S.C. 2671-2680).

6. The Agency agrees to:

(a) Not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, marital status, physical handicap, or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, marital status, physical handicap, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Agency will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) Obtain fingerprints, police records, and work qualifications checks on potential assignees, and divulge the results to the Administration or permit the Administration to obtain this information.

(c) Assign only Agency employees who are acceptable to the Administration in terms of meeting the same ability and suitability standards which are applied to Federal employment.

(d) Pay all salaries and other expenses of Agency employees and comply with Federal, State, and local minimum wage statutes. No monies will be paid by the Administration under this agreement, either to the Agency or its employees.

(e) Consider any Tort claims by third parties under applicable laws and regulations.

(f) Reassign or terminate the assignment of Agency employees upon request of the Administration.

7. The Agency and the Administration mutually understand and agree that the reasons for determining that an Agency employee is unacceptable or unsuitable for initial or continued assignment to Administration work may include but shall not be limited to the following:

(a) Practicing or appearing to practice discrimination for reasons of race, color, religion, sex, age, marital status, physical handicap, or national origin.

(b) Being or becoming involved in real or apparent conflicts of interest, such as, engaging directly or indirectly in business transactions with Administration applicants or borrowers, or using or appearing to use the Administration work assignment for private gain.

(c) Engaging in or having engaged in criminal, dishonest, or immoral conduct, or conducting himself in a manner which might embarrass or cause criticism of the Administration.

(d) Being absent from duty without authorization.

(e) Engaging in partisan political activity prohibited to Federal employees doing similar work.

(f) Lack of work.

(g) Inability of the employee to perform the duties of the assignment.

8. The term of this Agreement shall commence on the date thereof. It shall end on—, unless extended by mutual agreement, or unless terminated earlier by at least thirty (30) days advanced written notice by either party to the other.

(9) The Agency and the Administration respectively certify, each for itself, that its officer signing this Agreement is duly authorized thereto.

(Enter Official Title of Agency, i.e., City Council, Modesto, Calif.)

BY
Chairman, City Council,
Modesto, Calif.
FARMERS HOME
ADMINISTRATION

BY
FmHA State Director for ()

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 17, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-2356 Filed 1-26-78; 8:45 am]

[3410-07]

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instructions 444.4 and 444.6]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Puerto Rico and Virgin Islands Included in Certain Definitions

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to include Puerto Rico and the Virgin Islands in the definitions of "Domestic farm labor", "Broad based nonprofit organization", and "Nonprofit organization of farmworkers". The change is necessary in order for the regulations to conform to the Housing and Rural Development Act of 1977. The effect of the change is to allow a greater number of people to benefit from the labor housing assistance provided.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION: §§ 1822.63 and 1822.203 of Part 1822, Title 7, Code of Federal Regulations are amended. The current definition of "Domestic farm labor" in the existing regulations excludes laborers on farms in Puerto Rico and the Virgin Islands and their families. The change will permit FmHA to make labor housing loans and grants in Puerto Rico and the Virgin Islands and to provide housing for these families. Puerto Rico and the Virgin Islands are also incorporated into the definitions of

"Broad based nonprofit organization", and "Nonprofit organization of farmworkers." The definition of "Household furnishings" was inadvertently omitted from the prior publication, and is included with this amendment.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to expand the labor housing program to comply with the Housing and Rural Development Act of 1977, and any delay would be contrary to the public interest in that assistance would be withheld from persons eligible under the law.

Accordingly §§ 1822.63 and 1822.203 are amended and read as follows: 1. As amended, § 1822.63 reads as follows:

§ 1822.63 Definitions.

As used in this subpart: (a) "Domestic farm labor" means persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while they are in the unprocessed stage, provided title to the commodity is held by the producer and the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Domestic farm labor also includes persons working in aquaculture operations as defined in Subpart C of Part 1904 of this chapter.

(b) "Housing" means existing structures or new structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor. "Housing" may include "related facilities" where appropriate.

(c) "Household furnishings" consists of such basic durable items as stoves, refrigerators, tables, chairs, dressers, and beds. Items such as bedding, linens, dishes, silverware, and cooking utensils are not included in this definition.

(d) "Related facilities" includes community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities, such as central heating, sewerage, lighting systems, bathing facilities, and a safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for the domestic farm labor occupants.

(e) "Individual farmowner" means the "owner" of a "farm" as those terms are defined in Subpart A of this part.

(f) "Organization" means an association of farmers, a State or political sub-division, or a public or private nonprofit organization.

(g) "Association of farmers" means a group of farmers acting as a single legal entity, or whose members each is an individual devoting a substantial part of his time to personal participation in the conduct of farming operations. Though an association of farmers is not required to be a nonprofit organization, its operation of the housing must be on a nonprofit basis.

(h) "Broad-based nonprofit organization" means an organization which (1) is incorporated with in the State, Puerto Rico, or the Virgin Islands, (2) which for a project with a total development cost of \$100,000 or less, has at least 25 members who reflect a variety of interests in the community where the housing will be located, (3) is organized and operated on a nonprofit basis, (4) is legally precluded from distributing any profits or dividends to its members before dissolution, (5) is not grower oriented, and (6) pledges to administer the housing as a community service in the interest of the whole community. The minimum number of members should be increased for larger projects.

(i) "Nonprofit organization of farmworkers" means a nonprofit organization which is incorporated within the State, Puerto Rico, or the Virgin Islands, has local representation in the membership and in the board of directors, and whose members are individuals who receive a substantial portion of their income from farm work.

(j) "Construct or repair" means to construct new structures or facilities, or to acquire, relocate, or improve existing structures or facilities, but does not include the acquisition of land.

(k) "Members" and "membership" include stockholders and stock where appropriate.

(l) "Board" and "directors" include the governing body and members of the governing body of an organization.

(m) "Note" may include bond or other form of obligation.

(n) "Mortgage" may include any appropriate form of security instrument.

(o) "County Supervisor" and "State Director" means the authorized officials of the Farmers Home Administration for the area in which the housing site is located.

2. As amended, § 1822.203 reads as follows:

§ 1822.203 Definitions.

As used in this subpart: (a) "Domestic farm labor" means persons who re-