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[FR Doc. 95-5453 Filed 3-6-95; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 532

RIN 3206-AG44

Prevailing Rate Systems; Abolishment of Cook, IL, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Cook, IL, nonappropriated fund (NAF) Federal Wage System wage area and add Cook County, IL, as an area of application to the Lake, IL, NAF wage area for pay-setting purposes.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606-2848.

SUPPLEMENTARY INFORMATION: On November 23, 1994, the Office of Personnel Management (OPM) published an interim rule to abolish the Cook, IL, nonappropriated fund (NAF) Federal Wage System wage area and add Cook County, IL, as an area of application to the Lake, IL, NAF wage area for pay-setting purposes. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on November 23, 1994 (59 FR 60293), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95-5452 Filed 3-6-95; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1300 and Chapter LXXVII

RIN 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Office of Management and Budget

AGENCY: Office of Management and Budget (OMB).

ACTION: Final rule.

SUMMARY: The Office of Management and Budget, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for employees of the OMB that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE with a requirement for prior approval of outside employment. The Office of Management and Budget also is repealing its old standards of conduct regulations and is inserting in their place a cross-reference to the new provisions and to applicable executive branch-wide standards of ethical conduct, as well as to applicable financial disclosure regulations.

EFFECTIVE DATE: These regulations are effective on March 7, 1995.

FOR FURTHER INFORMATION CONTACT: Darrell A. Johnson, OMB Designated Agency Ethics Official (DAEO), (202) 395-5715, or McGavock D. Reed, OMB Alternate DAEO, (202) 395-3563.

SUPPLEMENTARY INFORMATION:

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 and 57 FR 52583, with additional grace period extensions at 59 FR 4779-4780 and 60 FR 6390-6391. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, established uniform standards of ethical conduct that apply to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. With OGE's concurrence, OMB has determined that the following supplemental regulations, being

codified in new 5 CFR chapter LXXVII, consisting of part 8701, are necessary to the success of its ethics program. The Office of Management and Budget is simultaneously repealing its superseded Standards of Conduct at 5 CFR part 1300 and is replacing those provisions with a single section that provides cross-references to 5 CFR parts 2634 and 2635, and to OMB's new supplemental regulations.

II. Analysis of the Regulations

Section 8701.101 General

Section 8701.101 explains that the regulations contained in the final rule will apply to all OMB employees and are supplemental to the executive branch-wide standards. Employees of OMB also are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635 and the executive branch financial disclosure regulations at 5 CFR part 2634.

Section 8701.102 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. Under 5 CFR 1300.735-15(b) which is now being revoked, OMB employees have long been required to obtain advance approval for outside employment, and OMB has determined that it is necessary to the administration of its ethics program to continue to require that employees obtain prior approval before engaging in outside employment. New paragraph 8701.102, therefore, continues the basic requirement for prior approval of outside employment. By adding a definition of "employment," however, it clarifies the circumstances under which prior approval must be obtained and, by specifying the information to be provided as part of the employee's request, it provides additional guidance for employees who are required to submit requests for approval.

Whereas 5 CFR 1300.735-15(b) had specified that approval was to be obtained from the Assistant to the Director for Administration, section 8701.102 contains a multiple approval requirement. In addition to the approval of his or her division of office head, the employee must obtain the approval of the OMB General Counsel, as well as that of the designated agency ethics official.

The standard to be used in approving or denying requests for approval of outside employment is set forth at section 8701.102(b), in part, to highlight

the fact that section 8701.102 does not itself provide a basis to deny any OMB employee's request for approval. The basis for disapproval, if any, must be found in applicable statutes or the executive branch-wide Standards.

III. Repeal of the Old OMB Standards of Conduct Regulations

Because the OMB's Standards of Conduct have been largely superseded by the new executive branch financial disclosure regulations at 5 CFR parts 2634 and by the new executive branch-wide Standards at 5 CFR part 2635 as supplemented by the regulations contained in new 5 CFR part 8701, OMB is repealing all of existing 5 CFR part 1300. To ensure that employees are on notice of the ethical standards to which they are subject, the OMB is replacing its old standards at 5 CFR part 1300 with a residual provision that cross-references 5 CFR parts 2634, 2635 and 8701.

IV. Matters of Regulatory Procedure

Administrative Procedure Act

The Office of Management and Budget has found that good cause exists under 5 U.S.C. 553(b) and (d)(3) for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30 day delay in effectiveness as to this final rule and repeal. This supplemental regulation is essentially a restatement of a rule previously contained in the OMB Standards of Conduct. Furthermore, this rulemaking is related to the OMB organization, procedure and practice.

Executive Order 12866

In promulgating this final rule, OMB has adhered to the regulatory philosophy and the applicable principles of regulations set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This regulation is not deemed "significant" under that Executive order.

Regulatory Flexibility Act

The Office of Management and Budget has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant impact on small business entities because it affects only OMB employees.

Paperwork Reduction Act

The Office of Management and Budget has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements.

Environmental Impact

This decision will not have a significant impact upon the quality of the human environment or the conservation of energy resources.

List of Subjects

5 CFR Part 1300

Conflict of interest, Government employees.

5 CFR Part 8701

Conflict of interests, Executive branch standards of conduct, Government employees.

Dated: February 7, 1995.

Robert G. Damus,
General Counsel, Office of Management and Budget.

Approved: February 13, 1995.

Stephen D. Potts,
Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Office of Management and Budget, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

5 CFR CHAPTER III—OFFICE OF MANAGEMENT AND BUDGET

1. Part 1300 of 5 CFR chapter III is revised to read as follows:

PART 1300—STANDARDS OF CONDUCT

§ 1300.1 Cross-reference to employees ethical conduct standards and financial disclosure regulations.

Employees of the Office of Management and Budget are subject to the executive branch-wide standards of ethical conduct at 5 CFR part 2635, OMB's regulations at 5 CFR part 8701 which supplement the executive branch-wide standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

Authority: 5 U.S.C. 7301.

2. A new chapter LXXVII, consisting of part 8701, is added to title 5 of the Code of Federal Regulations to read as follows:

5 CFR CHAPTER LXXVII—OFFICE OF MANAGEMENT AND BUDGET

PART 8701—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE OFFICE OF MANAGEMENT AND BUDGET

Section 8701.101 General.
Section 8701.102 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, 2635.803.

§ 8701.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to the employees of the Office of Management and Budget 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, OMB employees are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2634.

§ 8701.102 Prior approval for outside employment.

(a) Before engaging in outside employment with or without compensation, an employee of the Office of Management and Budget, other than a special Government employee, must obtain the written approval of his or her division or office head, the General Counsel, and the Designated Agency Ethics Official (DAEO). Requests for approval shall be forwarded through normal supervisory channels to the division or office head, who shall forward the request to the General Counsel, to be forwarded with their successive approvals to the DAEO. The request for approval shall include, at a minimum, the following:

(1) A statement of the name of the person, group, or other organization for whom the work is to be performed; the type of work to be performed; and the proposed hours of work and approximate dates of employment; and

(2) A statement that the outside employment will not depend on information obtained as a result of the employee's official Government position and that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment.

(b) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(c) 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 such activities involve the provision of professional services or advice or are for compensation other than reimbursement of expenses.

[FR Doc. 95-5553 Filed 3-6-95; 8:45 am]

BILLING CODE 3110-01-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[TB-94-35]

Tobacco Inspection; Growers' Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the merger of Tifton and Fitzgerald-Ocilla, Georgia, to become the consolidated market of Tifton-Fitzgerald-Ocilla. A mail referendum was conducted during the period of February 6-10, 1995, among tobacco growers who sold tobacco on these markets in 1994 to determine producer approval/disapproval of the designation of these markets as one consolidated market. Growers approved the merger. Therefore, for the 1995 and succeeding flue-cured marketing seasons, the Tifton and Fitzgerald-Ocilla, Georgia, tobacco markets shall be designated as and called Tifton-Fitzgerald-Ocilla. The regulations are amended to reflect this new designated market.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, PO. Box 96456, Washington, DC. 20090-6456; telephone number (202) 205-0567.

SUPPLEMENTARY INFORMATION: A notice was published in the February 2, 1995, issue of the Federal Register (60 FR 6452-53) announcing that a referendum would be conducted among active flue-cured producers who sold tobacco on either Tifton or Fitzgerald-Ocilla, during the 1994 season to ascertain if such producers favored the consolidation.

The notice of referendum announced the determination by the Secretary that the consolidated market of Tifton-Fitzgerald-Ocilla, Georgia, would be designated as a flue-cured tobacco auction market and receive mandatory Federal grading of tobacco sold at auction for the 1995 and succeeding seasons, subject to the results of the referendum. The determination was based on the evidence and arguments presented at a public hearing held in Ocilla, Georgia, on November 7, 1994, pursuant to applicable provisions of the regulations issued under the Tobacco Inspection Act, as amended. The referendum was held in accordance with the provisions of the Tobacco Inspection Act, as amended (7 U.S.C. 511d) and the regulations set forth in 7 CFR 29.74.

Ballots for the February 6-10 referendum were mailed to 152 producers. Approval required votes in favor of the proposal by two-thirds of the eligible voters who cast valid ballots. The Department received a total of 45 responses: 41 eligible producers voted in favor of the consolidation; 1 eligible producer voted against the consolidation; and 3 ballots were determined to be invalid.

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

This final rule has been reviewed under Executive Order 12788, Civil

Justice Reform. This action is not intended to have retroactive effect. The final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Additionally, in conformance with the provisions of Public Law 96-354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Most tobacco producers and many tobacco warehouses are small businesses as defined in the Regulatory Flexibility Act. This action will not substantially affect the normal movement of the commodity in the marketplace. The Administrator has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping procedures, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29, subpart D, is amended as follows:

PART 29—[AMENDED]

Subpart D—Order of Designation of Tobacco Markets

1. The authority citation for 7 CFR part 29, subpart D, continues to read as follows:

Authority: Sec. 5, 49 Stat. 732, as amended by sec. 157(a) (1), 95 Stat. 374 (7 U.S.C. 511d).

§ 29.8001 [Amended]

2. In § 29.8001, the table is amended by adding a new entry (hhh) to read as follows:

Territory	Types of tobacco	Auction markets	Order of designation	Citation
*	*	*	*	*
(hhh) Georgia	flue-cured	Tifton-Fitzgerald-Ocilla	April 6, 1995.

Dated: March 1, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95-5538 Filed 3-6-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 29

[TB-94-37]

Tobacco Inspection; Growers' Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the merger of Kingstree and Hemingway, South Carolina, to become the consolidated market of Kingstree-Hemingway. A mail referendum was conducted during the