

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AH58

### Prevailing Rate Systems; Abolishment of Norfolk, MA, Nonappropriated Fund Wage Area

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing interim regulations to abolish the Norfolk, MA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine its five counties as areas of application to nearby NAF wage areas for pay-setting purposes. No permanent employee's wage rate will be reduced as a result of this change.

**DATES:** This interim rule becomes effective on September 23, 1996. Comments must be received by October 23, 1996. Employees currently paid rates from the Norfolk, MA, NAF wage schedule will continue to be paid from that schedule until their conversion to the schedules of the wage areas to which their counties of employment are being redefined by this rule on November 15, 1996, one day prior to the next adjustment of the Middlesex, MA, NAF schedule.

**ADDRESSES:** Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606-0824.

**FOR FURTHER INFORMATION CONTACT:** Frank Derby, (202) 606-2848.

**SUPPLEMENTARY INFORMATION:** The Department of Defense recommended to OPM that the Norfolk, MA, NAF FWS

wage area be abolished and that the five counties having continuing FWS employment be redefined as areas of application to nearby NAF wage areas. Norfolk County, Plymouth County, and Suffolk County, MA, are being redefined to the Middlesex, MA, wage area. Barnstable County and Nantucket County, MA, are being redefined to the Newport, RI, wage area. This change is necessary because the pending closure of Naval Air Station, South Weymouth, MA, leaves the Norfolk, MA, NAF wage area without an activity having the capability to conduct a wage survey.

As required in regulation, 5 CFR 532.219, the following criteria were considered in redefining these wage areas:

- (1) Proximity of largest activity in each county;
- (2) Transportation facilities and commuting patterns; and
- (3) Similarities of the counties in:
  - (i) Overall population;
  - (ii) Private employment in major industry categories; and
  - (iii) Kinds and sizes of private industrial establishments.

All regulatory factors favor redefinition of Norfolk County and Suffolk County to the adjacent Middlesex, MA, NAF wage area.

For Plymouth County, proximity slightly favors (10 kilometers or 6 miles) Newport, RI; however, the remaining regulatory factors—i.e., commuting patterns and overall population and industrial patterns—both favor Middlesex, MA.

Commuting patterns for Barnstable County and Nantucket County slightly favor Middlesex, MA, but proximity and overall population and industrial patterns both favor Newport, RI.

The Federal Prevailing Rate Advisory Committee reviewed this recommendation and by consensus recommended approval.

**Waiver of Notice of Proposed Rulemaking and Delay in 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. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days because the next Norfolk, MA, NAF wage survey would otherwise be required to begin in September 1996.

## 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.

Office of Personnel Management.

Lorraine A. Green,

*Deputy Director.*

Accordingly, OPM is amending 5 CFR part 532 as follows:

### PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix B to Subpart B of Part 532—[Amended]

2. In appendix B to subpart B, the listing for the State of Massachusetts is amended by removing the entry for Norfolk.

3. Appendix D to subpart B is amended by removing the wage area list for Norfolk, Massachusetts, and by revising the lists for Middlesex, Massachusetts, and Newport, Rhode Island, to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

\* \* \* \* \*

Massachusetts

Middlesex

*Survey Area*

Massachusetts:

Middlesex

Area of application. Survey area plus:

Massachusetts:

Norfolk

Plymouth

Suffolk

New Hampshire:

Hillsborough

\* \* \* \* \*

Rhode Island

\* \* \* \* \*

Newport

*Survey Area*

Rhode Island:

Newport

Area of application. Survey area plus:

Massachusetts:

Barnstable

Nantucket

Rhode Island:

Providence

Washington

\* \* \* \* \*

[FR Doc. 96-24156 Filed 9-20-96; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 906

[Docket No. FV96-906-1 FIR]

#### Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; 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 establishing an assessment rate for the Texas Valley Citrus Committee (Committee) under Marketing Order No. 906 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. Authorization to assess orange and grapefruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**EFFECTIVE DATE:** August 1, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501, telephone (210) 682-2833, FAX # (210) 682-5942, or Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone (202) 690-3670, FAX # (202) 720-5698.

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 and Order No. 906 (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, 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, handlers of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas 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 oranges and grapefruit beginning August 1, 1996, and continuing 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.

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.

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 2,000 producers of oranges and grapefruit in the production area and 19 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. The majority of orange and grapefruit producers and handlers may be classified as small entities.

The Texas orange and grapefruit 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 and handlers of Texas oranges and grapefruit. 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.

The Committee met on May 29, 1996, and recommended 1996-97 expenditures of \$1,085,130 and an assessment rate of \$0.125 per  $\frac{7}{10}$  bushel carton of oranges and grapefruit. In comparison, last year's budgeted expenditures were \$1,008,643. The assessment rate of \$0.125 is \$0.025 higher than last year's established rate. Major expenditures recommended by the Committee for the 1996-97 fiscal year include \$712,800 for advertising and \$174,000 for the Mexican Fruit Fly support program. Budgeted expenses for these items in 1995-96 were \$500,000 for advertising and \$174,000 for the Mexican Fruit Fly support program.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Texas oranges and grapefruit. Texas orange and grapefruit shipments for the year are estimated at 8 million cartons which should provide \$1,000,000 in assessment income. Income derived from handler assessments, along with interest income