

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AH60

### Prevailing Rate Systems; Abolishment of Marion, IN, 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 Marion, IN, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the six counties having continuing FWS employment as areas of application to nearby NAF wage areas for pay-setting purposes.

**DATES:** This interim rule becomes effective on September 10, 1996. Comments must be received by October 10, 1996. Employees currently paid rates from the Marion, IN, 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 December 13, 1996, the date that the next Marion, IN, wage schedule would have been effective.

**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 Marion, IN, FWS NAF wage area be abolished and that the six

counties having continuing FWS employment be redefined as areas of application to nearby NAF wage areas. Marion County, Grant County, Miami County and Allen County, IN, are being redefined to the Greene-Montgomery, OH, wage area. Martin County, IN, is being redefined to the Hardin-Jefferson, KY, wage area, and Vermilion County, IL, is being redefined to the Lake, IL, wage area. This change is necessary because the pending closure of Ft. Benjamin Harrison leaves the Marion, IN, 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.

The Federal Prevailing Rate Advisory Committee reviewed this recommendation and by majority vote recommended approval. The Committee defeated the labor members' motion that the original management recommendation be amended to redefine Allen, Grant, and Miami Counties to the Lake, IL, wage area and thereby avoid placing an estimated two employees on pay retention. Allen, Grant, and Miami Counties have greater similarities to the Lake, IL, wage area in an overall population and employment comparison. However, the degree to which those factors favor Lake, IL, is not strong enough to be determinative given the significant distance of Allen and Grant Counties from Lake, IL, as well as the general homogeneity of the counties in their relationship to the Greene-Montgomery, OH, wage area.

Differences in commuting patterns were found to be insignificant for all county redefinitions. The remaining factors favored the redefinition of Vermilion County to the Lake, IL, wage area. Martin County is far closer to the Hardin-Jefferson, KY, wage area than to the very distant Lake, IL, wage area, which offsets the greater similarities to the latter in employment and population. Similarly, Marion County is

significantly closer to the Greene-Montgomery, OH, wage area than to the Hardin-Jefferson, KY, wage area, which, on balance, offsets the employment and population numbers that favored the latter.

### Waiver of Notice of Proposed Rule Making 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. The notice is being waived and the regulation is being made effective in less than 30 days so that preparations otherwise required for the October 1996 Marion, IN, NAF wage area survey may be canceled.

### 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 Indiana is amended by removing the entry for Marion.

#### Appendix D to Subpart B of Part 532 [Amended]

3. Appendix D to subpart B is amended by removing the wage area listing for Marion, IN, and by revising the listings for Greene-Montgomery, OH; Hardin-Jefferson, KY; and Lake, IL, to read as follows:

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

\* \* \* \* \*

*Illinois Lake Survey Area*

Illinois:  
Lake

Area of application. Survey area plus:

Illinois:  
Cook  
Vermilion (Effective date December 13,  
1996)

Michigan:  
Dickinson  
Marquette

Wisconsin:  
Dane  
Milwaukee

\* \* \* \* \*

*Kentucky*

\* \* \* \* \*

*Hardin-Jefferson Survey Area*

Kentucky:  
Hardin  
Jefferson

Area of application. Survey area plus:

Indiana:  
Jefferson  
Martin (Effective date December 13, 1996)

Kentucky:  
Fayette  
Madison  
Warren

\* \* \* \* \*

*Ohio*

\* \* \* \* \*

*Greene-Montgomery Survey Area*

Ohio:  
Greene  
Montgomery

Area of application. Survey area plus:

Indiana:  
Allen (Effective date December 13, 1996)  
Grant (Effective date December 13, 1996)  
Marion (Effective date December 13, 1996)  
Miami (Effective date December 13, 1996)

Ohio:  
Clinton  
Franklin  
Hamilton  
Licking  
Ross

West Virginia:  
Raleigh  
Wayne

\* \* \* \* \*

[FR Doc. 96-23041 Filed 9-9-96; 8:45 am]

BILLING CODE 6325-01-M

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection  
Service**

**7 CFR Part 301**

[Docket No. 96-001-2]

**Corn Cyst Nematode**

**AGENCY:** Animal and Plant Health  
Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are removing the regulations that quarantine certain areas of the United States because of the corn cyst nematode and that restrict the interstate movement of certain articles, such as soil, from the quarantined areas. This action is warranted because this pest is present in only five counties in two States and appears to be adequately contained by the two States affected. This action will relieve restrictions on the interstate movement of regulated articles.

**EFFECTIVE DATE:** October 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. Coanne O'Hern, Assistant Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1228, (301) 734-8247; or e-mail: cohern@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

Corn cyst nematode (*Heterodera zeae*) is a cyst-forming nematode that attacks the roots of host plants such as corn, barley, oats, and sorghum. The nematode bores into the roots of the plants and feeds on the plant juices, resulting in poor root development and poor plant growth and potentially causing severe crop losses. The corn cyst nematode is spread through the movement of infested soil and equipment carrying infested soil.

The regulations in 7 CFR 301.90 through 301.90-10 designate areas that are quarantined because of the presence of corn cyst nematode. These regulations also restrict the interstate movement of soil and other articles from the quarantined areas to prevent the spread of corn cyst nematode.

On July 16, 1996, we published in the Federal Register (61 FR 37018-37019, Docket No. 96-001-1) a proposal to remove the regulations that quarantine certain areas of the United States because of the corn cyst nematode and that restrict the interstate movement of certain articles, such as soil, from the quarantined areas.

We solicited comments concerning our proposal for 30 days ending August

15, 1996. We received one comment by that date. It was from a State Department of Agriculture. The response was in favor of the provisions outlined in the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule change is not expected to have an effect on any small entities. This is because the States of Maryland and Virginia have restrictions in place to prevent the movement of potentially infested articles from the infested areas in Cecil, Harford, Kent and Queen Anne's Counties, MD, and Cumberland County, VA.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. With the adoption of this rule: (1) State and local laws and regulations will not be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.