

47 FR 22931, 3 CFR 1982 Comp., p. 185; and Pub. L. 103-353.

2. In § 213.3102, paragraph (j) is revised to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(j) Positions filled by current or former Federal employees eligible for placement under special statutory provisions. Appointments under this authority are subject to the following conditions.

(1) *Eligible employees.* (i) Persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) who are entitled to placement under § 353.110 of this chapter, or who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) or 8456 by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment.

(ii) Executive branch employees (other than employees of intelligence agencies) who are entitled to placement under § 353.110 but who are not eligible for reinstatement or noncompetitive appointment under the provisions of part 315 of this chapter.

(iii) Legislative and judicial branch employees and employees of the intelligence agencies defined in 5 U.S.C. 2302(a)(2)(C)(ii) who are entitled to placement under § 353.110.

(2) *Employees excluded.* Employees who were last employed in Schedule C or under a statutory authority that specified the employee served at the discretion, will, or pleasure of the agency are not eligible for appointment under this authority.

(3) *Position to which appointed.* Employees who are entitled to placement under § 353.110 will be appointed to a position that OPM determines is equivalent in pay and grade to the one the individual left, unless the individual elects to be placed in a position of lower grade or pay. National Guard Technicians whose eligibility is based upon a disability may be appointed at the same grade, or equivalent, as their National Guard Technician position or at any lower grade for which they are available.

(4) *Conditions of appointment.* (i) Individuals whose placement eligibility is based on an appointment without time limit will receive appointments without time limit under this authority. These appointees may be reassigned, promoted, or demoted to any position within the same agency for which they qualify.

(ii) Individuals who are eligible for placement under § 353.110 based on a

time-limited appointment will be given appointments for a time period equal to the unexpired portion of their previous appointment.

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[FR Doc. 95-26851 Filed 10-27-95; 8:45 am]

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5 CFR Part 532

RIN 3206-AH16

Prevailing Rate Systems; Abolishment of Marin-Sonoma, CA, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to abolish the Marin-Sonoma, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the two counties having continuing FWS employment (Marin and Sonoma Counties) as areas of application to the Solano, CA, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

DATES: This interim rule becomes effective on October 30, 1995. Comments must be received by November 29, 1995. Employees currently paid rates from the Marin-Sonoma, CA, NAF wage schedule will continue to be paid from that schedule until their conversion to the Solano, CA, NAF wage schedule one day prior to the effective date of the next Solano, CA, wage schedule to be issued.

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

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

SUPPLEMENTARY INFORMATION: The Department of Defense (DOD) recommended to the Office of Personnel Management that the Marin-Sonoma, CA, FWS NAF wage area be abolished and that the two counties having continuing FWS employment (Marin and Sonoma Counties) be added as areas of application to the Solano, CA, NAF wage area. This change is necessary because the pending closure of the Hamilton DOD Housing Facility (host activity) leaves the Marin-Sonoma wage area without an activity having the capability to conduct a wage survey.

The remaining Marin-Sonoma wage area counties (Del Norte, Humboldt, and Mendocino) have no NAF FWS employees.

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.

While proximity favors the San Francisco wage area, distances to all the candidate wage areas are in a very close range, especially from the Coast Guard Training Center that will soon be the largest remaining activity in the counties to be redefined. Transportation facilities and commuting patterns favor San Francisco, while similarities in population, private sector employment, and industry patterns favor Solano.

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

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 because preparations for the 1995 Marin-Sonoma, CA, NAF wage areas survey must otherwise begin immediately.

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.

U.S. 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 California is amended by removing the entry for Marin-Sonoma.

3. Appendix D to subpart B is amended by removing the wage area list for Marin-Sonoma, California, and by revising the list for Solano, California, to read as follows:

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

* * * * *

California

* * * * *

Solano

Survey Area

California

Solano

Area of application. Survey area plus:

California

Marin (Effective date November 17, 1995)

Sonoma (Effective date November 17, 1995)

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[FR Doc. 95-26852 Filed 10-27-95; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV95-920-3FR]

Kiwifruit Grown in California; Revision of Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule extends the validation period for initial inspection certificates issued for California kiwifruit from December 15 to December 31 or 21 days from the date of inspection, whichever is later. The current period does not allow sufficient time between the initial inspection, which may occur between October and

December, and reinspection which must occur after December 15. This rule will reduce costs to the industry because of the increase in time between the initial inspection and reinspection.

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT:

Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526-S, Washington, DC 20090-6456, telephone (202) 690-3670; or Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487-5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 920 (7 CFR Part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is 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 of Agriculture (Department) is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final 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. A 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 principle place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of 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 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 65 handlers of California kiwifruit subject to regulation under the order and approximately 600 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000, and small agricultural producers have been defined as those having annual receipts of less than \$500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

This final rule is in accordance with § 920.55(b) of the order. This section authorizes the Kiwifruit Administrative Committee (KAC), the agency responsible for local administration of the marketing order, to establish a period prior to shipment, when inspections must be performed.

Currently, pursuant to § 920.155 of the marketing order, certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53 during each fiscal year shall be valid until December 15 of each year or 21 days from the date of inspection, whichever is later.

The KAC met on June 14, 1995, and unanimously recommended revising the current inspection requirements. The revision extends the validation period for the initial inspection certificate, from the current December 15 expiration date to December 31 of each year.

Kiwifruit grown in California is typically harvested in mid-October. The fruit is packed shortly after harvest and placed into storage until shipment. The shipping season generally extends throughout the year.

About 55 percent of the harvested fruit is inspected as it is being packed, prior to storage. While the majority of fruit is inspected prior to storage, some handlers have their fruit inspected after storage just prior to shipment.

When kiwifruit is stored, a black sooty mold sometimes appears on the