

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AM62

#### Prevailing Rate Systems; Abolishment of Montgomery, PA, as a Nonappropriated Fund Federal Wage System Wage Area

**AGENCY:** U.S. Office of Personnel Management.

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

**SUMMARY:** The U.S. Office of Personnel Management is issuing an interim rule to abolish the Montgomery, Pennsylvania, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine Chester, Montgomery, and Philadelphia Counties, PA, to the Burlington, NJ, NAF wage area and Luzerne County, PA, to the Morris, NJ, NAF wage area. Bucks County, PA, will no longer be defined. These changes are necessary because the closure of the Naval Air Station Joint Reserve Base (NAS JRB) Willow Grove left the Montgomery wage area without an activity having the capability to conduct a local wage survey.

**DATES:** *Effective date:* This regulation is effective on May 15, 2012. We must receive comments on or before June 14, 2012. *Applicability date:* FWS employees remaining in the Montgomery NAF wage area will be transferred to the Burlington and Morris NAF wage area schedules on the first day of the first applicable pay period beginning on or after May 15, 2012.

**ADDRESSES:** Send or deliver comments to Jerome D. Mikowicz, Deputy Associate Director for Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC

20415-8200; email *pay-leave-policy@opm.gov*; or FAX: (202) 606-4264.

**FOR FURTHER INFORMATION CONTACT:** Madeline Gonzalez, (202) 606-2838; email *pay-leave-policy@opm.gov*; or Fax: (202) 606-4264.

**SUPPLEMENTARY INFORMATION:** The Montgomery, Pennsylvania, nonappropriated fund (NAF) Federal Wage System (FWS) wage area is presently composed of one survey area county, Montgomery County, and four area of application counties, Bucks, Chester, Luzerne, and Philadelphia Counties. Under section 532.219 of title 5, Code of Federal Regulations, the U.S. Office of Personnel Management (OPM) may establish an NAF wage area when there are a minimum of 26 NAF wage employees in the survey area, the local activity has the capability to host annual local wage surveys, and the survey area has at least 1,800 private enterprise employees in establishments within survey specifications. The Department of Defense (DOD) notified OPM that the closure of the Naval Air Station Joint Reserve Base (NAS JRB) Willow Grove left the Montgomery wage area without an activity having the capability to conduct a local wage survey. The NAF FWS employment in Montgomery County is currently 20 employees at NAS JRB Willow Grove. DOD recommended that OPM abolish the Montgomery NAF FWS wage area and redefine Chester, Montgomery, and Philadelphia Counties, PA, to the Burlington, NJ, NAF wage area and Luzerne County, PA, to the Morris, NJ, NAF wage area.

Since Chester, Luzerne, Montgomery, and Philadelphia Counties will have continuing NAF employment and do not meet the regulatory criteria under 5 CFR 532.219 to be separate survey areas, they must be areas of application. In defining counties as area of application counties, OPM considers the following criteria:

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

In selecting a wage area to which Chester County should be redefined, proximity favors the Harford, MD, NAF wage area. All other criteria are indeterminate. Based on the mixed nature of the regulatory analysis findings, we believe the fact that Chester County is geographically linked to Bucks, Delaware, Montgomery, and Philadelphia Counties, with all five counties encompassing the greater Philadelphia area, provides strong evidence that these counties should remain together. Therefore, OPM recommends that Chester County be redefined as an area of application to the Burlington NAF wage area.

In selecting a wage area to which Montgomery and Philadelphia Counties should be redefined, proximity favors the Burlington NAF wage area. All other criteria are indeterminate. Based on the application of the regulatory criteria, OPM recommends that Montgomery and Philadelphia Counties be redefined as areas of application to the Burlington NAF wage area.

In selecting a wage area to which Luzerne County should be redefined, proximity favors the Morris NAF wage area. All other criteria are indeterminate. Based on the application of the regulatory criteria, OPM recommends that Luzerne County be redefined as an area of application to the Morris NAF wage area.

OPM is removing Bucks County from the wage area definition. There are no longer NAF FWS employees working in Bucks County. Under 5 U.S.C. 5343(a)(1)(B)(i), NAF wage areas "shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed." Therefore, Bucks County should not be defined as part of an NAF wage area.

The Burlington NAF wage area will consist of one survey county, Burlington County, NJ, and nine area of application counties: New Castle County, DE; Atlantic, Cape May, Monmouth, Ocean, and Salem Counties, NJ; and Chester, Montgomery, and Philadelphia Counties, PA. The Morris NAF wage area will consist of one survey county, Morris County, and three area of application counties: Somerset County, NJ, and Luzerne and Monroe Counties, PA. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for

advising OPM on matters concerning the pay of FWS employees, has reviewed and recommended these changes by consensus.

#### Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists to waive the general notice of proposed rulemaking. Also pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making this rule effective in less than 30 days. This notice is being waived and the regulation is being made effective in less than 30 days because the closure of NAS JRB Willow Grove left the Montgomery wage area without an activity having the capability to conduct a local wage survey and the remaining NAF FWS employees in Chester, Montgomery, and Philadelphia Counties must be transferred to a continuing wage area as soon as possible.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will 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.

**John Berry,**  
*Director.*

Accordingly, the U.S. Office of Personnel Management 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— Nationwide Schedule of Nonappropriated Fund Regular Wage Surveys

■ 2. Appendix B to subpart B is amended by removing, under the State of Pennsylvania, the entry for “Montgomery.”

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

■ 3. Appendix D to subpart B is amended for the State of Pennsylvania by removing the wage area listing for

Montgomery, PA, and for the State of New Jersey by revising the wage area listings for Burlington, NJ, and Morris, NJ, to read as follows:

\* \* \* \* \*

#### NEW JERSEY Burlington Survey Area

New Jersey:  
Burlington

*Area of application. Survey area plus:*

Delaware:  
New Castle

New Jersey:  
Atlantic  
Cape May  
Monmouth  
Ocean  
Salem

Pennsylvania:  
Chester  
Montgomery  
Philadelphia

#### Morris

*Survey Area*

New Jersey:  
Morris

*Area of application. Survey area plus:*

New Jersey:  
Somerset  
Pennsylvania:  
Luzerne  
Monroe

\* \* \* \* \*

[FR Doc. 2012-11763 Filed 5-14-12; 8:45 am]

**BILLING CODE 6325-39-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 205

**[Document Number AMS-NOP-10-0078;  
NOP-09-03FR]**

**RIN 0581-AD05**

#### National Organic Program; Amendments to the National List of Allowed and Prohibited Substances (Livestock)

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Department of Agriculture's (USDA's) National List of Allowed and Prohibited Substances (National List) to enact two recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) on June 20, 2008, and May 30, 2004. This final rule establishes exemptions (uses) for two substances, fenbendazole and moxidectin, along with any restrictive annotations, as parasiticides in organic livestock production.

**DATES:** *Effective Date:* This rule becomes effective May 16, 2012.

**FOR FURTHER INFORMATION CONTACT:** Melissa Bailey, Ph.D., Director, Standards Division, National Organic Program, (202) 720-3252; Fax: (202) 205-7808.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 21, 2000, the Secretary established, within the National Organic Program (NOP) (7 CFR part 205), the National List regulations sections 205.600 through 205.607. This National List identifies the synthetic substances that may be used and the nonsynthetic (natural) substances that may not be used in organic production. The National List also identifies synthetic, nonsynthetic nonagricultural and nonorganic agricultural substances that may be used in organic handling. The Organic Foods Production Act of 1990, as amended, (7 U.S.C. 6501-6522), (OFPA), and NOP regulations, in section 205.105, specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural and any nonsynthetic nonagricultural substance used in organic handling appear on the National List.

Under the authority of the OFPA, the National List can be amended by the Secretary based on proposed amendments developed by the NOSB. Since established, the NOP has published multiple amendments to the National List: October 31, 2003 (68 FR 61987); November 3, 2003 (68 FR 62215); October 21, 2005 (70 FR 61217); June 7, 2006 (71 FR 32803); September 11, 2006 (71 FR 53299); June 27, 2007 (72 FR 35137); October 16, 2007 (72 FR 58469); December 10, 2007 (72 FR 69569); December 12, 2007 (72 FR 70479); September 18, 2008 (73 FR 54057); October 9, 2008 (73 FR 59479); July 6, 2010 (75 FR 38693); August 24, 2010 (75 FR 51919); December 13, 2010 (75 FR 77521); March 14, 2011 (76 FR 13501); August 3, 2011 (76 FR 46595); and February 14, 2012 (77 FR 8089). Additionally, proposed amendments to the National List were published on November 8, 2011 (76 FR 69141); January 12, 2012 (77 FR 1980; 77 FR 1996); and February 6, 2012 (77 FR 5717).

This final rule amends the National List to enact two recommendations submitted to the Secretary by the NOSB on June 20, 2008, and May 30, 2004.