

5 CFR Part 532

RIN 3206-AG74

Prevailing Rate Systems; Abolishment of Clinton, NY, 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 Clinton, NY, nonappropriated fund (NAF) Federal Wage System wage area and add Clinton County, NY, as an area of application to the Oneida, NY, NAF wage area for paysetting purposes.

EFFECTIVE DATE: August 14, 1995.

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

SUPPLEMENTARY INFORMATION: On March 30, 1995, the Office of Personnel Management (OPM) published an interim rule to abolish the Clinton, NY, nonappropriated fund (NAF) Federal Wage System wage area and add Clinton County, NY, as an area of application to the Oneida, NY, 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 March 30, 1995 (60 FR 16363), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service**7 CFR Part 921**

[Docket No. FV94-921-1FR]

Termination of Marketing Order 921; Fresh Peaches Grown in Designated Counties in Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination order.

SUMMARY: This document terminates the Federal marketing order for peaches grown in designated counties in Washington and the rules and regulations issued thereunder. The Secretary of Agriculture has determined that the marketing order no longer tends to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937 (Act). Results of a producer referendum, held to determine the level of support for the marketing order, indicate that continuance is favored by only 14 percent of the producers voting, representing 1.5 percent of the volume voted. The vote demonstrates a lack of producer support necessary to accomplish the objectives of the Act.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT:

Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 720-1755, or Robert Curry, Northwest Marketing Field Office, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204, telephone (503) 326-2724.

SUPPLEMENTARY INFORMATION: This rule is governed by the provisions of section 608c(16)(A) of 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 rule in conformance with Executive Order 12866.

This termination rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This termination order 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 of 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 a principal 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 action 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 Washington peach handlers who were subject to regulation under the marketing order and approximately 260 producers within the production area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of 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 the Washington peach handlers and producers may be classified as small entities.

Prior to its suspension on March 31, 1993, Marketing Order No. 921 had been in effect since 1960. The marketing order provided for the establishment of grade, size, quality, maturity, pack, container and inspection requirements. In addition, the order authorized marketing research and development projects.

The Washington Fresh Peach Marketing Committee (committee) met on May 12, 1992, and by an 11 to 1 vote recommended that the marketing order be suspended at the end of the 1992-93 fiscal period. The recommendation was made to eliminate the continued expense of administering the order. Since that time, handling requirements similar to those under the Federal order