

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AM32

### Prevailing Rate Systems; Redefinition of the Madison, Wisconsin, and Southwestern Wisconsin Appropriated Fund Federal Wage System Wage Areas

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management is issuing a final rule to redefine the geographic boundaries of the Madison, Wisconsin, and Southwestern Wisconsin appropriated fund Federal Wage System (FWS) wage areas. The final rule redefines Adams and Waushara Counties, WI, from the Southwestern Wisconsin wage area to the Madison wage area. These changes are based on consensus recommendations of the Federal Prevailing Rate Advisory Committee to best match the above counties to a nearby FWS survey area.

**DATES:** This regulation is effective on July 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** Madeline Gonzalez, (202) 606-2838; e-mail [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov); or FAX: (202) 606-4264.

**SUPPLEMENTARY INFORMATION:** On November 18, 2010, the U.S. Office of Personnel Management (OPM) issued a proposed rule (75 FR 70616) to redefine Adams and Waushara Counties, WI, from the Southwestern Wisconsin wage area to the Madison, WI, wage area. These changes are based on consensus recommendations of the Federal Prevailing Rate Advisory Committee to best match the above counties to a nearby FWS survey area. The proposed rule had a 30-day comment period

during which OPM received no comments.

### 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 amends 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.

■ 2. Appendix C to subpart B is amended by revising the wage area listings for the Madison, WI, and Southwestern Wisconsin wage areas to read as follows:

### Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

\* \* \* \* \*

#### Wisconsin

*Madison*  
Survey Area

Wisconsin:  
Dane

Area of Application. Survey area plus:

Wisconsin:  
Adams  
Columbia  
Dodge  
Grant  
Green  
Green Lake  
Iowa  
Jefferson  
Lafayette  
Marquette  
Rock  
Sauk  
Waushara

\* \* \* \* \*

*Southwestern Wisconsin*

Survey Area

Wisconsin:  
Chippewa  
Eau Claire  
La Crosse  
Monroe  
Trempealeau

Area of Application. Survey area plus:

Wisconsin:  
Barron  
Buffalo  
Clark  
Crawford  
Dunn  
Florence  
Forest  
Jackson  
Juneau  
Langlade  
Lincoln  
Marathon  
Marinette  
Menominee  
Oconto  
Oneida  
Pepin  
Portage  
Price  
Richland  
Rusk  
Shawano  
Taylor  
Vernon  
Vilas  
Waupaca  
Wood

Minnesota:  
Fillmore  
Houston  
Wabasha  
Winona

\* \* \* \* \*

Dated: February 3, 2011.

[FR Doc. 2011-13700 Filed 6-1-11; 8:45 am]

**BILLING CODE 6325-39-P**

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AM38

### Prevailing Rate Systems; Abolishment of Cumberland, ME, 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 Cumberland, Maine, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine Cumberland, Kennebec, and Penobscot Counties, ME, to the York, ME, NAF wage area. Aroostook, Hancock, Knox, Sagadahoc, and Washington Counties, ME, will no longer be defined. These changes are necessary because the closure of the Naval Air Station Brunswick will leave the Cumberland wage area without an activity having the capability to conduct a local wage survey.

**DATES:** *Effective date:* This regulation is effective on June 2, 2011. We must receive comments on or before July 5, 2011. *Applicability date:* FWS employees remaining in the Cumberland wage area will be transferred to the York wage area schedule on the first day of the first applicable pay period beginning on or after July 25, 2011.

**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; e-mail [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov); or FAX: (202) 606-4264.

**FOR FURTHER INFORMATION CONTACT:** Madeline Gonzalez, (202) 606-2838; e-mail [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov); or FAX: (202) 606-4264.

**SUPPLEMENTARY INFORMATION:** The Cumberland, Maine, nonappropriated fund (NAF) Federal Wage System (FWS) wage area is presently composed of one survey county, Cumberland County, ME, and seven area of application counties, Aroostook, Hancock, Kennebec, Knox, Penobscot, Sagadahoc, and Washington Counties, ME. 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 imminent closure of the Naval Air Station Brunswick will leave the Cumberland NAF wage area without an activity having the capability to conduct a local wage survey. The NAF FWS employment in Cumberland County is currently 10 employees at the Navy Exchange, 17 employees at Morale, Welfare, and Recreation, and 2 employees at the Coast Guard Exchange

System. DOD recommended that OPM abolish the Cumberland NAF FWS wage area and redefine Cumberland, Kennebec, and Penobscot Counties, ME, to the York, ME, NAF wage area.

Since Cumberland, Kennebec, and Penobscot 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 Cumberland, Kennebec, and Penobscot Counties should be redefined, all criteria favor the York NAF wage area. Based on the application of the regulatory criteria, OPM is defining Cumberland, Kennebec, and Penobscot Counties as area of application counties to the York NAF wage area.

OPM is removing Aroostook, Hancock, Knox, Sagadahoc, and Washington Counties from the wage area definition. There are no longer NAF FWS employees working in Aroostook, Hancock, Knox, Sagadahoc, and Washington Counties. 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, Aroostook, Hancock, Knox, Sagadahoc, and Washington Counties should not be defined as part of an NAF wage area.

The York NAF wage area would consist of one survey county, York County, ME, and five area of application counties: Cumberland, Kennebec, and Penobscot Counties, ME; Rockingham County, NH; and Windsor County, VT. FWS employees remaining in the Cumberland wage area will be transferred to the York wage area schedule on the first day of the first applicable pay period beginning on or after July 25, 2011. 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), OPM finds that good cause exists to waive the general notice of proposed rulemaking. Also pursuant to 5 U.S.C. 553(d)(3), OPM finds 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 imminent closure of the Naval Air Station Brunswick will leave the Cumberland wage area without an activity having the capability to conduct a local wage survey and the remaining NAF FWS employees in Cumberland, Kennebec, and Penobscot Counties must be transferred to a continuing wage area as soon as possible.

### Regulatory Flexibility Act

OPM certifies 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— [Amended]

- 2. Appendix B to subpart B is amended by removing, under the State of Maine, "Cumberland."

#### 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 Maine by removing the wage area listing for Cumberland, Maine, and revising the wage area listing for York, Maine, to read as follows:

\* \* \* \* \*

**Maine**

York

Survey Area

Maine:

York

Area of application. Survey area plus:

Maine:

Cumberland

Kennebec

Penobscot

New Hampshire:

Rockingham

Vermont:

Windsor

\* \* \* \* \*

[FR Doc. 2011-13701 Filed 6-1-11; 8:45 am]

BILLING CODE 6325-39-P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 51**

[Doc. # AMS-FV-08-0023]

**United States Standards for Grades of Potatoes****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** This rule revises the United States Standards for Grades of Potatoes. These standards are issued under the Agricultural Marketing Act of 1946. The Agricultural Marketing Service (AMS) is amending the similar varietal characteristic requirement to allow mixed colors and/or types of potatoes when designated as a mixed or specialty pack. Additionally, AMS is adding restrictive tolerances for permanent defects in the en route/at destination tolerances, removing the unneeded definition for injury, and clarifying the scoring guide for sprouts. AMS is also adding table numbers to the definitions of "Damage," "Serious Damage," and "External Defects," amending table headings, replacing omitted language in the definition for bruises and amending language in the tolerance section to ensure soft rot tolerances are applied correctly. The purpose of this revision is to update and revise the standards to more accurately represent today's marketing practices and to clarify existing language.

**DATES:** Effective June 3, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dr. Carl Newell, Standardization and Training Section, Fresh Products Branch, (540) 361-1120. The United States Standards for Grades of Potatoes are available through the Fresh Products

Branch Web site at <http://www.ams.usda.gov/freshinspection>.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866 and 12988**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action. This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

**Regulatory Flexibility Act and Paperwork Reduction Act**

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) and in the Paperwork Reduction Act (PRA), AMS has considered the economic impact of the amended actions on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared this final regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and informational impacts of these actions on small businesses.

This rule revises the U.S. Standards for Grades of Potatoes that were issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627). Standards issued under the 1946 Act are voluntary.

Small agricultural service firms, which include handlers and importers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. Using annual data from the National Agricultural Statistics Service (NASS), the average potato crop value for 2006-2008 was \$3.482 billion. Dividing that figure by 15,014 farms yields an average potato crop value per farm of just under \$232,000. Since this is well under the SBA threshold of annual receipts of \$750,000, it can be concluded that the majority of these producers may be classified as small entities. Furthermore, there are approximately 180 handlers of potatoes and approximately 168 importers of potatoes that may be classified as small entities and may be affected by this rule.

Additional evidence comes from closely examining the Agricultural Census acreage breakdown. Out of a

total of 15,014 potato farms in 2007, 19 percent were less than 10 acres and 66 percent were less than 100 acres. An estimate of the number of acres that it would take to produce a crop valued at \$750,000 can be made by dividing the 2006-08 average crop value of \$3.482 billion by the three-year average bearing acres of 1.097 million, yielding an average potato revenue per acre estimate of \$3,174. Dividing \$750,000 by \$3,174 shows that farms with 236 acres received at least the average price in 2006-08 producing crops valued at \$750,000 or more, and would therefore be considered large potato farms under the SBA definition. Looking at farm numbers for additional census size categories shows that 11,718 potato farms (78 percent) are under 220 acres and 11,994 (80 percent) are less than 260 acres. Since a farm with 236 acres of potatoes falls within this range, it can be concluded that the proportion of small potato farms under the SBA definition is between 78 and 80 percent of all U.S. potato farms. The effects of this rule are not expected to be disproportionately greater or smaller for small handlers, producers, or importers than for larger entities.

This rule will amend the similar varietal characteristic requirement, add restrictive tolerances for permanent defects in the enroute/at destination tolerances, remove the definition for injury, and clarify the scoring guides for sprouts. Additionally, this rule will add table numbers to the definitions of "Damage," "Serious Damage," and "External Defects," amend table headings, replace omitted language in the definition for bruises, and amend the tolerance section to ensure soft rot tolerances are applied correctly. These actions will make the standard more consistent and uniform with marketing trends and practices. These actions will not impose any additional reporting or recordkeeping requirements on either small or large potato producers, handlers, or importers.

USDA has not identified any Federal rules that duplicate, overlap, or conflict with this rule. However, there are marketing programs which regulate the handling of potatoes under 7 CFR parts 945-948 and 953. Potatoes under a marketing order have to meet certain requirements set forth in the grade standards. In addition, potatoes are subject to section 8e import requirements under the Agricultural Marketing Act of 1937, as amended (7 U.S.C. 601-674) which requires imported potatoes to meet grade, size, and quality under the applicable marketing order (7 CFR part 980).