

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.*

[FR Doc. 95-17277 Filed 7-13-95; 8:45 am]

BILLING CODE 6325-01-M

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. Kreagor, 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

have been promulgated through the Washington State Department of Agriculture (State) for intrastate shipments of fresh peaches. Thus, the committee determined that continued funding through the Federal order was an unnecessary expense.

On January 5, 1993, the Department issued an order published in the **Federal Register** [58 FR 220, January 5, 1993] suspending all of the provisions of Marketing Order No. 921 effective March 31, 1993. The action also directed that a referendum be conducted during the period November 13 through December 10, 1993, to determine if affected producers favored continuation of the order. The referendum order provided that the Secretary would consider terminating the order if less than two-thirds of the number of producers voting, and producers of less than two-thirds of the volume of peaches represented in the referendum, favored continuance.

Of the 260 ballots mailed to producers of record, 21 valid votes were cast, representing approximately 8 percent of producers. The results of the referendum indicate that only 14 percent of the growers who voted, representing 1.5 percent of the volume voted, favored continuance of the order. Thus, the vote failed to meet the approval criteria by both number and volume.

Given the level of producer participation, as well as the demonstrated lack of producer support for the order, these results are a reliable indicator of industry sentiment, and clearly demonstrate that a significant portion of the producers do not favor continuation of the order.

Therefore, based on the foregoing considerations, pursuant to section 608c(16)(A) of the Act and section 9231.64 of the order, it is found that Marketing Order No. 921, covering peaches grown in designated counties in Washington, does not tend to effectuate the declared policy of the Act and is hereby terminated.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was so notified on March 1, 1994.

List of Subjects in 7 CFR Part 921

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

PART 921—[REMOVED]

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601-674, 7 CFR Part 921 is removed.

Dated: July 10, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95-17281 Filed 7-13-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 998

[Docket No. FV95-998-2IFR]

Amendment of Requirements Established Under Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts for 1995 and Subsequent Crop Years

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule amends for the 1995 peanut crop and subsequent crop years several provisions of the incoming, outgoing, and indemnification regulations established under Marketing Agreement No. 146. The changes are intended to recognize industry operating practices and reduce the burden on handlers without compromising the agreement's objective. The objective of the agreement is to ensure that only wholesome peanuts enter edible market channels. This rule was unanimously recommended by the Peanut Administrative Committee (Committee), the administrative agency for this wholesomeness assurance program.

DATES: Effective July 14, 1995.

Comments received by August 14, 1995 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administrative Branch, F&V, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, D.C. 20090-6456; FAX: (202) 720-5698. Comments should reference the docket number, the date, and page number of this issue of the **Federal Register**. Comments received will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (941) 299-4770, or FAX: (941) 299-5169; or Jim Wendland, Marketing

Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456; telephone: (202) 720-2170, or FAX: (202) 720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 146 (7 CFR part 998) regulating the quality of domestically produced peanuts, hereinafter referred to as the agreement. This agreement 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 rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the 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.

There are about 75 handlers of peanuts subject to regulation under the agreement, and about 47,000 peanut producers in the 16 States covered under the program. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers have been defined as those having annual receipts of less than \$500,000. Some of the handlers signatory to the agreement are small entities, and a majority of the producers may be classified as small entities.

In 1994, the reported U.S. production, mostly covered under the agreement, was approximately 4.25 billion pounds of peanuts, a 25 percent increase from the short 1993 crop. The preliminary 1994 peanut crop value is \$1.23 billion, up 19 percent from the 1993 crop value.

The objective of the agreement, in place since 1965, is to ensure that only wholesome peanuts enter edible market