

# 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-AJ21

#### Prevailing Rate Systems; Miscellaneous Changes in Certain Federal Wage System Wage Areas

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing a final rule to add Jefferson County, Washington, as an area of application to the Kitsap, WA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. We are also renaming the Champaign-Urbana, IL, FWS wage area as the Central Illinois FWS wage area; updating the name of White Sands Proving Grounds in the El Paso, TX, and Albuquerque, NM, wage area listings to White Sands Missile Range; and correcting a typographical error in the wage area listing for the Southern Colorado wage area.

**DATES:** *Effective Date:* This regulation is effective on November 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Chenty I. Carpenter by phone at (202) 606-2838, by FAX at (202) 606-4264, or by e-mail at [cicarpen@opm.gov](mailto:cicarpen@opm.gov).

**SUPPLEMENTARY INFORMATION:** On August 9, 2000, the Office of Personnel Management (OPM) published an interim rule (65 FR 48641) to add Jefferson County, Washington, as an area of application to the Kitsap, WA, nonappropriated fund (NAF) wage area and to make miscellaneous changes in certain Federal wage system wage areas. The interim rule had a 30-day period for public comment, during which we received no comments.

#### Jefferson County

The Naval Ordnance Center, Pacific Division, Detachment Port Hadlock,

now has a small club in Jefferson County. The club employs two NAF FWS employees. Under section 532.219 of title 5, Code of Federal Regulations, each NAF wage area "shall consist of one or more survey areas, along with nonsurvey areas, having nonappropriated fund employees." The Kitsap wage area consisted of one survey county, Kitsap County, and one area of application county, Clallam County, WA.

OPM considers the following regulatory criteria under 5 CFR 532.219 when defining FWS wage area boundaries:

- (i) Proximity of largest 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.

Jefferson County cannot be defined as a separate NAF wage area because the county does not meet the regulatory criteria to be a separate NAF wage area. However, nonsurvey counties can be combined with a survey area to form a wage area. Therefore, we are defining Jefferson County as an area of application to an existing NAF wage area.

The Naval Submarine Base, Bangor, in the Kitsap survey area, is the closest major Federal installation to Port Hadlock. It is approximately 53 km (33 miles) from Port Hadlock. Commuting patterns data for Jefferson County indicate that 6 percent of the county's resident workforce commutes to work in the Kitsap survey area. Transportation facilities consist of major interstates and highways. Residents of Jefferson County who commute into Pierce and Snohomish Counties must use a ferry or drive around Puget Sound to reach either of these counties. A review of employment and kinds and sizes of industrial establishments shows that Jefferson County is closely similar to the Kitsap survey area.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee that advises OPM on FWS pay matters, reviewed and concurred by consensus with this change.

#### Miscellaneous Changes

FPRAC also reviewed the Champaign-Urbana, IL, FWS wage area and determined that the wage area's counties are properly defined under the regulatory criteria for defining FWS wage areas. However, the Committee agreed by consensus to recommend that OPM rename the wage area as the Central Illinois FWS wage area because this name better describes the boundaries of the wage area. FPRAC reviewed the El Paso FWS wage area and determined that the wage area's counties are also properly defined. The Committee agreed by consensus to recommend that OPM update the name of White Sands Proving Grounds because the Department of Defense now refers to it as White Sands Missile Range. White Sands Proving Grounds was listed under the El Paso and Albuquerque wage areas; therefore, we have updated the name in the listing for both wage areas.

On May 5, 2000, we published a final rule (65 FR 26199) that redefined certain counties in the Southern Colorado and Denver, CO, FWS wage areas. FPRAC agreed to redefine Pitkin County, CO, from the Southern Colorado wage area to the Denver wage area. Because of a typographical error, Pitkin County appeared under both wage area listings in appendix C of subpart B of part 532 of title 5, Code of Federal Regulations. We should have removed Pitkin County from the Southern Colorado wage area listing in the final rule. This final rule corrects the previous final rule and reflects FPRAC's recommendation for the county.

#### 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.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule (65 FR 48641) amending 5 CFR part 532 published on August 9, 2000, is adopted as final with no changes.

U.S. Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

[FR Doc. 00-27514 Filed 10-26-00; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 920**

[Docket No. FV00-920-3 FIR]

**Kiwifruit Grown in California;  
Decreased Assessment Rate**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the Kiwifruit Administrative Committee (Committee) for the 2000-2001 and subsequent fiscal periods from \$0.05 to \$0.03 per 22-pound volume fill container or equivalent of kiwifruit. The Committee locally administers the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** November 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487-5901; Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202)

720-5698, or E-mail:

Jay.Guerber@usda.gov.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning August 1, 2000, and continue until amended, suspended, or terminated. This 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. Such 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 principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues to decrease the assessment rate established for the Committee for the 2000-2001 and subsequent fiscal periods from \$0.05 to \$0.03 per 22-pound volume fill container or equivalent of kiwifruit.

The California kiwifruit marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of California

kiwifruit. They are familiar with the Committee's needs and the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate.

The assessment is normally formulated and discussed in a public meeting. A public meeting was held on July 11, 2000. Because a Committee quorum (eight Committee representatives) was not present at the meeting, the Committee voted on the budget and assessment rate by telephone on July 13, 2000. Thus, all directly affected persons had an opportunity to participate and provide input.

For the 1998-1999 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

In the telephone conference call on July 13, 2000, the Committee unanimously recommended 2000-2001 expenditures of \$81,575 and an assessment rate of \$0.03 per 22-pound volume fill container or equivalent of kiwifruit. In comparison, last year's budgeted expenditures were \$83,800. The assessment rate of \$0.03 is \$0.02 lower than the rate previously in effect. The Committee voted to reduce 2000-2001 budgeted expenditures and the assessment rate to lessen the financial burden on California kiwifruit handlers.

The following table compares major budget expenditures recommended by the Committee for the 2000-2001 and 1999-2000 fiscal periods:

Budget expense categories	2000-2001	1999-2000
Administrative Staff & Field Salaries .....	52,000	56,000
Travel, Food & Lodging .....	9,500	7,500
Office Costs .....	12,000	14,000
Vehicle Expense .....		
Account .....	4,000	2,300
Annual Audit .....	4,075	4,000

The assessment rate recommended by the Committee was derived by considering the amount of funds in the Committee's operating reserve, anticipated expenses, and expected shipments of California kiwifruit. Kiwifruit shipments for the year are estimated at 2,704,545 22-pound volume fill containers or equivalents of kiwifruit, which should provide \$81,136 in assessment income at an assessment