

# Rules and Regulations

Federal Register

Vol. 73, No. 132

Wednesday, July 9, 2008

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-AL68

### Prevailing Rate Systems; Redefinition of the New Orleans, LA, Appropriated 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 add St. Charles and St. John the Baptist Parishes, Louisiana, to the survey area of the New Orleans, LA, appropriated fund Federal Wage System wage area. The purpose of this change is to ensure the lead agency for the New Orleans wage area is able to obtain wage data that best represent the prevailing rates paid by businesses in the area.

**DATES:** *Effective Date:* This regulation is effective on July 9, 2008. We must receive comments on or before August 8, 2008.

**ADDRESSES:** Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415-8200; e-mail [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov); or FAX: (202) 606-4264.

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

**SUPPLEMENTARY INFORMATION:** The U.S. Office of Personnel Management (OPM) is adding St. Charles and St. John the Baptist Parishes, Louisiana, to the survey area of the New Orleans, LA, appropriated fund Federal Wage System

(FWS) wage area. The New Orleans survey area currently includes five of the seven parishes of the New Orleans-Metairie-Kenner, LA Metropolitan Statistical Area (MSA)—Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany Parishes. The survey area does not include St. Charles and St. John the Baptist Parishes, which are also in the New Orleans-Metairie-Kenner MSA.

While there are currently only five FWS employees working in St. Charles Parish and no FWS employees working in St. John the Baptist Parish, the addition of St. Charles and St. John the Baptist Parishes to the New Orleans survey area provides a desirable increase in the number of surveyable private sector industrial establishments in the New Orleans survey area—about 15 percent more than in the current New Orleans survey area.

This survey area expansion will not create an undue survey burden on the lead agency for the wage area (the Department of Defense) and is strongly justified because of the substantial damage to private sector establishments in the New Orleans area in the aftermath of Hurricane Katrina. Expanding the New Orleans survey area will allow additional private sector establishments to provide wage data that best represents the prevailing rates paid by businesses in the New Orleans area.

This change will be effective for the next full-scale wage survey in the wage area, which is scheduled to begin in November 2008. 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 this change 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 Hurricane Katrina caused substantial economic disruption in the New Orleans wage area affecting the Government's ability to adequately

measure local prevailing wage levels. This change is urgent because the next scheduled wage survey in the wage area will occur in November 2008, and the lead agency must begin planning and coordination phases for the survey 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.

Office of Personnel Management.

**Linda M. Springer,**  
*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 C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

■ 2. In appendix C to subpart B, the wage area listing for the State of Louisiana is amended by revising the listing for New Orleans to read as follows:

\* \* \* \* \*

#### Louisiana

\* \* \* \* \*

#### New Orleans

##### Survey Area

Louisiana:  
Jefferson  
Orleans  
Plaquemines  
St. Bernard  
St. Charles  
St. John the Baptist  
St. Tammany

##### Area of Application. Survey Area Plus

Louisiana:  
Ascension  
Assumption  
East Baton Rouge

East Feliciana  
Iberia  
Iberville  
Lafourche  
Livingston  
Pointe Coupee  
St. Helena  
St. James  
St. Martin  
St. Mary  
Tangipahoa  
Terrebonne  
Washington  
West Baton Rouge  
West Feliciana

\* \* \* \* \*

[FR Doc. E8-15598 Filed 7-8-08; 8:45 am]

BILLING CODE 6325-39-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1216

[Docket No.: AMS-FV-08-0001; FV-08-701 FR]

#### **Peanut Promotion, Research, and Information Order; Amendment to Primary Peanut-Producing States and Adjustment of Membership**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, an interim final rule that added a producer member and alternate from the State of Mississippi to the National Peanut Board (Board). The change was proposed by the Board, which administers the nationally coordinated program, in accordance to the provisions of the Peanut Promotion, Research, and Information Order (Order) which is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act). This change is made because Mississippi is now considered a major peanut-producing state based on the Board's review of the geographical distribution of the production of peanuts. The Order requires a review of the geographical distribution of the production of peanuts at least every five years. The addition of a member from Mississippi will provide for additional representation from another primary peanut-producing state.

**DATES:** *Effective Date:* August 8, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA,

1400 Independence Avenue, SW., Room 0632, Stop 0244, Washington, DC 20250-0244; telephone: (202) 720-9915; or fax: (202) 205-2800; or e-mail: *Jeanette.Palmer@usda.gov*.

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Peanut Promotion, Research, and Information Order [7 CFR Part 1216]. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 [7 U.S.C. 7411-7425].

#### **Executive Order 12866**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The 1996 Act provides that any person subject to an order may file a written petition with the Department of Agriculture if they believe that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law. In any petition, the person may request a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The 1996 Act provides that the district court of the United States in any district in which the petitioner resides or conducts business shall have the jurisdiction to review the Department's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

#### **Regulatory Flexibility Analysis**

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601-612], AMS has considered the economic impact of this rule on small entities and has prepared this final regulatory analysis impact on a substantial number of 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.

The Small Business Administration (SBA) defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service

firms as having receipts of no more than \$6,500,000.

There are approximately 10,840 producers and 33 handlers of peanuts who are subject to the program. Most producers would be classified as small businesses under the criteria established by the SBA, and most of the handlers would not be classified as small businesses.

The Department's National Agricultural Statistics Service (NASS), reports U.S. peanut production from the 10 major peanut-producing states. The combined production from these states totaled 3.74 billion pounds in 2007. NASS data indicates that Georgia was the largest producer (44 percent of the total U.S. production), followed by Texas (20 percent), Alabama (11 percent), Florida (9 percent), North Carolina (7 percent), South Carolina (5 percent), Mississippi (2 percent), Oklahoma (2 percent), Virginia (2 percent), and New Mexico (1 percent). According to the 2002 Census of Agriculture, small amounts of peanuts were also grown in six other states. NASS data indicates that the farm value of the peanuts produced in the top 10 states in 2007 was \$763 million.

Three main types of peanuts are grown in the United States: Runners, Virginia, and Spanish. The southeast growing region grows mostly the medium-kernel Runner peanuts. The southwest growing region used to grow two-thirds Spanish and one-third Runner peanuts, but now more Runners than Spanish are grown. Virtually all of the Spanish peanut production is in Oklahoma and Texas. In the Virginia-Carolina region, mainly large-kernel Virginia peanuts are grown. New Mexico grows a fourth type of peanut, the Valencia.

According to the Department's *Agricultural Statistics* report, in 2005 there were 10,840 commercial producers of peanuts in the United States. If that number of growers is divided into the total U.S. production in 2005, the resulting average is 449,249 pounds of peanuts per grower. Peanuts produced during 2005 provided average gross sales of \$77,808 per peanut producer, and the total value of the 2005 crop was approximately \$843 million. During the 2005/2006 marketing season (which began August 1, 2005), the per capita consumption of peanuts in the United States was 6.6 pounds, the same as in the 2004/2005 season.

Peanut manufacturers produce three principal peanut products: peanut butter, packaged nuts (including salted, unsalted, flavored, and honey-roasted nuts), and peanut candies. In most years, half of all peanuts produced in