

**5 CFR Part 532**

RIN 3206-AH20

**Prevailing Rate Systems; Abolishment of Ocean, NJ, 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 Ocean, NJ, nonappropriated fund (NAF) Federal Wage System wage area and redefine Ocean County as an area of application to the Burlington, NJ, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

**EFFECTIVE DATE:** March 18, 1996.**FOR FURTHER INFORMATION CONTACT:** Paul Shields, (202) 606-2848.

**SUPPLEMENTARY INFORMATION:** On November 1, 1995, OPM published an interim rule to abolish the Ocean, NJ, nonappropriated fund (NAF) Federal Wage System wage area and redefine Ocean County as an area of application to the Burlington, NJ, NAF wage area for paysetting purposes. On November 29, 1995, OPM published a correction of a typographical error in the interim rule. There are now two Burlington, NJ, wage area application area counties listed (Atlantic and Ocean)—not one "Atlantic Ocean" county as printed in the original interim rule. The interim rule provided 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 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 amending 5 CFR part 532 published on November 1, 1995 (60 FR 55423), and corrected on November 29, 1995 (60 FR 61290), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

*Deputy Director.*

[FR Doc. 96-3364 Filed 2-14-96; 8:45am]

BILLING CODE 6325-01-M

**5 CFR Part 532**

RIN 3206-AH16

**Prevailing Rate Systems; Abolishment of Marin-Sonoma, CA, 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 Marin-Sonoma, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the two counties having continuing FWS employment (Marin and Sonoma Counties) as areas of application to the Solano, CA, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

**EFFECTIVE DATE:** March 18, 1996.**FOR FURTHER INFORMATION CONTACT:** Paul Shields, (202) 606-2848.

**SUPPLEMENTARY INFORMATION:** On October 30, 1995, OPM published an interim rule to abolish the Marin-Sonoma, CA, nonappropriated fund (NAF) Federal Wage System wage area and redefine the two counties having continuing FWS employment (Marin and Sonoma Counties) as areas of application to the Solano, CA, 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 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 amending 5 CFR part 532 published on October 30, 1995 (60 FR 55174), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

*Deputy Director.*

[FR Doc. 96-3363 Filed 2-14-96; 8:45 am]

BILLING CODE 6325-01-M

**5 CFR Part 532**

RIN 3206-AG93

**Prevailing Rate Systems; Redefinition of Guaynabo-San Juan, PR, Nonappropriated Fund Wage Area****AGENCY:** Office of Personnel Management.**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing a final rule to redefine the Guaynabo-San Juan, Puerto Rico, nonappropriated fund Federal Wage System Wage area by adding Salinas Municipality as an area of application for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

**EFFECTIVE DATE:** March 18, 1996.**FOR FURTHER INFORMATION CONTACT:**

Paul Shields, (202) 606-2848.

**SUPPLEMENTARY INFORMATION:** On October 4, 1995, OPM published an interim rule to redefine the Guaynabo-San Juan, Puerto Rico, nonappropriated fund Federal Wage System wage area by adding Salinas Municipality as an area of application 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 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 amending 5 CFR part 532 published on October 4, 1995 (60 FR 51881), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

*Deputy Director.*

[FR Doc. 96-3362 Filed 2-14-96; 8:45 am]

BILLING CODE 6325-01-M

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****7 CFR Parts 300 and 318**

[Docket No. 95-028-2]

**Sharwil Avocados From Hawaii****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations to allow Sharwil avocados to be moved interstate from Hawaii after undergoing cold treatment for fruit flies under the supervision of an inspector of the Animal and Plant Health Inspection Service. This action will facilitate the interstate movement of Sharwil avocados from Hawaii while continuing to provide protection against the spread of injurious plant pests from Hawaii to other parts of the United States.

**EFFECTIVE DATE:** March 18, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter M. Grosser, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737-1236, (301) 734-8295.

**SUPPLEMENTARY INFORMATION:****Background**

The Hawaiian Fruits and Vegetables regulations, contained in 7 CFR 318.13 through 318.13-17 (referred to below as the regulations), govern, among other things, the interstate movement from Hawaii of avocados in a raw or unprocessed state. Regulation is necessary to prevent the spread of the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*). These types of fruit flies are collectively referred to as Trifly.

On October 2, 1995, we published in the Federal Register (60 FR 51373-51375, Docket No. 95-028-1) a proposal to amend the regulations to allow Sharwil avocados to be moved interstate from Hawaii after undergoing cold treatment for Trifly. In that document, we also proposed two nonsubstantive editorial changes to simplify the regulations.

We solicited comments concerning our proposal for 30 days ending November 1, 1995. We received two comments by that date. They were from a State agricultural agency and a representative of an avocado industry group. Both commenters requested additional information to substantiate the provisions of the proposed rule. The comments are discussed below.

*Comment:* The United States Department of Agriculture (USDA) must address the effect of a preconditioning heat treatment, prior to cold treatment, on Trifly eggs and larvae.

*Response:* The preconditioning heat treatment, which induces a tolerance to subsequent cold treatment in the Sharwil avocado variety, is recommended specifically for the purpose of maintaining fruit quality and not as a part of the quarantine treatment. However, research conducted by the Agricultural Research Service (ARS), USDA, indicates that the heat treatment does contribute to Trifly mortality. Additional information about this research may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

*Comment:* The USDA must address the efficacy of cold treatment on eggs and larvae of the melon fly and the Oriental fruit fly, in addition to the Mediterranean fruit fly (Medfly). In addition, USDA must address the possible resistance of Medfly to cold treatment.

*Response:* Recent research conducted by ARS tested cold treatment against all three species of Trifly (see Armstrong, Silva, and Shishido, "Quarantine cold treatment for Hawaiian carambola fruit infested with Mediterranean fruit fly, Melon fly, or Oriental fruit fly (Diptera:Tephritidae) eggs and larvae." Journal of Economic Entomology 88(3):683-687 (1995)). In this study, cold treatment disinfested carambola of Trifly eggs and larvae, including eggs and larvae of Medfly, the most cold-tolerant of the Trifly species, providing a Probit 9 level of quarantine security (99.8 percent mortality). Therefore, we have determined that cold treatment is effective against the eggs and larvae of all three Trifly species.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Hawaii produced approximately 500,000 pounds of avocados during 1993, down approximately 29 percent from the 1992 level due, in part, to the interruption of avocado shipments to the U.S. mainland because of Oriental fruit fly infestation in 1992. Sharwil variety accounted for 75 percent of this total, or 375,000 pounds. Shipments of

Sharwil avocados from Hawaii to the U.S. mainland and to Canada before the 1992 suspension peaked at 100,000 pounds.

Total production of avocados in the United States, excluding Hawaii, was approximately 302.8 million pounds in 1993. Of this total, California accounted for approximately 97 percent of the production. California continues to supply the major share of the U.S. avocado market. Total Hawaiian avocado production in 1993 accounted for less than two-tenths of a percent of the total U.S. production.

The total value of Hawaiian avocado production (\$220,000 in 1993) is less than three-tenths of a percent of the total U.S. production, and all of the Hawaiian entities involved are considered small. This rule could reverse the downward trend in Hawaiian avocado production by providing a commercially feasible method of treating Sharwil avocados to be moved interstate. This would have a positive economic effect on Hawaiian avocado producers. Although a major share of the U.S. market is supplied by California producers, the addition of a Hawaiian supply is unlikely to have a significant negative impact upon California producers, as the two dominant avocado varieties, Sharwil (Hawaii) and Hass (California) have different peak seasons of production. The peak season for the Sharwil variety is between November and May; the peak season for the Hass variety is April through October. As a result, this rule is expected to have a complementary rather than competitive effect. The change is not expected to have any significant impact upon supply and price. Nevertheless, it is expected to have a positive impact upon consumers by providing for a more continuous and varied avocado supply.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12778**

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are

inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects

##### 7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

##### 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, 7 CFR parts 300 and 318 are amended as follows:

#### PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), introductory text, is revised to read as follows:

##### § 300.1 Materials incorporated by reference; availability.

(a) *Plant Protection and Quarantine Treatment Manual*. The Plant Protection and Quarantine Treatment Manual, which was reprinted on November 30, 1992, and includes all revisions through November 1995, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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#### PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

3. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

4. Section 318.13-1 is amended by revising the definition for *Inspector* to read as follows:

##### § 318.13-1 Definitions.

\* \* \* \* \*

*Inspector*. An inspector of Plant Protection and Quarantine, Animal and

Plant Health Inspection Service, United States Department of Agriculture.

\* \* \* \* \*

5. Section 318.13-4d is revised to read as follows:

##### § 318.13-4d Administrative instructions concerning the interstate movement of avocados from Hawaii.

(a) Subject to the requirements of §§ 318.13-3 and 318.13-4 and all other applicable provisions of this subpart, avocados may be moved interstate from Hawaii only if they are treated under the supervision of an inspector with a treatment authorized by the Administrator for the following pests: the Mediterranean fruit fly (*Ceratitidis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

(b) Treatments authorized by the Administrator are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

##### § 318.13-4e [Removed and Reserved]

6. Section 318.13-4e is removed and reserved.

Done in Washington, DC, this 2nd day of February 1996.

Terry L. Medley,

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 96-3381 Filed 2-14-96; 8:45 am]

BILLING CODE 3410-34-P

#### Agricultural Marketing Service

##### 7 CFR Part 966

[Docket No. FV95-966-2FIR]

##### Tomatoes Grown in Florida; Exemption of Specialty Packed Red Ripe Tomatoes From Container Requirements

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 exempted shipments of specialty packed red ripe tomatoes from the container net weight requirements in the Florida tomato handling regulation. This exemption was unanimously recommended by the Florida Tomato Committee (committee) which locally administers the marketing order. This rule continues that exemption and allows handlers to ship specialty packed red ripe tomatoes in containers with different net weights than those

currently authorized under the order. This rule will continue to facilitate the movement of such tomatoes, further the development of this relatively new market, and is expected to improve returns to producers of Florida tomatoes.

**EFFECTIVE DATE:** March 18, 1996.

##### FOR FURTHER INFORMATION CONTACT:

Aleck Jonas, 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 Mark Kreaggor, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2431, or FAX: 202-720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 125 and Order No. 966 (7 CFR Part 966), both as amended, regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The 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 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.

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 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the 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