

Aguadilla
 Bayamon
 Ceiba
 Isabela
 Ponce
 Salinas
 Toa Baja
 Vieques
 U.S. Virgin Islands
 St. Croix
 St. Thomas

* * * * *

[FR Doc. E7-22262 Filed 11-13-07; 8:45 am]

BILLING CODE 6325-39-P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206-AL44

Prevailing Rate Systems; Abolishment of Rock Island, IL, 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 Rock Island, Illinois,
 nonappropriated fund (NAF) Federal
 Wage System (FWS) wage area and
 redefine Rock Island County, IL, and
 Johnson County, Iowa, as areas of
 application to the Lake, IL, NAF FWS
 wage area. Carroll County, IL, will no
 longer be defined. These changes are
 necessary because employment has
 significantly declined in the Rock Island
 NAF wage area.

DATES: *Effective date:* This regulation is
 effective on November 14, 2007. We
 must receive comments on or before
 December 14, 2007. *Applicability date:*
 FWS employees remaining in Rock
 Island County, IL, and Johnson County,
 IA, will be transferred to the Lake, IL,
 NAF wage area schedule on the first day
 of the first applicable pay period
 beginning on or after December 15,
 2007.

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,
 20415 E Street, NW., Washington, DC
 20415-8200; e-mail *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*;
 or FAX: (202) 606-4264.

SUPPLEMENTARY INFORMATION: The Rock
 Island, Illinois, nonappropriated fund
 (NAF) Federal Wage System (FWS)
 wage area is presently composed of one
 survey county, Rock Island County, IL,
 and two area of application counties,
 Carroll County, IL, and Johnson County,
 Iowa. 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 a
 reduction in NAF employment in the
 Rock Island wage area has left only 14
 NAF FWS employees in Rock Island
 County and 9 NAF FWS employees in
 Johnson County. DOD recommended
 that OPM abolish the Rock Island NAF
 FWS wage area and redefine Rock
 Island and Johnson Counties as areas of
 application to the Lake, IL, NAF FWS
 wage area.

Since Rock Island and Johnson
 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
 Rock Island and Johnson Counties
 should be redefined, proximity favors
 the Lake NAF wage area. All other
 criteria are inconclusive. Based on the
 application of the regulatory criteria,
 OPM is defining Rock Island and
 Johnson Counties as areas of application
 to the Lake NAF wage area.

OPM is removing Carroll County from
 the wage area definition. There are no
 longer NAF FWS employees working in
 Carroll County. 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, Carroll County
 should not be defined as part of an NAF
 wage area.

The Lake NAF wage area will consist
 of one survey county, Lake County, and
 eight area of application counties: Cook,
 Rock Island, and Vermilion Counties,
 IL; Johnson County, IA; Dickinson and
 Marquette Counties, Michigan; and
 Dane and Milwaukee Counties,
 Wisconsin. FWS employees remaining
 in the Rock Island wage area will be
 transferred to the Lake wage area
 schedule on the first day of the first
 applicable pay period beginning on or
 after December 15, 2007. 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 of
 the need to transfer the remaining NAF
 FWS employees in Rock Island and
 Johnson Counties to a continuing wage
 area 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.

U.S. 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 B to Subpart B of Part 532—
Nationwide Schedule of
Nonappropriated Fund Regular Wage
Surveys**

■ 2. Appendix B to subpart B is amended by removing, under the State of Illinois, “Rock Island.”

**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 Illinois by removing the wage area listing for Rock Island, Illinois, and revising the wage area listing for Lake, Illinois, to read as follows:

* * * *
ILLINOIS
* * * *
Lake
<i>Survey Area</i>
Illinois:
Lake
<i>Area of application. Survey area plus:</i>
Illinois:
Cook
Rock Island
Vermilion
Iowa:
Johnson
Michigan:
Dickinson
Marquette
Wisconsin:
Dane
Milwaukee
* * * *

[FR Doc. E7-22263 Filed 11-13-07; 8:45 am]

BILLING CODE 6325-39-P

**NUCLEAR REGULATORY
COMMISSION**

**10 CFR Parts 30, 40, 50, 52, 60, 61, 63,
70, 71, 72, and 76**

RIN 3150-AH59

**Clarification of NRC Civil Penalty
Authority Over Contractors and
Subcontractors Who Discriminate
Against Employees for Engaging in
Protected Activities**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is amending its employee protection regulations to clarify the Commission’s authority to impose a civil penalty upon a non-licensee contractor or subcontractor of a Commission licensee, or applicant for a Commission license who violates the NRC’s regulations by

discriminating against employees for engaging in protected activity. The NRC is also amending its employee protection regulations related to the operation of Gaseous Diffusion Plants to conform with the NRC’s other employee protection regulations and to allow the NRC to impose a civil penalty on the United States Enrichment Corporation (USEC or Corporation), as well as a contractor or subcontractor of USEC.

DATES: *Effective Date:* The effective date of this final rule is December 14, 2007.

FOR FURTHER INFORMATION CONTACT: Doug Starkey, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; Telephone (301) 415-3456; e-mail *drs@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Commission’s employee protection regulations in 10 CFR 30.7, 40.7, 50.7, 52.5,¹ 60.9, 61.9, 63.9, 70.7, 71.9, 72.10, and 76.7 prohibit discrimination by a Commission licensee, applicant for a Commission license, a holder of or applicant for a certificate of compliance (CoC) or the Corporation, or contractor or subcontractor of these entities, against employees for engaging in certain protected activities. These regulations identify certain enforcement actions for violations of the requirements. The enforcement actions are denial, revocation, or suspension of the license or certificate; imposition of a civil penalty on the licensee or applicant; or other enforcement action. While the employee protection regulations prohibit discrimination by a contractor or subcontractor, they do not explicitly provide for imposition of a civil penalty on a contractor or subcontractor.

On January 16, 1998, the NRC issued an enforcement action against Five Star Products, Inc., and Construction Products Research, Inc., contractors to the nuclear industry, for discriminating against one of its employees. Following this enforcement action, the NRC considered modifications to the NRC’s employee protection regulations that would clearly allow the NRC, within the limits of its jurisdiction, to impose civil penalties on non-licensees for discriminating against employees who

have engaged in protected activities. At the time that NRC took the enforcement action against Five Star Products, Inc., and Construction Products Research, Inc., the NRC was engaged in litigation with another non-licensee, Thermal Science, Inc., that included an issue concerning the scope of the Commission’s civil penalty authority over non-licensees. Consequently, the NRC deferred modifying the NRC’s employee protection regulations pending resolution of action in *Thermal Science, Inc., v. NRC* (Case No. 4:96CV02281-CAS). That case was subsequently settled.

On April 14, 2000, the NRC Executive Director for Operations (EDO) approved the establishment of a Discrimination Task Group (DTG) to, among other things, evaluate the NRC’s handling of matters covered by its employee protection regulations. During this review, the DTG held 12 public meetings and provided the public with an opportunity to comment on its draft report. Among other recommendations, the DTG recommended in its report, “Policy Options and Recommendations for Revising the NRC’s Process for Handling Discrimination Issues,” dated April 2002, that rulemaking be initiated to allow the NRC to impose civil penalties on contractors working for NRC licensees. The DTG received public comments both in favor of, and opposed to, the recommendation that NRC conduct a rulemaking to allow the imposition of civil penalties against contractors for violating the NRC’s employee protection requirements.

The DTG’s report was forwarded to the Commission as an attachment to SECY-02-0166, “Policy Options and Recommendations for Revising the NRC’s Process for Handling Discrimination Issues,” dated September 12, 2002. On March 26, 2003, the Commission issued a Staff Requirements Memorandum (SRM) on SECY-02-0166, approving the recommendations of the DTG as revised by the Senior Management Review Team, subject to certain comments. The Senior Management Review Team was appointed by the EDO to review the final recommendations of the DTG and provide any additional perspectives that could enhance the potential options. The Commission approved, without comment, the DTG rulemaking recommendation regarding civil penalties against contractors.

The NRC staff submitted a proposed rule to amend the employee protection regulations to exercise NRC’s authority to impose civil penalties against contractors and subcontractors to the Commission on November 17, 2005

¹This final rule amends 10 CFR 52.5(c) to conform with the other employee protection regulations regarding civil penalties to contractors and subcontractors. 10 CFR 52.5(c) was not included in the proposed rule submitted to the Commission in SECY-05-0212 because, at that time, 10 CFR Part 52 did not contain employee protection provisions. 10 CFR Part 52 has since been amended (72 FR 49352, in part, to include a new section, 10 CFR 52.5, Employee protection.