

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AL63

#### Prevailing Rate Systems; Change in Nonappropriated Fund Federal Wage System Survey Schedule From Fiscal Year to Calendar Year

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management is issuing a final rule to change the annual schedule of nonappropriated fund (NAF) Federal Wage System wage surveys from a fiscal year cycle to a calendar year cycle. The purpose of this change is to move certain wage surveys to a different time of year and thus optimize the data collection process for those areas. In addition, this change would more

evenly distribute the workload for the agency responsible for conducting NAF surveys.

**DATES:** This rule is effective on December 10, 2008

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

**SUPPLEMENTARY INFORMATION:** On May 28, 2008, the U.S. Office of Personnel Management (OPM) issued a proposed rule (73 FR 30526) to change the nationwide schedule of nonappropriated fund (NAF) Federal Wage System regular wage surveys at appendix B of part 532 of title 5, Code of Federal Regulations, from a fiscal year cycle to a calendar year cycle. The proposed rule had a 30-day public comment period, during which OPM received no comments.

#### 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.

#### E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this final rule in accordance with Executive Order 12866.

#### Paperwork Reduction Act

This document does not contain proposed information collection

requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13.

#### 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.

**Michael W. Hager,**

*Acting 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.

■ 2. Amend appendix B to subpart B by revising paragraph (3) to read as follows:

#### Appendix B to Subpart B of Part 532— Nationwide Schedule of Nonappropriated Fund Regular Wage Surveys

\* \* \* \* \*

(3) Whether full-scale surveys will be conducted in odd or even numbered calendar years.

State	Wage area	Beginning month of survey	Calendar year of full-scale survey odd or even
Alabama	Calhoun	April	Even.
	Madison	April	Even.
	Montgomery	April	Odd.
Alaska	Anchorage	June	Even.
Arizona	Maricopa	October	Even.
	Pima	October	Even.
	Yuma	October	Even.
Arkansas	Pulaski	April	Odd.
California	Kern	September	Odd.
	Los Angeles	September	Even.
	Monterey	September	Odd.
	Orange	September	Even.
	Riverside	September	Even.
	Sacramento	February	Odd.
	San Bernardino	September	Even.
	San Diego	September	Odd.
	San Joaquin	February	Odd.
	Santa Barbara	September	Even.
	Santa Clara	September	Odd.
	Solano	September	Odd.
	Ventura	September	Even.
Colorado	Arapahoe-Denver	July	Even.

State	Wage area	Beginning month of survey	Calendar year of full-scale survey odd or even
Connecticut	El Paso	July	Even.
Connecticut	New London	July	Even.
Delaware	Kent	August	Odd.
District of Columbia	Washington, DC	August	Even.
Florida	Bay	January	Even.
Florida	Brevard	January	Odd.
Florida	Miami-Dade	January	Odd.
Florida	Duval	January	Odd.
Florida	Escambia	January	Even.
Florida	Hillsborough	January	Odd.
Florida	Monroe	January	Odd.
Florida	Okaloosa	January	Even.
Florida	Orange	January	Even.
Georgia	Chatham	March	Odd.
Georgia	Clayton-Cobb-Fulton	June	Odd.
Georgia	Columbus	June	Odd.
Georgia	Dougherty	March	Odd.
Georgia	Houston	April	Odd.
Georgia	Lowndes	March	Odd.
Georgia	Richmond	April	Odd.
Guam	Guam	September	Even.
Hawaii	Honolulu	May	Even.
Idaho	Ada-Elmore	July	Odd.
Illinois	Lake	April	Even.
Illinois	St. Clair	April	Even.
Kansas	Leavenworth-Jackson-Johnson	April	Even.
Kansas	Sedgwick	April	Odd.
Kentucky	Christian-Montgomery	February	Even.
Kentucky	Hardin-Jefferson	March	Even.
Louisiana	Bossier-Caddo	March	Odd.
Louisiana	Orleans	June	Odd.
Louisiana	Rapides	March	Odd.
Maine	Cumberland	October	Odd.
Maine	York	October	Odd.
Maryland	Anne Arundel	August	Even.
Maryland	Charles-St. Mary's	August	Even.
Maryland	Frederick	August	Even.
Maryland	Harford	May	Even.
Maryland	Montgomery-Prince George's	August	Even.
Massachusetts	Hampden	October	Odd.
Massachusetts	Middlesex	October	Odd.
Michigan	Macomb	May	Odd.
Minnesota	Hennepin	July	Odd.
Mississippi	Harrison	March	Even.
Mississippi	Lauderdale	March	Odd.
Mississippi	Lowndes	March	Odd.
Montana	Cascade	July	Odd.
Nebraska	Douglas-Sarpy	April	Even.
Nevada	Churchill-Washoe	January	Even.
Nevada	Clark	January	Even.
New Jersey	Burlington	August	Odd.
New Jersey	Monmouth	August	Odd.
New Jersey	Morris	August	Odd.
New Mexico	Bernalillo	February	Odd.
New Mexico	Curry	June	Odd.
New Mexico	Dona Ana	February	Odd.
New York	Jefferson	May	Odd.
New York	Kings-Queens	October	Even.
New York	Niagara	May	Odd.
New York	Orange	May	Odd.
North Carolina	Craven	March	Even.
North Carolina	Cumberland	March	Even.
North Carolina	Onslow	February	Even.
North Carolina	Wayne	March	Even.
North Dakota	Grand Forks	July	Odd.
North Dakota	Ward	July	Odd.
Ohio	Greene-Montgomery	April	Odd.
Oklahoma	Comanche	March	Even.
Oklahoma	Oklahoma	March	Even.
Pennsylvania	Allegheny	May	Odd.
Pennsylvania	Cumberland	May	Even.
Pennsylvania	Montgomery	August	Odd.

State	Wage area	Beginning month of survey	Calendar year of full-scale survey odd or even	
Puerto Rico	York	May	Even.	
	Guaynabo-San Juan	February	Even.	
	Rhode Island	July	Even.	
	South Carolina	Charleston	February	Even.
		Richland	March	Even.
	South Dakota	Pennington	June	Even.
	Tennessee	Shelby	February	Even.
	Texas	Bell	June	Odd.
		Bexar	June	Even.
		Dallas	June	Even.
El Paso		February	Odd.	
McLennan		May	Odd.	
Nueces		June	Even.	
Tarrant		June	Even.	
Taylor		June	Odd.	
Tom Green		June	Odd.	
Wichita		March	Even.	
Utah		Davis-Salt Lake-Weber	July	Odd.
Virginia		Alexandria-Arlington-Fairfax	August	Even.
		Chesterfield-Richmond	August	Odd.
		Hampton-Newport News	May	Even.
	Norfolk-Portsmouth-Virginia Beach	May	Even.	
	Prince William	August	Even.	
Washington	Kitsap	June	Even.	
	Pierce	July	Even.	
	Snohomish	July	Even.	
	Spokane	July	Odd.	
Wyoming	Laramie	July	Even.	

\* \* \* \* \*

[FR Doc. E8-26561 Filed 11-7-08; 8:45 am]

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**OFFICE OF PERSONNEL MANAGEMENT**

**5 CFR Part 731**

**RIN: 3206-AL38**

**Suitability**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** In order to limit duplication of efforts by applying reciprocity where appropriate to the investigative and adjudicative processes, the Office of Personnel Management (OPM) is modifying regulations governing Federal employment suitability. The final regulations establish the requirements for applying reciprocity to Federal employment suitability determinations and investigations.

**DATE:** *Effective Date:* The rule is effective January 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** Gary D. Wahlert by telephone at (202) 606-2930; by FAX at (202) 606-2613; or by e-mail at [CWRAP@opm.gov](mailto:CWRAP@opm.gov).

**SUPPLEMENTARY INFORMATION:**

**Introduction**

On June 23, 2008, OPM published at 73 FR 35358 (2008) proposed amendments to the regulations in part 731 of title 5, Code of Federal Regulations (CFR), to require, with limited exceptions, the application of reciprocity in any case where the person previously was investigated at a level that meets or exceeds that required for the new position, was determined suitable under 5 CFR part 731 or fit based on character or conduct criteria equivalent to the suitability factors of 5 CFR 731.202, and meets continuous service requirements described in the regulations. The public comment period on the proposed amendments ended on August 22, 2008. OPM received comments from two Federal agencies or departments, one union, and two individuals. OPM has carefully considered the comments received. Subsequent to publication of the proposed regulations, President George W. Bush signed Executive Order 13467 (June 30, 2008), which established a governance structure to improve Executive branch policies and procedures regarding various background investigations and adjudications. Section 2.1(c) of E.O. 13467 requires that except as otherwise authorized by law, background investigations and adjudications shall be mutually and reciprocally accepted by all agencies. The E.O. requires that,

with respect to suitability, agencies may not establish additional investigative or adjudicative requirements without the approval of the Suitability Executive Agent, and such approval shall be limited to circumstances where additional requirements are necessary to address significant needs unique to the agency involved or to protect national security. Section 2.3(b) of the E.O. provides that the Director of the Office of Personnel Management shall serve as the Suitability Executive Agent. The exceptions to reciprocity provided in these regulations are consistent with these provisions.

**Reciprocity of Background Investigations**

One commenter opposed accepting background checks on contractor employees who have had their background investigations conducted by their employing company. The commenter believes that the Federal suitability process involves more scrutiny and a private company's background checks may not involve the same extensive checks as does the Federal suitability process. The proposed regulation only applies where a Federal agency has previously determined the contract employee was fit to perform work on the contract based on criteria equivalent to the factors provided at 5 CFR 731.202. There is no requirement or expectation