

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AM22

### Prevailing Rate Systems; Definition of Tulsa County, OK, and Angelina County, TX, to Nonappropriated Fund Federal Wage System Wage Areas

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The U.S. Office of Personnel Management is issuing a proposed rule that would define Tulsa County, Oklahoma, as an area of application to the Oklahoma, OK, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and Angelina County, Texas, as an area of application to the Dallas, TX, NAF FWS wage area. These changes are necessary because there are NAF FWS employees working in Tulsa and Angelina Counties and the counties are not currently defined to NAF wage areas. In addition, this proposed rule would restore Appendix B to subpart B of part 532—Nationwide Schedule of Nonappropriated Fund Regular Wage Schedules by removing, under the State of California, “Santa Clara,” which was abolished as a NAF FWS wage area by a final rule published on March 9, 2009.

**DATES:** We must receive comments on or before September 2, 2010.

**ADDRESSES:** Send or deliver comments to Jerome D. Mikowicz, Deputy Associate Director for Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415-8200; email [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 issuing a proposed rule that would define Tulsa County, Oklahoma, as an area of application to the Oklahoma, OK, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and Angelina County, Texas, as an area of application to the Dallas, TX, NAF FWS wage area. Veterans Canteen Service (VCS) now operates franchise coffee bars, staffed with NAF employees, at Outpatient Clinics in Tulsa and Angelina Counties. The Ernest Childers VA Outpatient Clinic in Tulsa County employs one NAF FWS employee and the Charles Wilson VA Outpatient Clinic in Angelina County 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, if any, having nonappropriated fund employees.” Tulsa and Angelina Counties do not meet the regulatory criteria under 5 CFR 532.219 to be established as separate NAF wage areas; however, nonsurvey counties may be combined with a survey area to form a wage area. Section 532.219 lists the regulatory criteria that OPM considers when defining FWS wage area boundaries:

- (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.

OPM recently completed reviews of the definitions of Tulsa and Angelina Counties and, based on analyses of the regulatory criteria for defining NAF wage areas, is proposing the changes described below. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended these changes by consensus. These changes would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

### Tulsa County, OK

Based on an analysis of the regulatory criteria for defining NAF wage areas, we recommend that Tulsa County, OK, be defined as an area of application to the Oklahoma, OK, NAF FWS wage area. The proximity criterion favors the Oklahoma wage area more than the Sedgwick, OK, wage area. The commuting patterns criterion does not favor one wage area more than another. Although the overall population, employment sizes, and kinds and sizes of private industrial establishments criterion does not favor one wage area more than another, the comparison of the total population and workforce, employment, and kinds and sizes of private industrial establishments for Tulsa County is similar to the Oklahoma survey area. The NAF FWS employee in Tulsa County works at the Ernest Childers VA Outpatient Clinic, which is a satellite activity attached to the Jack C. Montgomery VA Medical Center in Muskogee County. Muskogee County is already defined to the Oklahoma NAF wage area. Based on this analysis, OPM proposes to define Tulsa County to the Oklahoma NAF wage area.

The proposed Oklahoma NAF wage area would consist of one survey county, Oklahoma County, OK, and four area of application counties: Garfield, Muskogee, Pittsburgh, and Tulsa Counties, OK.

### Angelina County, TX

Based on an analysis of the regulatory criteria for defining NAF wage areas, we recommend that Angelina County, TX, be defined as an area of application to the Dallas, TX, NAF FWS wage area. The proximity criterion favors the Rapides, LA, wage area. The commuting patterns criterion does not favor one wage area more than another. Although the overall population, employment sizes, and kinds and sizes of private industrial establishments criterion does not favor one wage area more than another, the industrial distribution pattern for Angelina County is similar to the Rapides survey area. However, the Department of Veterans Affairs has requested that OPM consider defining Angelina County to the Dallas wage area. The two NAF FWS employees in Angelina County work at the Charles Wilson VA Outpatient Clinic, which is a satellite activity of the Michael E. DeBakey VA Medical Center in Harris

County, which is in the Dallas wage area. Although a standard review of regulatory criteria shows that the proximity criterion favors defining Angelina County to the Rapides wage area, we believe the organizational relationship between the Charles Wilson VA Outpatient Clinic and its parent facility, the Michael E. DeBakey VA Medical Center, supports defining Angelina County to the Dallas wage area. An additional factor to consider is the relative proximity of the Medical Center to the Outpatient Clinic. There is a distance of only 128 miles (206 km) separating the two facilities. The distance from the Outpatient Clinic to the host activity in the Rapides wage area is 126 miles (203 km). The difference between these distances is only 2 miles. Based on our analysis of the organizational relationship and geographic proximity of the Medical Center and its Outpatient Clinic, OPM proposes to define Angelina County to the Dallas NAF wage area.

The proposed Dallas NAF wage area would consist of one survey county, Dallas County, TX, and four area of application counties: Angelina, Fannin, Galveston, and Harris Counties, TX.

**Santa Clara, CA**

On March 9, 2009, we published a final rule (74 FR 9951) that abolished the Santa Clara, CA, NAF FWS wage area. Therefore, "Santa Clara" should be removed under the State of California in Appendix B to subpart B of part 532—Nationwide Schedule of Nonappropriated Fund Regular Wage Schedules.

**Regulatory Flexibility Act**

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would 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.

**John Berry,**  
*Director.*

Accordingly, the U.S. Office of Personnel Management proposes to amend 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— [Amended]**

2. Appendix B to subpart B is amended by removing, under the State of California, the entry for "Santa Clara."

3. Appendix D to subpart B is amended by revising the wage area listing for the Oklahoma, OK, and Dallas, TX, NAF wage areas to read as follows:

**Appendix D to Subpart B of Part 532— Nonappropriated Fund Wage and Survey Areas**

\* \* \*  
\* \* \*  
**OKLAHOMA**

\* \* \*  
\* \* \*  
**Oklahoma**  
*Survey Area*  
Oklahoma:  
Oklahoma  
*Area of Application. Survey area plus:*

Oklahoma:  
Garfield  
Muskogee  
Pittsburg  
Tulsa

\* \* \*  
\* \* \*  
**TEXAS**

\* \* \*  
\* \* \*  
**Dallas**  
*Survey Area*

Texas:  
Dallas  
*Area of Application. Survey area plus:*

Texas:  
Angelina  
Fannin  
Galveston  
Harris

\* \* \*  
\* \* \*

[FR Doc. 2010-18903 Filed 8-2-10; 8:45 am]

**BILLING CODE 6325-39-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2010-0754; Directorate Identifier 2010-CE-039-AD]

RIN 2120-AA64

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-500 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been found that certain regions of the elevators, elevators trim tabs, and ailerons do not present drain holes to avoid water accumulation inside of these flight control surfaces. Internal water accumulation may lead to flight control surfaces unbalancing possibly reducing the flutter margins, which could result in loss of airplane control.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by September 17, 2010.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.