

# 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-AM70

#### Prevailing Rate Systems; Redefinition of the St. Louis, MO; Southern Missouri; Cleveland, OH; and Pittsburgh, PA, Appropriated Fund Federal Wage System Wage Areas

**AGENCY:** U.S. 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 redefine the geographic boundaries of the St. Louis, MO; Southern Missouri; Cleveland, OH; and Pittsburgh, PA, appropriated fund Federal Wage System wage areas. The proposed rule would redefine Bollinger, Cape Girardeau, and Perry Counties, MO, from the Southern Missouri wage area to the St. Louis wage area and Mercer County, PA, from the Pittsburgh wage area to the Cleveland wage area. These changes are based on recent consensus recommendations of the Federal Prevailing Rate Advisory Committee to best match the counties proposed for redefinition to a nearby FWS survey area. This proposed rule makes two additional corrections. It renames the Champaign-Urbana, IL, wage area as the Central Illinois wage area and updates the name of the White Sands Proving Ground in the Albuquerque, NM, and El Paso, TX, wage areas to White Sands Missile Range.

**DATES:** We must receive comments on or before December 17, 2012.

**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-leave-*

*policy@opm.gov*; or FAX: (202) 606-4264.

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

**SUPPLEMENTARY INFORMATION:** The U.S. Office of Personnel Management is issuing a proposed rule that would redefine the geographic boundaries of the St. Louis, MO; Southern Missouri; Cleveland, OH; and Pittsburgh, PA, appropriated fund Federal Wage System (FWS) wage areas. The proposed rule would redefine Bollinger, Cape Girardeau, and Perry Counties, MO, from the Southern Missouri wage area to the St. Louis wage area and Mercer County, PA, from the Pittsburgh wage area to the Cleveland wage area.

OPM considers the following regulatory criteria under 5 CFR 532.211 when defining FWS wage area boundaries:

- (i) Distance, transportation facilities, and geographic features;
- (ii) Commuting patterns; and
- (iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

In addition, OPM regulations at 5 CFR 532.211 do not permit splitting Metropolitan Statistical Areas (MSAs) for the purpose of defining a wage area, except in very unusual circumstances.

OPM recently completed reviews of the definitions of the Cape Girardeau-Jackson, MO-IL and Youngstown-Warren-Boardman, OH-PA MSAs and, based on analyses of the regulatory criteria for defining wage areas, is proposing the changes described below. The Federal Prevailing Rate Advisory Committee (FPRAC), 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. FPRAC recommended no other changes in the geographic definitions of the St. Louis, Southern Missouri, Cleveland, and Pittsburgh wage areas.

#### Cape Girardeau-Jackson, MO-IL Metropolitan Statistical Area

Alexander County, IL, and Bollinger and Cape Girardeau Counties, MO,

comprise the Cape Girardeau-Jackson, MO-IL MSA. The Cape Girardeau-Jackson MSA is currently split between the St. Louis, MO, and Southern Missouri wage areas. Alexander County is part of the area of application of the St. Louis wage area and Bollinger and Cape Girardeau Counties are part of the area of application of the Southern Missouri wage area.

Based on an analysis of the regulatory criteria for Cape Girardeau County, the core county in the Cape Girardeau-Jackson MSA, we recommend that the entire Cape Girardeau-Jackson MSA be defined to the St. Louis area of application. The distance criterion for Cape Girardeau County favors the St. Louis wage area more than the Southern Missouri wage area. The commuting patterns criterion does not favor one wage area more than another. Cape Girardeau County does not resemble one survey area more than another survey area in terms of the overall population, employment, and the kinds and sizes of private industrial establishments criteria. Based on this analysis, we find that Cape Girardeau County would be more appropriately defined to the St. Louis wage area. Since there appear to be no unusual circumstances that would permit splitting the Cape Girardeau-Jackson MSA, OPM proposes to also redefine Bollinger County to the St. Louis wage area so that the entire Cape Girardeau-Jackson MSA is in one wage area. There are currently nine FWS employees working in Cape Girardeau County. There are currently no FWS employees working in Bollinger County.

Because Perry County, MO, borders Bollinger and Cape Girardeau Counties to the north and is located in between the Cape Girardeau-Jackson MSA and the St. Louis wage area, Perry County would be redefined to the St. Louis wage area. The distance criterion for Perry County favors the St. Louis wage area more than the Southern Missouri wage area. The commuting patterns criterion favors the St. Louis wage area more than the Southern Missouri wage area. Perry County does not resemble one survey area more than another survey area in terms of the overall population, employment, and the kinds and sizes of private industrial establishments criteria. Based on this analysis, we find that Perry County would be more appropriately defined to the St. Louis wage area. There are

currently no FWS employees working in Perry County.

**Youngstown-Warren-Boardman, OH-PA Metropolitan Statistical Area**

Trumbull and Mahoning Counties, OH, and Mercer County, PA, comprise the Youngstown-Warren-Boardman, OH-PA MSA. The Youngstown-Warren-Boardman MSA is currently split between the Cleveland, OH, and Pittsburgh, PA, wage areas. Trumbull and Mahoning Counties are part of the area of application of the Cleveland wage area, and Mercer County is part of the area of application of the Pittsburgh wage area.

Based on an analysis of the regulatory criteria for Mahoning County, the core county in the Youngstown-Warren-Boardman MSA, the entire Youngstown-Warren-Boardman MSA would be defined to the Cleveland wage area. The distance criterion does not favor one wage area more than another. We believe distance is not a determining factor in this case. The commuting patterns criterion does not favor one wage area more than another. The difference between the resident workforce commuting to work in the Cleveland and Pittsburgh survey areas is insignificant; however, marginally more people commute into the Cleveland survey area (1.23 percent) than into the Pittsburgh survey area (0.76 percent). The overall population and employment and the kinds and sizes of private industrial establishments criteria do not favor one wage area more than another.

Based on the mixed nature of the regulatory analysis findings, we believe the fact that the city of Youngstown in Mahoning County is generally considered to be part of the greater Cleveland area provides sufficient evidence that Mahoning County is appropriately defined to the Cleveland wage area. OPM regulations at 5 CFR 532.211 permit splitting MSAs only in very unusual circumstances. Since there appear to be no unusual circumstances that would permit splitting the Youngstown-Warren-Boardman MSA, OPM proposes to redefine Mercer County to the Cleveland wage area so that the entire Youngstown-Warren-Boardman MSA is in one wage area. The remaining county in the Youngstown-Warren-Boardman MSA, Trumbull County, is already defined to the Cleveland wage area. There are currently two FWS employees working in Mercer County.

**CFR Corrections**

In addition, this proposed rule renames the Champaign-Urbana, IL, FWS wage area as the Central Illinois

FWS wage area because this name better describes the boundaries of the wage area. This proposed rule also updates the name of the White Sands Proving Ground in the Albuquerque, NM, and El Paso, TX, wage areas because the Department of Defense now refers to it as that White Sands Missile Range. OPM announced these changes in interim (65 FR 48641) and final (65 FR 64337) rules published in 2000. However, Champaign-Urbana and White Sands Proving Ground continue to appear incorrectly in Appendix A to Subpart B of Part 532 and/or Appendix C to Subpart B of Part 532.

**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 is proposing 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 A to Subpart B of Part 532 [Amended]**

2. In appendix A to subpart B of part 532, under the State of Illinois, revise the wage-area entry “Champaign-Urbana” to read “Central Illinois”.

3. In appendix C to subpart B of part 532, under the State of Illinois, revise the wage-area entry “Champaign-Urbana” to read “Central Illinois” and revise the wage area listings for the Southern Missouri; St. Louis, MO; Albuquerque, NM; Cleveland, OH; Pittsburgh, PA; and El Paso, TX, wage areas to read as follows:

**Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas**

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**MISSOURI**

- \* \* \* \* \*
- St. Louis**  
*Survey Area*
- Illinois:
  - Clinton
  - Madison
  - Monroe
  - St. Clair
- Missouri: (city)
  - St. Louis
- Missouri: (counties)
  - Franklin
  - Jefferson
  - St. Charles
  - St. Louis

*Area of Application. Survey area plus:*
- Illinois:
  - Alexander
  - Bond
  - Calhoun
  - Clay
  - Effingham
  - Fayette
  - Franklin
  - Greene
  - Hamilton
  - Jackson
  - Jefferson
  - Jersey
  - Johnson
  - Macoupin
  - Marion
  - Massac
  - Montgomery
  - Morgan
  - Perry
  - Pike
  - Pope
  - Pulaski
  - Randolph
  - Saline
  - Scott
  - Union
  - Washington
  - Wayne
  - Williamson
- Missouri:
  - Audrain
  - Bollinger
  - Boone
  - Callaway
  - Cape Girardeau
  - Clark
  - Cole
  - Crawford
  - Gasconade
  - Knox
  - Lewis
  - Lincoln
  - Marion
  - Moniteau
  - Monroe
  - Montgomery
  - Osage
  - Perry
  - Pike
  - Ralls
  - Randolph
  - St. Francois
  - Ste. Genevieve
  - Scotland
  - Shelby
  - Warren
  - Washington

**Southern Missouri**  
*Survey Area*

Missouri:  
 Christian  
 Greene  
 Laclede  
 Phelps  
 Pulaski  
 Webster

*Area of Application. Survey area plus:*

Kansas:  
 Cherokee  
 Crawford

Missouri:  
 Barry  
 Barton  
 Benton  
 Butler  
 Camden  
 Carter  
 Cedar  
 Dade  
 Dallas  
 Dent  
 Douglas  
 Hickory  
 Howell  
 Iron  
 Jasper  
 Lawrence  
 Madison  
 Maries  
 Miller  
 Mississippi  
 Morgan  
 New Madrid  
 Newton  
 Oregon  
 Ozark  
 Polk  
 Reynolds  
 Ripley  
 St. Clair  
 Scott  
 Shannon  
 Stoddard  
 Stone  
 Taney  
 Texas  
 Vernon  
 Wayne  
 Wright

**NEW MEXICO**  
**Albuquerque**  
*Survey Area*

New Mexico:  
 Bernalillo  
 Sandoval

*Area of Application. Survey area plus:*

New Mexico:  
 Catron  
 Cibola  
 Colfax  
 Curry  
 De Baca  
 Guadalupe  
 Harding  
 Lincoln (Does not include White Sands  
 Missile Range portion)  
 Los Alamos  
 Mora  
 Quay

Rio Arriba  
 Roosevelt  
 San Miguel  
 Santa Fe  
 Socorro (Does not include White Sands  
 Missile Range portion)  
 Taos  
 Torrance  
 Union  
 Valencia

\* \* \* \* \*

**OHIO**

\* \* \* \* \*

**Cleveland**  
*Survey Area*

Ohio:  
 Cuyahoga  
 Geauga  
 Lake  
 Medina

*Area of Application. Survey area plus:*

Ohio:  
 Ashland  
 Ashtabula  
 Carroll  
 Columbiana  
 Erie  
 Huron  
 Lorain  
 Mahoning  
 Ottawa  
 Portage  
 Sandusky  
 Seneca  
 Stark  
 Summit  
 Trumbull  
 Wayne

Pennsylvania:  
 Mercer

\* \* \* \* \*

**PENNSYLVANIA**

\* \* \* \* \*

**Pittsburgh**  
*Survey Area*

Pennsylvania:  
 Allegheny  
 Beaver  
 Butler  
 Washington  
 Westmoreland

*Area of Application. Survey area plus:*

Ohio:  
 Belmont  
 Harrison  
 Jefferson  
 Tuscarawas

Pennsylvania:  
 Armstrong  
 Bedford  
 Blair  
 Cambria  
 Cameron  
 Centre  
 Clarion  
 Clearfield  
 Clinton  
 Crawford

Elk (Does not include the Allegheny Na-  
 tional Forest portion)  
 Erie  
 Fayette  
 Forest (Does not include the Allegheny  
 National Forest portion)  
 Greene  
 Huntingdon  
 Indiana  
 Jefferson  
 Lawrence  
 Potter  
 Somerset  
 Venango

West Virginia:  
 Brooke  
 Hancock  
 Marshall  
 Ohio

\* \* \* \* \*

**TEXAS**

\* \* \* \* \*

**El Paso**

*Survey Area*

New Mexico:  
 Dona Ana  
 Otero

Texas:  
 El Paso

*Area of Application. Survey area plus:*

New Mexico:  
 Chaves  
 Eddy  
 Grant  
 Hidalgo  
 Lincoln (Only White Sands Missile  
 Range portion)  
 Luna  
 Sierra  
 Socorro (Only White Sands Missile  
 Range portion)

Texas:  
 Culberson  
 Hudspeth

\* \* \* \* \*

[FR Doc. 2012-27671 Filed 11-14-12; 8:45 am]

**BILLING CODE 6325-39-P**

**LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Part 201 and 210**

[Docket No. 2012-7]

**Mechanical and Digital Phonorecord  
 Delivery Compulsory License**

**AGENCY:** Copyright Office, Library of  
 Congress.

**ACTION:** Notice of proposed rulemaking;  
 Extension of reply comment periods.

**SUMMARY:** The Copyright Office is  
 extending the deadline for filing reply  
 comments regarding its Notice of  
 Proposed Rulemaking concerning