

# Rules and Regulations

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## 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:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management is issuing a final rule to 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 final rule redefines 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 final 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:** This regulation is effective on May 13, 2013.

**SUPPLEMENTARY INFORMATION:** On November 15, 2012, the U.S. Office of Personnel Management (OPM) issued a proposed rule (77 FR 68073) to 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 above counties to a nearby FWS survey area.

This final 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. These corrections do not affect the pay of any FWS employees.

The proposed rule had a 30-day 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.

### 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 amends 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 “Champaign-Urbana” wage area to read “Central Illinois”.

■ 3. In appendix C to subpart B of part 532, under the State of Illinois, revise “Champaign-Urbana” wage area to read “Central Illinois”, and revise the wage area listings for the St. Louis, MO; Southern Missouri; 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

\* \* \* \* \*

#### 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



Hudspeth

\* \* \* \* \*

[FR Doc. 2013-08518 Filed 4-10-13; 8:45 am]

BILLING CODE 6325-39-P

**MERIT SYSTEMS PROTECTION BOARD****5 CFR Part 1201****Practices and Procedures****AGENCY:** Merit Systems Protection Board.**ACTION:** Interim final rule.

**SUMMARY:** The Merit Systems Protection Board (MSPB or Board) hereby amends its rules of practice and procedure to allow federal agencies, when issuing a decision notice to an employee on a matter that is appealable to MSPB, to satisfy the obligation to provide a copy of the MSPB appeal form (MSPB Form 185) to an employee by providing the employee with access to a copy of the appeal form, i.e., in paper or electronic form.

**DATES:** This interim final rule is effective on April 11, 2013. Submit written comments concerning this interim final rule on or before May 13, 2013.

**ADDRESSES:** Submit your comments concerning this interim final rule by one of the following methods and in accordance with the relevant instructions:

*Email:* Comments submitted by email should be addressed to [mspb@mspb.gov](mailto:mspb@mspb.gov) and can be contained in the body of the email or as an attachment in any common electronic format, including word processing applications, HTML or PDF. Commenters are asked to use a text format and not an image format for attachments. The email should contain a subject line indicating that the submission contains comments on MSPB's interim final rule. The MSPB asks that parties use email to submit comments if possible;

*Fax:* Comments submitted by fax should be sent to (202) 653-7130. Faxes should be addressed to William D. Spencer and contain a subject line indicating that the submission contains comments concerning MSPB's interim final rule;

*Mail or other commercial delivery:* Mailed submissions should be addressed to William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419;

*Hand delivery or courier:* Hand-delivered submissions should be addressed to William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419, and delivered to the 5th floor reception window at this street address. Such deliveries are only accepted Monday through Friday, 9:00 a.m. to 4:30 p.m., excluding federal holidays.

*Instructions:* As noted above, MSPB requests that commenters use email to submit comments, if possible. All comments received will be included in the public docket without change and will be made available online at the Board's Web site (<http://www.mspb.gov>), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information whose disclosure is restricted by law. Those desiring to submit anonymous comments must submit comments in a manner that does not reveal the commenter's identity, include a statement that the comment is being submitted anonymously, and include no personally-identifiable information. The email address of a commenter who chooses to submit comments using email will not be disclosed unless it appears in comments attached to an email or in the body a comment.

**FOR FURTHER INFORMATION CONTACT:**

William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC, 20419; phone: (202) 653-7200; fax: (202) 653-7130; or email: [mspb@mspb.gov](mailto:mspb@mspb.gov).

**SUPPLEMENTARY INFORMATION:** This interim final rule amends 5 CFR 1201.21(c). Currently, this regulation requires that, when a federal agency issues a decision notice to an employee on a matter that is appealable to MSPB, the federal agency must provide the employee with "[a] copy of the MSPB appeal form \* \* \*" The amendment set forth herein will allow federal agencies to provide employees "[a] copy, or access to a copy, of the MSPB appeal form \* \* \*" This amendment will make paragraph (c) similar to paragraph (b), which requires a federal agency to provide the employee with "[a] copy, or access to a copy, of the Board's regulations" under the same circumstances.

The initial impetus to amend this regulation arose when MSPB realized that, under our current regulations, federal agencies that furlough their employees as a result of the implementation of government-wide "sequestration" on March 1, 2013, would be required to distribute

potentially hundreds of thousands of copies of the 9-page MSPB appeal form to employees along with the furlough notifications. The existing MSPB regulations were not drafted with such a situation in mind. Moreover, widespread access by federal employees to the Internet, electronic mail, and MSPB's electronic filing system, e-Appeal Online (<https://e-appeal.mspb.gov>), ensure, in the vast majority of cases, that the distribution of thousands of paper copies of the MSPB appeal form by federal agencies is unnecessary.

This interim final rule is intended to avoid the costly duplication of hundreds of thousands of paper copies of the MSPB appeal form and to allow federal agencies to make better use of electronic means of making documents available to employees.

The Board is further convinced that this minor amendment to its regulations will not impose any hardship or disadvantage upon employees who receive a decision notice regarding a matter that is appealable to MSPB. A federal agency's obligation under 1201.21(b) and (c) to provide access to MSPB's regulations and the MSPB appeal form must be effective under the circumstances. For example, if a federal agency attempts to satisfy to 1201.21(b) and (c) by providing an employee access to MSPB's regulations and appeal form via the Internet or electronic mail and the employee informs the agency that he or she lacks Internet access, the agency would be required to take other steps to ensure that the employee has actual access to these documents, including providing the employee with a copy of these documents upon the employee's request. Thus, the regulation, as amended, continues to ensure that all employees subject to a final decision appealable to MSPB will have effective access to the MSPB appeal form.

The rulemaking process must normally observe notice-and-comment procedures outlined in the Administrative Procedure Act (APA). However, an exemption from notice and comment rulemaking requirements exists under 5 U.S.C. 553(b)(3)(B) where an "agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The good cause exception "is to be narrowly construed and only reluctantly countenanced." *Mack Trucks, Inc. v. Environmental Protection Agency*, 682 F.3d 87, 93 (D.C. Cir. 2012) (citations omitted).