

# Rules and Regulations

Federal Register

Vol. 88, No. 5

Monday, January 9, 2023

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AO46

#### Prevailing Rate Systems; Definition of San Mateo County, California, to a Nonappropriated Fund Federal Wage System Wage Area

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a final rule to define San Mateo County, California, as an area of application county to the Monterey, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. This change is necessary because there are three NAF FWS employees working in San Mateo County, and the county is not currently defined to a NAF wage area.

**DATES:** Effective date: This regulation is effective February 8, 2023. Applicability date: This change applies on the first day of the first applicable pay period beginning on or after February 8, 2023.

**FOR FURTHER INFORMATION CONTACT:** Ana Paunoiu, by telephone at (202) 606-2858 or by email at *pay-leave-policy@opm.gov*.

**SUPPLEMENTARY INFORMATION:** On September 21, 2022, OPM issued a proposed rule (87 FR 57651) to define San Mateo County, California, as an area of application county to the Monterey, CA, NAF FWS wage area.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended these changes by consensus.

The 30-day comment period ended on October 21, 2022. OPM received one comment in support of the proposal to

define San Mateo County, CA, to the Monterey, CA wage area.

#### Regulatory Impact Analysis

This action is not a “significant regulatory action” under the terms of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under E.O. 12866 and 13563 (76 FR 3821, January 21, 2011).

#### Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

#### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

#### Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

#### Unfunded Mandates Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping

requirements subject to the Paperwork Reduction Act.

#### List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

**Stephen Hickman,**

*Federal Register Liaison.*

Accordingly, OPM 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.

■ 2. In Appendix D to subpart B, amend the table by revising the wage area listing for the State of California to read as follows:

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

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#### Definitions of Wage Areas and Wage Area Survey Areas

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#### CALIFORNIA Kern Survey Area

California:  
Kern  
*Area of Application. Survey area plus:*

California:  
Fresno  
Kings

#### Los Angeles Survey Area

California:  
Los Angeles  
*Area of Application. Survey area.*

#### Monterey Survey Area

California:  
Monterey  
*Area of Application. Survey area plus:*

California:  
San Mateo  
Santa Clara

#### Orange Survey Area

California:  
Orange

*Area of Application. Survey area.*

**Riverside**

*Survey Area*

California:  
Riverside

*Area of Application. Survey area.*

**Sacramento**

*Survey Area*

California:  
Sacramento

*Area of Application. Survey area plus:*

California:

Yuba

Oregon:

Jackson

Klamath

**San Bernadino**

*Survey Area*

California:

San Bernadino

*Area of Application. Survey area.*

**San Diego**

*Survey Area*

California:

San Diego

*Area of Application. Survey area.*

**San Joaquin**

*Survey Area*

California:

San Joaquin

*Area of Application. Survey area.*

**Santa Barbara**

*Survey Area*

California:

Santa Barbara

*Area of Application. Survey area plus:*

California:

San Luis Obispo

**Solano**

*Survey Area*

California:

Solano

*Area of Application. Survey area plus:*

California:

Alameda

Contra Costa

Marin

Napa

San Francisco

Sonoma

**Ventura**

*Survey Area*

California:

Ventura

*Area of Application. Survey area.*

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[FR Doc. 2023-00108 Filed 1-6-23; 8:45 am]

BILLING CODE 6325-39-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**45 CFR Part 3**

[Docket Number—NIH-2020-0002]

RIN 0925-AA67

**Conduct of Persons and Traffic on the National Institutes of Health Federal Enclave**

**AGENCY:** National Institutes of Health, Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services (HHS or Department), through the National Institutes of Health (NIH), is amending the existing regulation for the conduct of persons and traffic on the NIH enclave in Bethesda, Maryland, to update certain provisions of the regulation.

**DATES:** This final rule is effective February 8, 2023.

**FOR FURTHER INFORMATION CONTACT:**

Daniel Hernandez, NIH Regulations Officer, Office of Management Assessment, NIH, Rockledge 1, 6705 Rockledge Drive, Suite 601, Room 601-T, Bethesda, MD 20817, MSC 7901, by email at [dhernandez@mail.nih.gov](mailto:dhernandez@mail.nih.gov), or by telephone at 301-435-3343 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 16, 2020, the Department of Health and Human Services (HHS or Department) issued a direct final rule (85 FR 72899) amending certain regulations, as part of its Regulatory Clean Up Initiative, to make miscellaneous corrections, including correcting references to other regulations, misspellings and other typographical errors. These corrections included changes to the regulation codified at 45 CFR part 3 concerning the conduct of persons and traffic on the National Institutes of Health Federal Enclave. With this final rule the Department makes several additional changes to 45 CFR part 3 that are necessary to further update the regulation. These additional changes were determined to be necessary following the review of the regulation conducted by NIH in 2019.

HHS announced its intention to take this rulemaking action in the notice of proposed rulemaking (NPRM) titled “Conduct of Persons and Traffic on the National Institutes of Health Federal Enclave” published in the **Federal Register** on February 28, 2022 (87 FR 11001). In the NPRM we provided a sixty-day comment period. The comment period ended on April 29, 2022.

In the NPRM, we proposed making several changes to the regulation at 45 CFR part 3 concerning the conduct of persons and traffic on the National Institutes of Health Federal Enclave that are necessary to ensure the regulation is up to date.

In subpart A of the regulation, we proposed amending § 3.4 by removing the last sentence that specifies the Police Office’s main location and

telephone number. The NIH Police Department may be relocated in the future under the current campus master plan. Removing the sentence eliminates the need in the future to amend the regulation any time the NIH Police Department is relocated.

In subpart C of the regulation, we proposed amending § 3.42 by revising the last sentence of paragraph (b) to update several terms. The existing last sentence states that the use of a dog by a handicapped person to assist that person is authorized. We proposed updating this sentence by replacing the term “dog” with the term “service animal”. We also proposed to update this sentence by removing the term “handicapped person” and replacing it with the term “a person with a disability” to reflect current and accepted use of the term.

Additionally, in subpart C, we proposed amending § 3.42 by revising paragraph (f) to state that except as part of an approved medical research protocol a person may not smoke on the enclave. The existing language does not prohibit smoking outside of buildings on the enclave. As a tobacco-free campus, NIH does not allow smoking inside or outside buildings. The change makes this clear in the regulation.

In subpart D, we proposed amending § 3.61 by revising paragraph (a) to state that a person found guilty of violating any provision of the regulation in this part is subject to a fine or imprisonment of not more than thirty days or both, for each violation (Pub. L. 107-296, Homeland Security Act of 2002). The United States District Court for the District of Maryland determines the fine/fee schedule for violations of 45 CFR part 3. Traffic related violations on the NIH Federal enclave are covered by the Maryland District Court. Not stating a specific dollar amount for the fine in paragraph (a) eliminates any future need to amend the regulation when incremental increases in the fine amount occur. Information regarding 45 CFR part 3 violations can be found through the United States Attorney’s Office for the District of Maryland or the United States Central Violations Bureau in San Antonio, Texas.

**II. Summary of Public Comments**

We did not receive any comments in response to the NPRM. Consequently, we did not make any changes to what we proposed in the previous NPRM. The final rule is the same as what we proposed in the previous NPRM.

We provide the following as public information.