

# 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-AN85

#### Prevailing Rate Systems; Redefinition of Certain Nonappropriated Fund Federal Wage System Wage Areas

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to amend the geographic boundaries of several nonappropriated fund (NAF) Federal Wage System (FWS) wage areas. Based on consensus recommendations of the Federal Prevailing Rate Advisory Committee (FPRAC), the Office of Personnel Management (OPM) proposes to define St. Joseph County, Indiana, as an area of application county to the Lake, Illinois, NAF FWS wage area; Greene County, Missouri, as an area of application county to the Leavenworth-Jackson-Johnson, Kansas, NAF FWS wage area; Lucas County, Ohio, as an area of application county to the Macomb, Michigan, NAF FWS wage area; and the municipality of Mayaguez, Puerto Rico, as an area of application county to the Guaynabo-San Juan, PR, NAF FWS wage area. These changes are necessary because NAF FWS employees are now working in these locations, but the locations are not currently defined to NAF wage areas. In addition, OPM is proposing to remove the municipalities of Ceiba, Isabela, Toa Baja, and Vieques, PR, and the U.S. Virgin Islands of St. Croix and St. Thomas, from the wage area definition of the Guaynabo-San Juan NAF wage area because there are no longer NAF FWS employees working in these locations.

**DATES:** Send comments on or before July 10, 2019.

**ADDRESSES:** You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

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

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:**

Madeline Gonzalez, by telephone at (202) 606-2838 or by email at [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** OPM is issuing a proposed rule that would make changes to several NAF FWS wage area definitions. The Department of Veterans Affairs notified OPM that the Veterans Canteen Service (VCS) now employs NAF FWS employees in St. Joseph County, IN; Greene County, MO; Lucas County, OH; and the municipality of Mayaguez, PR. In addition, OPM is proposing to remove the municipalities of Ceiba, Isabela, Toa Baja, and Vieques, PR, and the U.S. Virgin Islands of St. Croix and St. Thomas, from the wage area definition of the Guaynabo-San Juan NAF FWS wage area because there are no longer NAF FWS employees working in these locations.

Under § 532.219 of title 5, Code of Federal Regulations (CFR), each NAF wage area “shall consist of one or more survey areas, along with nonsurvey areas, if any, having nonappropriated fund employees.” St. Joseph, Greene, and Lucas Counties, and the municipality of Mayaguez, PR, 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. This regulation allows consideration of the following criteria: Proximity of largest facilities activity in each county, transportation facilities and commuting patterns, and similarities of the counties in overall population, private employment in major industry categories, and kinds and sizes of private industrial establishments.

OPM recently completed reviews of the definitions of St. Joseph, Greene, and Lucas Counties, and the municipality of Mayaguez, and is proposing the changes described below. 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 apply on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

#### Lake, IL, NAF FWS Wage Area

St. Joseph County, IN, would be defined as an area of application to the Lake, IL, NAF FWS wage area. The proximity criterion favors the Lake wage area. The transportation facilities and commuting patterns criterion does not favor one wage area more than another. The overall population, employment sizes, and kinds and sizes of private industrial establishments criterion does not favor one wage area more than another. While a standard review of regulatory criteria shows mixed results, the proximity criterion solidly favors the Lake wage area.

With the definition of St. Joseph County to the Lake NAF wage area, the Lake wage area would consist of 1 survey county (Lake County, IL) and 10 area of application counties (Cook, Rock Island, and Vermilion Counties, IL; Johnson County, IA; St. Joseph County, IN; Dickinson and Marquette Counties, MI; and Brown, Dane, and Milwaukee Counties, WI).

#### Leavenworth-Jackson-Johnson, KS, NAF FWS Wage Area

Greene County, MO, would be defined as an area of application county to the Leavenworth-Jackson-Johnson, KS, NAF FWS wage area. Although the proximity criterion does not favor one wage area more than another, the closest survey area to Greene County is the Leavenworth-Jackson-Johnson wage area. The transportation facilities and commuting patterns criterion does not favor one wage area more than another. The overall population, employment sizes, and kinds and sizes of private industrial establishments criterion does not favor one wage area more than another. Based on this analysis, we recommend that Greene County be defined to the Leavenworth-Jackson-Johnson wage area.

With the definition of Greene County to the Leavenworth-Jackson-Johnson NAF wage area, the Leavenworth-Jackson-Johnson wage area would consist of three survey counties (Leavenworth County, KS; and Jackson and Johnson Counties, MO) and five area of application counties (Shawnee County, KS; and Boone, Camden, Cass, and Greene Counties, MO).

#### **Macomb, MI, NAF FWS Wage Area**

Lucas County, OH, would be defined as an area of application county to the Macomb, MI, NAF FWS wage area. The proximity criterion favors the Macomb wage area. The transportation facilities and commuting patterns criterion does not favor one wage area more than another. The overall population, employment sizes, and kinds and sizes of private industrial establishments criterion does not favor one wage area more than another. While a standard review of regulatory criteria shows mixed results, the proximity criterion solidly favors the Macomb wage area.

With the definition of Lucas County to the Macomb NAF wage area, the Macomb wage area would consist of 1 survey county (Macomb County, MI) and 14 area of application counties (Alpena, Calhoun, Crawford, Grand Traverse, Huron, Iosco, Kent, Leelanau, Ottawa, Saginaw, Washtenaw, and Wayne, MI; and Lucas and Ottawa Counties, OH).

#### **Guaynabo-San Juan, PR, NAF FWS Wage Area**

The municipality of Mayaguez, PR, would be defined as an area of application county to the Guaynabo-San Juan, PR, NAF FWS wage area. The Guaynabo-San Juan wage area is the only NAF wage area in Puerto Rico. VCS #373 in the Mayaguez Outpatient Clinic is located approximately 92 miles from Fort Buchanan, the wage area's host activity.

The municipalities of Ceiba, Isabela, Toa Baja, and Vieques, PR, and the U.S. Virgin Islands of St. Croix and St. Thomas would be removed from the area of application of the Guaynabo-San Juan wage area. No NAF FWS employment has been reported in the municipalities of Ceiba, Isabela, Toa Baja, and Vieques since 2009 nor in the U.S. Virgin Islands of St. Croix and St. Thomas since the closure of Army and Air Force Exchange Service (AAFES) stores in 2012 and 2015, respectively. NAF employers have no plans to establish activities in these locations in the future. Under 5 U.S.C.

5343(a)(1)(B)(i), NAF wage areas "shall not extend beyond the immediate locality in which the particular

prevailing rate employees are employed." Therefore, the municipalities of Ceiba, Isabela, Toa Baja, and Vieques and the U.S. Virgin Islands of St. Croix and St. Thomas should not be defined as part of an NAF wage area.

With the definition of the municipality of Mayaguez to the Guaynabo-San Juan NAF wage area and the removal of the municipalities of Ceiba, Isabela, Toa Baja, and Vieques and the U.S. Virgin Islands of St. Croix and St. Thomas from the Guaynabo-San Juan NAF wage area, the Guaynabo-San Juan wage area would consist of two survey municipalities (Guaynabo and San Juan) and five area of application municipalities (Aguadilla, Bayamon, Mayaguez, Ponce, and Salinas).

#### **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).

#### **Reducing Regulation and Controlling Regulatory Costs**

This proposed rule is not expected to be subject to the requirements of E.O. 13771 because this proposed rule is not significant under E.O. 12866.

#### **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.

**Alexys Stanley,**

*Regulatory Affairs Analyst.*

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. Appendix D to Subpart B is amended by revising the wage area listing for the Lake, IL; Leavenworth-Jackson-Johnson, KS; Macomb, MI; and Guaynabo-San Juan, PR, wage areas to read as follows:

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

\* \* \* \* \*

#### **ILLINOIS Lake Survey Area**

Illinois:  
Lake  
*Area of Application. Survey area plus:*  
Illinois:  
Cook  
Rock Island  
Vermilion  
Indiana:  
St. Joseph  
Iowa:  
Johnson  
Michigan:  
Dickinson  
Marquette  
Wisconsin:

Brown  
Dane  
Milwaukee

\* \* \* \* \*

**KANSAS**  
**Leavenworth-Jackson-Johnson**  
*Survey Area*

Kansas:  
Leavenworth  
Missouri:  
Jackson  
Johnson  
*Area of Application. Survey area plus:*

Kansas:  
Shawnee  
Missouri:  
Boone  
Camden  
Cass  
Greene

\* \* \* \* \*

**MICHIGAN**  
**Macomb**  
*Survey Area*

Michigan:  
Macomb  
*Area of Application. Survey area plus:*

Michigan:  
Alpena  
Calhoun  
Crawford  
Grand Traverse  
Huron  
Iosco  
Kent  
Leelanau  
Ottawa  
Saginaw  
Washtenaw  
Wayne

Ohio:  
Lucas  
Ottawa

\* \* \* \* \*

**PUERTO RICO**  
**Guaynabo-San Juan**  
*Survey Area*

Puerto Rico:  
Guaynabo  
San Juan  
*Area of Application. Survey area plus:*

Puerto Rico:  
Aguadilla  
Bayamon  
Mayaguez  
Ponce  
Salinas

\* \* \* \* \*

[FR Doc. 2019-11940 Filed 6-7-19; 8:45 am]

**BILLING CODE 6325-39-P**

**FEDERAL RETIREMENT THRIFT  
INVESTMENT BOARD**

**5 CFR Parts 1650 and 1651**

**Additional Withdrawal Options**

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Retirement Thrift Investment Board (“FRTIB”) is proposing to amend its regulations to provide TSP participants with additional withdrawal options and flexibility, effective September 15, 2019.

**DATES:** Comments must be received on or before August 9, 2019.

**ADDRESSES:** You may send comments, identified by Docket ID number FRTIB-2019-0003, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 942-1676.
- *Mail or Hand Deliver/Courier:*

Office of General Counsel, Attn: Megan G. Grumbine, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Austen Townsend, (202) 864-8647.

**SUPPLEMENTARY INFORMATION:** The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees’ Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

On November 17, 2017, the President signed the TSP Modernization Act of 2017 (the “Act”), Public Law 115-84 (131 Stat. 1272). The Act permits the TSP to offer participants additional withdrawal options and flexibility and eliminates the requirement that a TSP participant who has reached age 70½ and is separated from federal service make a full withdrawal election with respect to his or her TSP account. Although the Act does not require that implementation of these changes become effective until November 17, 2019, the FRTIB is proposing an effective date of September 15, 2019.

The FRTIB recognizes the importance of providing TSP participants with more flexibility to access the money in their

accounts when they need it. Equally important is the need to ensure that participants have the money they need to provide sufficient income during retirement. When proposing the changes herein, the FRTIB was mindful to balance these potentially competing interests.

**Post-Separation Withdrawals**

*Unlimited Partial Post-Separation Withdrawals*

Currently, a TSP participant is limited to one partial post-separation withdrawal per account, unless he or she previously took an age-based, in-service withdrawal from that account. A participant who has previously taken an age-based, in-service withdrawal may not take a partial post-separation withdrawal.

As required by the Act, the FRTIB is proposing to eliminate the restriction on partial post-separation withdrawals for participants who have taken age-based, in-service withdrawals. Further, in light of the elimination of the full withdrawal requirement discussed in more detail below, the FRTIB proposes to allow all separated participants to take as many partial post-separation withdrawals as desired. In order to avoid inadvertently processing duplicate withdrawal requests, the only limitation on this flexibility is that only one post-separation withdrawal request will be processed during any 30-calendar-day period. A TSP participant with more than one account must make separate post-separation withdrawal requests for each account and the 30-calendar-day period will apply separately to each account.

A participant will be able to elect to receive any partial post-separation withdrawal in the form of a single sum payment, installment payments, a life annuity, or any combination of these options. However, a participant may only have one installment payment series in place per account at any given time.

*Additional Installment Payment Options*

Currently, a separated TSP participant may elect to receive all or a portion of his or her account balance in the form of fixed dollar monthly payments or monthly payments calculated based on life expectancy. TSP participants are permitted to change the amount of monthly payments (including a one-time election to change from monthly payments calculated based on life expectancy to fixed dollar monthly payments) during an annual open