

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AK26

### Prevailing Rate Systems; Redefinition of the San Francisco, CA, Nonappropriated Fund Wage Area

**AGENCY:** Office of Personnel Management.

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

**SUMMARY:** The Office of Personnel Management is issuing an interim regulation to abolish the San Francisco, CA, Nonappropriated Fund (NAF) Federal Wage System (FWS) wage area. This regulation redefines San Francisco County to the Santa Clara, CA, NAF wage area as an area of application. Because of downsizing associated with closures of Federal installations in San Francisco, the San Francisco wage area no longer has an installation with sufficient local personnel or financial resources to conduct local NAF wage surveys.

**DATES:** This interim rule is effective on November 30, 2003. OPM must receive comments by December 15, 2003.

**ADDRESSES:** Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, e-mail [payleave@OPM.gov](mailto:payleave@OPM.gov), or FAX: (202) 606-4264.

**FOR FURTHER INFORMATION CONTACT:** Mark Allen, (202) 606-2838; e-mail [maallen@opm.gov](mailto:maallen@opm.gov), or FAX: (202) 606-4264.

**SUPPLEMENTARY INFORMATION:** San Francisco, CA, is presently defined as a separate wage area for pay-setting purposes for Federal blue-collar workers

who are paid from nonappropriated funds. The Department of Defense (DOD) notified the Office of Personnel Management (OPM) earlier this year that the Federal activity that hosts local wage surveys in the San Francisco wage area, Fort Mason Officers' Club, has closed, and there is no other NAF employer in the wage area capable of hosting local wage surveys. San Francisco County no longer meets OPM's regulatory criteria to be established as a separate wage area. Under 5 CFR 532.219, there must be at least 26 NAF FWS employees in a county for it to be established as an FWS wage area. The only remaining NAF employer in San Francisco County, the Department of Veterans Affairs Canteen Service, has fewer than the required 26 NAF FWS employees. Therefore, San Francisco County must be defined as an area of application to an existing NAF wage area for pay-setting purposes.

OPM considers the following criteria when it combines two or more counties to constitute a single wage area:

- (1) Proximity of largest activity in each county;
- (2) Transportation facilities and commuting patterns; and
- (3) Similarities of the counties in:
  - (i) Overall population;
  - (ii) Private employment in major industry categories; and
  - (iii) Kinds and sizes of private industrial establishments.

In selecting a wage area to which San Francisco County should be redefined, proximity favors the Santa Clara, CA, NAF wage area. The transportation facilities criterion does not favor one wage area more than another. The commuting patterns criterion favors the Santa Clara wage area. A review of the population, employment, and industry criteria shows that San Francisco County is more similar to the Santa Clara than other nearby wage areas. Based on these findings, OPM is defining San Francisco County to the Santa Clara wage area as an area of application.

OPM is abolishing the San Francisco wage area and defining San Francisco County to the Santa Clara wage area effective November 30, 2003, the date that the next wage schedule for the San Francisco wage area would have become effective if the wage area continued as a separate wage area. Remaining NAF

FWS employees in San Francisco County will continue to be paid from the current San Francisco wage schedule until November 30. After that date, the employees will be assigned to the wage schedule for the Santa Clara wage area. The Federal Prevailing Rate Advisory Committee, the national labor-management committee that advises OPM on matters affecting the pay of FWS employees, reviewed and recommended this wage area redefinition by majority vote.

### Waiver of Notice of Proposed Rulemaking and Delayed Effective Date

Pursuant to section 553(b)(3)(B) and (d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking to accommodate changes necessitated by downsizing of the Federal workforce. The notice is being waived because it is necessary to abolish the present San Francisco wage area and redefine San Francisco County to the Santa Clara wage area as soon as possible because no Federal activity has the capability to conduct a local wage survey in the San Francisco wage area.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it 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.

Office of Personnel Management.

**Kay Coles James,**

*Director.*

■ Accordingly, the Office of Personnel Management is amending 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.