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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AJ79

#### Prevailing Rate Systems; Change in Federal Wage System Survey Job

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing a final rule to create a Federal Wage System appropriated fund optional survey job of Electronic Industrial Controls Mechanic, WG-11. The new title and grade level will best reflect the occupational title and the level of work used by private industry.

**DATES:** Effective Date: This regulation is effective on June 14, 2004.

**FOR FURTHER INFORMATION CONTACT:** Madeline Gonzalez at (202) 606-2838; FAX at (202) 606-4264; or e-mail at [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** On August 12, 2003, the Office of Personnel Management (OPM) published a proposed rule (68 FR 47877) to change the title and grade level of the Federal Wage System (FWS) appropriated fund optional survey job, Industrial Electronic Controls Repairer. Since the new title and grade level closely reflect the occupational title and level of work used by private industry, the Department of Defense may be able to collect more private sector wage data for the occupation. The proposed rule had a 30-day comment period, during which we received no comments.

The Federal Prevailing Rate Advisory Committee (FPRAC) established a Survey Job Work Group (SJWG) to review FWS survey job descriptions. The SJWG recommended that OPM change the title of the optional survey

job, "Industrial Electronic Controls Repairer" to "Electronic Industrial Controls Mechanic" because the new title conforms to the title of the FWS job grading standard for the occupation and corresponds to the title typically used by private industry. The SJWG also recommended that OPM change the grade level from WG-10 to WG-11 because the new grade level better reflects the level of work currently done by Federal blue-collar employees. FPRAC agreed with its working group and recommended that OPM make these changes.

### Executive Order 12866 Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### Regulatory Flexibility Act

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

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.

#### 532.217 [Amended]

■ 2. In § 532.217 paragraph (c) table is amended by removing the job title entry "Industrial Electronic Controls Repairer", and its corresponding job grade "10", and adding in its place "Electronic Industrial Controls Mechanic", grade "11."

[FR Doc. 04-10869 Filed 5-12-04; 8:45 am]

**BILLING CODE 6325-39-P**

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 550

RIN 3206-AK47

#### Pay Administration (General)

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing final regulations to implement a provision of the National Defense Authorization Act for Fiscal Year 2004, which modified the hourly overtime pay cap for certain Federal employees who are exempt from the Fair Labor Standards Act of 1938, as amended.

**EFFECTIVE DATE:** May 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Vicki Draper by telephone at (202) 606-2858; by FAX at (202) 606-0824; or by e-mail at [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is issuing final regulations to implement a new hourly overtime pay provision established by section 1121 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136, November 24, 2003). Section 1121 amended 5 U.S.C. 5542(a)(2), which establishes an hourly overtime pay cap for certain employees who are exempt from the Fair Labor Standards Act of 1938, as amended (FLSA). Prior to the amendments made by section 1121, an employee whose rate of basic pay exceeded the minimum rate for GS-10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990, respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law), received an overtime hourly rate of pay equal to one and one-half times the applicable minimum hourly rate of basic pay for GS-10. OPM's regulations implement section 1121 by establishing the hourly overtime pay cap for an employee whose rate of basic pay exceeds the applicable minimum rate for GS-10 at the higher of two rates: (1) One and one-

half times the applicable minimum hourly rate of basic pay for GS-10, or (2) the employee's hourly rate of basic pay. This amendment was effective on November 24, 2003, the date of enactment of Public Law 108-136. These regulations reflect the addition of 5 U.S.C. 5542(a)(5) made as part of Public Law 106-558 on December 21, 2000. Section 5542(a)(5) is applicable only to wildland firefighters who are exempt from the overtime pay provisions of the FLSA, and who are employees of the Department of the Interior or the United States Forest Service of the Department of Agriculture. While such employees are engaged in wildland fire suppression activities, they are entitled to an hourly overtime rate of pay equal to one and one-half times their hourly rate of basic pay. It is also appropriate to no longer mention 5 U.S.C. 5542(a)(4) in 5 CFR 550.113(b), because the overtime rate of pay provided for under that section is identical to that which would be made available under the new regulations.

#### Waiver of Notice of Proposed Rule Making

Pursuant to section 553(b)(3)(B) of title 5 of the United States Code, I find that good cause exists for waiving the general notice of proposed rule making. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making this rule effective in less than 30 days. These regulations implement a provision of Public Law 108-136, which became effective on November 24, 2003. The waiver of the requirements for proposed rulemaking and a delay in the effective date is necessary to ensure timely implementation of the law as intended by Congress.

#### E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with E.O. 12866.

#### 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 apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Government employees, Wages.

Office of Personnel Management.

**Kay Coles James,**  
Director.

■ Accordingly, OPM is amending 5 CFR part 550 as follows:

### PART 550—PAY ADMINISTRATION (GENERAL)

#### Subpart A—Premium Pay

■ 1. The authority citation for part 550 continues to read as follows:

**Authority:** 5 U.S.C. 5304 note, 5541(2)(iv), 5545a(h)(2)(B) and (i), 5547(b) and (c), 5548, and 6101(c); sections 407 and 2316, Pub. L. 105-277, 112 Stat. 2681-101 and 2681-828 (5 U.S.C. 5545a); E.O. 12748, 3 CFR, 1992 Comp., p. 316.

■ 2. In § 550.113, paragraph (b) is revised to read as follows:

#### § 550.113 Computation of overtime pay.

\* \* \* \* \*

(b) For each employee whose rate of basic pay exceeds the minimum rate for GS-10 (as determined under paragraph (a) of this section), the overtime hourly rate is equal to the greater of—(i) one and one-half times the applicable minimum hourly rate of basic pay for GS-10 (as determined under paragraph (a) of this section); or (ii) the employee's hourly rate of basic pay, except as provided in 5 U.S.C. 5542(a)(3) and (5).

\* \* \* \* \*

[FR Doc. 04-10870 Filed 5-12-04; 8:45 am]

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### DEPARTMENT OF AGRICULTURE

#### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 800

RIN 0580-AA80

#### Fees for Official Inspection and Official Weighing Services

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is changing the fee schedule for official inspection and weighing services performed under the authority of the United States Grain Standards Act (USGSA), as amended. The USGSA provides the authority to charge and collect reasonable fees to cover the cost of performing official services. These fees also cover the costs associated with administrative and supervisory activities related to official services.

After a review of the financial status of GIPSA, including a comparison of the costs and revenues associated with official services, and administrative and supervisory activities; GIPSA is changing the fee schedule. These changes include eliminating provisions

for the 3-month and 6-month contracts; increasing the 1-year contract hourly rate by approximately 20 percent and the non-contract hourly rate by 47 percent; increasing hourly rates for services not performed at an applicant's facility by approximately 11.5 percent; increasing unit fees for additional tests provided by GIPSA; eliminating the 6-level administrative tonnage fee and replacing it with regional administrative tonnage fees; eliminating the unit fee charged to delegated States for export ships and replacing it with a tonnage fee; increasing hourly fees for special weighing services by approximately 30 percent above the non-contract hourly rate; and establishing a \$500 usage fee per facility when the GIPSA test car is used to test track scales.

These changes are needed to replenish the retained earnings accounts and to maintain a 3-month operating reserve. Further, maintaining GIPSA's financial stability will assure continued inspection and weighing services to the grain industry which will further facilitate the sound and orderly marketing of grain in domestic and export markets.

**EFFECTIVE DATE:** June 14, 2004.

#### FOR FURTHER INFORMATION CONTACT:

David Orr, Director, Field Management Division, e-mail address:

*David.M.Orr@usda.gov*, telephone (202) 720-0228.

#### SUPPLEMENTARY INFORMATION:

##### Background

The USGSA (7 U.S.C. 71 *et seq.*) authorizes GIPSA to provide official grain inspection and weighing services, and to charge and collect reasonable fees for performing these services. The fees collected are to cover, as nearly as practicable, GIPSA's costs for performing these services, including related administrative and supervisory costs.

GIPSA adopted its current fee structure (61 FR 43301) effective October 1, 1996, for services provided by GIPSA employees. This fee structure change was needed because advances in technology had allowed exporters to improve operational efficiencies, which, in turn, had reduced the number of GIPSA personnel required to service certain facilities. The fee structure was changed from primarily using hourly fees to recover costs to a method that uses a mix of hourly and unit fees for its inspection and weighing services. Direct service costs are recovered through hourly fees charged for employees providing the inspection and weighing services. Administrative costs are recovered by a tonnage fee applied