

# 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-AN29

#### Prevailing Rate Systems; Redefinition of the New York, NY, and Philadelphia, PA, Appropriated Fund Federal Wage System Wage Areas

**AGENCY:** U.S. Office of Personnel Management.

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

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing a proposed rule that would redefine the geographic boundaries of the New York, NY, and Philadelphia, PA, appropriated fund Federal Wage System (FWS) wage areas. The proposed rule would redefine the Joint Base McGuire-Dix-Lakehurst portions of Burlington County, NJ, and Ocean County, NJ, that are currently defined to the Philadelphia wage area to the New York wage area so that the entire Joint Base is covered by a single wage schedule. This change is based on a majority recommendation of the Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on the administration of the FWS.

**DATES:** We must receive comments on or before August 19, 2016.

**ADDRESSES:** You may submit comments, identified by "RIN 3206-AN29," using any of the following methods:

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

*Mail:* Brenda L. Roberts, Deputy Associate Director for Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200.

*Email:* [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov).

**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 to redefine the geographic boundaries of the New York, NY, and Philadelphia, PA, appropriated fund FWS wage areas. The proposed rule would redefine the Joint Base McGuire-Dix-Lakehurst portions of Burlington County, NJ, and Ocean County, NJ, that are currently defined to the Philadelphia wage area to the New York wage area so that the entire Joint Base is covered by a single FWS wage schedule.

Presently, portions of the Joint Base are defined to the Philadelphia and to the New York FWS wage areas as follows:

(1) The portion of the Joint Base formerly known separately as McGuire Air Force Base (AFB) is in Burlington County, NJ, and is defined to the Philadelphia wage area;

(2) The portion of the Joint Base formerly known separately as Fort Dix is in Burlington and Ocean Counties, NJ, and is defined to the Philadelphia wage area; and

(3) The portion of the Joint Base formerly known separately as Naval Air Engineering Station (NAES) Lakehurst is in Ocean County, NJ, and is defined to the New York wage area.

#### History of Burlington and Ocean Counties, NJ

When the Coordinated Federal Wage System (CFWS) established a uniform system of wage areas applicable to all Federal agencies in the late 1960s, Burlington County was defined to the Philadelphia survey area and Ocean County was defined to the Philadelphia area of application. Since both Burlington and Ocean Counties were defined to the Philadelphia wage area, employees at McGuire AFB, Fort Dix, and NAES Lakehurst were paid from the same Philadelphia wage schedule.

OPM reviewed the geographic definition of the New York and Philadelphia FWS wage areas in the mid-1990s as part of a comprehensive review of many FWS wage areas. After careful consideration of OPM's regulatory criteria for defining FWS wage areas, FPRAC recommended by majority vote that OPM redefine Ocean County (excluding the portion occupied by Fort Dix) from the area of application of the Philadelphia wage area to the area

of application of the New York wage area. FPRAC recommended this change because Ocean County was part of the New York-Northern New Jersey-Long Island, NY-NJ-PA MSA (now called New York-Newark-Jersey City, NY-NJ-PA MSA) and the transportation facilities and commuting patterns regulatory criteria favored defining Ocean County (excluding the portion occupied by Fort Dix) to the New York wage area rather than to the Philadelphia wage area. Although NAES Lakehurst was adjacent to Fort Dix, the Committee heard local testimony that there was little workforce interaction between NAES Lakehurst and Fort Dix or McGuire AFB.

Currently, Burlington County continues to be defined to the Philadelphia survey area, and FWS employees stationed in Burlington County at the Joint Base are paid from the Philadelphia wage schedule. FWS employees stationed in Ocean County at the portion of the Joint Base formerly known separately as NAES Lakehurst are paid from the New York wage schedule. Local testimony to FPRAC from Joint Base employees and local managers indicates that the Joint Base has been presented with morale and management challenges by having employees at the Joint Base paid from two different FWS wage schedules. This poses challenges to the efficient operation of the installation. To address this anomalous situation affecting the Joint Base, OPM is proposing to add an additional criterion for defining FWS wage areas to 5 CFR 532.211.

#### Regulatory Criteria Under 5 CFR 532.211

OPM considers the following regulatory criteria under 5 CFR 532.211 when defining FWS wage area boundaries:

- (i) Distance, transportation facilities, and geographic features;
- (ii) Commuting patterns; and
- (iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

When measuring distances from the portion of the Joint Base formerly known separately as McGuire AFB, the distance criterion favors the Philadelphia wage area more than the New York wage area. When measured to nearby survey areas, the commuting patterns criterion for Burlington County favors the Philadelphia wage area more

than the New York wage area. The overall population and employment and the kinds and sizes of private industrial establishments criterion favors the Philadelphia wage area more than the New York wage area.

When measuring distances from the portion of the Joint Base formerly known separately as NAES Lakehurst, the distance criterion favors the Philadelphia wage area more than the New York wage area. When measured to nearby survey areas, the commuting patterns criterion for Ocean County favors the New York wage area more than the Philadelphia wage area. The overall population and employment and the kinds and sizes of private industrial establishments criterion favors the Philadelphia wage area more than the New York wage area.

OPM regulations at 5 CFR 532.211 do not permit splitting Metropolitan Statistical Areas (MSAs) for the purpose of defining a wage area, except in very unusual circumstances. The status of the Joint Base presents an unusual circumstance that has in the past necessitated defining the New York and Philadelphia wage areas so that MSAs are split between the two wage areas. In addition, FPRAC has a longstanding policy of recommending that OPM avoid splitting individual installations between two separate wage areas. However, OPM has not previously regulated such a policy. OPM has previously determined that Burlington County is appropriately defined to the Philadelphia wage area and Ocean County, with the exception of the Fort Dix portion, is appropriately defined to the New York wage area.

FPRAC recently completed an exhaustive review to determine the best method to treat FWS employees at the Joint Base equitably. As an exception to the regular criteria for defining FWS wage areas, FPRAC has recommended by majority vote that the Joint Base be defined entirely as a single installation. In addition, FPRAC has recommended that the Joint Base be defined to the New York wage area. OPM agrees with FPRAC's assessment to treat the Joint Base as a single installation for purposes of defining FWS wage areas. However, OPM finds that a standard analysis of the current regulatory criteria indicates that the proper definition for the entire Joint Base would be the Philadelphia wage area. To address the anomalous situation with the Joint Base and define it to the New York wage area requires an amendment to OPM's current regulatory criteria for defining FWS wage area boundaries. Therefore, OPM is proposing that 5 CFR 532.211 be amended by adding a new paragraph (f).

This new paragraph would read: "(f) A single contiguous military installation defined as a Joint Base that would otherwise overlap two separate wage areas shall be included in only a single wage area. The wage area of such a Joint Base shall be defined to be the wage area with the most favorable payline based on an analysis of the simple average of the 15 nonsupervisory second step rates on each one of the regular wage schedules applicable in the otherwise overlapped wage areas." This new criterion would not impact any current wage areas other than the New York and Philadelphia wage areas which are currently overlapped by Joint Base McGuire-Dix-Lakehurst.

As of July 2015, OPM data indicate that around 630 FWS employees will be affected by the wage area changes proposed in this regulation. The New York wage schedule is currently higher than the Philadelphia wage schedule at most grade levels, which means most FWS employees at the Joint Base affected by this proposed regulation would receive higher wage rates. Those employees who would move to the New York wage schedule at grades where rates of pay are lower than on the Philadelphia wage schedule would be entitled to coverage under pay retention rules if otherwise eligible. The changes in this proposed regulation would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of a final regulation implementing any changes affecting the wage area definition of the Joint Base.

**Regulatory Flexibility Act**

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

**Executive Order 13563 and Executive Order 12866**

This proposed rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 13563 and Executive Order 12866.

**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.

**Beth F. Cobert,**  
*Acting Director.*

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.

**Subpart B—Prevailing Rate Determinations**

■ 2. Section 532.211 is revised by adding a paragraph (f) to read as follows:

**§ 532.211 Criteria for establishing appropriated fund wage areas.**

\* \* \* \* \*

(f) A single contiguous military installation defined as a Joint Base that would otherwise overlap two separate wage areas shall be included in only a single wage area. The wage area of such a Joint Base shall be defined to be the wage area with the most favorable payline based on an analysis of the simple average of the 15 nonsupervisory second step rates on each one of the regular wage schedules applicable in the otherwise overlapped wage areas.

■ 3. Appendix C to subpart B is amended by revising the wage area listing for the New York, NY, and Philadelphia, PA, wage areas to read as follows:

**Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas**

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**NEW YORK**

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**New York**  
*Survey Area*

- New Jersey:
  - Bergen
  - Essex
  - Hudson
  - Middlesex
  - Morris
  - Passaic
  - Somerset
  - Union
- New York:
  - Bronx
  - Kings
  - Nassau
  - New York
  - Orange
  - Queens
  - Suffolk
  - Westchester

*Area of Application. Survey area plus:*

- New Jersey:
  - Burlington (Joint Base McGuire-Dix-Lakehurst portion only)
  - Hunterdon
  - Monmouth
  - Ocean
  - Sussex
- New York:

Dutchess  
Putnam  
Richmond  
Rockland  
Pennsylvania:  
Pike

\* \* \* \* \*

**PENNSYLVANIA**

\* \* \* \* \*

**Philadelphia  
Survey Area**

New Jersey:  
Burlington (Excluding the Joint Base  
McGuire-Dix-Lakehurst portion)

Camden  
Gloucester

Pennsylvania:  
Bucks  
Chester  
Delaware  
Montgomery  
Philadelphia

*Area of Application. Survey area plus:*

New Jersey:  
Atlantic  
Cape May  
Cumberland  
Mercer  
Warren

Pennsylvania:  
Carbon  
Lehigh  
Northampton

\* \* \* \* \*

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BILLING CODE 6325-39-P

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection  
Service**

**7 CFR Part 372**

[Docket No. APHIS-2013-0049]

RIN 0579-AC60

**National Environmental Policy Act  
Implementing Procedures**

**AGENCY:** Animal and Plant Health  
Inspection Service, USDA

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations that set out our National Environmental Policy Act implementing procedures. The amendments include clarifying and amending the categories of action for which we would normally complete an environmental impact statement or an environmental assessment for an action, expanding the list of actions subject to categorical exclusion from further environmental documentation, and setting out an environmental documentation process that could be used in emergencies. The

proposed changes are intended to update the regulations and improve their clarity and effectiveness.

**DATES:** We will consider all comments that we receive on or before September 19, 2016.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0049>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2013-0049, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0049> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Dr. Elizabeth E. Nelson, APHIS Federal NEPA Contact, Environmental and Risk Analysis Services, PPD, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737-1238; (301) 851-3089.

**SUPPLEMENTARY INFORMATION:**

**Background**

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), is the United States' basic charter for protection of the environment. The President's Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA, published in 40 CFR parts 1500 through 1508 (referred to below as the CEQ regulations) regulate the implementation of NEPA across Federal agencies.

The Office of the Secretary of the U.S. Department of Agriculture (USDA) has set forth departmental policy on the implementation of NEPA in 7 CFR part 1b. Within USDA, the Animal and Plant Health Inspection Service (APHIS) has regulations that set out its procedures for implementing NEPA in 7 CFR part 372 (referred to below as the regulations). APHIS' regulations are designed to ensure early and appropriate consideration of potential environmental effects when APHIS programs formulate policy and make decisions. The regulations also promote

effective and efficient compliance with NEPA requirements and integration of other environmental review requirements under NEPA (e.g., 40 CFR 1500.2(c) and 40 CFR 1500.4(k)). Consistent with the requirements of the CEQ NEPA implementing regulations, the APHIS regulations supplement the CEQ regulations and the USDA NEPA implementing regulations to take into account APHIS missions, authorities, and decision-making. The APHIS regulations include definitions, categories of actions, major planning and decision points, opportunities for public involvement, and methods of processing different types of environmental documents.

The APHIS regulations were last amended in a final rule published in the **Federal Register** on February 1, 1995 (60 FR 6000-6005, Docket No. 93-165-3; corrected on March 10, 1995, at 60 FR 13212). The CEQ regulations at 40 CFR 1507.3(a) indicate that agencies "shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act." Since 1995, APHIS has begun several new types of actions (e.g., the Plant Protection Act of 2000) that are not covered in the current regulations, and gathered further data on the environmental impacts of those actions that are covered in the regulations. Accordingly, we have evaluated our regulations and identified changes that would reflect those new authorities, activities, and data. The changes we are proposing would also clarify certain areas of the regulations. APHIS has been and is consulting with CEQ regarding these changes, as required. In addition to reflecting APHIS' current responsibilities, the changes we are proposing reflect CEQ NEPA guidance that has been issued since the APHIS regulations were last amended. This guidance describes how Federal agencies can establish, revise, substantiate, and apply categorical exclusions, and how agencies can periodically review categorical exclusions to assure that they remain useful.<sup>1</sup>

NEPA and the CEQ regulations require all agencies of the Federal Government to include a detailed statement by the responsible official with every recommendation or report on proposals for legislation and other major Federal actions significantly affecting

<sup>1</sup> You may view the CEQ guidance document on the Internet at [https://ceq.doe.gov/ceq\\_regulations/NEPA\\_CE\\_Guidance\\_Nov232010.pdf](https://ceq.doe.gov/ceq_regulations/NEPA_CE_Guidance_Nov232010.pdf).