

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AJ78

### Prevailing Rate Systems; Redefinition of the North Dakota and Duluth, MN, Appropriated Fund Wage Areas

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing a final rule to redefine the North Dakota and Duluth, MN, Federal Wage System (FWS) appropriated fund wage areas. This rule redefines Clearwater and Mahnomen Counties and the White Earth Indian Reservation portion of Becker County from the North Dakota FWS wage area to the Duluth FWS wage area. These changes assign all blue-collar Federal employees working in Indian Health Service facilities in northern Minnesota to one FWS wage schedule.

**DATES:** *Effective Date:* This regulation is effective on the first day of the first applicable pay period beginning on or after March 5, 2004.

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

**SUPPLEMENTARY INFORMATION:** On August 22, 2003, the Office of Personnel Management (OPM) published a proposed rule (68 FR 50727) to redefine the North Dakota and Duluth, MN, Federal Wage System (FWS) appropriated fund wage areas. The proposed rule had a 30-day public comment period. OPM received 3 comments: one from the Minnesota National Guard Adjutant General Office; 1 from the manager of the Minnesota Army National Guard Organizational Maintenance Shop Number Five, Detroit

Lakes; and 1 from an employee representative of FWS workers at the Detroit Lakes Maintenance Shop, Becker County, MN.

The proposed rule would redefine Clearwater and Mahnomen Counties and the White Earth Indian Reservation portion of Becker County from the North Dakota FWS wage area to the Duluth FWS wage area. Public comments supported these changes but also asked that OPM define all of Becker County, MN, to the Duluth wage area.

We proposed redefining Clearwater and Mahnomen Counties and the White Earth Indian Reservation portion of Becker County to the Duluth wage area because FWS employees who work for closely related Bemidji Area Indian Health Service (IHS) facilities in northern Minnesota are currently in two separate FWS wage areas. The Department of Health and Human Services requested that OPM redefine the North Dakota and Duluth wage areas so that blue-collar employees of its IHS facilities in northern Minnesota would be covered by one wage schedule.

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.

Based on our analysis of the regulatory criteria for defining appropriated fund FWS wage areas, we find that the criteria for Clearwater, Mahnomen, and Becker counties do not strongly favor defining the counties to one FWS wage area more than another. However, the IHS medical centers in northern Minnesota are in an unusual situation in that they are in a rural area that is economically and socially integrated by the local reservation system and not strongly integrated with the labor markets in either the North Dakota or Duluth FWS survey areas. It is desirable to have IHS employees aligned under one wage schedule because the area and population serviced by the medical centers serve as a unique labor market. However, there is insufficient private sector industry and FWS employment in northern Minnesota to meet OPM's regulatory requirements for establishing a separate

FWS wage area for the IHS employees there. Because it is not feasible to establish a separate FWS wage area for IHS employees in northern Minnesota, the FWS employment locations must be defined to the area of application of an existing FWS wage area.

Analysis of OPM's regulatory criteria for defining FWS wage areas shows that the majority of IHS employment locations under the Bemidji Area in northern Minnesota are more closely aligned with the Duluth wage area than the North Dakota wage area. The White Earth, Red Lake, and Cass Lake Indian Health Centers are part of the Bemidji Area but their associated reservations are not currently located entirely within the Duluth wage area. The White Earth Indian Reservation occupies the northern portion of Becker County and most of Mahnomen County, while the Red Lake and Cass Lake Indian Reservations occupy the northern portions of Clearwater County. We therefore proposed that Clearwater and Mahnomen Counties be redefined from the North Dakota wage area to the Duluth wage area. We also proposed that the White Earth Indian Reservation portion of Becker County be redefined from the North Dakota wage area to the Duluth wage area. There are 11 IHS employees in Becker County and none in Clearwater or Mahnomen counties. There are several FWS employees stationed in the part of Becker County that we did not propose to define to the Duluth wage area.

The comments OPM received from Minnesota National Guard managers and employees request that all of Becker County, rather than just the White Earth Indian Reservation portion, be defined to the Duluth wage area. The reasons cited in the requests include organizational relationships in the Minnesota National Guard's Maintenance Division, the cost of living in Becker County, and an analysis of economic and salary indicators. Comments cited the fact that the Minnesota National Guard's Maintenance Division has similar facilities with similar blue-collar workforces in Detroit Lakes (Becker County), Cloquet (Carlton County), and Hibbing (St. Louis County).

We do not find a compelling reason to place all of Becker County in the Duluth wage area. Both Cloquet and Hibbing are located in the Duluth FWS

survey area while Detroit Lakes is only 26 kilometers, or 16 miles, from the North Dakota FWS survey area. Under the statutory principles for determining FWS pay, we find that pay rates for FWS employees at Minnesota National Guard facilities in Detroit Lakes, Cloquet, and Hibbing are appropriate. We find no compelling reason that FWS pay rates should be the same in Detroit Lakes as in Cloquet or Hibbing. Detroit Lakes has little linkage with the labor market in the Duluth survey area while it has a significant linkage with the North Dakota survey area. For example, commuting rates from the 2000 Census show that only 0.03 percent of the Becker County resident workforce commutes to work in the Duluth FWS survey area. In comparison, 8.8 percent of the Becker County resident workforce commutes to work in the North Dakota FWS survey area.

We believe the mixed nature of the regulatory analysis findings for Becker County, including demographic and industry patterns, indicates that the non-IHS employment locations in Becker County should remain appropriately defined to the North Dakota wage area. Because the pay of FWS employees must be based on the local cost of labor rather than the local cost of living, the local cost of living is not a factor OPM considers when defining FWS wage area boundaries.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee that advises OPM on FWS pay matters, reviewed and recommended these changes by consensus. Based on its review of the regulatory criteria for defining FWS wage areas, FPRAC recommended no other changes in the geographic definitions of the North Dakota and Duluth wage areas. The affected IHS employees in Becker County must be placed on the wage schedule for the Duluth wage area on the first day of the first applicable pay period beginning 30 days after the date this final regulation is published in the **Federal Register**.

**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.

**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.

**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.

■ 2. In appendix C to subpart B, the wage area listing for the State of Minnesota is amended by revising the listing for Duluth; and for the State of North Dakota, to read as follows:

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

\* \* \* \* \*

**Minnesota**

**Duluth**

*Survey Area*

Minnesota:  
Carlton  
St. Louis  
Wisconsin:  
Douglas

*Area of Application. Survey Area Plus*

Minnesota:  
Aitkin  
Becker (Including the White Earth Indian Reservation portion only)  
Beltrami  
Cass  
Clearwater  
Cook  
Crow Wing  
Hubbard  
Itasca  
Koochiching  
Lake  
Lake of the Woods  
Mahnommen  
Pine  
Wisconsin:  
Ashland  
Bayfield  
Burnett  
Iron  
Sawyer  
Washburn

\* \* \* \* \*

**North Dakota**

*Survey Area*

North Dakota:  
Burleigh  
Cass  
Grand Forks  
McLean  
Mercer  
Morton  
Oliver  
Traill

Ward  
Minnesota:  
Clay  
Polk

*Area of Application. Survey Area Plus*

North Dakota:

Adams  
Barnes  
Benson  
Billings  
Bottineau  
Bowman  
Burke  
Cavalier  
Dickey  
Divide  
Dunn  
Eddy  
Emmons  
Foster  
Golden Valley  
Grant  
Griggs  
Hettinger  
Kidder  
La Moure  
Logan  
McHenry  
McIntosh  
McKenzie  
Mountrail  
Nelson  
Pembina  
Pierce  
Ramsey  
Ransom  
Renville  
Richland  
Rolette  
Sargent  
Sheridan  
Sioux  
Slope  
Stark  
Steele  
Stutsman  
Towner  
Walsh  
Wells  
Williams  
Minnesota:  
Becker (Excluding the White Earth Indian Reservation portion)  
Kittson  
Marshall  
Norman  
Otter Tail  
Pennington  
Red Lake  
Roseau  
Wilkin

\* \* \* \* \*

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**BILLING CODE 6325-39-P**