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**Office of Personnel Management**

**5 CFR Part 532**

**RIN 3206-AN78**

**Prevailing Rate Systems; North American Industry Classification System Based**

**Federal Wage System Wage Surveys**

**AGENCY:** Office of Personnel Management.

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

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a proposed rule to update the 2012 North American Industry Classification System (NAICS) codes currently used in Federal Wage System (FWS) wage survey industry regulations with the 2017 NAICS revisions published by the Office of Management and Budget (OMB).

**DATES:** We must receive comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**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*.

**SUPPLEMENTARY INFORMATION:** On September 23, 2013, OPM issued a final rule (78 FR 58153) to update the 2007 NAICS codes used in FWS wage survey industry regulations with the 2012 NAICS revisions published by OMB. OPM's current regulations use 2012 NAICS codes. OMB has now published the NAICS revisions for 2017, which result in certain changes in industry coverage for FWS wage surveys.

The following sections of title 5, Code of Federal Regulations, list the industries included in the FWS wage surveys by 2012 NAICS codes:

Section 532.213 -- Industries included in regular appropriated fund wage surveys.

Section 532.221 -- Industries included in regular nonappropriated fund surveys.

Section 532.267 -- Special wage schedules for aircraft, electronic, and optical instrument overhaul and repair positions in Puerto Rico.

Section 532.285 -- Special wage schedules for supervisors of negotiated rate Bureau of Reclamation employees.

Section 532.313 -- Private sector industries.

OPM has reviewed these regulations in light of OMB's NAICS revisions for 2017 and is proposing the following changes:

- Delete NAICS codes 4521 (Department stores) and 45299 (All other general merchandise stores) from the list of required NAICS codes in 5 CFR 532.221 and add NAICS codes 4522 (Department stores) and 4523 (General merchandise stores, including warehouse clubs and supercenters);

- Delete NAICS codes 5171 (Wired telecommunications carriers) and 5172 (Wireless telecommunications carriers (except satellite)) from the list of required NAICS codes in the

Artillery and combat vehicle specialized industry and in the Communications specialized industry in 5 CFR 532.313 and add NAICS codes 5173 (Wired and wireless telecommunications carriers);

- Delete NAICS codes 541712 (Research and development in the physical, engineering, and life sciences (except biotechnology) - nanotechnology research and experimental development laboratories) from the list of required NAICS codes in the Aircraft specialized industry and in the Guided missiles specialized industry in 5 CFR 532.313 and add NAICS codes 541713 (Research and development in nanotechnology) and 541715 (Research and development in the physical, engineering, and life sciences (except nanotechnology and biotechnology));

- Revise the title of NAICS code 334613 (Magnetic and optical recording media manufacturing) to read “Blank magnetic and optical recording media manufacturing” in the list of required NAICS codes in the Electronics specialized industry, Guided missiles specialized industry, and Sighting and fire control equipment specialized industry in 5 CFR 532.313; and

- Revise the title of NAICS code 4921 (Couriers) to read “Couriers and express delivery services” in the list of required NAICS codes in the Aircraft specialized industry in 5 CFR 532.313.

None of the other sections are affected by 2017 changes in NAICS codes. OPM is also proposing to replace the year “2012” with “2017” in the table titles of all applicable sections.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended by consensus that we adopt these changes.

## **Regulatory Impact Analysis**

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any 1 year. This rule has been designated as a “significant regulatory action,” under Executive Order 12866, but it is not “economically significant” as measured by the \$100 million threshold.

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

This rule is not an Executive Order 13771 regulatory action because this rule is related to agency organization, management, or personnel.

### **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.

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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.

**§ 532.213 [Amended]**

2. In § 532.213, amend the table in paragraph (a) by removing “2012” from the column headings and adding in its place “2017.”
3. In § 532.221, amend the table in paragraph (a) by revising the column headings, removing the entries for NAICS codes “4521” and “45299” and adding in numerical order entries for NAICS codes “4522” and “4523”.

The revisions and additions to read as follows:

**§532.221 Industries included in regular nonappropriated fund surveys.**

(a) \*\*\*

| 2017 NAICS codes | 2017 NAICS industry titles           |
|------------------|--------------------------------------|
| ***              | *****                                |
| 4522             | Department stores                    |
| 4523             | All other general merchandise stores |
| ***              | *****                                |

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**§ 532.267 [Amended]**

4. In § 532.267, amend the table in paragraph (c)(1) by removing “2012” from the column headings and adding in its place “2017.”

**§ 532.285 [Amended]**

5. In § 532.285, amend the table in paragraph (c)(1) by removing “2012” from the column headings and adding in its place “2017.”

6. In § 532.313, amend the table in paragraph (a) by:

- a. Revising the column headings;
- b. Under the heading Aircraft Specialized Industry:
  - i. Revise the entry for NAICS Code 4921;
  - ii. Remove the entry for NAICS Code 541712; and
  - iii. Add entries for NAICS Codes 541713 and 541715;
- c. Under the heading Artillery and Combat Vehicles Specialized Industry:
  - i. Remove the entries for NAICS Codes 5171 and 5172; and
  - ii. Add an entry for NAICS Code 5173;
- d. Under the heading Communications Specialized Industry:
  - i. Remove the entries for NAICS Codes 5171 and 5172; and
  - ii. Add an entry for NAICS Code 5173;
- e. Under the heading Electronic Specialized Industry:
  - i. Revise the entry for NAICS Code 334613;
- f. Under the heading Guided Missiles Specialized Industry:
  - i. Revise the entry for NAICS Code 334613;
  - ii. Remove the entry for NAICS Code 541712; and
  - iii. Add entries for NAICS Codes 541713 and 541715;
- g. Under the heading Sighting and Fire Control Equipment Specialized Industry:
  - i. Revise the entry for NAICS Code 334613

The revisions and additions to read as follows:

**§532.313 Private sector industries.**

- (a) \*\*\*

| 2017 NAICS codes  | 2017 NAICS industry titles   |
|---|--|
| <b>Aircraft Specialized Industry</b>                            |  |
| ***<br>4921<br>541713<br>541715<br>***                          | ****<br>Couriers and express delivery services.<br><br>Research and development in nanotechnology.<br><br>Research and development in the physical, engineering, and life sciences<br>(except nanotechnology and biotechnology).<br>****                   |
| <b>Artillery and Combat Vehicles Specialized Industry</b>       |  |
| ***<br>5173<br>***  | ****<br>Wired and wireless telecommunications carriers.<br>****  |
| <b>Communications Specialized Industry</b>                      |  |
| ***<br>5173<br>***  | ****<br>Wired and wireless telecommunications carriers.<br>****  |
| <b>Electronics Specialized Industry</b>                         |  |
| ***<br>334613<br>***  | ****<br>Blank magnetic and optical recording media manufacturing.<br>****  |
| <b>Guided Missiles Specialized Industry</b>                     |  |
| ***<br>334613<br>***<br>541713<br>541715                        | ****<br>Blank magnetic and optical recording media manufacturing.<br>****<br><br>Research and development in nanotechnology.<br><br>Research and development in the physical, engineering, and life sciences<br>(except nanotechnology and biotechnology). |
| *****   |  |
| <b>Sighting and Fire Control Equipment Specialized Industry</b> |  |
| ***<br>334613<br>***  | ****<br>Blank magnetic and optical recording media manufacturing.<br>****  |

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