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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: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final 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: *Effective date:* This rule is effective [insert date 30 days after date of publication in the Federal Register].

Applicability date: This rule applies for local wage surveys beginning on or after November 6, 2019.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606-2838 or by email at pay-leave-policy@opm.gov.

SUPPLEMENTARY INFORMATION: On March 6, 2019, OPM issued a proposed rule (84 FR 8043) to update the 2012 NAICS codes used in FWS wage survey industry regulations with the 2017 NAICS revisions published by OMB. The Federal Prevailing Rate Advisory Committee (FPRAC), 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.

The 30-day comment period ended on April 5, 2019. OPM received one comment that is not pertinent to the proposed rule.

This final regulation is effective 30 days after publication. However, to provide the Department of Defense with sufficient time for planning surveys and implementing changes required by OMB's 2017 NAICS revisions, the regulation is applicable for wage surveys ordered to begin on or after November 6, 2019.

As OMB continues to update NAICS codes periodically, we will update these regulations to correspond to the updated NAICS codes based on advice we receive from FPRAC.

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 not significant under EO 12866.

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.

Alexys Stanley,
Regulatory Affairs Analyst.

Accordingly, OPM 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.

§ 532.213 [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):

a. By revising the column headings;

b. Under the heading Aircraft Specialized Industry:

i. By revising the entry for NAICS Code 4921;

ii. By removing the entry for NAICS Code 541712; and

iii. By adding entries in numerical order for NAICS Codes 541713 and 541715;

c. Under the heading Artillery and Combat Vehicles Specialized Industry:

i. By removing the entries for NAICS Codes 5171 and 5172; and

ii. By adding an entry in numerical order for NAICS Code 5173;

d. Under the heading Communications Specialized Industry:

i. By removing the entries for NAICS Codes 5171 and 5172; and

ii. By adding an entry in numerical order for NAICS Code 5173;

e. Under the heading Electronic Specialized Industry by revising the entry for NAICS Code 334613;

f. Under the heading Guided Missiles Specialized Industry:

i. By revising the entry for NAICS Code 334613;

ii. By removing the entry for NAICS Code 541712; and

iii. By adding entries in numerical order for NAICS Codes 541713 and 541715; and

g. Under the heading Sighting and Fire Control Equipment Specialized Industry by revising 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 |
|---|---|
| Aircraft Specialized Industry | |
| *** 4921 541713 541715 *** | ***** Couriers and express delivery services. Research and development in nanotechnology. Research and development in the physical, engineering, and life sciences (except nanotechnology and biotechnology). ***** |
| Artillery and Combat Vehicles Specialized Industry | |
| *** 5173 *** | ***** Wired and wireless telecommunications carriers. ***** |
| Communications Specialized Industry | |
| *** 5173 *** | ***** Wired and wireless telecommunications carriers. ***** |
| Electronics Specialized Industry | |
| *** 334613 *** | ***** Blank magnetic and optical recording media manufacturing. ***** |

| Guided Missiles Specialized Industry | |
|---|---|
| *** 334613 *** | **** Blank magnetic and optical recording media manufacturing. **** |
| 541713 | Research and development in nanotechnology. |
| 541715 | Research and development in the physical, engineering, and life sciences (except nanotechnology and biotechnology). |
| ***** | |
| Sighting and Fire Control Equipment Specialized Industry | |
| *** 334613 *** | **** Blank magnetic and optical recording media manufacturing. **** |
| | |

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