

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AM78

### Prevailing Rate Systems; North American Industry Classification System Based Federal Wage System Wage Surveys

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management is issuing a final rule to update the 2007 North American Industry Classification System (NAICS) codes currently used in Federal Wage System wage survey industry regulations with the 2012 NAICS revisions published by the Office of Management and Budget.

**DATES:** *Effective date:* This rule is effective October 23, 2013. *Applicability date:* This rule applies for local wage surveys beginning on or after February 21, 2014.

**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 26, 2013, the U.S. Office of Personnel Management (OPM) issued a proposed rule (78 FR 18252) to update the 2007 North American Industry Classification System (NAICS) codes used in Federal Wage System (FWS) wage survey industry regulations with the 2012 NAICS revisions published by the Office of Management and Budget (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 25, 2013. OPM received two comments from a labor organization.

The first comment received from the labor organization was in reference to section 532.285 of title 5, Code of Federal Regulations—Special wage schedules for supervisors of negotiated rate Bureau of Reclamation employees. The labor organization asked if the special schedule rates for supervisors of negotiated rate Bureau of Reclamation (BOR) employees at the Yuma Projects Area were based on the negotiated rates of union represented workers. The answer is no, rates for supervisors of negotiated rate BOR employees are not based on the negotiated rates of union represented workers. Section 532.285 provides that the special wage rates for supervisors of negotiated rate BOR employees be based on annual special wage surveys conducted by BOR in each special wage area. Survey jobs representing BOR positions at up to four levels will be matched to private industry jobs in each special wage area. Special schedule rates for each position will be based on prevailing rates for that particular job in private industry.

The labor organization's second comment was in reference to NAICS code 332994 (Small arms, ordnance, and ordnance accessories manufacturing), which OPM proposed be added to the list of required NAICS codes in the Artillery and combat vehicle specialized industry in 5 CFR 532.313. The labor organization asked if the addition of NAICS code 332994 would also encompass cannon tube production from Federal arsenals. The Department of Defense, the lead agency responsible for conducting FWS surveys and issuing wage schedules, surveys cannon manufacturers. Previously, OMB listed cannon manufacturing under NAICS code 332995, but with the 2012 update, it is now listed under NAICS code 332994. We note, however, that the law requires that FWS wage surveys include only private sector employers. If a private sector employer identified under NAICS code 332994 exists in a wage area, it may be included in an FWS wage survey. DOD does not survey any Federal agencies in order to set pay for FWS employees.

We have not made any changes to the final regulations based on these two comments. This final regulation is effective 30 days after publication.

However, to provide DOD with sufficient time and a fixed date for planning surveys and implementing changes required by OMB's 2012 NAICS revisions, the regulation is applicable for wage surveys ordered to begin on or after February 21, 2014. 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 Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will 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.

**Elaine Kaplan,**  
*Acting Director.*

Accordingly, the U.S. Office of Personnel Management amends 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 headings in both columns by replacing the year “2007” with “2012.”

#### § 532.221 [Amended]

■ 3. In § 532.221, amend the table as follows:

■ a. Revise the year “2007” to “2012” in the table headings in both columns;  
■ b. Remove NAICS codes “44311,” “7221,” and “7222” in the first column and “Appliance, television, and other electronic stores,” “Full-service

restaurants,” and “Limited-service eating places” in the second column; and

■ c. Add NAICS codes “443” and “7225” in the first column in numerical order and “Electronics and appliance stores” and “Restaurants and other eating places” in the second column.

#### § 532.267 [Amended]

■ 4. In § 532.267(c)(1), amend the table as follows:

■ a. Revise the year “2007” to “2012” in the table headings in both columns;

■ b. Add NAICS code “333316” in the first column in numerical order and “Photographic and photocopying equipment manufacturing” in the second column;

■ c. Revise the title of NAICS code 334613 from “Magnetic and optical recording media manufacturing” to “Blank magnetic and optical recording media manufacturing” in the second column; and

■ d. Revise the title of NAICS code 4921 from “Couriers” to “Couriers and express delivery services” in the second column.

#### § 532.285 [Amended]

■ 5. In § 532.285(c)(1), amend the table headings in both columns by replacing the year “2007” with “2012.”

#### § 532.313 [Amended]

■ 6. In § 532.313(a), amend the table as follows:

■ a. Revise the year “2007” to “2012” in the table headings in both columns;

■ b. Add NAICS code “333316” in the first column in numerical order and “Photographic and photocopying equipment manufacturing” in the second column to the list of required NAICS codes for the Electronics Specialized Industry, Guided Missiles Specialized Industry, and Sighting and Fire Control Equipment Specialized Industry;

■ c. Remove NAICS codes “332212,” “332995,” “336312,” “336322,” and “336399” in the first column and “Hand and edge tool manufacturing,” “Other ordnance and accessories manufacturing,” “Gasoline engine and engine parts manufacturing,” “Other motor vehicle electrical and electronic equipment manufacturing,” and “All other motor vehicle parts manufacturing” in the second column from the list of required NAICS codes for the Artillery and Combat Vehicle Specialized Industry; and

■ d. Add NAICS codes “332216,” “332994,” “33631,” “33632,” and “33639” in the first column in numerical order and “Saw blade and hand tool manufacturing,” “Small arms,

ordnance, and ordnance accessories manufacturing,” “Motor vehicle gasoline engine and engine parts manufacturing,” “Motor vehicle electrical and electronic equipment manufacturing,” and “Other motor vehicle parts manufacturing” in the second column to the list of required NAICS codes for the Artillery and Combat Vehicle Specialized Industry.

[FR Doc. 2013-22498 Filed 9-20-13; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2009-0084]

RIN 0579-AD56

### Importation of Litchi Fruit From Australia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

**SUMMARY:** We are amending the regulations in order to allow, under certain conditions, the importation of commercial shipments of litchi fruit from Australia into the continental United States, except Florida. As a condition of entry, the litchi fruit must be treated with irradiation and subject to inspection. If irradiation is applied outside the United States, the fruit must be inspected jointly by inspectors from the Animal and Plant Health Inspection Service and the national plant protection organization (NPPO) of Australia prior to departure and accompanied by a phytosanitary certificate issued by the NPPO of Australia certifying that the fruit received the required irradiation treatment. If irradiation is to be applied upon arrival in the United States, the fruit must be inspected by Australian inspectors prior to departure and accompanied by a phytosanitary certificate issued by the NPPO of Australia. Additionally, the litchi fruit may not be imported into or distributed within the State of Florida, due to the presence of litchi rust mite in Australia. This action allows for the importation of litchi fruit from Australia into the continental United States, except Florida, while continuing to provide protection against the introduction of quarantine pests.

**DATES:** Effective Date: October 23, 2013.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorothy C. Wayson, Regulatory Coordination Specialist, PPQ, APHIS, 4700 River Road Unit 141, Riverdale, MD 20737-1231; (301) 851-2036.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-60, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

On December 28, 2011, we published in the *Federal Register* (76 FR 81401-81404, Docket No. APHIS-2009-0084) a proposal<sup>1</sup> to amend the regulations to allow fresh litchi fruit (*Litchi chinensis* Sonn.) from Australia to be imported into the continental United States, except Florida. We proposed that, as a condition of entry, the litchi fruit would have to be produced in accordance with a systems approach that includes requirements for monitoring and oversight, irradiation treatment of the fruit, limited distribution, and shipping.

We solicited comments concerning our proposal for 60 days ending February 27, 2012. We received four comments by that date. They were from two students, a representative of a foreign government, and an organization of State plant regulatory officials. The comments are discussed below by topic.

##### Pest List

We prepared a pest risk assessment (PRA) and a risk management document for the importation of fresh litchi fruit from Australia. That PRA evaluated the risks associated with the importation of litchi fruit with up to 5 millimeters of stem into the continental United States from Australia. The threshold allowing for a maximum of 5 millimeters of stem on the imported litchi fruit was included in Australia’s market access request and therefore established as the allowable limit in the PRA.

One commenter stated that neither the proposed rule nor the PRA provided phytosanitary justification for the inclusion of this 5 millimeter limit. The commenter further stated that, while the 5 millimeter stem length was included in Australia’s market access request, it had been intended only as part of a general description of Australia’s standard litchi fruit production practices. The commenter asked that the limit be removed in light of the fact that

<sup>1</sup> To view the proposed rule and the comments we received, go to <http://www.regulations.gov/#/docketDetail;D=APHIS-2009-0084>.