

# Proposed Rules

Federal Register

Vol. 73, No. 12

Thursday, January 17, 2008

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-AL45

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

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

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

**SUMMARY:** The U.S. Office of Personnel Management is issuing a proposed rule that would update the 2002 North American Industry Classification System (NAICS) codes currently used in Federal Wage System wage survey industry regulations with the 2007 NAICS revisions published by the Office of Management and Budget.

**DATES:** We must receive comments on or before February 19, 2008.

**ADDRESSES:** Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415-8200; e-mail [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov); or FAX: (202) 606-4264.

**FOR FURTHER INFORMATION CONTACT:** Madeline Gonzalez, (202) 606-2838; e-mail [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov); or FAX: (202) 606-4264.

**SUPPLEMENTARY INFORMATION:** On June 20, 2006, the U.S. Office of Personnel Management (OPM) issued a final rule (71 FR 35373) which replaced all Standard Industrial Classification codes in the Federal Wage System (FWS) with the most closely corresponding North American Industry Classification System (NAICS) codes, published by the Office of Management and Budget (OMB). OPM's current regulations use 2002 NAICS codes. OMB has now published the NAICS revisions for 2007,

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 2002 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 532.279—Special wage schedules for printing positions.

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 2007 and is proposing to add NAICS code 334515 (Instrument manufacturing for measuring and testing electricity and electrical signals) to the list of required NAICS codes in section 532.267 and three of the specialized industries (Electronics, Guided missiles, and Sighting and fire control equipment) in section 532.313 of title 5, Code of Federal Regulations. None of the other sections are affected by 2007 changes in NAICS codes. OPM is also proposing to replace the year "2002" with "2007" in the table titles of all applicable sections.

In addition, OPM is proposing to delete NAICS code 81299 (All other personal services) from the list of required NAICS codes in the artillery and combat vehicle specialized industry. NAICS code 81299 comprises establishments primarily engaged in providing personal services, such as astrology services, concierge services, dating services, and party planning services. This NAICS code was previously included by error.

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 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.

**Linda M. Springer,**

*Director.*

Accordingly, the U.S. Office of Personnel Management 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 headings in both columns by replacing the year "2002" with "2007."

#### § 532.221 [Amended]

3. In § 532.221, amend the table headings in both columns by replacing the year "2002" with "2007."

#### § 532.267 [Amended]

4. In § 532.267(c)(1), amend the table headings in both columns by replacing the year "2002" with "2007" and insert NAICS code "334515" in the first column in numerical order and "Instrument manufacturing for measuring and testing electricity and electrical signals" in the second column.

#### § 532.285 [Amended]

5. In § 532.285(c)(1), amend the table headings in both columns by replacing the year "2002" with "2007."

#### § 532.313 [Amended]

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

a. Replace the year "2002" with "2007" in the table headings in both columns;

b. Add NAICS code "334515" in the first column in numerical order and "Instrument manufacturing for measuring and testing electricity and electrical signals" 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; and  
 c. Remove NAICS code "81299" in the first column and "All other personal services" in the second column from the list of required NAICS codes for the Artillery and Combat Vehicle Specialized Industry.

[FR Doc. E8-657 Filed 1-16-08; 8:45 am]

BILLING CODE 6325-39-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 20

[Docket No. PRM-20-27]

#### George Barnet; Denial of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM-20-27) dated July 11, 2007, submitted by George Barnet (petitioner). The petitioner requested that NRC amend its regulations that govern standards for protection against radiation to broaden the scope of the requirements pertaining to approval of proposed disposal methods to include recovery of material for recycling. The NRC is denying the petition because the issues raised by the petitioner fall within the scope of the rationale for a recent Commission decision to not conduct rulemaking in the area of setting radiological criteria for controlling the disposition of solid materials. The rationale for the Commission decision was that the current NRC approach for disposition of solid materials is fully protective of public health and safety, and that NRC is currently faced with several high priority and complex tasks.

**ADDRESSES:** Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's

Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdrc@nrc.gov](mailto:pdrc@nrc.gov).

#### FOR FURTHER INFORMATION CONTACT:

Frank Cardile, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: 301-415-6185 or Toll-Free: 1-800-368-5642, or e-mail: [fpc@nrc.gov](mailto:fpc@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. The Petition

On July 11, 2007, the NRC received a petition for rulemaking submitted by George Barnet (petitioner). The petitioner requested that NRC revise its regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." Specifically, the petitioner requested that 10 CFR 20.2002, "Method for obtaining approval of proposed disposal procedures" be amended by broadening its scope to allow for the recycling of materials. The NRC determined that the petition met the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition was docketed by the NRC as PRM-20-27 on July 25, 2007.

The petitioner states that the current provisions at § 20.2002 are adequate for licensing waste disposal methods that can be demonstrated to be safe to the public. However, the petitioner states that § 20.2002 does not provide for a similar method to demonstrate that materials can be recycled after being decontaminated. The petitioner states that it is environmentally unsound to not allow for reasonable and safe recycling options for recoverable materials.

In support of the petition, the petitioner notes that equipment and materials are routinely decontaminated and monitored for reuse for unlicensed applications under license-specific monitoring requirements for surface decontamination. The petitioner states that because no specific regulation currently exists to permit these license-specific recycling and reuse activities, most unwanted potentially contaminated lead is buried as waste. The petitioner also notes that the most economical method for licensees to get rid of unwanted lead is to send it to a licensed mixed waste processor for macro-encapsulation, and then dispose

of it at a licensed mixed waste site. The petitioner states that this is both environmentally and economically unsound because the potentially contaminated lead is a valuable resource that is not being conserved or recovered under NRC's current regulations.

The petitioner states that the company at which he is a Radiological Safety Officer, the Toxco Materials Management Center (TMMC), has developed a more economical and environmentally sound method for the processing of potentially contaminated lead that has been in contact with radioactive materials. The petitioner explains that this method separates contaminated materials into the lead oxide layer of slag that forms on top of the melted lead. The slag is only a very minor percentage of the total quantity of lead processed and can be macro-encapsulated and disposed of as mixed waste. The petitioner states that the remaining lead exhibits little or no detectable radioactivity.

The petitioner also explains that TMMC developed volumetric clearance criteria to show that no person who came in contact with the decontaminated lead would exceed the 1 mrem/year limit in its Agreement State license with the Tennessee Division of Radiological Health (TDRH). The petitioner states that these criteria and their bases were submitted to TDRH as part of a license amendment request to permit decontaminated lead to be recycled as cleared materials exempt from licensing requirements. The petitioner further states that TDRH requested that TMMC refer the request to the NRC based on "a lack of regulatory precedent at the [Federal] level for recycling of metals."

##### II. Reasons for Denial

NRC is denying this petition because the issues raised by the petitioner's request fall within the scope of the rationale for a recent Commission decision to not conduct rulemaking in the area of setting radiological criteria for controlling the disposition of solid materials. The Commission's decision was made in response to a draft proposed rule provided to the Commission by the NRC staff (SECY-05-0054 "Proposed Rule Radiological Criteria for Controlling the Disposition of Solid Materials (RIN 3150-AH18)"; March 31, 2005; ADAMS Accession No. ML041550790). In its June 1, 2005, response to that proposed rule (Staff Requirements Memorandum SRM-SECY-05-0054; ADAMS Accession No. 052010263), the Commission indicated that it was disapproving publication of the draft proposed rule and deferring