Rules and Regulations

Federal Register
Vol. 79, No. 79
Thursday, April 24, 2014

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AM63

Prevailing Rate Systems; Special Wage Schedules for Nonappropriated Fund Automotive Mechanics

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management is issuing a final rule to establish special wage schedules for the Department of Defense's (DOD's) nonappropriated fund (NAF) automotive mechanics. These special wage schedules will replace the current commission pay practice covering DOD's NAF automotive mechanics with a flat rate pay system. Implementation of a flat rate pay system will better align the pay practice for compensating NAF automotive mechanics with current prevailing pay practices in the private sector.

DATES: *Effective date:* This regulation is effective on April 24, 2014.
Applicability date: This change applies on the first day of the first applicable pay period beginning on or after June 23, 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 June 12, 2012, the U.S. Office of Personnel Management (OPM) issued a proposed rule (77 FR 34854) to establish special wage schedules for the Department of Defense's (DOD's) approximately 80 nonappropriated fund (NAF) automotive mechanics. These special wage schedules will replace the current commission pay practice covering DOD's NAF automotive mechanics with a flat rate pay system. The 60-day comment period ended on August 13, 2012. OPM received comments from local management at an auto repair service station.

Local management at the auto repair service station objected to the replacement of the current commission pay practice with a flat rate pay system because they believe that under the flat rate pay system there would be a significant negative effect on the productivity and profitability of their auto repair business. The reason local management believes the flat rate pay system would have a negative effect on productivity and profitability is because automotive mechanics paid under the current commission pay practice are paid more for taking on additional work, while pay under the proposed flat rate pay system is the same regardless of how much work is done.

OPM does not find a compelling reason to continue the commission pay practice currently in effect. Under the current commission pay practice, automotive mechanics are compensated on the basis of a percentage of sales. Management controls the shop labor rate and determines the commission percentage. The automotive mechanic's pay is directly linked to sales generated. Any fluctuation up or down in the shop labor rate impacts the automotive mechanic's earnings.

Different from the commission pay practice, the proposed flat rate pay plan would not be linked to shop labor rates, but would instead take into account local prevailing rates, the mechanic's skill level, and the standard number of hours required to complete a particular job. Since the change would de-link shop labor rates from employee pay rates, it would permit NAF automotive businesses to adjust retail rates as needed without having to adjust employee pay rates.

The Federal Wage System (FWS) is designed to provide common policies and practices and ensure employees are paid at prevailing wage levels. The current commission pay plan for automotive mechanics is no longer the prevailing automotive industry pay practice. Since the implementation of a flat rate pay system will better align the pay practice for compensating NAF automotive mechanics with current prevailing pay practices in the private sector, we have not made any changes in the final regulations based on the comments received. Therefore, OPM is adopting the proposed rule as final. We note that this final rule also uses the 2012 North American Industry Classification System (NAICS) codes published by the Office of Management and Budget.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended that we adopt these changes by majority vote. These changes would apply on the first day of the first applicable pay period beginning on or after 60 days following publication of the final regulations.

The impact of the automotive mechanics flat rate pay plan on recruitment, retention, and workers' earnings will be re-evaluated by FPRAC every 3 years, beginning 3 years after issuance of these final regulations.

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 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.

Katherine Archuleta,

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.

■ 2. Add § 532.287 to subpart B to read as follows:

§ 532.287 Special wage schedules for nonappropriated fund automotive mechanics.

(a) The Department of Defense (DOD) will establish a flat rate pay system for nonappropriated fund (NAF) automotive mechanics. This flat rate pay system will take into account local prevailing rates, the mechanic's skill level, and the standard number of hours required to complete a particular job.

(b) DOD will issue special wage schedules for NAF automotive mechanics who are covered by the flat rate pay system. These special schedules will provide rates of pay for nonsupervisory, leader, and supervisory employees. These special schedule positions will be identified by pay plan codes XW (nonsupervisory), XY (leader), and XZ (supervisory), grades 8–10, and will use the Federal Wage System occupational code 5823.

(c) DOD will issue special wage schedules for NAF automotive mechanics based on annual special flat rate surveys of similar jobs conducted in each special schedule wage area.

(1) The survey area for these special surveys will include the same counties as the regular NAF survey area.

(2) The survey jobs used will be Automotive Worker and Automotive Mechanic.

(3) The special surveys will include data on automotive mechanics that are paid under private industry flat rate pay plans as well as those paid by commission.

(4) In addition to all standard North American Industry Classification System (NAICS) codes currently used on the regular surveys, the industries surveyed will include—

2012 NAICS Codes	2012 NAICS Industry titles
441110	New car dealers.
441310	Automotive parts and accessory stores.
811111	General automotive repair.
811191	Automotive oil change and lubrication shops.

(5) The surveys will cover establishments with a total employment of eight or more.

(6) The special schedules for NAF automotive mechanics will be effective on the same dates as the regular wage schedules in the NAF FWS wage area.

(d) New employees will be hired at step 1 of the position under the flat rate pay system. Current employees will be moved to these special wage schedules on a step-by-step basis. Pay retention will apply to any employee whose rate of basic pay would otherwise be reduced as a result of placement in these new special schedules.

[FR Doc. 2014–09338 Filed 4–23–14; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 274

[FNS–2012–0028]

RIN 0584–AE26

Supplemental Nutrition Assistance Program: Trafficking Controls and Fraud Investigations

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Food and Nutrition Service (FNS) is issuing this affirmation of a final rule, without change, of an interim rule that amended Supplemental Nutrition Assistance Program (SNAP) regulations, to require State agencies to monitor electronic benefit transfer (EBT) card replacement requests and send notices to those clients who have requested four cards within a 12-month period. The State agency shall be exempt from sending this notice if it chooses to exercise the card withholding option, in accordance with SNAP regulations, and sends the first warning notice upon the household's fourth card replacement request.

DATES: *Effective Date:* On April 24, 2014, the Department is adopting as a final rule the amendments to 7 CFR 274.6 in the interim rule published at 78 FR 51649, dated August 21, 2013.

FOR FURTHER INFORMATION CONTACT: Jane Duffield, Chief, State Administration Branch, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 818, Alexandria, Virginia 22302. Ms. Duffield may be reached by telephone at 703–605–4385 or via email at *Jane.Duffield@fns.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 21, 2013, FNS published an interim rule provision at 7 CFR 274.6(b)(6), that requires State agencies to monitor EBT card replacements and issue excessive replacement card notices to clients who have requested four card replacements in a 12-month period. FNS' decision to issue the interim rule was based on a comment received in response to the proposed rule: *Supplemental Nutrition Assistance Program: Trafficking Controls and Fraud Investigations,* published on May 30, 2012, at 77 FR 31738. The commenter suggested that FNS propose a method for handling multiple card requests that includes monitoring EBT card replacements and sending warning notices to those clients requesting an excessive amount of EBT cards. This process, initiated by North Carolina and implemented by the majority of States, has proven to be efficient and cost effective. FNS agreed with the comment and amended the regulations in the same section, to require that all States implement this method for handling multiple card requests. Since the majority of States currently monitor EBT card replacement requests and subsequently issue warning notices for four or more requests, FNS does not believe this provision will create a substantial burden for States overall.

FNS believes that all State agencies should be monitoring card replacement activity and that the requirement to issue an excessive replacement card notice provides an important tool for State agencies to use in monitoring and preventing trafficking of EBT cards. Based on current data, the number of clients requesting five or more cards has decreased nationally since many States adopted this practice.

FNS provided the opportunity for comment through the interim rule process because the provision was not included in the proposed rule. Comments were solicited for 60 days with an extension, ending November 6, 2013, due to the government shutdown.

FNS received five comments on the interim rule. Two commenters requested clarification on the starting point for the 12-month timeframe for calculating the number of requests for replacement EBT cards and whether clients should receive additional notices for subsequent 12-month periods. The 12-month timeframe refers to any four cards replacements that fall within the past 12-month period. State agencies must monitor card replacement requests, and send warning notices to clients who request four cards within the past twelve months. State agencies should continue to monitor and re-notify clients who request additional EBT cards beyond a 12-month period. If trafficking is suspected, the State agency must refer cases to the State's fraud investigation unit. In all cases, if State agency staff suspects that the client's lack of understanding is the reason for requesting excessive replacement cards, they must educate the client on how to manage the card, rather than refer the case for investigation. FNS believes