

nearest similar wage area together with the data obtained from inside the local wage survey area. The regular schedule for Department of Defense prevailing rate employees shall be based on local wage data only.

(2) The total number of job matches obtained from the nearest similar wage area shall be equal to the number required for adequacy in § 532.309(a) (2) and (3) of this subpart for appropriated fund surveys and § 532.309(b)(2) of this subpart for nonappropriated fund surveys.

(3) Data shall be selected for inclusion on the basis of the most populous survey jobs as determined by the weighted job matches found in the dominant industry in the selected reference area. In identifying survey jobs for which reference area samples will be included, the jobs required at limited grade ranges shall be selected before jobs in the unlimited grade range. When there is a tie in the selection procedure, the highest graded job shall be selected first.

(4) If there are two dominant industries for which data are obtained from nearest similar areas, the procedure described in paragraph (a)(2) of this section shall be applied independently for each of the specialized industries.

(b)(1) The wage rates established for a grade by using data from the nearest similar area may not exceed the wage rates for the same grade in the nearest similar area.

(2) If data are obtained from two nearest similar areas for two dominant industries, the wage rates established for a grade by using these data may not exceed the higher of the wage rates for the same grade in the two nearest similar areas.

(c) The wage data obtained from the nearest similar area or areas may not be used to reduce the wage rates for any grade in the local area below the rates that would be established for that grade without the use of the data from the nearest similar area or areas.

[46 FR 21344, Apr. 10, 1981, as amended at 54 FR 38197, Sept. 15, 1989. Redesignated and amended at 55 FR 46179, Nov. 1, 1990]

## Subpart D—Pay Administration

### § 532.401 Definitions.

In this subpart:

*Change to lower grade* means a change in the position of an employee who, while continuously employed—

(1) Moves from a position in one grade of a prevailing rate schedule established under this part to a position in a lower grade of the same type prevailing rate schedule, whether in the same or different wage area;

(2) Moves from a position under a prevailing rate schedule established under this part to a position under a different prevailing rate schedule (e.g., WL to WG) with a lower representative rate; or

(3) Moves from a position not under a prevailing rate schedule to a position with a lower representative rate under a prevailing rate schedule.

*Equivalent increase* means an increase or increases in an employee's rate of basic pay equal to or greater than the difference between the rate of pay for the grade and step occupied by the employee and the rate of pay for the next higher step of that grade, except in the situations specified in § 532.417 of this subpart. In the case of a promotion, the grade and step occupied means the grade and step to which promoted.

*Existing scheduled rate of pay* means the scheduled rate of pay received immediately before the effective date of a transfer, reassignment, promotion, change to a lower grade, within-grade increase, or revision of a wage schedule.

*Highest previous rate* means the highest scheduled rate of pay previously paid to a person while employed in a job in any branch of the Federal Government, a mixed-ownership corporation, or the government of the District of Columbia. It is based on a regular tour of duty under an appointment not limited to 90 days or less, or for a continuous period of no less than 90 days under one or more appointments without a break in service.

*Promotion* means a change in the position of an employee who, while continuously employed—

(1) Moves from a position in one grade of a prevailing rate schedule established under this part to a position

in a higher grade of the same type prevailing rate schedule, whether in the same or different wage area;

(2) Moves from a position under a prevailing rate schedule established under this part to a position under a different prevailing rate schedule (e.g., WG to WL) with a higher representative rate; or

(3) Moves from a position not under a prevailing rate schedule to a position with a higher representative rate under a prevailing rate schedule.

*Rate of basic pay* means the scheduled rate of pay plus any night or environmental differential.

*Reassignment* means a change of an employee, while serving continuously in the same agency, from one job to another without promotion or change to a lower grade.

*Representative rate* means the going rate, i.e., the rate or step keyed to the prevailing rate determination. For example:

(1) The established rate on a single rate schedule;

(2) The second rate on a five-rate regular wage schedule;

(3) The fourth rate on the General Schedule; or

(4) The fourth rate of a class under the Foreign Service Officer and Foreign Service Staff schedule.

*Retained rate* means the rate of pay an employee is receiving which is higher than the maximum scheduled rate of pay of the Federal Wage System grade or pay level to which the employee is assigned.

*Scheduled rate of pay* means the rate of pay fixed by law or administrative action, including a retained rate of pay, for the job held by an employee before any deductions and exclusive of additional pay of any kind.

[46 FR 21344, Apr. 10, 1981, as amended at 55 FR 46180, Nov. 1, 1990; 60 FR 62701, Dec. 7, 1995]

#### § 532.403 New appointments.

(a) Except as provided in paragraphs (b) and (c) of this section, a new appointment to a position shall be made at the minimum rate of the appropriate grade.

(b) An agency may make a new appointment at a rate above the minimum rate of the appropriate grade in

recognition of an appointees' special qualifications.

(c) An agency shall make a new appointment at a step-rate above the minimum rate of a grade if the lead agency for the wage area has designated, in accordance with § 532.249, a step-rate above the first step-rate of a grade as the minimum step-rate at which a position may be filled.

[46 FR 21344, Apr. 10, 1981, as amended at 58 FR 32274, June 9, 1993]

#### § 532.405 Use of highest previous rate.

(a)(1) Subject to the provisions of § 532.407 of this subpart and part 536 of this chapter, when an employee is re-employed, reassigned, transferred, promoted, or changed to a lower grade, the agency may fix the pay at any rate of the new grade which does not exceed the employee's highest previous rate.

(2) However, if the employee's highest previous rate falls between two step-rates of the new grade, the agency may fix the pay at the higher of the two.

(b)(1) When an employee's type of appointment is changed in the same job, an agency may continue to pay the existing scheduled rate or may pay any higher rate of the grade which does not exceed the employee's highest previous rate.

(2) However, if the highest previous rate falls between two step rates of the grade, the agency may pay the higher rate.

(c)(1) The highest previous rate, if earned in a wage job, is the current rate of the grade and step-rate of the former job on the same type of wage schedule in the wage area in which the employee is being employed, or the actual earned rate, whichever is higher.

(2) If earned on a General Schedule or another pay system other than the Federal Wage System, it is the current rate for the same grade and rate of that schedule.

(d) The highest previous rate may be based upon a rate of pay received during a temporary promotion, so long as the temporary promotion is for a period of not less than 1 year. This limitation does not apply upon permanent