

the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(c) On application, made in accordance with regulations prescribed by the Office, by a prevailing rate employee for the review of the action of an employing agency in placing his position in an occupation and grade for pay purposes, the Office shall—

(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the position;

(2) decide whether the position has been placed in the proper occupation and grade; and

(3) approve, disapprove, or modify, in accordance with its decision, the action of the employing agency in placing the position in an occupation and grade.

The Office shall certify to the agency concerned its action under paragraph (3) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Added Pub. L. 90-206, title II, §223(a), Dec. 16, 1967, 81 Stat. 641, §5345; renumbered §5346 and amended Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 570; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

#### Editorial Notes

##### AMENDMENTS

1978—Subsecs. (a) to (c). Pub. L. 95-454 substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively, wherever appearing.

1972—Subsecs. (a), (b). Pub. L. 92-392 added subsecs. (a) and (b).

Subsec. (c). Pub. L. 92-392 designated existing provisions as subsec. (c) and substituted in introductory text “Commission”, “a prevailing rate of employee” and “in placing his position in an occupation and grade” for “Civil Service Commission”, “an employee subject to section 5341(a) of this title” and “in classifying his position”, respectively, in par. (2) “placed in the proper occupation and grade” for “properly classified”, in par. (3) “in placing the position in an occupation and grade” for “in classifying the position” and in last sentence “subsection” for “section”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

##### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as an Effective Date note under section 5341 of this title.

#### § 5347. Federal Prevailing Rate Advisory Committee

(a) There is established a Federal Prevailing Rate Advisory Committee composed of—

(1) the Chairman, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia, and who shall be ap-

pointed by the Director of the Office of Personnel Management for a 4-year term;

(2) one member from the Office of the Secretary of Defense, designated by the Secretary of Defense;

(3) two members from the military departments, designated by the Director of the Office of Personnel Management;

(4) one member, designated by the Director of the Office of Personnel Management from time to time from an agency (other than the Department of Defense, a military department, and the Office of Personnel Management);

(5) an employee of the Office of Personnel Management, designated by the Director of the Office of Personnel Management; and

(6) five members, designated by the Director of the Office of Personnel Management, from among the employee organizations representing, under exclusive recognition of the Government of the United States, the largest numbers of prevailing rate employees.

(b) In designating members from among employee organizations under subsection (a)(6) of this section, the Director of the Office of Personnel Management shall designate, as nearly as practicable, a number of members from a particular employee organization in the same proportion to the total number of employee representatives appointed to the Committee under subsection (a)(6) of this section as the number of prevailing rate employees represented by such organization is to the total number of prevailing rate employees. However, there shall not be more than two members from any one employee organization nor more than four members from a single council, federation, alliance, association, or affiliation of employee organizations.

(c) Every 2 years the Director of the Office of Personnel Management shall review employee organization representation to determine adequate or proportional representation under the guidelines of subsection (b) of this section.

(d) The members from the employee organizations serve at the pleasure of the Director of the Office of Personnel Management.

(e) The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under this subchapter and, from time to time, advise the Office of Personnel Management thereon. Conclusions and recommendations of the Committee shall be formulated by majority vote. The Chairman of the Committee may vote only to break a tie vote of the Committee.

(f) The Committee shall meet at the call of the Chairman. However, a special meeting shall be called by the Chairman if 5 members make a written request to the Chairman to call a special meeting to consider matters within the purview of the Committee.

(g)(1) Except as provided in paragraph (2), members of the Committee described in paragraphs (2)–(5) of subsection (a) of this section serve without additional pay. Members who represent employee organizations are not entitled to pay from the Government of the United States for services rendered to the Committee.

(2) The position of Chairman shall be considered to be a Senior Executive Service position

within the meaning of section 3132(a), and shall be subject to all provisions of this title relating to Senior Executive Service positions, including section 5383.

(h) The Office of Personnel Management shall provide such clerical and professional personnel as the Chairman of the Committee considers appropriate and necessary to carry out its functions under this subchapter. Such personnel shall be responsible to the Chairman of the Committee.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 571; amended Pub. L. 95-454, title IX, §906(a)(1), (2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-54, §2(a)(15), Aug. 14, 1979, 93 Stat. 382; Pub. L. 102-378, §2(30), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 104-66, title II, §2181(d), Dec. 21, 1995, 109 Stat. 732.)

#### Editorial Notes

##### AMENDMENTS

1995—Subsec. (e). Pub. L. 104-66 struck out at end “The Committee shall make an annual report to the Office and the President for transmittal to Congress, including recommendations and other matters considered appropriate. Any member of the Committee may include in the annual report recommendations and other matters he considers appropriate.”

1992—Subsec. (g). Pub. L. 102-378 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), members” for “Members”, struck out second sentence which read as follows: “The Chairman is entitled to a rate of pay equal to the maximum rate currently paid, from time to time, under the General Schedule.”, and added par. (2).

1979—Subsec. (e). Pub. L. 96-54 substituted “Office” for “Commission”.

1978—Subsecs. (a) to (e), (h). Pub. L. 95-454 substituted “Director of the Office of Personnel Management” for “Chairman of the Civil Service Commission” and “Office of Personnel Management” for “Civil Service Commission”, wherever appearing.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

##### EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

#### § 5348. Crews of vessels

(a) Except as provided by subsection (b) of this section, the pay of officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry.

(b) Vessel employees in an area where inadequate maritime industry practice exists and vessel employees of the Corps of Engineers shall

have their pay fixed and adjusted under the provisions of this subchapter other than this section, as appropriate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471, §5348, formerly §5342; renumbered and amended Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 572; Pub. L. 96-70, title III, §3302(e)(1), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104-201, div. C, title XXXV, §3548(a)(3)(C), Sept. 23, 1996, 110 Stat. 2868.)

#### Editorial Notes

##### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-201, §3548(a)(3)(C)(iii), substituted “subsection (b)” for “subsections (b) and (c)”.

Subsecs. (b), (c). Pub. L. 104-201, §3548(a)(3)(C)(i), (ii), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “Vessel employees of the Panama Canal Commission may be paid in accordance with the wage practices of the maritime industry.”

1979—Subsec. (b). Pub. L. 96-70 substituted “Commission” for “Company”.

1972—Subsec. (a). Pub. L. 92-392 inserted reference to subsection (c) of this section.

Subsec. (c). Pub. L. 92-392 added subsec. (c).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

##### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as an Effective Date note under section 5341 of this title.

##### LIMITATION ON PAY ADJUSTMENTS

For provisions limiting the adjustment of salary or basic pay of employees covered by this section, see provisions set out as notes under section 5343 of this title.

#### § 5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia

(a) The pay of employees, described under section 5102(c)(7) of this title, in the Library of Congress, the Botanic Garden, the Government Publishing Office, the Government Accountability Office, the Office of the Architect of the Capitol, the Bureau of Engraving and Printing, and the government of the District of Columbia, shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and in accordance with such provisions of this subchapter, including the provisions of section 5344, relating to retroactive pay, and subchapter VI of this chapter, relating to grade and pay retention, as the pay-fixing authority of each such agency may determine. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided for by section 206(a)(1) of title 29. If the pay-fixing authority concerned determines that the provisions of subchapter VI of this chapter should apply to any employee under his jurisdiction, then the employee con-