

REFERENCES IN TEXT

Section 5114, referred to in text, was repealed by Pub. L. 99-386, title I, § 110(a), Aug. 22, 1986, 100 Stat. 822.

AMENDMENTS

1978—Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

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.

CHAPTER 53—PAY RATES AND SYSTEMS

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

- Sec.
5301. Policy.
5302. Definitions.
5303. Annual adjustments to pay schedules.
5304. Locality-based comparability payments.
5304a. Authority to fix an alternative level of comparability payments.
5305. Special pay authority.
5306. Pay fixed by administrative action.
5307. Limitation on certain payments.
[5308. Omitted.]

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

5311. The Executive Schedule.
5312. Positions at level I.
5313. Positions at level II.
5314. Positions at level III.
5315. Positions at level IV.
5316. Positions at level V.
5317. Presidential authority to place positions at levels IV and V.
5318. Adjustments in rates of pay.

SUBCHAPTER III—GENERAL SCHEDULE PAY RATES

5331. Definitions; application.
5332. The General Schedule.
5333. Minimum rate for new appointments.
5334. Rate on change of position or type of appointment; regulations.
5335. Periodic step-increases.
5336. Additional step-increases.
[5337. Repealed.]
5338. Regulations.

SUBCHAPTER IV—PREVAILING RATE SYSTEMS

5341. Policy.
5342. Definitions; application.
5343. Prevailing rate determinations; wage schedules; night differentials.
5344. Effective date of wage increase; retroactive pay.
[5345. Repealed.]
5346. Job grading system.
5347. Federal Prevailing Rate Advisory Committee.
5348. Crews of vessels.
5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia.

SUBCHAPTER V—STUDENT-EMPLOYEES

5351. Definitions.
5352. Stipends.
5353. Quarters, subsistence, and laundry.
5354. Effect of detail or affiliation; travel expenses.
5355. Effect on other statutes.
5356. Appropriations.

SUBCHAPTER VI—GRADE AND PAY RETENTION

5361. Definitions.
5362. Grade retention following a change of positions or reclassification.

- Sec.
5363. Pay retention.
5364. Remedial actions.
5365. Regulations.
5366. Appeals.

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

5371. Health care positions.
5372. Administrative law judges.
5372a. Contract appeals board members.
5372b. Administrative appeals judges.
5373. Limitation on pay fixed by administrative action.
5374. Miscellaneous positions in the executive branch.
5375. Police force of the National Zoological Park.
5376. Pay for certain senior-level positions.
5377. Pay authority for critical positions.
5378. Police forces of the Bureau of Engraving and Printing and the United States Mint.
5379. Student loan repayments.
[5380. Repealed.]

SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

5381. Definitions.
5382. Establishment and adjustment of rates of pay for the Senior Executive Service.¹
5383. Setting individual senior executive pay.
5384. Performance awards in the Senior Executive Service.
5385. Regulations.

SUBCHAPTER IX—SPECIAL OCCUPATIONAL PAY SYSTEMS

5391. Definitions.
5392. Establishment of special occupational pay systems.

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(3) [title VI, §645(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-170, added item 5372b.
1992—Pub. L. 102-378, §8(a), Oct. 2, 1992, 106 Stat. 1359, repealed Pub. L. 100-510, §1206(i)(2). See 1990 Amendment note below.

Pub. L. 102-378, §2(24), Oct. 2, 1992, 106 Stat. 1348, substituted “repayments” for “repayment” in item 5379 and struck out “Sec.” before item 5391.

1990—Pub. L. 101-510, div. A, title XII, §1206(i)(2), Nov. 5, 1990, 104 Stat. 1663, which added item 5380 “Pay authority for critical positions”, was repealed by Pub. L. 102-378, §8(a), Oct. 2, 1992, 106 Stat. 1359, which provided that this title shall read as if such section 1206(i)(2) had not been enacted.

Pub. L. 101-510, div. A, title XII, §1206(b)(2), Nov. 5, 1990, 104 Stat. 1661, added item 5379.

Pub. L. 101-509, title V, §529 [title I, §§101(a)(2), 102(a)(2), 103(b), 104(b), 105(a)(2), 109(a)(1)(B), title II, §§205(b), 211(b)(2)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1443, 1445, 1446, 1448, 1451, 1457, 1461, struck out items 5301 “Policy”, 5303 “Higher minimum rates; Presidential authority”, 5304 “Presidential policies and regulations”, 5305 “Annual pay reports and adjustments”, 5306 “Advisory Committee on Federal Pay”, 5307 “Pay fixed by administrative action”, and 5308 “Pay limitation”, and added items 5301 to 5307, struck out “; higher rates for supervisors of prevailing rate employees” after “appointments” in item 5333, substituted “Health care positions” for “Scientific and professional positions” in item 5371, and added items 5372a, 5376 to 5378, item for subchapter IX, and items 5391 and 5392.

Pub. L. 101-263, §1(b), Apr. 4, 1990, 104 Stat. 125, inserted “the” before “National” in item 5375.

1979—Pub. L. 96-54, §2(a)(26)(B), Aug. 14, 1979, 93 Stat. 382, substituted “prevailing rate” for “wage-board” in item 5333.

¹ Section catchline amended by Pub. L. 108-136 without corresponding amendment of chapter analysis.

1978—Pub. L. 95-454, title IV, §407(b), title VIII, §801(a)(3)(B)(i), (ii), Oct. 13, 1978, 92 Stat. 1172, 1221, struck out items 5337 “Pay saving” and 5345 “Retained rate of pay on reduction in grade or reassignment”, added item for subchapter VI and items 5361 to 5366, redesignated former item for subchapter VI and items 5361 to 5365 as subchapter VII and items 5371 to 5375, respectively, and added item for subchapter VIII and items 5381 to 5385.

Pub. L. 95-251, §2(c)(4), Mar. 27, 1978, 92 Stat. 184, substituted “Administrative law judges” for “Hearing examiners” in item 5362.

1975—Pub. L. 94-82, title II, §202(b)(6), Aug. 9, 1975, 89 Stat. 420, added item 5318.

1972—Pub. L. 92-392, §1(b), Aug. 19, 1972, 86 Stat. 572, substituted items 5341, 5343, 5344, and 5345 relating to “Policy”, “Prevailing rate determinations; wage schedules; night differentials”, “Effective date of wage increase; retroactive pay” and “Retained rate of pay on reduction in grade or reassignment”, for such former items relating to “Trades and crafts”, “Effective date of pay increase”, “Retroactive pay” and “Position classification appeals”, added items 5342, 5346, 5347, and 5349, and renumbered former item 5342 as 5348.

1971—Pub. L. 91-656, §§2(b)(2), 3(b), Jan. 8, 1971, 84 Stat. 1946, 1951, struck out item 5302 “Annual reports on pay comparability” and added items 5305-5308.

1969—Pub. L. 91-34, §1(b), June 30, 1969, 83 Stat. 41, added item 5365.

1967—Pub. L. 90-206, title II, §223(b), Dec. 16, 1967, 81 Stat. 642, added item 5345.

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

§ 5301. Policy

It is the policy of Congress that Federal pay fixing for employees under the General Schedule be based on the principles that—

- (1) there be equal pay for substantially equal work within each local pay area;
(2) within each local pay area, pay distinctions be maintained in keeping with work and performance distinctions;
(3) Federal pay rates be comparable with non-Federal pay rates for the same levels of work within the same local pay area; and
(4) any existing pay disparities between Federal and non-Federal employees should be completely eliminated.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458; Pub. L. 91-656, §2(a), Jan. 8, 1971, 84 Stat. 1946; Pub. L. 96-465, title II, §2314(c)(1), Oct. 17, 1980, 94 Stat. 2167; Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1429.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1171. Oct. 11, 1962, Pub. L. 87-793, § 502, 76 Stat. 841.

The words “It is the policy of Congress” are substituted for “The Congress hereby declares”. The words “whereas the functions of a Federal salary system are to fix salary rates for the services rendered by Federal employees so as to make possible the employment of persons well qualified to conduct the Government’s programs and to control expenditures of public funds for personal services with equity to the employee and to the taxpayer, and whereas fulfillment of these functions is essential to the development and maintenance of maximum proficiency in the civilian services of Government, then, accordingly” are omitted as unnecessary.

In the last sentence, the words “and henceforth” are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1990—Pub. L. 101-509 amended section generally. Prior to amendment, section read as follows:

“(a) It is the policy of Congress that Federal pay fixing for employees under statutory pay systems be based on the principles that—

- “(1) there be equal pay for substantially equal work;
“(2) pay distinctions be maintained in keeping with work and performance distinctions;
“(3) Federal pay rates be comparable with private enterprise pay rates for the same levels of work; and
“(4) pay levels for the statutory pay systems be interrelated.

“(b) The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title.

“(c) For the purpose of this subchapter, ‘statutory pay system’ means a pay system under—

- “(1) subchapter III of this chapter, relating to the General Schedule;
“(2) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; or
“(3) chapter 73 of title 38, relating to the Department of Medicine and Surgery, Veterans’ Administration.”

1980—Subsec. (c)(2). Pub. L. 96-465 substituted “section 403 of the Foreign Service Act of 1980” for “subchapter IV of chapter 14 of title 22”.

1971—Pub. L. 91-656 designated provisions of first sentence as subsec. (a), incorporating former cl. (1) in cls. (1) and (2), and former cl. (2) in cl. (3), and inserted “for employees under statutory pay systems” after “Federal pay fixing”; substituted subsec. (b) reading “The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title” for former second sentence providing “Pay levels for the several Federal statutory pay systems shall be interrelated, and pay levels shall be set and adjusted in accordance with these principles”; and added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 529 [title III, §305] of Pub. L. 101-509 provided that:

“(a) GENERALLY.—Except as otherwise provided in this Act, this Act and the amendments made by this Act [this Act means section 529 [titles I-III, §§1-306] of Pub. L. 101-509, but does not include section 529 [title IV, §§401-412] of Pub. L. 101-509, see Short Title of 1990 Amendment; Rules of Construction note below, and see Tables for classification] shall take effect on such date as the President shall determine [see Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, set out below], but not earlier than 90 days, and not later than 180 days, after the date of enactment of this Act [Nov. 5, 1990].

“(b) SPECIAL RULE.—The first calendar year in which comparability payments under section 5304 of title 5, United States Code (as amended by this Act), are paid shall be the calendar year beginning on January 1, 1994.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(4) [div. B, title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A-303, provided that: “This title

[enacting provisions set out as notes under sections 5304 and 5305 of this title and section 204 of Title 3, The President, and amending provisions set out as a note under section 5305 of this title] may be cited as the 'Law Enforcement Pay Equity Act of 2000'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-89, §1, Sept. 30, 1993, 107 Stat. 981, provided that: "This Act [amending sections 3372, 4501, 4502, 5302, 5332, 5334 to 5336, 5361 to 5363, 5410, 5948, and 8473 of this title, sections 1602, 1732, and 1733 of Title 10, Armed Forces, and section 731 of Title 31, Money and Finance, repealing sections 4302a and 5401 to 5410 of this title, enacting provisions set out as notes under sections 3372, 5335, 5401, and 5410 of this title, and amending provisions set out as a note under section 5304 of this title] may be cited as the 'Performance Management and Recognition System Termination Act'."

SHORT TITLE OF 1990 AMENDMENT; RULES OF CONSTRUCTION

Section 529 [§1] of Pub. L. 101-509 provided that:

"(a) SHORT TITLE.—This section, and the sections immediately following this section through section 412, inclusive [section 529 [§§1-412] of Pub. L. 101-509, see Tables for classification], may be cited as the 'Federal Employees Pay Comparability Act of 1990' (hereinafter in this section referred to as 'FEPCA')."

"(b) RULES OF CONSTRUCTION.—(1) Except as otherwise expressly provided, any reference (actual or implicit) in FEPCA (outside of this section) to 'this Act' (or to any title, section, or other designated provision of 'this Act') shall be construed to be a reference to FEPCA (or the corresponding provision within FEPCA)."

"(2) Except as otherwise expressly provided, any reference (actual or implicit) in any provision of this Act outside of FEPCA to 'this Act' (or to any title, section, or other designated provision of 'this Act'), and any reference made in any provision of law outside of this Act to the 'Treasury, Postal Service and General Government Appropriations Act, 1991' [Pub. L. 101-509] (or to any title, section, or other designated provision of such Act), shall be construed disregarding the provisions of FEPCA."

Section 529 [title III, §306] of Pub. L. 101-509 provided that: "Notwithstanding section 1(b) [section 529 [§1(b)] of Pub. L. 101-509, set out above], a reference in any of the preceding provisions of this title [section 529 [title III, §§301-305] of Pub. L. 101-509, enacting section 237 of Title 42, The Public Health and Welfare, amending section 212 of Title 42, and enacting provisions set out as notes under this section, section 5304 of this title, and section 212 of Title 42] to 'this Act' [section 529 of Pub. L. 101-509] (other than a reference in section 301) [section 529 [title III, §301] of Pub. L. 101-509, set out below] shall not be considered to include any provision of title IV [section 529 [title IV, §§401-412] of Pub. L. 101-509, enacting sections 4521 to 4523 of this title, amending sections 5541, 5542, 5547, 8335, and 8425 of this title, enacting provisions set out as notes under sections 4521, 5305, 5541, and 8335 of this title, and amending provisions set out as a note under section 5541 of this title]."

SHORT TITLE

Section 1 of Pub. L. 91-656 provided that: "This Act [enacting sections 5305 to 5308 and 5947 of this title, amending this section, sections 5108 and 5942 of this title, and section 410 of Title 39, Postal Service, repealing section 5302 of this title, and enacting provisions set out as notes under sections 5303 and 5942 of this title, section 60a of Title 2, The Congress, and section 410 of Title 39] may be cited as the 'Federal Pay Comparability Act of 1970'."

PAY-FOR-PERFORMANCE LABOR-MANAGEMENT COMMITTEE

Section 529 [title I, §111] of Pub. L. 101-509 provided that:

"(a) POLICY.—It is the policy of Congress that—

"(1) the Federal Government should institute systems for determining pay for its General Schedule employees under which the linkage between their performance and their pay will be strengthened;

"(2) the design of such systems should be developed by the Office of Personnel Management, in conjunction with the Pay-for-Performance Labor-Management Committee;

"(3) the systems should provide flexibility to adapt to the different needs of different agencies and organizational components in the Federal Government; and

"(4) any legislation needed to implement the systems should be enacted in a timely fashion so as to permit implementation of the system by October 1, 1993.

"(b) ESTABLISHMENT.—The Office of Personnel Management shall establish a Pay-for-Performance Labor-Management Committee to advise the Office on the design and establishment of systems for strengthening the linkage between the performance of General Schedule employees and their pay.

"(c) MEMBERSHIP.—The members of the Committee shall be—

"(1) a Chairman, who shall be appointed by the Director of the Office of Personnel Management on the basis of the appointee's education, training, and experience as an expert in compensation practices, and after consultation with the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Post Office and Civil Service of the House of Representatives, respectively;

"(2) an employee of the Office of Personnel Management, designated by the Director of such Office;

"(3) an employee of the Department of Defense, designated by the Secretary of Defense;

"(4) 3 individuals, each of whom shall be an employee designated by the head of each of 3 other departments or agencies selected by the Director of the Office of Personnel Management from among departments and agencies having substantial numbers of General Schedule employees; and

"(5) 6 individuals appointed by the Director of the Office of Personnel Management to serve as representatives of employee organizations which represent substantial numbers of General Schedule employees, and who shall be selected with due consideration to such factors as the relative numbers of General Schedule employees represented by the various organizations, except that not more than 3 members of the Committee at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

"(d) PAY FOR MEMBERS.—The Chairman shall be paid at a rate of basic pay for the Senior Executive Service, to be determined by the Director of the Office of Personnel Management. The members of the Committee who are otherwise employees of the Federal Government shall not receive any additional pay by reason of their service on the Committee. The members of the Committee who are not otherwise employees of the Federal Government shall not be paid for their service on the Committee and shall not be considered employees of the Federal Government for any purpose by reason of their service on the Committee.

"(e) ADMINISTRATIVE SUPPORT.—The Office of Personnel Management may provide staff and administrative support for the Committee.

"(f) FUNCTIONS.—The Committee shall review available reports and studies on performance evaluation and performance-based pay systems (including a report to be prepared by the National Academy of Sciences) and any other pertinent information.

"(g) REPORT TO THE OFFICE OF PERSONNEL MANAGEMENT.—No later than 1 year after the date of enactment of this Act [Nov. 5, 1990], the Committee shall submit a report to the Director of the Office of Personnel Management, which shall include recommendations as to—

- “(1) the types of pay raises to be covered;
- “(2) guidelines for pay-for-performance systems, including the criteria to be used in determining eligibility for and the amount of increases in basic pay above the midpoint of the pay range;
- “(3) the role organization performance should play in pay-for-performance systems;
- “(4) any differences in pay-for-performance systems for different categories of employees;
- “(5) the role for employee organizations in the implementation and operation of pay-for-performance systems; and
- “(6) whether demonstration projects on pay-for-performance are desirable.”

BUDGET ACT COMPLIANCE

Section 529 [title III, §301] of Pub. L. 101-509 provided that: “For purposes of the Congressional Budget Act of 1974 [titles I through IX, of Pub. L. 93-344, July 12, 1974, 88 Stat. 297, see Tables for classification], any authority to make payments under this Act or any amendment made by this Act [see Short Title of 1990 Amendment note above] shall be effective only to the extent provided for in advance in appropriation Acts.”

PAY RATES FOR CURRENT EMPLOYEES

Section 529 [title III, §303] of Pub. L. 101-509 provided that: “Nothing in this Act or in any amendment made by this Act [see Short Title of 1990 Amendment note above] shall have the effect of diminishing the rate of basic pay payable to any individual employed by the United States on the date of the enactment of this Act [Nov. 5, 1990] to a rate below the rate payable to such individual on such date, so long as that individual continues in such position without a break in service.”

EX. ORD. NO. 12748. PROVIDING FOR FEDERAL PAY ADMINISTRATION

Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, as amended by Ex. Ord. No. 12883, Nov. 29, 1993, 58 F.R. 63281; Ex. Ord. No. 13106, §8, Dec. 7, 1998, 63 F.R. 68152; Ex. Ord. No. 13415, §2(a), Dec. 1, 2006, 71 F.R. 70641, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Employees Pay Comparability Act of 1990 (hereinafter “FEPCA”), as incorporated in section 529 of Public Law 101-509 [see Short Title of 1990 Amendment note above], and sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Annual Adjustments to Pay Schedules.* The following agencies are designated under section 5303(g) of title 5, United States Code, as amended by FEPCA, to prescribe conversion rules for the initial adjustment of rates of pay to be applied during each annual adjustment of pay schedules under section 5303 of title 5, United States Code:

- (a) the Office of Personnel Management, for the General Schedule;
- (b) the Department of State, for the Foreign Service Schedule; and
- (c) the Department of Veterans Affairs, for the Veterans Health Services and Research Administration Schedules.

SEC. 2. *Locality-based Comparability Payments.* (a) The Secretary of Labor, the Director of the Office of Management and Budget, and the Director of the Office of Personnel Management are hereby designated under section 5304(d)(1) of title 5, United States Code, as amended by FEPCA, to serve jointly as the President’s agent under section 5304 of title 5, United States Code, and shall be known in this capacity as the President’s Pay Agent.

(b) The head of each executive agency employing personnel under a statutory pay system, as defined in section 5302(1) of title 5, United States Code, as amended by FEPCA, shall provide such information and assistance as may be requested by the President’s Pay Agent in carrying out the provisions of section 5304 of title 5, United States Code.

(c) The President’s Pay Agent, as designated in subsection (a), is hereby authorized and designated to exercise the authorities of the President under section 5304(g)–(h) [5 U.S.C. 5304(g), (h)] concerning the extension of locality-based comparability payments to certain categories of positions not otherwise covered.

SEC. 3. *Previous Order Revoked.* Executive Order No. 11721, as amended, is revoked.

SEC. 4. *Advance Payments for New Appointees.* Section 2(b) of Executive Order No. 10982, as amended [5 U.S.C. 5527 note], is further amended to read as follows:

“(b) The Office of Personnel Management is hereby designated and empowered to perform the functions conferred upon the President by the provisions of section 5527 of title 5, United States Code, with respect to allotments and assignments authorized by section 5525 of title 5, United States Code, and advance payments to new appointees authorized by section 5524a of title 5, United States Code, as added by section 107(a) of the Federal Employees Pay Comparability Act of 1990, as incorporated in section 529 of Public Law 101-509.”

SEC. 5. *Staffing Differentials.* The Office of Personnel Management is hereby designated and empowered to exercise the authority of the President under section 209 of FEPCA [5 U.S.C. 5305 note] to establish staffing differentials.

SEC. 6. *Executive Assignment System.* (a) Civil Service Rule 9 (5 CFR Part 9), as established by Executive Order No. 11315, as amended, is revoked.

(b) The Office of Personnel Management shall take such actions as the Office may determine to be necessary to provide for the orderly termination of the Executive Assignment System.

SEC. 7. *Effective Dates.* (a) Except as otherwise provided by Public Law 101-509, the provisions of subchapter I of chapter 53 of title 5, United States Code, as amended by section 101 of FEPCA [this subchapter], and the provisions of sections 1 through 4 of this order shall take effect on February 3, 1991.

(b) Except as otherwise provided by Public Law 101-509, the remaining provisions of FEPCA and of this order shall take effect on May 4, 1991, except that the Office of Personnel Management may establish an earlier effective date, but not earlier than February 3, 1991, for any such provisions with respect to which the Office determines an earlier effective date is appropriate. [For effective dates of certain provisions of FEPCA as established by the Office of Personnel Management, see notices and rules issued by the Office of Personnel Management and published in the Federal Register at 56 F.R. 6212, 11059, 12833, 20339, and 20343.]

§ 5302. Definitions

For the purpose of this subchapter—

(1) the term “statutory pay system” means a pay system under—

(A) subchapter III, relating to the General Schedule;

(B) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; or

(C) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);

(2) the term “ECI” means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics;

(3) the “base quarter” for any year is the 3-month period ending on September 30 of such year;

(4) the term “pay agent” means the agent designated by the President under section 5304(d)(1);

(5) the term “locality” or “pay locality” means any locality, as established or modified under section 5304;

(6) the term “pay disparity”, as used with respect to a locality, means the extent to which rates of pay payable under the General Schedule are generally lower than the rates paid for the same levels of work by non-Federal workers in the same locality; except as otherwise required in this subchapter, a pay disparity shall be expressed as a single percentage which, if uniformly applied to employees within the locality who are receiving rates of pay under the General Schedule, would cause the rates payable to such employees to become substantially equal (when considered in the aggregate) to the rates paid to non-Federal workers for the same levels of work in the same locality;

(7) the term “comparability payment” means a payment payable under section 5304;

(8) the term “rates of pay under the General Schedule”, “rates of pay for the General Schedule”, or “scheduled rates of basic pay” means the rates of basic pay under the General Schedule as established by section 5332, excluding pay under section 5304 and any other additional pay of any kind; and

(9) the term “General Schedule position” means any position to which subchapter III applies.

(Added Pub. L. 101-509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1429; amended Pub. L. 102-378, § 2(25), Oct. 2, 1992, 106 Stat. 1348; Pub. L. 103-89, § 3(b)(1)(E), Sept. 30, 1993, 107 Stat. 981; Pub. L. 108-411, title III, § 301(a)(1), Oct. 30, 2004, 118 Stat. 2313.)

REFERENCES IN TEXT

Section 403 of the Foreign Service Act of 1980, referred to in par. (1)(B), is classified to section 3963 of Title 22, Foreign Relations and Intercourse.

PRIOR PROVISIONS

A prior section 5302, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458, provided for annual reports on pay comparability, prior to repeal by Pub. L. 91-656, § 2(b)(1), Jan. 8, 1971, 84 Stat. 1946.

AMENDMENTS

2004—Par. (8). Pub. L. 108-411 added par. (8) and struck out former par. (8) which read as follows: “the term ‘rates of pay under the General Schedule’, ‘rates of pay for the General Schedule’, or ‘scheduled rates of basic pay’ means—

“(A) the rates of basic pay set forth in the General Schedule; and

“(B) in the case of an employee receiving a retained rate of basic pay under section 5363, the rate of basic pay payable under such section; and”.

1993—Par. (8). Pub. L. 103-89, § 3(b)(1)(E)(i), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “in the case of an employee covered by the performance management and recognition system, the rates of basic pay under chapter 54; and”.

Par. (9). Pub. L. 103-89, § 3(b)(1)(E)(ii), substituted “applies” for “applies (including any position under the performance management and recognition system)”.

1992—Par. (1)(C). Pub. L. 102-378, § 2(25)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “chapter 73 of title 38, relating to the Veterans Health Services and Research Administration;”.

Par. (8)(C). Pub. L. 102-378, § 2(25)(B), added subpar. (C).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective Feb. 3, 1991, see section 9(b)(5) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5303. Annual adjustments to pay schedules

(a) Effective as of the first day of the first applicable pay period beginning on or after January 1 of each calendar year, the rates of basic pay for each statutory pay system shall be increased by the percentage (rounded to the nearest one-tenth of 1 percent) equal to one-half of 1 percentage point less than the percentage by which the ECI for the base quarter of the year before the preceding calendar year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

(b)(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the pay adjustment which would otherwise be required by subsection (a) in any year to be inappropriate, the President shall—

(A) prepare and transmit to Congress before September 1 of the preceding calendar year a plan for such alternative pay adjustments as he considers appropriate, together with the reasons therefor; and

(B) adjust the rates of pay of each statutory pay system, in accordance with such plan, effective on the same day as the increase under subsection (a) would otherwise take effect.

(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including, but not limited to, the Indexes of Leading Economic Indicators, the Gross National Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

(3) The President shall include in the report to Congress under paragraph (1)(A) his assessment of the impact that the alternative pay adjustments under this subsection will have on the Government’s ability to recruit and retain well-qualified employees.

(c) The rates of basic pay that take effect under this section—

(1) shall modify, supersede, or render inapplicable, as the case may be, to the extent in-

consistent therewith, any prior rates of basic pay under the statutory pay system involved (as last adjusted under this section or prior provisions of law); and

(2) shall be printed in the Federal Register and the Code of Federal Regulations.

(d) An increase in rates of basic pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335.

(e) This section does not impair any authority pursuant to which rates of basic pay may be fixed by administrative action.

(f) Pay may not be paid, by reason of any provision of this section (disregarding any comparability payment payable), at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule.

(g) Any rate of pay under this section shall be initially adjusted, effective on the effective date of the rate of pay, under conversion rules prescribed by the President or by such agency or agencies as the President may designate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458; Pub. L. 90-206, title II, §207, Dec. 16, 1967, 81 Stat. 631; Pub. L. 91-375, §6(c)(10), Aug. 12, 1970, 84 Stat. 776; Pub. L. 94-183, §2(16), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-465, title II, §2314(c)(2), Oct. 17, 1980, 94 Stat. 2167; Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1430.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1173.	Oct. 11, 1962, Pub. L. 87-793, §504, 76 Stat. 842. Aug. 14, 1964, Pub. L. 88-426, §123, 78 Stat. 412.

In subsection (a), the words “the provisions of this title governing appointment in the competitive service” are substituted for “the civil service laws and regulations”.

In subsections (a), (b), and (d), the word “agency” is substituted for “agency or agencies” because the singular imports the plural, see 1 U.S.C. 1.

In subsection (d), the word “officer” is omitted as included in “employee”, “agency” is substituted for “department”, and “rules” is omitted as included in “regulations”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (f), is set out in section 5316 of this title.

AMENDMENTS

1990—Pub. L. 101-509 amended section generally, substituting provisions relating to annual adjustments to pay schedules for provisions relating to President’s authority to set higher minimum rates of basic pay.

1980—Subsec. (a)(4). Pub. L. 96-465 substituted “section 403 of the Foreign Service Act of 1980” for “sections 867 and 870 of title 22”.

1978—Subsec. (a). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

1975—Subsec. (c). Pub. L. 94-183 struck out “and section 3552 of title 39” after “of section 5335(a) of this title”.

1970—Subsec. (a)(2). Pub. L. 91-375 repealed cl. (2) making positions paid under provisions of part III of

title 39 relating to employees in the postal field service subject to higher minimum rates established by the President.

1967—Subsec. (a). Pub. L. 90-206, §207(a), substituted “maximum pay rate” for “seventh pay rate”.

Subsec. (d). Pub. L. 90-206, §207(b), inserted provisions that permitted an initial adjustment to be made to statutory increases which become effective prior to, on, or after the date of enactment of the statute.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

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 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as an Effective Date note under section 3110 of this title.

DELEGATION OF FUNCTIONS

For designation of agencies to perform functions of President under subsec. (g) of this section, see Ex. Ord. No. 12748, §1, Feb. 1, 1991, 56 F.R. 4521, eff. Feb. 3, 1991, set out as a note under section 5301 of this title.

PAY RAISES FOR PROGRAMS FUNDED BY ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACTS TO BE ABSORBED WITHIN SUCH ACTS

Pub. L. 102-377, title V, §506, Oct. 2, 1992, 106 Stat. 1343, provided that: “Such sums as may be necessary for Federal employee pay raises for programs funded by this Act or subsequent Energy and Water Development Appropriations Acts hereafter shall be absorbed within the levels appropriated in such Acts.”

SENSE OF CONGRESS

Section 529 [title I, §101(e)] of Pub. L. 101-509 provided that: “It is the sense of the Congress that the total funds dedicated to adjustments under sections 5303 and 5304 [of this title] for any year be no less than the total funds that would have been dedicated to adjustments under such section 5303 for such year had the full change in the ECI been applied to pay rates for such year.”

FEDERAL EMPLOYEE PAY ADJUSTMENTS

2010—Pub. L. 111-242, §147, as added by Pub. L. 111-322, title I, §1(a)(2), Dec. 22, 2010, 124 Stat. 3518, provided that:

“(a) For the purposes of this section—

“(1) the term ‘employee’—

“(A) means an employee as defined in section 2105 of title 5, United States Code; and

“(B) includes an individual to whom subsection (b), (c), or (f) of such section 2105 pertains (whether or not such individual satisfies subparagraph (A));

“(2) the term ‘senior executive’ means—

“(A) a member of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code;

“(B) a member of the FBI-DEA Senior Executive Service under subchapter III of chapter 31 of title 5, United States Code;

“(C) a member of the Senior Foreign Service under chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following); and

“(D) a member of any similar senior executive service in an Executive agency;

“(3) the term ‘senior-level employee’ means an employee who holds a position in an Executive agency and who is covered by section 5376 of title 5, United States Code, or any similar authority; and

“(4) the term ‘Executive agency’ has the meaning given such term by section 105 of title 5, United States Code.

“(b)(1) Notwithstanding any other provision of law, except as provided in subsection (e), no statutory pay adjustment which (but for this subsection) would otherwise take effect during the period beginning on January 1, 2011, and ending on December 31, 2012, shall be made.

“(2) For purposes of this subsection, the term ‘statutory pay adjustment’ means—

“(A) an adjustment required under section 5303, 5304, 5304a, 5318, or 5343(a) of title 5, United States Code; and

“(B) any similar adjustment, required by statute, with respect to employees in an Executive agency.

“(c) Notwithstanding any other provision of law, except as provided in subsection (e), during the period beginning on January 1, 2011, and ending on December 31, 2012, no senior executive or senior-level employee may receive an increase in his or her rate of basic pay absent a change of position that results in a substantial increase in responsibility, or a promotion.

“(d) The President may issue guidance that Executive agencies shall apply in the implementation of this section.

“(e) The Non-Foreign Area Retirement Equity Assurance Act of 2009 [Pub. L. 111-84, div. A, title XIX, subtitle B] (5 U.S.C. 5304 note) shall be applied using the appropriate locality-based comparability payments established by the President as the applicable comparability payments in section 1914(2) and (3) of such Act.”

2009—Pub. L. 111-117, div. C, title VII, §744, Dec. 16, 2009, 123 Stat. 3219, provided that:

“(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2010 under section 5303 of title 5, United States Code, shall be an increase of 1.5 percent, and the overall average percentage of the adjustments taking effect in such fiscal year under sections 5304-5304a of such title 5 shall be an increase of 0.5 percent (with comparability payments to be determined and allocated among pay localities by the President). Adjustments under the preceding sentence shall also apply to civilian employees in the Department of Homeland Security and in the Department of Defense. All adjustments under this subsection shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2010.

“(b) Notwithstanding section 710 [Pub. L. 111-117, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2010 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentages in subsection (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304-5304a of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304-5304a of such title 5 and prevailing rate employees described in section 5343(a)(5) of such title 5 shall be considered to be located in the pay locality designated as ‘Rest of

U.S.’ pursuant to section 5304 of such title 5 for purposes of this subsection.

“(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2010.”

2008—Pub. L. 110-329, div. A, §142, Sept. 30, 2008, 122 Stat. 3580, as amended by Pub. L. 111-8, div. D, title VII, §738(a), Mar. 11, 2009, 123 Stat. 691, provided that:

“(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2009 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.9 percent, and this adjustment shall apply to civilian employees in the Department of Homeland Security and shall apply to civilian employees in the Department of Defense who are represented by a labor organization as defined in section 7103(a)(4) of title 5, United States Code. Such adjustment shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2009.

“(b) The adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2009 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in subsection (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of such title 5. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of such title 5 and prevailing rate employees described in section 5343(a)(5) of such title 5 shall be considered to be located in the pay locality designated as ‘Rest of US’ pursuant to section 5304 of such title 5 for purposes of this subsection.

“(c) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2009.

“(d) The provisions of this section shall apply notwithstanding any other provision of this joint resolution [div. A of Pub. L. 110-329, amending section 17013 of Title 42, The Public Health and Welfare, and provisions set out in a note under section 1701 of Title 50, War and National Defense].”

[Pub. L. 111-8, div. D, title VII, §738(b), Mar. 11, 2009, 123 Stat. 691, provided that: “The amendment made by subsection (a) [amending section 142 of Pub. L. 110-329, set out above] shall take effect as if included in the enactment of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 [Pub. L. 110-329].”]

2007—Pub. L. 110-161, div. D, title VII, §740, Dec. 26, 2007, 121 Stat. 2031, provided that:

“(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2008 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.5 percent, and this adjustment shall apply to civilian employees in the Department of Homeland Security and shall apply to civilian employees in the Department of Defense who are represented by a labor organization as defined in 5 U.S.C. 7103(a)(4), and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2008. Civilian employees in the Department of Defense who are eligible to be represented by a labor organization as defined in 5 U.S.C. 7103(a)(4), but are not so represented, will receive the adjustment provided for in this section unless the positions are entitled to a pay adjustment under 5 U.S.C. 9902.

“(b) Notwithstanding section 712 of this Act [div. D of Pub. L. 110-161, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2008 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing

rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

“(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2008.”

2005—Pub. L. 109-115, div. A, title VIII, §843, Nov. 30, 2005, 119 Stat. 2506, provided that:

“(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2006 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.1 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2006.

“(b) Notwithstanding section 813 of this Act [div. A of Pub. L. 109-115, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2006 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

“(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2006.”

2004—Pub. L. 108-447, div. H, title VI, §640, Dec. 8, 2004, 118 Stat. 3282, provided that:

“(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2005 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.5 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2005.

“(b) Notwithstanding section 613 of this Act [div. H of Pub. L. 108-447, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2005 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

“(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2005.”

Pub. L. 108-199, div. F, title VI, §640, Jan. 23, 2004, 118 Stat. 359, provided that:

“(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2004 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.1 percent, and this adjustment shall apply to civilian em-

ployees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2004.

“(b) Notwithstanding section 613 of this Act [div. F of Pub. L. 108-199, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2004 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

“(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2004.”

2003—Pub. L. 108-7, div. J, title VI, §637, Feb. 20, 2003, 117 Stat. 472, provided that:

“(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2003 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.1 percent and shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2003.

“(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2003.”

2001—Pub. L. 107-67, title VI, §646, Nov. 12, 2001, 115 Stat. 556, provided that:

“(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2002 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.6 percent.

“(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2002.”

2000—Pub. L. 106-554, §1(a)(4) [div. B, title I, §140], Dec. 21, 2000, 114 Stat. 2763, 2763A-235, provided that:

“(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2001 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.7 percent.

“(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2001.”

1999—Pub. L. 106-58, title VI, §646, Sept. 29, 1999, 113 Stat. 478, provided that:

“(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2000 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.8 percent.

“(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2000.”

1998—Pub. L. 105-277, div. A, §101(h) [title VI, §621], Oct. 21, 1998, 112 Stat. 2681-480, 2681-518, provided that:

“For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101-194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1999 in the rates of basic pay for the statutory pay systems.”

Pub. L. 105-277, div. A, §101(h) [title VI, §647], Oct. 21, 1998, 112 Stat. 2681-480, 2681-527, provided that:

“(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 1999 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.6 percent.

“(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 1999.”

1996—Pub. L. 104-208, div. A, title I, §101(f) [title VI, §637], Sept. 30, 1996, 110 Stat. 3009-314, 3009-364, provided that: “For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101-194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1997 in the rates of basic pay for the statutory pay systems.”

1995—Pub. L. 104-52, title VI, §633, Nov. 19, 1995, 109 Stat. 507, provided that: “For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101-194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1996 in the rates of basic pay for the statutory pay systems.”

1994—Pub. L. 103-329, title VI, §630(a), Sept. 30, 1994, 108 Stat. 2424, provided that:

“(1) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 1995 under section 5303 of title 5, United States Code, shall be an increase of 2 percent.

“(2) For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101-194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1995 in the rates of basic pay for the statutory pay systems.

“(3) For purposes of this subsection, the term ‘statutory pay system’ shall have the meaning given such term by section 5302(1) of title 5, United States Code.”

1993—Pub. L. 103-123, title V, §517B, Oct. 28, 1993, 107 Stat. 1253, provided that:

“(a) Any adjustment required by section 5303 of title 5, United States Code, to become effective in fiscal year 1994 in the rates of basic pay for the statutory pay systems shall not be made.

“(b) For the purpose of this section, the term ‘statutory pay system’ has the meaning given such term by section 5302(1) of title 5, United States Code.”

1990—Pub. L. 101-509, title VI, §618, Nov. 5, 1990, 104 Stat. 1475, provided that:

“(a) Notwithstanding any other provision of law, in the case of fiscal year 1991, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

“(b) Any increase in a pay rate or schedule which takes effect under such section 5305 in fiscal year 1991 (in accordance with subsection (a)) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1991.”

Pub. L. 101-509, title VI, §633, Nov. 5, 1990, 104 Stat. 633, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 [see Short Title of 1990 Amendment note set out under section 5301 of this title] and any provision of law amended by such Act), for purposes of any adjustment scheduled to take effect under section 5303 of title 5, United States Code (as amended by section 101 [section 529 [title I, §101] of Pub. L. 101-509]) during the period beginning on October 1, 1991, and ending on September 30, 1994, the provisions of section 5303 of such title (as so amended) shall be applied in accordance with the following:

“(1) For purposes of the adjustment taking effect in each of fiscal years 1992 and 1993, respectively, deem subsection (a) to be amended by striking ‘one-half of 1 percentage point less than’.

“(2) Deem subsection (b) to be amended as follows:

“(A) In paragraph (1), strike ‘if’ and all that follows thereafter through ‘welfare,’ and insert ‘Subject to paragraph (2), if’.

“(B) Redesignate paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

“(C) Insert after paragraph (1) the following:

“(2) Authority to provide alternative pay adjustments under this subsection in any year may not be exercised except in accordance with the following:

“(A) If the adjustment which (but for this subsection) would otherwise take effect under this section in a fiscal year would be 5 percent or less, no reduction may be made unless necessary because a state of war or severe economic conditions exist.

“(B) If the adjustment which (but for this subsection) would otherwise take effect under this section in a fiscal year would be greater than 5 percent, no reduction may be made—

“(i) to a level of 5 percent or greater, unless necessary because of national emergency or serious economic conditions affecting the general welfare; or

“(ii) to a level of less than 5 percent, unless necessary because of either of the reasons set forth in subparagraph (A).”

“(D) Add after paragraph (4) (as so redesignated by subparagraph (B)) the following:

“(5) For the purpose of this subsection, ‘severe economic conditions’ shall be considered to exist relative to an adjustment scheduled to take effect on a given date if, during the 12-month period ending 2 calendar quarters before such date, there occurred 2 consecutive quarters of negative growth in the GNP.”

“(b) REFERENCES.—Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 [see Short Title of 1990 Amendment note set out under section 5301 of this title] and any provision of law amended made by such Act), effective for purposes of any pay adjustment scheduled to take effect during the period described in subsection (a), any reference in a provision of law to section 5303 of title 5, United States Code, as amended by section 101 [section 529 [title I, §101] of Pub. L. 101-509] (or to the effective date of a pay adjustment, the size of an adjustment, a rate payable after an adjustment, or other related matter under such section 5303) shall be considered a reference to such section as applied in accordance with this section (or to the corresponding matter, as determined under such section 5303, as applied in accordance with this section).”

1989—Pub. L. 101-194, title VII, §702, Nov. 30, 1989, 103 Stat. 1767, provided that:

“(a) RESTORATION.—

“(1) IN GENERAL.—Effective for pay periods beginning on or after the date of enactment of this Act [Nov. 30, 1989], the rate of basic pay for any office or position in the executive, legislative, or judicial branch of the Government or in the government of the District of Columbia shall be determined as if the provisions of law cited in paragraph (2) had never been enacted.

“(2) CITATIONS.—The provisions of law referred to in paragraph (1) are as follows:

“(A) Section 620(b) of the Treasury, Postal Service and General Government Appropriations Act, 1989 (2 U.S.C. 5305 note) [Pub. L. 100-440, set out below].

“(B) Section 619(b) of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101-136) [set out below].

“(b) EXCEPTIONS.—Notwithstanding any other provision of this section, the rate of basic pay for a Senator, the President pro tempore of the Senate, and the majority leader and the minority leader of the Senate shall be determined as if subsection (a) had not been enacted.

“(c) SPECIFIC AUTHORITY.—For purposes of section 140 of Public Law 97-92 (28 U.S.C. 461 note), appropriate salary increases are hereby authorized for Federal judges and Justices of the Supreme Court pursuant to subsection (a).

“(d) SPECIAL RULE.—Notwithstanding any other provision of this section, no adjustment in any rate of pay

shall become effective, as a result of the enactment of this section, before the first applicable pay period beginning on or after the date as of which the order issued by the President on October 16, 1989, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902] is rescinded.”

Pub. L. 101-194, title XI, §1101(a), Nov. 30, 1989, 103 Stat. 1781, provided that:

“(1) ADJUSTMENTS IN RATES OF PAY.—Notwithstanding any other provision of law (including any provision of this Act or amendment made by this Act), effective as provided in paragraph (2), the rate of pay of each office and position of United States Senator, the President pro tempore of the Senate, and the majority and minority leaders of the Senate shall be increased by—

“(A) the percentage increase that would have taken effect in fiscal year 1988 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1988 without regard to section 108 of the resolution entitled ‘Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes’, approved December 22, 1987 [Pub. L. 100-202]; (101 Stat. 1329-434; 5 U.S.C. 5305 note [set out below]);

“(B) the percentage increase that would have taken effect in fiscal year 1989 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1989 (as adjusted under subparagraph (A) of this paragraph) without regard to subsection (b) of section 620 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100-440; 102 Stat. 1756; 5 U.S.C. 5305 note [set out below]); and

“(C) the percentage increase that would take effect in fiscal year 1990 by the application of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) (as adjusted under subparagraphs (A) and (B) of this paragraph) without regard to subsection (b) of section 619 of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101-136) [set out below].

“(2) The increase in the rates of pay for each office and position described under paragraph (1) shall be effective on the first day of the first pay period beginning on or after January 1, 1990.”

Pub. L. 101-136, title VI, §619, Nov. 3, 1989, 103 Stat. 820, provided that:

“(a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1990, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 3.6 percent.

“(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1990.

“(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1989, and before October 1, 1990, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

“(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1989, was equal to or greater than the rate of basic pay described in paragraph (3); or

“(B) to a rate exceeding the rate of basic pay described in paragraph (3) if, as of September 30, 1989, the rate of salary or basic pay payable for that office or position was less than the rate described in such paragraph.

“(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1989, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

“(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

“(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

“(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

“(3) The rate of basic pay described in this paragraph is the rate equal to the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, as of September 30, 1989, increased by 3.6 percent.”

1988—Pub. L. 100-440, title VI, §620, Sept. 22, 1988, 102 Stat. 1756, provided that:

“(a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

“(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

“(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

“(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

“(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level III.

“(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1988, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

“(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

“(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

“(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.”

1987—Pub. L. 100-202, §108, Dec. 22, 1987, 101 Stat. 1329-434, provided that:

“(a) Notwithstanding any other provision of this resolution or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the

rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

“(1) if the rate of salary or basic pay payable for that office or position as of September 30, 1987, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; or

“(2) to a rate exceeding the rate of basic pay payable for level V of the Executive Schedule under such section 5316 as of September 30, 1987, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level V.

“(b) For purposes of subsection (a), the rate of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

“(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

“(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

“(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.”

Pub. L. 100-202, §110(a), Dec. 22, 1987, 101 Stat. 1329-436, provided that:

“(1) TWO-PERCENT INCREASE.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 2 percent.

“(2) UNIFORM ADJUSTMENTS; DELAYED EFFECTIVE DATE.—Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1, 1988.”

1986—Pub. L. 99-500, §144(a), Oct. 18, 1986, 100 Stat. 1783-350, and Pub. L. 99-591, §144(a), Oct. 30, 1986, 100 Stat. 3341-353, provided that:

“(1) Notwithstanding any other provision of law, in the case of fiscal year 1987, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 3 percent.

“(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1987.

“(3)(A) Notwithstanding any other provision of law, determinations relating to amounts to be appropriated in order to provide for the adjustment described in paragraph (1) shall be made based on the assumption that the various departments and agencies of the Government will, in the aggregate, absorb 50 percent of the increase in total pay for fiscal year 1987.

“(B) Subparagraph (A) does not apply with respect to the Department of Defense or pay for employees of the Department of Defense.

“(4) For purposes of this subsection—

“(A) the term ‘total pay’ means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by statutory pay systems for service performed during such fiscal year;

“(B) the term ‘increase in total pay’ means, with respect to a fiscal year, that part of total pay for

such year which is attributable to the adjustment taking effect under this section during such year; and

“(C) the term ‘statutory pay system’ has the meaning given such term by section 5301(c) of title 5, United States Code.”

Pub. L. 99-272, title XV, §15201(a), Apr. 7, 1986, 100 Stat. 332, provided that:

“(1) The rates of pay under the General Schedule and the rates of pay under the other statutory pay systems referred to in section 5301(c) of title 5, United States Code, shall not be adjusted under section 5305 of such title during fiscal year 1986.

“(2)(A)(i) For fiscal years 1987 and 1988, the President shall provide for the adjustment of rates of pay under section 5305 of title 5, United States Code, as appropriate to reduce outlays, relating to pay of officers and employees of the Federal Government, by at least \$746,000,000 in fiscal year 1987 and \$1,264,000,000 in fiscal year 1988 (without regard to reductions in outlays which result by reason of subparagraph (B)(ii) of this paragraph, paragraph (1) of this subsection, subsection (b) of this section, and the application of section 1009 of title 37, United States Code), computed using the baseline used for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress), agreed to on August 1, 1985.

“(ii) Clause (i) of this subparagraph shall not be construed to suspend the requirements of section 5305 of title 5, United States Code, with respect to fiscal years 1987 and 1988.

“(B) Each adjustment in a pay rate or schedule which takes effect pursuant to subparagraph (A) of this paragraph—

“(i) shall, to the maximum extent practicable, be of the same percentage; and

“(ii) shall be effective with respect to pay periods beginning on or after January 1 of the fiscal year involved.”

1984—Pub. L. 98-270, title II, §202(a), Apr. 18, 1984, 98 Stat. 158, provided that:

“(1) Notwithstanding any other provision of law, in the case of fiscal year 1984, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 4 percent.

“(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1 of such fiscal year.”

1982—Pub. L. 97-253, title III, §310(a), Sept. 8, 1982, 96 Stat. 799, provided that:

“(1) Notwithstanding any other provision of law, if—

“(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305(c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

“(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of such section 5305 by 4 percent in the case of fiscal year 1983.

“(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.”

1981—Pub. L. 97-35, title XVII, §1701(a), Aug. 13, 1981, 95 Stat. 753, provided that: “Notwithstanding any other provision of law, the overall percentage of the adjustment of the rates of pay under the General Schedule or any other statutory pay system under section 5305 of title 5, United States Code, which is to become effective with the first applicable pay period commencing

on or after October 1, 1981, shall not exceed 4.8 percent."

1978—Pub. L. 95-429, title VI, §614, Oct. 10, 1978, 92 Stat. 1018, provided that:

"(a) No part of any of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1978, by more than 5.5 percent, as a result of any adjustments which take effect during such fiscal year under—

"(1) section 5305 of title 5, United States Code;

"(2) any other provision of law if such adjustment is determined by reference to such section 5305; or

"(3) section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(2)(A) of that title).

"(b) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay."

1971—Pub. L. 92-210, §3, Dec. 22, 1971, 85 Stat. 753, provided that: "Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91-656), or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91-656, and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—

"(1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799), as amended [formerly set out as a note under section 1904 of Title 12, Banks and Banking], and that may be in effect on December 31, 1971; and

"(2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972.

Nothing in this section shall be construed to provide any adjustments in rates of pay of any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey."

Section 3(c) of Pub. L. 91-656 provided that: "The President may make the initial adjustment required by subchapter I of chapter 53 of title 5, United States Code, as amended by this Act, without regard to the provisions of such subchapter relating to the Advisory Committee on Federal Pay and the Federal Employees Pay Council. Notwithstanding any provision of such subchapter I prescribing an effective date of October 1 for any pay adjustment made by the President, the initial adjustment based on the 1970 Bureau of Labor Statistics survey and the adjustment based on the 1971 Bureau of Labor Statistics survey shall become effective on the first day of the first applicable pay period that begins on or after January 1, 1971, and January 1, 1972, respectively. Notwithstanding the provisions of such subchapter I, the President's agent for purposes of the 1971 and 1972 adjustments shall be the Director, Office of Management and Budget and the Chairman, United States Civil Service Commission. Adjustments under the provisions of such subchapter I shall not apply to employees of the Post Office Department whose basic pay is fixed under the General Schedule."

1967—Pub. L. 90-206, title II, §212, Dec. 16, 1967, 81 Stat. 634, provided that: "In order to complete the im-

plementation of the policy of the Congress set forth in paragraph (2) of section 5301 of title 5, United States Code, the President, after seeking the views of such employee organizations as he considers appropriate and in such manner as he may provide, shall—

"(1) effective on the first day of the first pay period beginning on or after July 1, 1968, adjust the rates of basic pay, basic compensation, and salary, as in effect by reason of the enactment of the provisions of this title [see Short Title note under section 5332 of this title] other than this section and sections 205, 210, 213, 214, 215, and 219—

"(A) by amounts equal, as nearly as may be practicable, to one-half of the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1967 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code, or

"(B) by 3 per centum, whichever is greater; and

"(2) effective on the first day of the first pay period beginning on or after July 1, 1969, adjust the rates he has established under subparagraph (1) of this section, and the rates established by Postal Field Service Schedule II, and Rural Carrier Schedule II (contained in the amendments made by subsections (a) and (b) of section 205 [amending sections 3542 and 3543 of Title 39, Postal Service], by amounts equal, as nearly as may be practicable, to the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1968 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code.

Adjustments made by the President under this section shall have the force and effect of statute. The rates of pay of personnel subject to sections 210, 213 (except subsections (d) and (e)), and 214 of this title [see Short Title note under section 5332 of this title], and any minimum or maximum rate, limitation, or allowance applicable to any such personnel, shall be adjusted, by amounts which are equal, insofar as practicable and with such exceptions as may be necessary to provide for appropriate relationships between positions, to the amounts of the adjustments made by the President under subparagraphs (1) and (2) of this section, by the following authorities—

"(i) the President pro tempore of the Senate, with respect to the United States Senate;

"(ii) the Speaker of the House of Representatives with respect to the United States House of Representatives;

"(iii) the Architect of the Capitol, with respect to the Office of the Architect of the Capitol;

"(iv) the Director of the Administrative Office of the United States Courts, with respect to the judicial branch of the Government; and

"(v) the Secretary of Agriculture, with respect to persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)). Such adjustments shall be made in such manner as the appropriate authority concerned deems advisable and shall have the force and effect of statute. Nothing in this section shall impair any authority pursuant to which rates of pay may be fixed by administrative action." [Section 212 of Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of this title.]

§ 5304. Locality-based comparability payments

(a) Pay disparities shall be identified and reduced as follows:

(1) Comparability payments shall be payable within each locality determined to have a pay disparity greater than 5 percent.

(2)(A) The localities having pay disparities, and the size of those disparities, shall, for purposes of any comparability payment scheduled to take effect in any calendar year, be determined in accordance with the appropriate report, as prepared and submitted to the President under subsection (d)(1) for purposes of such calendar year.

(B) Any computation necessary to determine the size of the comparability payment to become payable for any locality in a year (as well as any determination as to the size of any pay disparity remaining after that comparability payment is made) shall likewise be made using data contained in the appropriate report (described in subparagraph (A)) so prepared and submitted for purposes of such calendar year.

(3) Subject to paragraph (4), the amount of the comparability payments payable under this subsection in a calendar year within any locality in which a comparability payment is payable shall be computed using such percentage as the President determines for such locality under subsection (d)(2), except that—

(A) the percentage for the first calendar year in which any amounts are payable under this section may not be less than $\frac{1}{5}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(B) the percentage for the second calendar year in which any amounts are payable under this section may not be less than $\frac{3}{10}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(C) the percentage for the third calendar year in which any amounts are payable under this section may not be less than $\frac{2}{5}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(D) the percentage for the fourth calendar year in which any amounts are payable under this section may not be less than $\frac{1}{2}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(E) the percentage for the fifth calendar year in which any amounts are payable under this section may not be less than $\frac{3}{5}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(F) the percentage for the sixth calendar year in which any amounts are payable under this section may not be less than $\frac{7}{10}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(G) the percentage for the seventh calendar year in which any amounts are payable under this section may not be less than $\frac{4}{5}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(H) the percentage for the eighth calendar year in which any amounts are payable under this section may not be less than $\frac{9}{10}$ of the amount needed to reduce the pay disparity of the locality involved to 5 percent; and

(I) the percentage for the ninth calendar year in which any amounts are payable under this section, and any year thereafter, may not be less than the full amount necessary to reduce the pay disparity of the locality involved to 5 percent.

(4) Nothing in this section shall be considered to preclude the President, in his discretion, from adjusting comparability payments to a level higher than the minimum level otherwise required in a calendar year, including to the level necessary to eliminate a locality's pay disparity completely.

(b) After the ninth calendar year (referred to in subsection (a)(3)(I)), the level of comparability payments payable within such locality may be reduced for any subsequent calendar year, but only if, or to the extent that, the reduction would not immediately create another pay disparity in excess of 5 percent within the locality (taking into consideration any comparability payments remaining payable).

(c)(1) The amount of the comparability payment payable within any particular locality during a calendar year—

(A) shall be stated as a single percentage, which shall be uniformly applicable to General Schedule positions within the locality; and

(B) shall, for any employee entitled to receive a comparability payment, be computed by applying that percentage to such employee's scheduled rate of basic pay (or, if lower due to a limitation on the rate payable, the rate actually payable), subject to subsection (g).

(2) A comparability payment—

(A) shall be considered to be part of basic pay for purposes of retirement under chapter 83 or 84, as applicable, life insurance under chapter 87, and premium pay under subchapter V of chapter 55, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe; and

(B) shall be paid in the same manner and at the same time as the basic pay payable to such employee pursuant to any provision of law outside of this section.

(3) Nothing in this subchapter shall be considered to permit or require that any portion of a comparability payment be taken into account for purposes of any adjustment under section 5303.

(4)(A) Only employees receiving scheduled rates of basic pay (subject to any pay limitation which may apply) shall be eligible for comparability payments under this section.

(B) Comparability payments shall not be payable for service performed in any position which may not, under subsection (f)(1)(A), be included within a pay locality.

(d) In order to carry out this section, the President shall—

(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submitted under subsection (e) (but not later than 13 months before the start of the calendar year for purposes of which it is prepared), a report that—

(A) compares the rates of pay under the General Schedule (disregarding any described in section 5302(8)(C))¹ with the rates of pay generally paid to non-Federal workers

¹ See References in Text note below.

for the same levels of work within each pay locality, as determined on the basis of appropriate surveys that shall be conducted by the Bureau of Labor Statistics;

(B) based on data from such surveys, identifies each locality in which a pay disparity exists and specifies the size of each such pay disparity (before and after taking into consideration any comparability payments payable);

(C) makes recommendations for appropriate comparability payments, in conformance with applicable requirements of this section; and

(D) includes the views and recommendations submitted under subsection (e);

(2) after considering the report of his agent (including the views and recommendations referred to in subsection (e)(2)(C)), provide for or adjust comparability payments in conformance with applicable requirements of this section, effective as of the beginning of the first applicable pay period commencing on or after January 1 of the applicable year; and

(3) transmit to Congress a report of the actions taken under paragraph (2) (together with a copy of the report submitted to him by his agent, including the views and recommendations referred to in subsection (e)(2)(C)) which shall—

(A) identify each pay locality;

(B) specify which localities have pay disparities in excess of 5 percent, and the size of the disparity existing in each of those localities, according to the pay agent's most recent report under paragraph (1) (before and after taking into consideration any comparability payments payable); and

(C) indicate the size of the respective comparability payments (expressed as percentages) which will be in effect under paragraph (2) for the various pay localities specified under subparagraph (B) for the applicable calendar year.

(e)(1) The President shall establish a Federal Salary Council of 9 members, of whom—

(A) 3 shall be chosen from among persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy; and

(B) 6 shall be representatives of employee organizations which represent substantial numbers of employees holding General Schedule positions, and who shall be selected giving due consideration to such factors as the relative numbers of employees represented by the various organizations, except that not more than 3 members of the Council at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

Members of the Council shall not receive pay by reason of their service on the Council, nor shall members who are not otherwise employees of the United States be considered employees by reason of any such service. However, members under subparagraph (A) may be paid expenses in accordance with section 5703. The President shall designate one of the members to serve as Chairman of the Federal Salary Council. One of

the 3 members under subparagraph (A) may be the Chairman of the Federal Prevailing Rate Advisory Committee, notwithstanding the restriction under section 5347(a)(1), and such individual may also be designated to serve as Chairman of the Federal Salary Council.

(2) The pay agent shall—

(A) provide for meetings with the Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any, of the members of the Council regarding—

(i) the establishment or modification of pay localities;

(ii) the coverage of the surveys of pay localities conducted by the Bureau of Labor Statistics under subsection (d)(1)(A) (including, but not limited to, the occupations, establishment sizes, and industries to be surveyed, and how pay localities are to be surveyed);

(iii) the process of comparing the rates of pay payable under the General Schedule with rates of pay for the same levels of work performed by non-Federal workers; and

(iv) the level of comparability payments that should be paid in order to eliminate or reduce pay disparities in accordance with the requirements of this section;

(B) give thorough consideration to the views and recommendations of employee organizations not represented on the Council regarding the subjects in subparagraph (A)(i)–(iv); and

(C) include in its report to the President the views and recommendations submitted as provided in this subsection by the Council, by any member of the Council, and by employee organizations not represented on the Council.

(f)(1) The pay agent may provide for such pay localities as the pay agent considers appropriate, except that—

(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality; and

(B) the boundaries of pay localities shall be determined based on appropriate factors which may include local labor market patterns, commuting patterns, and practices of other employers.

(2)(A) The establishment or modification of any such boundaries shall be effected by regulations which, notwithstanding subsection (a)(2) of section 553, shall be promulgated in accordance with the notice and comment requirements of such section.

(B) Judicial review of any regulation under this subsection shall be limited to whether or not it was promulgated in accordance with the requirements referred to in subparagraph (A).

(g)(1) Except as provided in paragraph (2), comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the employee involved, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

(A) positions under subparagraphs (A) and (B) of subsection (h)(1);

(B) positions under subsection (h)(1)(C) not covered by appraisal systems certified under subsection 5307(d); and

(C) any positions under subsection (h)(1)(D) as the President may determine.

(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).

(h)(1) For the purpose of this subsection, the term “position” means—

(A) a position to which section 5372 applies (relating to administrative law judges appointed under section 3105);

(B) a position to which section 5372a applies (relating to contract appeals board members);

(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the effective date of section 1912 of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941 and who thereafter has served continuously in an area in which such an allowance was payable; and

(D) a position within an Executive agency not covered under the General Schedule or any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) no more than the rate payable for level IV of the Executive Schedule;

but does not include—

(i) a position to which subchapter IV applies (relating to prevailing rate systems);

(ii) a position as to which a rate of pay is authorized under section 5377 (relating to critical positions);

(iii) a position to which subchapter II applies (relating to the Executive Schedule);

(iv) a Senior Executive Service position under section 3132, except for a position covered by subparagraph (C);

(v) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151, except for a position covered by subparagraph (C);

(vi) a position in a system equivalent to the system in clause (iv), as determined by the President's Pay Agent designated under subsection (d); or

(vii) a position to which section 5376 applies (relating to certain senior-level and scientific and professional positions), except for a position covered by subparagraph (C).

(2)(A) Notwithstanding subsection (c)(4) or any other provision of this section, but subject to subparagraph (B) and paragraph (3), upon the request of the head of an Executive agency with respect to 1 or more categories of positions, the

President may provide that each employee of such agency who holds a position within such category, and within the particular locality involved, shall be entitled to receive comparability payments.

(B) A request by an agency head or exercise of authority by the President under subparagraph (A) shall cover—

(i) with respect to the positions under subparagraphs (A) through (C) of paragraph (1), all positions described in the subparagraph or subparagraphs involved (excluding any under clause (i), (ii), (iii), (iv), (v), (vi), or (vii) of such paragraph); and

(ii) with respect to positions under paragraph (1)(D), such positions as may be considered appropriate (excluding any under clause (i), (ii), (iii), (iv), (v), (vi), or (vii) of paragraph (1)).

(C) Notwithstanding subsection (c)(4) or any other provision of law, but subject to paragraph (3), in the case of a category with positions that are in more than 1 Executive agency, the President may, on his own initiative, provide that each employee who holds a position within such category, and in the locality involved, shall be entitled to receive comparability payments. No later than 30 days before an employee receives comparability payments under this subparagraph, the President or the President's designee shall submit a detailed report to the Congress justifying the reasons for the extension, including consideration of recruitment and retention rates and the expense of extending locality pay.

(3) Comparability payments under this subsection—

(A) may be paid only in any calendar year in which comparability payments under the preceding provisions of this section are payable with respect to General Schedule positions within the same locality;

(B) shall take effect, within the locality involved, on the first day of the first applicable pay period commencing on or after such date as the President designates (except that no date may be designated which would require any retroactive payments), and shall remain in effect through the last day of the last applicable pay period commencing during that calendar year;

(C) shall be computed using the same percentage as is applicable, for the calendar year involved, with respect to General Schedule positions within the same locality; and

(D) shall be subject to the applicable limitation under subsection (g).

(i) The Office of Personnel Management may prescribe regulations, consistent with the provisions of this section, governing the payment of comparability payments to employees.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 459; Pub. L. 91-375, §6(c)(11), Aug. 12, 1970, 84 Stat. 776; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-465, title II, §2314(c)(3), Oct. 17, 1980, 94 Stat. 2168; Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1431; Pub. L. 102-378, §2(26), Oct. 2, 1992, 106 Stat. 1348; Pub. L. 108-136, div. A, title XI, §1125(a)(1), Nov. 24, 2003, 117 Stat. 1638; Pub. L. 108-411, title III, §302(a)(1), Oct. 30, 2004, 118 Stat.

2318; Pub. L. 110-372, §2(a), Oct. 8, 2008, 122 Stat. 4043; Pub. L. 111-84, div. A, title XIX, §1912(a), Oct. 28, 2009, 123 Stat. 2619.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1174.	Oct. 11, 1962, Pub. L. 87-793, § 505, 76 Stat. 842.

The words “agencies” and “regulations” are substituted for “departments” and “rules”, respectively.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The General Schedule, referred to in text, is set out under section 5332 of this title.

Section 5302(8)(C), referred to in subsec. (d)(1)(A), was redesignated 5302(8)(B) of this title by Pub. L. 103-89, §3(b)(1)(E)(i)(II), Sept. 30, 1993, 107 Stat. 981.

Levels II, III, and IV of the Executive Schedule, referred to in subsecs. (g) and (h)(1)(D), are set out in sections 5313, 5314, and 5315, respectively, of this title.

For the effective date of section 1912 of the Non-Foreign Area Retirement Equity Assurance Act of 2009 [Pub. L. 111-84], referred to in subsec. (h)(1)(C), see section 1919(b) of Pub. L. 111-84, set out in a note below.

AMENDMENTS

2009—Subsec. (f)(1)(A). Pub. L. 111-84, §1912(a)(1), added subpar. (A) and struck out former subpar. (A), which read as follows: “each General Schedule position (excluding any outside the continental United States, as defined in section 5701(6)) shall be included with a pay locality; and”.

Subsec. (g)(2)(B), (C). Pub. L. 111-84, §1912(a)(2)(A), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: “any positions under subsection (h)(1)(C) as the President may determine.”

Subsec. (g)(3). Pub. L. 111-84, §1912(a)(2)(B), added par. (3).

Subsec. (h)(1)(C), (D). Pub. L. 111-84, §1912(a)(3)(A)–(C), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (h)(1)(iv), (v). Pub. L. 111-84, §1912(a)(3)(D), (E), inserted “, except for a position covered by subparagraph (C)” before the semicolon.

Subsec. (h)(1)(vii). Pub. L. 111-84, §1912(a)(3)(F), inserted “, except for a position covered by subparagraph (C)” before the period.

Subsec. (h)(2)(B)(i). Pub. L. 111-84, §1912(a)(4)(A), substituted “through (C)” for “and (B)”.

Subsec. (h)(2)(B)(ii). Pub. L. 111-84, §1912(a)(4)(B), substituted “(1)(D)” for “(1)(C)”.

2008—Subsec. (g)(2). Pub. L. 110-372, §2(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

“(A) positions under subparagraphs (A)–(C) of subsection (h)(1); and

“(B) any positions under subsection (h)(1)(D) which the President may determine.”

Subsec. (h)(1). Pub. L. 110-372, §2(a)(2)(A)(ii), which directed amendment of subsec. (h)(1)(D) by striking “or” at end of cl. (v), substituting “; or” for period at end of cl. (vi), and adding at end a new cl. (vii), was executed by making the strike out and substitution in the cls. (v) and (vi) which follow subpar. (D) and by adding cl. (vii) after cl. (vi), to reflect the probable intent of Congress.

Subsec. (h)(1)(A) to (D). Pub. L. 110-372, §2(a)(2)(A)(i), (iii), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: “a position to which section 5376 applies (relating to certain senior-level positions);”.

Subsec. (h)(2)(B)(i). Pub. L. 110-372, §2(a)(2)(B)(i), substituted “subparagraphs (A) and (B)” for “subparagraphs (A) through (C)” and “(vi), or (vii)” for “or (vi)”.

Subsec. (h)(2)(B)(ii). Pub. L. 110-372, §2(a)(2)(B)(ii), substituted “paragraph (1)(C)” for “paragraph (1)(D)” and “(vi), or (vii)” for “or (vi)”.

2004—Subsec. (g)(2)(A). Pub. L. 108-411, §302(a)(1)(A), substituted “(A)–(C)” for “(A)–(D)”.

Subsec. (h)(2)(B)(i). Pub. L. 108-411, §302(a)(1)(B), substituted “or (vi)” for “or (vii)”.

2003—Subsec. (g)(2)(A). Pub. L. 108-136, §1125(a)(1)(A)(i), substituted “subparagraphs (A)–(D)” for “subparagraphs (A)–(E)”.

Subsec. (g)(2)(B). Pub. L. 108-136, §1125(a)(1)(A)(ii), substituted “subsection (h)(1)(D)” for “subsection (h)(1)(F)”.

Subsec. (h)(1)(B) to (F). Pub. L. 108-136, §1125(a)(1)(B)(i), (ii), redesignated subpars. (D), (E), and (F) as (B), (C), and (D), respectively, and struck out former subpars. (B) and (C) which read as follows:

“(B) a Senior Executive Service position under section 3132;

“(C) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151;”.

Subsec. (h)(1)(iv) to (vi). Pub. L. 108-136, §1125(a)(1)(B)(iii)–(v), added cls. (iv) to (vi).

Subsec. (h)(2)(B)(i). Pub. L. 108-136, §1125(a)(1)(C)(i), substituted “subparagraphs (A) through (C)” for “subparagraphs (A) through (E)” and “clause (i), (ii), (iii), (iv), (v), or (vii)” for “clause (i) or (ii)”.

Subsec. (h)(2)(B)(ii). Pub. L. 108-136, §1125(a)(1)(C)(ii), substituted “paragraph (1)(D)” for “paragraph (1)(F)” and “clause (i), (ii), (iii), (iv), (v), or (vi)” for “clause (i) or (ii)”.

1992—Subsec. (a)(3). Pub. L. 102-378, §2(26)(A)(i), substituted “Subject to paragraph (4),” for “Subject to paragraphs (4) and (5),” and “a comparability payment” for “a comparative payment”.

Subsec. (a)(3)(H). Pub. L. 102-378, §2(26)(A)(ii), inserted “and” after semicolon at end.

Subsec. (a)(3)(I). Pub. L. 102-378, §2(26)(A)(iii), substituted a period for semicolon at end.

Subsec. (d)(1)(A). Pub. L. 102-378, §2(26)(B), inserted “(disregarding any described in section 5302(8)(C))” after “General Schedule” and struck out “annual” before “surveys”.

Subsec. (e)(1). Pub. L. 102-378, §2(26)(C)(i), inserted after second sentence “However, members under subparagraph (A) may be paid expenses in accordance with section 5703.”

Subsec. (e)(2)(A)(ii). Pub. L. 102-378, §2(26)(C)(ii), substituted “surveys of pay localities” for “annual survey” and “industries” for “industries.”

Subsec. (g)(2). Pub. L. 102-378, §2(26)(D), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For positions under subparagraphs (A)–(E) of subsection (h)(1), the applicable maximum under this subsection shall be level III of the Executive Schedule.”

Subsec. (h)(1)(F). Pub. L. 102-378, §2(26)(E)(i)(I), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “a position within an Executive agency not covered under any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) less than the rate payable for level V of the Executive Schedule;”.

Subsec. (h)(1)(iii). Pub. L. 102-378, §2(26)(E)(i)(II)–(IV), added cl. (iii).

Subsec. (h)(2)(C). Pub. L. 102-378, §2(26)(E)(ii), added subpar. (C).

Subsec. (h)(3)(B). Pub. L. 102-378, §2(26)(E)(iii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “shall be payable, within the locality involved, for the entirety of each calendar year for which authority is granted by the President;”.

1990—Pub. L. 101-509 amended section generally, substituting provisions relating to locality-based comparability payments for provisions making functions,

duties, and regulations of agencies and Office of Personnel Management with respect to this subchapter subject to Presidential policies and regulations.

1980—Pub. L. 96-465 substituted “the Foreign Service Act of 1980” for “chapter 14 of title 22” in provisions preceding par. (1).

1978—Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

1970—Pub. L. 91-375 struck out provisions making functions, duties and regulations of the agencies and the Civil Service Commission with respect to the provisions of part III of title 39 relating to employees in the postal field service subject to Presidential policies and regulations.

EFFECTIVE DATE OF 2009 AMENDMENT

For effective date of amendment by Pub. L. 111-84, see section 1919 of Pub. L. 111-84, set out in a Non-Foreign Area Retirement Equity Assurance note below.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-372 effective on the first day of the first pay period beginning on or after the 180th day following Oct. 8, 2008, see section 2(d) of Pub. L. 110-372, set out as a note under section 5376 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-411, title III, §302(a)(2), Oct. 30, 2004, 118 Stat. 2318, provided that: “The amendments made by this subsection [amending this section] shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136).”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title XI, §1125(c), Nov. 24, 2003, 117 Stat. 1640, provided that:

“(1) The amendments made by this section [enacting section 7302 of this title and amending this section, sections 5382 and 5383 of this title, and section 207 of Title 18, Crimes and Criminal Procedure] shall take effect on the first day of the first pay period beginning on or after the first January 1 following the date of the enactment of this section [Nov. 24, 2003].

“(2) The amendments made by subsection (a) [amending this section and sections 5382 and 5383 of this title] may not result in a reduction in the rate of basic pay for any senior executive during the first year after the effective date of those amendments.

“(3) For the purposes of paragraph (2), the rate of basic pay for a senior executive shall be deemed to be the rate of basic pay set for the senior executive under section 5383 of title 5, United States Code, plus applicable locality pay paid to that senior executive, as of the date of the enactment of this Act [Nov. 24, 2003].

“(4) Until otherwise provided by law, or except as otherwise provided by this section, any reference in a provision of law to a rate of basic pay that is above the minimum payable and below the maximum payable to a member of the Senior Executive Service shall be considered a reference to the rate of basic pay payable for level IV of the Executive Schedule.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, with provision that first calendar year in which comparability payments under this section are paid shall be calendar year beginning Jan. 1, 1994, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

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 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

DELEGATION OF FUNCTIONS

For designation of agents of President under subsecs. (d)(1) and (h) of this section, see Ex. Ord. No. 12748, §2(a), Feb. 1, 1991, 56 F.R. 4521, eff. Feb. 3, 1991, set out as a note under section 5301 of this title.

NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE

Pub. L. 111-84, div. A, title XIX, subtitle B, Oct. 28, 2009, 123 Stat. 2619, as amended by Pub. L. 111-383, div. A, title X, §1075(d)(22), Jan. 7, 2011, 124 Stat. 4374, provided that:

“SEC. 1911. SHORT TITLE.

“This subtitle may be cited as the ‘Non-Foreign Area Retirement Equity Assurance Act of 2009’ or the ‘Non-Foreign AREA Act of 2009’.

“SEC. 1912. EXTENSION OF LOCALITY PAY.

“(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—[Amended this section.]

“(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—[Amended section 5941 of this title.]

“SEC. 1913. ADJUSTMENT OF SPECIAL RATES.

“(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 1914, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 1918.

“(b) AGENCIES WITH STATUTORY AUTHORITY.—

“(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

“(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), [sic] is any statutory authority that—

“(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

“(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

“(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

“(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 1914 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

“SEC. 1914. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

“Notwithstanding any other provision of this subtitle or section 5304 or 5304a of title 5, United States Code,

in implementing the amendments made by this subtitle, for each non-foreign area determined under section 5941(b) of such title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of such title shall be adjusted, effective on the first day of the first pay period beginning on or after January 1—

“(1) in calendar year 2010, by using 1/3 of the locality pay percentage for the rest of United States locality pay area;

“(2) in calendar year 2011, by using 2/3 of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

“(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

“SEC. 1915. SAVINGS PROVISION.

“(a) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the application of this subtitle to any employee should not result in a decrease in the take home pay of that employee;

“(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

“(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act [Oct. 28, 2009], the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

“(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the ‘Rest of the United States’, the President’s Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

“(5) the President’s Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

“(b) SAVINGS PROVISIONS.—

“(1) IN GENERAL.—During the transition period described in section 1914 ending on the first day of the first pay period beginning on or after January 1, 2012, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act [Oct. 28, 2009] was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee’s special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 1914 of this subtitle, and corresponding increases shall be provided for all step rates of the given pay range.

“(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-

of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this subtitle, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

“(A) the employee leaves the allowance area or pay system; or

“(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate, but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

“(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 1914 of this subtitle which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

“SEC. 1916. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

“(a) IN GENERAL.—

“(1) DEFINITION.—In this subsection, the term ‘covered employee’ means—

“(A) any employee who—

“(i) on the day before the date of enactment of this Act [Oct. 28, 2009]—

“(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

“(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

“(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

“(B) any employee who—

“(i) on the day before the date of enactment of this Act—

“(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

“(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

“(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

“(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

“(ii) on or after the date of enactment of this Act [Oct. 28, 2009]—

“(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

“(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

“(III) is employed by the Transportation Security Administration of the Department of

Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

“(IV) becomes eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

“(2) APPLICATION TO COVERED EMPLOYEES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this subtitle (including the amendments made by this subtitle) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 1912 of this subtitle), and section 1914 of this subtitle apply.

“(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this subtitle shall be considered to be fixed by statute.

“(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this subtitle including section 5941 of title 5, United States Code (as amended by section 1912 of this subtitle), may be reduced on the basis of the performance of that employee.

“(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

“(1) IN GENERAL.—[Amended section 1005 of Title 39, Postal Service.]

“(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

“(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, any employee of the Postal Service (other than an employee covered by section 1003(b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this subtitle (including the amendments made by this subtitle) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

“(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

“(ii) shall be the greater of—

“(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

“(II) the applicable locality-based comparability pay percentage under section 1914.

“(B) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to—

“(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

“(ii) authorize an employee described under subparagraph (A) to file an election under section 1917 of this subtitle.

“SEC. 1917. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

“(a) DEFINITION.—In this section the term ‘covered employee’ means any employee—

“(1) to whom section 1914 applies;

“(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

“(3) who files an election with the Office of Personnel Management under subsection (b).

“(b) ELECTION.—

“(1) IN GENERAL.—An employee described under subsection (a)(1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

“(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

“(c) COMPUTATION OF ANNUITY.—

“(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annu-

ity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

“(2) LIMITATION.—An employee’s cost-of-living allowance may be considered basic pay under paragraph (1) only to the extent that, when added to the employee’s locality-based comparability payments, the resulting sum does not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 1914 did not apply.

“(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

“(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

“(A) an amount equal to the difference between—

“(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

“(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

“(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

“(2) AGENCY CONTRIBUTIONS.—

“(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

“(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

“(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

“SEC. 1918. REGULATIONS.

“(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this subtitle, including—

“(1) rules for special rate employees described under section 1913;

“(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 1914 ending on the first day of the first pay period beginning on or after January 1, 2012; and

“(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

“(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this subtitle with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed

under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act [Oct. 28, 2009].

“SEC. 1919. EFFECTIVE DATES.

“(a) IN GENERAL.—Except as provided by subsection (b), this subtitle (including the amendments made by this subtitle) shall take effect on the date of enactment of this Act [Oct. 28, 2009].

“(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 1912 and the provisions of section 1914 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.”

COMPARABILITY PAYMENTS BETWEEN 2002 AND 2007; COMPARISONS AND RECOMMENDATIONS; REVISION OF METHODOLOGY

Pub. L. 106-554, §1(a)(3) [title VI, §637], Dec. 21, 2000, 114 Stat. 2763, 2763A-165, provided that:

“(a) For purposes of this section—

“(1) the term ‘comparability payment’ refers to a locality-based comparability payment under section 5304 of title 5, United States Code;

“(2) the term ‘President’s pay agent’ refers to the pay agent described in section 5302(4) of such title; and

“(3) the term ‘pay locality’ has the meaning given such term by section 5302(5) of such title.

“(b) Notwithstanding any provision of section 5304 of title 5, United States Code, for purposes of determining appropriate pay localities and making comparability payment recommendations, the President’s pay agent may, in accordance with succeeding provisions of this section, make comparisons of General Schedule pay and non-Federal pay within any of the metropolitan statistical areas described in subsection (d)(3), using—

“(1) data from surveys of the Bureau of Labor Statistics;

“(2) salary data sets obtained under subsection (c); or

“(3) any combination thereof.

“(c) To the extent necessary in order to carry out this section, the President’s pay agent may obtain any salary data sets (referred to in subsection (b)) from any organization or entity that regularly compiles similar data for businesses in the private sector.

“(d)(1)(A) This paragraph applies with respect to the five metropolitan statistical areas described in paragraph (3) which—

“(i) have the highest levels of nonfarm employment (as determined based on data made available by the Bureau of Labor Statistics); and

“(ii) as of the date of the enactment of this Act [Dec. 21, 2000], have not previously been surveyed by the Bureau of Labor Statistics (as discrete pay localities) for purposes of section 5304 of title 5, United States Code.

“(B) The President’s pay agent, based on such comparisons under subsection (b) as the pay agent considers appropriate, shall: (i) determine whether any of the five areas under subparagraph (A) warrants designation as a discrete pay locality; and (ii) if so, make recommendations as to what level of comparability payments would be appropriate during 2002 for each area so determined.

“(C)(i) Any recommendations under subparagraph (B)(ii) shall be included—

“(I) in the pay agent’s report under section 5304(d)(1) of title 5, United States Code, submitted for purposes of comparability payments scheduled to become payable in 2002; or

“(II) if compliance with subclause (I) is impracticable, in a supplementary report which the pay agent shall submit to the President and the Congress no later than March 1, 2001.

“(ii) In the event that the recommendations are completed in time to be included in the report described in clause (i)(I), a copy of those recommendations shall be

transmitted by the pay agent to the Congress contemporaneous with their submission to the President.

“(D) Each of the five areas under subparagraph (A) that so warrants, as determined by the President’s pay agent, shall be designated as a discrete pay locality under section 5304 of title 5, United States Code, in time for it to be treated as such for purposes of comparability payments becoming payable in 2002.

“(2) The President’s pay agent may, at any time after the 180th day following the submission of the report under subsection (f), make any initial or further determinations or recommendations under this section, based on any pay comparisons under subsection (b), with respect to any area described in paragraph (3).

“(3) An area described in this paragraph is any metropolitan statistical area within the continental United States that (as determined based on data made available by the Bureau of Labor Statistics and the Office of Personnel Management, respectively) has a high level of nonfarm employment and at least 2,500 General Schedule employees whose post of duty is within such area.

“(e)(1) The authority under this section to make pay comparisons and to make any determinations or recommendations based on such comparisons shall be available to the President’s pay agent only for purposes of comparability payments becoming payable on or after January 1, 2002, and before January 1, 2007, and only with respect to areas described in subsection (d)(3).

“(2) Any comparisons and recommendations so made shall, if included in the pay agent’s report under section 5304(d)(1) of title 5, United States Code, for any year (or the pay agent’s supplementary report, in accordance with subsection (d)(1)(C)(i)(II)), be considered and acted on as the pay agent’s comparisons and recommendations under such section 5304(d)(1) for the area and the year involved.

“(f)(1) No later than March 1, 2001, the President’s pay agent shall submit to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, a report on the use of pay comparison data, as described in subsection (b)(2) or (3) (as appropriate), for purposes of comparability payments.

“(2) The report shall include the cost of obtaining such data, the rationale underlying the decisions reached based on such data, and the relative advantages and disadvantages of using such data (including whether the effort involved in analyzing and integrating such data is commensurate with the benefits derived from their use). The report may include specific recommendations regarding the continued use of such data.

“(g)(1) No later than May 1, 2001, the President’s pay agent shall prepare and submit to the committees specified in subsection (f)(1) a report relating to the ongoing efforts of the Office of Personnel Management, the Office of Management and Budget, and the Bureau of Labor Statistics to revise the methodology currently being used by the Bureau of Labor Statistics in performing its surveys under section 5304 of title 5, United States Code.

“(2) The report shall include a detailed accounting of any concerns the pay agent may have regarding the current methodology, the specific projects the pay agent has directed any of those agencies to undertake in order to address those concerns, and a time line for the anticipated completion of those projects and for implementation of the revised methodology.

“(3) The report shall also include recommendations as to how those ongoing efforts might be expedited, including any additional resources which, in the opinion of the pay agent, are needed in order to expedite completion of the activities described in the preceding provisions of this subsection, and the reasons why those additional resources are needed.”

FREEZE OF CURRENT RATE FOR LOCALITY-BASED
COMPARABILITY ADJUSTMENTS

Pub. L. 106-554, §1(a)(4) [div. B, title IX, §902(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-304, which provided that notwithstanding any other law, no officer or member of the United States Secret Service Uniformed Division or Park Police was to be paid locality pay under section 5304 or 5304a of this title, at a percentage rate for the applicable locality in excess of the rate in effect for pay periods during calendar year 2000, ceased to be effective on the first day of the first pay period on or after Jan. 1, 2003, pursuant to Pub. L. 108-7, div. J, title VI, §643, Feb. 20, 2003, 117 Stat. 473.

COMPARABILITY PAYMENTS IN 1994 AND 1995

Pub. L. 103-329, title VI, §630(b), (c), Sept. 30, 1994, 108 Stat. 2424, provided that:

“(b) For purposes of any locality-based comparability payments taking effect in fiscal year 1995 under subchapter I of chapter 53 of title 5, United States Code (whether by adjustment or otherwise), section 5304(a) of such title shall be deemed to be without force or effect.

“(c) Notwithstanding section 5304(a)(3)(B) of title 5, United States Code, the annualized cost of pay adjustments made under section 5304 of such title in calendar year 1995 shall be equal to 0.6 percent of the estimated aggregate fiscal year 1995 executive branch civilian payroll—

“(1) as determined by the pay agent (within the meaning of section 5302 of such title); and

“(2) determined as if the rates of pay and comparability payments payable on September 30, 1994, had remained in effect.”

Section 8(b) of Pub. L. 102-378 provided that: “Notwithstanding section 5304 of title 5, United States Code, for purposes of any comparability payments scheduled to take effect under such section during calendar years 1994 and 1995, respectively—

“(1) the report required by subsection (d)(1) of such section may be submitted not later than 1 month before the start of the calendar year for purposes of which it is prepared; and

“(2) the surveys conducted by the Bureau of Labor Statistics for use in preparing any such report may be other than annual surveys, and shall, to the greatest extent practicable, be completed not later than 4 months before the start of the calendar year for purposes of which the surveys are conducted.”

INTERIM GEOGRAPHIC ADJUSTMENTS

Section 529 [title III, §302] of Pub. L. 101-509, as amended by Pub. L. 102-378, §3(4), Oct. 2, 1992, 106 Stat. 1356; Pub. L. 103-89, §3(b)(2), Sept. 30, 1993, 107 Stat. 982, provided that:

“(a) DEFINITIONS.—For the purpose of this section—

“(1) the term ‘area’ means any consolidated metropolitan statistical area, primary metropolitan statistical area, or metropolitan statistical area, with at least 5,000 General Schedule employees; and

“(2) the term ‘pay relative’ shall have the meaning given such term under regulations prescribed by the Bureau of Labor Statistics.

“(b) AUTHORITY.—(1) The President may establish geographic adjustments of up to 8 percent of basic pay which may be paid to each General Schedule employee whose duty station is within any area where such adjustment is needed (as determined under paragraph (2)).

“(2) In determining areas where an interim geographic adjustment is needed, the President shall consider available evidence of significant pay disparities, including BLS information on pay relatives and relevant commercial surveys, and recruitment or retention problems.

“(c) ADMINISTRATION.—(1) An adjustment under this section shall be administered, to the extent practicable, in the same manner as locality-based comparability payments under subchapter I of chapter 53 of title 5, United States Code (as amended by this Act), including in terms of—

“(A) the basic pay to which a percentage is applied in computing an amount payable under this section;

“(B) the purposes for which any amount under this section is to be considered part of basic pay;

“(C) the time and manner in which amounts under this section are to be paid (including any maximum rate limitation); and

“(D) the authority of the President, upon request of an agency head, to extend this section to employees who would not otherwise be covered.

“(2) No amount payable under this section shall be taken into account in any survey or computation under, or for any other purpose in the administration of, section 5304 of title 5, United States Code (as so amended).

“(d) COMMENCEMENT AND TERMINATION RULES.—(1) The effective date of an adjustment under this section shall be as determined by the President, but not later than January 1, 1994.

“(2)(A) The size of any payments under this section may be reduced or terminated after the amendments made by section 101 of this Act [section 529 [title I, §101] of Pub. L. 101-509, see Tables for classification] take effect [see Effective Date of 1990 Amendment note set out under section 5301 of this title], except that the reduction or termination of a payment under this section may not have the effect of reducing, for the individual involved, the total rate at which additional forms of basic pay (as defined in subparagraph (B)) are payable to such individual.

“(B) The total rate to which subparagraph (A) applies is the sum of—

“(i) the rate at which comparability payments (under section 5304 of title 5, United States Code, as amended by such Act), are payable; and

“(ii) the rate at which payments under this section are payable.

“(e) EMPLOYEES RECEIVING SPECIAL PAY RATES.—The President (or his designated agent) shall determine what, if any, geographic adjustment shall be payable under this section in the case of an employee whose rate of pay is fixed under section 5303 of title 5, United States Code (as in effect before the date of enactment of this Act [Nov. 5, 1990]), section 5305 of title 5, United States Code (as amended by section 101 of this Act), or any similar provision of law.

“(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act [Nov. 5, 1990].”

[Amendment by Pub. L. 103-89 to section 529 [title III, §302] of Pub. L. 101-509, set out above, effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as an Effective Date of 1993 Amendment note under section 3372 of this title.]

[Amendment by Pub. L. 102-378 to section 529 [title III, §302] of Pub. L. 101-509, set out above, effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.]

Interim geographic adjustments pursuant to section 529 [title III, §302] of Pub. L. 101-509, set out above, were provided by the following executive orders, formerly set out as notes under section 5332 of this title, effective on the first day of first pay period beginning on or after the effective date shown:

Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, effective Jan. 1, 1995.

Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, effective Jan. 1, 1993.

Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, effective Jan. 1, 1992.

Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, effective Jan. 1, 1991.

EXECUTIVE ORDER NO. 11073

Ex. Ord. No. 11073, Jan. 7, 1963, 28 F.R. 203, as amended by Ex. Ord. No. 11173, Aug. 20, 1964, 29 F.R. 11999, which provided for Federal salary administration, was superseded by Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, formerly set out below.

EXECUTIVE ORDER NO. 11721

Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, as amended by Ex. Ord. No. 12004, July 20, 1977, 42 F.R. 37527; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which provided for administration of the Federal pay system, was revoked by Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, eff. Feb. 3, 1991, set out under section 5301 of this title.

EX. ORD. NO. 12764. FEDERAL SALARY COUNCIL

Ex. Ord. No. 12764, June 5, 1991, 56 F.R. 26587, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5304(e) of title 5, United States Code, as amended, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), an advisory committee on locality-based comparability payments for General Schedule employees, it is hereby ordered as follows:

SECTION 1. *Establishment.* There is established a Federal Salary Council (the "Council"). The Council shall be composed of nine members appointed by the President in accordance with section 5304(e)(1) of title 5, United States Code. The President shall designate one of the members to serve as Chairman of the Council and shall designate another member to serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

SEC. 2. *Function.* The Council shall meet with the President's Pay Agent, as designated under section 2(a) of Executive Order No. 12748 of February 1, 1991 [5 U.S.C. 5301 note], to provide views and recommendations regarding:

(a) the establishment or modification of pay localities;

(b) the coverage of annual surveys conducted by the Bureau of Labor Statistics under subsection 5304(d)(1)(A) of title 5, United States Code (including, but not limited to, the occupations, establishment sizes, and industries to be surveyed, and how pay localities are to be surveyed);

(c) the process of comparing the rates of pay payable under the General Schedule with rates of pay for the same levels of work performed by non-Federal workers; and

(d) the level of comparability payments that should be paid in order to eliminate or reduce pay disparities in accordance with the requirements of section 5304 of title 5, United States Code [sic].

SEC. 3. *Administration.* (a) Members of the Council shall receive no pay by reason of their service on the Council.

(b) To the extent permitted by law and subject to the availability of appropriations, the Office of Personnel Management (the "Office") shall provide such facilities and administrative support to the Council as the Director of the Office determines appropriate.

(c) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended [5 U.S.C. App.], except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Director of the Office, in accordance with the guidelines and procedures established by the Administrator of General Services.

GEORGE BUSH.

LOCALITY-BASED COMPARABILITY PAYMENTS

For adjustment of locality-based comparability payments under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

Approvals of locality-based comparability payments recommended by the Director of the Office of Personnel Management were contained in the following:

Memorandum of President of the United States, Nov. 30, 1994, 59 F.R. 62549.

Memorandum of President of the United States, Dec. 1, 1993, 58 F.R. 64097.

§ 5304a. Authority to fix an alternative level of comparability payments

(a) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the level of comparability payments which would otherwise be payable under section 5304 in any year to be inappropriate, the President shall—

(1) prepare and transmit to Congress, at least 1 month before those comparability payments (disregarding this section) would otherwise become payable, a report describing the alternative level of payments which the President instead intends to provide, including the reasons why such alternative level is considered necessary; and

(2) implement the alternative level of payments beginning on the same date as would otherwise apply, for the year involved, under section 5304.

(b) The requirements set forth in paragraphs (2) and (3), respectively, of section 5303(b) shall apply with respect to any decision to exercise any authority to fix an alternative level of comparability payments under this section.

(Added Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1436.)

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

SPECIAL RULE RELATING TO COMPARABILITY PAYMENTS IN 1994

Section 634 of Pub. L. 101-509 provided that:

"Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 [see Short Title of 1990 Amendment note set out under section 5301 of this title] and any provision of law amended by such Act), for purposes of any comparability payments scheduled to take effect under section 5304 of title 5, United States Code (as amended by such Act) during calendar year 1994—

"(1) deem section 5304a of such title (as so amended) to be amended as follows:

"(A) in subsection (a), strike 'If' and all that follows thereafter through 'welfare,' and insert 'Subject to subsection (c), if'; and

"(B) add after subsection (b) the following:

"(c)(1) For the purpose of this section—

"(A) the "threshold amount" is \$1,800,000,000; and

"(B) "severe economic conditions" shall be considered to exist relative to comparability payments scheduled to take effect on a given date if, during the 12-month period ending 2 calendar quarters before such date, there occurred 2 consecutive quarters of negative growth in the GNP.

"(2) Authority under this section to provide an alternative level of comparability payments in any year may not be exercised except in accordance with the following:

"(A) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be equal to the threshold amount or less, no alternative level may be fixed under this section unless necessary because a state of war or severe economic conditions exist.

"(B) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be greater than the threshold amount, no alternative level may be fixed—

“(i) at a level which would result in an estimated cost equal to or greater than the threshold amount, unless necessary because of national emergency or serious economic conditions affecting the general welfare; or

“(ii) at a level which would result in an estimated cost less than the threshold amount, unless necessary because of either of the reasons set forth in subparagraph (A).

“(d)(1) The President’s agent (as referred to in section 5304(d)) shall develop and include in the appropriate report under section 5304(d)(1) the methodology for estimating any costs under this section, and any estimate under this section shall be in accordance with such methodology.

“(2) In making any estimate under this section, costs attributable to any authority under section 5304(h) may not be taken into account; and

“(2) the President’s pay agent (referred to in section 5304(d) of such title, as so amended) may use appropriate estimates in lieu of BLS survey data if such data is not available for use in preparing the agent’s report with respect to comparability payments payable during calendar year 1994.”

§ 5305. Special pay authority

(a)(1) Whenever the Office of Personnel Management finds that the Government’s recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates under the last sentence of paragraph (1)) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.

(b) The circumstances referred to in subsection (a) are—

(1) rates of pay offered by non-Federal employers being significantly higher than those

payable by the Government within the area, location, occupational group, or other class of positions under the pay system involved;

(2) the remoteness of the area or location involved;

(3) the undesirability of the working conditions or the nature of the work involved (including exposure to toxic substances or other occupational hazards); or

(4) any other circumstances which the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appropriate.

(c) Authority under subsection (a) may be exercised with respect to positions paid under—

(1) a statutory pay system; or

(2) any other pay system established by or under Federal statute for civilian positions within the executive branch.

(d) Within the limitations applicable under the preceding provisions of this section, rates of pay established under this section may be revised from time to time by the Office of Personnel Management (or by such other agency as the President may designate under the last sentence of subsection (a)(1)). The actions and revisions have the force and effect of statute.

(e) An increase in a rate of pay established under this section is not an equivalent increase in pay within the meaning of section 5335.

(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee’s special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management (or by such other agency as the President may under the last sentence of subsection (a)(1) designate).

(g)(1) The benefit of any comparability payments under section 5304 shall be available to individuals receiving rates of pay established under this section to such extent as the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appropriate, subject to paragraph (2) and subsection (h).

(2) Payments under this subsection may not be made if, or to the extent that, when added to basic pay otherwise payable, such payments would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(h) An employee shall not for any purpose be considered to be entitled to a rate of pay established under this section with respect to any period for which such employee is entitled to a higher rate of basic pay under any other provision of law. For purposes of this subsection, the term “basic pay” includes any applicable locality-based comparability payment under section 5304 or similar provision of law.

(i) If an employee who is receiving a rate of pay under this section becomes subject, by virtue of moving to a new official duty station, to a different pay schedule, such employee’s new rate of pay shall be initially established under conversion rules prescribed by the Office of Personnel Management (or such other agency as the

President may under the last sentence of subsection (a)(1) designate) in conformance with the following:

(1) First, determine the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move.

(2) Then, if (in addition to the change in pay schedule) the move also involves any personnel action or other change requiring a rate adjustment under any other provision of law, rule, or regulation, apply the applicable rate adjustment provisions, treating the rate determined under paragraph (1) as if it were the rate last received by the employee before the rate adjustment.

(j) A rate determined under a schedule of special rates established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, and section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.

(Added Pub. L. 91-656, §3(a), Jan. 8, 1971, 84 Stat. 1946; amended Pub. L. 94-82, title II, §202(c), Aug. 9, 1975, 89 Stat. 420; Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1436; Pub. L. 108-411, title III, §301(a)(2), Oct. 30, 2004, 118 Stat. 2313.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsecs. (a)(1) and (g)(2), is set out in section 5315 of this title.

The provisions of this title governing appointment in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-411, §301(a)(2)(A), added subsec. (a) and struck out former subsec. (a) relating to the President's authority to establish higher minimum rates of basic pay for specified individuals where the Government's recruitment or retention efforts are, or are likely to become, significantly handicapped.

Subsec. (b)(4). Pub. L. 108-411, §301(a)(2)(B), added par. (4) and struck out former par. (4) which read as follows: "any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of subsection (a)) considers appropriate."

Subsec. (d). Pub. L. 108-411, §301(a)(2)(C), substituted "Office of Personnel Management" for "President" and "(or by such other agency as the President may designate under the last sentence of subsection (a)(1))" for "or by such agency as he may designate".

Subsec. (e). Pub. L. 108-411, §301(a)(2)(D), substituted "rate of pay" for "rate of basic pay".

Subsec. (f). Pub. L. 108-411, §301(a)(2)(E), added subsec. (f) and struck out former subsec. (f) which read as follows: "The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system specified in subsection (c) of this section, shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate."

Subsec. (g)(1). Pub. L. 108-411, §301(a)(2)(F), substituted "pay" for "basic pay" and "Office of Personnel

Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate)" for "President (or his designated agency)".

Subsec. (h). Pub. L. 108-411, §301(a)(2)(G), added subsec. (h) and struck out former subsec. (h) which read as follows: "The rate of basic pay payable to an individual under this section may not, at any time, be less than the rate which would then be payable to such individual (taking comparability payments under section 5304 into account) if this section had never been enacted."

Subsecs. (i), (j). Pub. L. 108-411, §301(a)(2)(H), added subsecs. (i) and (j).

1990—Pub. L. 101-509 amended section generally, substituting provisions authorizing President to make special pay increases whenever recruitment or retention efforts are handicapped for provisions requiring annual pay reports and adjustments, authorizing alternative plan in years of emergency or when economic conditions affect the general welfare, and setting forth procedure where Congressional committee disapproves such alternative plan.

1975—Subsec. (a)(3). Pub. L. 94-82, §202(c)(1), inserted provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

Subsec. (c)(1). Pub. L. 94-82, §202(c)(2), inserted provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provision relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section assigned to the Director of the Office of Personnel Management by section 1 of Ex. Ord. No. 13415, Dec. 1, 2006, 71 F.R. 70641, set out as a note under section 4505a of this title.

STAFFING DIFFERENTIALS

Section 529 [title II, §209] of Pub. L. 101-509, as amended by Pub. L. 102-378, §3(3), Oct. 2, 1992, 106 Stat. 1355, provided that:

"(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning on or after January 1, 1991, the President may establish staffing differentials equal to 5 percent of basic pay, which may be paid to each General Schedule employee whose position is in—

"(1) grade GS-5 or 7 of the General Schedule;

"(2) a 2-grade-interval occupational series, as determined by the Office of Personnel Management; or

"(3) any combination of classes of positions described in paragraph (1) or (2) for which the President determines a recruiting difficulty exists.

"(b) MANNER OF PAYMENT; REDUCTION OR ELIMINATION.—A staffing differential under this section—

"(1) shall be paid in the same manner and at the same time as the employee's basic pay is paid, but may not be considered to be part of basic pay for any purpose; and

"(2) may be reduced or eliminated by the Office of Personnel Management in its sole discretion as the amendments made by this Act take effect [see Effective Date of 1990 Amendment and Short Title of 1990 Amendment notes set out under section 5301 of this

title], except that no such reduction or elimination shall have the effect of reducing the total amount of pay (determined by adding basic pay and staffing differential) which any employee is receiving.”
 [Authority of President under section 529 [title II, §209] of Pub. L. 101-509, set out above, delegated to Office of Personnel Management by Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, eff. May 4, 1991, set out as a note under section 5301 of this title.]

FEDERAL LAW ENFORCEMENT PAY REFORM

Pub. L. 106-554, §1(a)(4) [div. B, title IX, §907(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-309, provided that: “Beginning on the effective date of this Act [see section 1(a)(4) [div. B, title IX, §909] of Pub. L. 106-554, set out in a Conversion to New Salary Schedule note under section 3056A of Title 18, Crimes and Criminal Procedure]—

“(1) no existing special salary rates shall be authorized for members of the United States Park Police under section 5305 of title 5, United States Code (or any previous similar provision of law); and

“(2) no special rates of pay or special pay adjustments shall be applicable to members of the United States Park Police pursuant to section 405 of the Federal Law Enforcement Pay Reform Act of 1990 [section 529 [title IV, §405] of Pub. L. 101-509, set out in a note below].”

Section 529 [title IV, §§401-407] of Pub. L. 101-509, as amended by Pub. L. 102-378, §3(5)-(9), Oct. 2, 1992, 106 Stat. 1356; Pub. L. 103-123, title VI, §628, Oct. 28, 1993, 107 Stat. 1266; Pub. L. 103-178, title III, §303(a), Dec. 3, 1993, 107 Stat. 2034; Pub. L. 105-61, title I, §118(e), Oct. 10, 1997, 111 Stat. 1288; Pub. L. 106-554, §1(a)(4) [div. B, title IX, §907(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-309; Pub. L. 108-411, title I, §101(b), title III, §301(b), Oct. 30, 2004, 118 Stat. 2309, 2317, provided that:

“SEC. 401. SHORT TITLE.

“This title [section 529 [title IV, §§401-412] of Pub. L. 101-509, enacting sections 4521 to 4523 of this title, amending sections 5541, 5542, 5547, 8335, and 8425 of this title, enacting provisions set out as notes under this section and sections 4521, 5541, and 8335 of this title, and amending provisions set out as a note under section 5541 of this title] may be cited as the ‘Federal Law Enforcement Pay Reform Act of 1990’.

“SEC. 402. DEFINITION.

“For the purposes of this title, except as otherwise provided, the term ‘law enforcement officer’ means any law enforcement officer within the meaning of section 5541(3) of title 5, United States Code, with respect to whom the provisions of chapter 51 of such title apply.

“SEC. 403. SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.

“(a) Notwithstanding the procedures of section 5305 of title 5, United States Code, as amended by section 101 of this Act, or similar provision of law, higher minimum rates and corresponding increases in all step rates of each designated General Schedule grade shall be established for law enforcement officers in accordance with the provisions of this section.

“(b)(1) Effective on the first day of the first applicable pay period beginning on or after January 1, 1992, the higher minimum rates to be established are as follows:

“GS-3	Step 4
“GS-4	Step 4
“GS-5	Step 4
“GS-6	Step 3
“GS-7	Step 3
“GS-8	Step 3
“GS-9	Step 2
“GS-10	Step 2

“(2) Effective on the first day of the first applicable pay period beginning on or after January 1, 1993, the higher minimum rates to be established are as follows:

“GS-3	Step 7
“GS-4	Step 7

“GS-5	Step 8
“GS-6	Step 6
“GS-7	Step 5
“GS-8	Step 3
“GS-9	Step 2
“GS-10	Step 2

“(c) The higher minimum rates and corresponding higher rates for each step rate of each designated grade shall apply to every law enforcement officer in the designated grades (except in the case of any law enforcement officer for whom a higher rate is authorized under section 5305 of title 5, United States Code, as amended by section 101 of this Act, or similar provision of law) and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).

“(d) Any interim entry-level adjustment under section 209 of this Act [section 529 [title II, §209] of Pub. L. 101-509, set out as a note above] which a law enforcement officer is receiving shall be eliminated on the day before the effective date of the higher minimum rates under subsection (b)(1).

“SEC. 404. SPECIAL PAY ADJUSTMENTS FOR LAW ENFORCEMENT OFFICERS IN SELECTED CITIES.

“(a) A law enforcement officer shall be paid any applicable special pay adjustment in accordance with the provisions of this section, but such special pay adjustment shall be reduced by the amount of any applicable interim geographic adjustment under section 302 of this Act [section 529 [title III, §302] of Pub. L. 101-509, set out as a note under section 5304 of this title], any applicable locality-based comparability payment under section 5304 of title 5, United States Code, as amended by section 101 of this Act, and, to the extent determined appropriate by the Office of Personnel Management, any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law (other than section 403).

“(b)(1) Except as provided in subsection (a), effective on the first day of the first applicable pay period beginning on or after January 1, 1992, each law enforcement officer whose post of duty is in one of the following areas shall receive an adjustment, which shall be a percentage of the officer’s rate of basic pay, as follows:

“Area	Differential
Boston-Lawrence-Salem, MA-NH Consolidated Metropolitan Statistical Area	16%
Chicago-Gary-Lake County, IL-IN-WI Consolidated Metropolitan Statistical Area	4%
Los Angeles-Anaheim-Riverside, CA Consolidated Metropolitan Statistical Area	16%
New York-Northern New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan Statistical Area	16%
Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD Consolidated Metropolitan Statistical Area	4%
San Francisco-Oakland-San Jose, CA Consolidated Metropolitan Statistical Area	16%
San Diego, CA Metropolitan Statistical Area	8%
Washington-Baltimore DC-MD-VA-WV Consolidated Metropolitan Statistical Area	4%

“(2) In the case of any area specified in paragraph (1) that includes a portion, but not all, of a county, the Office of Personnel Management may, at the request of the head of 1 or more law enforcement agencies, extend the area specified in paragraph (1) to include, for the purposes of this section, the entire county, if the Office determines that such extension would be in the interests of good personnel administration. Any such extension shall be applicable to each law enforcement officer whose post of duty is in the area of the extension.

“(c)(1) A special pay adjustment under this section shall be administered, to the extent practicable, in the

same manner as a locality-based comparability payment under section 5304 of title 5, United States Code, as amended by section 101 of this Act, and shall be considered part of basic pay to the same degree as such a locality-based comparability payment.

“(2) The Office of Personnel Management may prescribe such regulations as it considers necessary concerning the payment of special pay adjustments to law enforcement officers under this section.

“SEC. 405. SAME BENEFITS FOR OTHER LAW ENFORCEMENT OFFICERS.

“(a) The appropriate agency head (as defined in subsection (c)) shall prescribe regulations under which the purposes of sections 403, 404, and 407 shall be carried out with respect to individuals holding positions described in subsection (b).

“(b) This subsection applies with respect to any—

“(1) special agent within the Diplomatic Security Service;

“(2) probation officer (referred to in section 3672 of title 18, United States Code); or

“(3) pretrial services officer (referred to in section 3153 of title 18, United States Code).

“(c) For purposes of this section, the term ‘appropriate agency head’ means—

“(1) with respect to any individual under subsection (b)(1), the Secretary of State; or

“(2) with respect to any individual under subsection (b)(2) or (b)(3), the Director of the Administrative Office of the United States Courts.

“SEC. 406. FBI NEW YORK FIELD DIVISION.

“(a) The total pay of an employee of the Federal Bureau of Investigation assigned to the New York Field Division before the date of September 29, 1993, in a position covered by the demonstration project conducted under section 601 of the Intelligence Authorization Act for Fiscal Year 1989 (Public Law 100-453) [102 Stat. 1911] shall not be reduced as a result of the termination of the demonstration project during the period that employee remains employed after that date in a position covered by the demonstration project.

“(b) Beginning on September 30, 1993, any periodic payment under section 601(a)(2) of the Intelligence Authorization Act for Fiscal Year 1989 [Pub. L. 100-453, 102 Stat. 1911] for any such employee shall be reduced by the amount of any increase in basic pay under title 5, United States Code, including the following provisions: an annual adjustment under section 5303, locality-based comparability payment under section 5304, initiation or increase in a special pay rate under section 5305, promotion under section 5334, periodic step increase under section 5335, merit increase under section 5404, or other increase to basic pay under any provision of law.”

[Section 303(b) of Pub. L. 103-178 provided that: “The amendment made by subsection (a) [amending section 529 [title IV, §406] of Pub. L. 101-509, set out above] shall take effect as of September 30, 1993, and shall apply to the pay of employees to whom the amendment applies that is earned on or after that date.”]

[For effective dates of amendments by section 3(5)-(9) of Pub. L. 102-378 to section 529 [title IV, §§402, 403(d), 404(a), (b), 405(a)] of Pub. L. 101-509, set out above, see section 9(a), (b)(6), (9) of Pub. L. 102-378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.]

REPORTING REQUIREMENT

Section 529 [title IV, §412] of Pub. L. 101-509 provided that: “Not later than January 1, 1993, the Office of Personnel Management, in consultation with Federal law enforcement agencies and law enforcement employee groups, shall submit to Congress, in writing, a plan to establish a separate pay and classification system for law enforcement officers and specifications for legislation to implement such plan.”

§ 5306. Pay fixed by administrative action

(a) Notwithstanding sections 1341, 1342, and 1349-1351 and subchapter II of chapter 15 of title 31—

(1) the rates of pay of—

(A) employees in the legislative, executive, and judicial branches of the Government of the United States (except employees whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives) and of the government of the District of Columbia, whose rates of pay are fixed by administrative action under law and are not otherwise adjusted under this subchapter;

(B) employees under the Architect of the Capitol, whose rates of pay are fixed under section 166b-3a¹ of title 40, and the Superintendent of Garages, House office buildings; and

(C) persons employed by the county committees established under section 590h(b) of title 16; and

(2) and minimum or maximum rate of pay (other than a maximum rate equal to or greater than the maximum rate then currently being paid under the General Schedule as a result of a pay adjustment under section 5303 (or prior corresponding provision of law)), and any monetary limitation on or monetary allowance for pay, applicable to employees described in subparagraphs (A), (B), and (C) of paragraph (1);

may be adjusted, by the appropriate authority concerned, effective at the beginning of the first applicable pay period commencing on or after the day on which a pay adjustment becomes effective under section 5303 (or prior provision of law), by whichever of the following methods the appropriate authority concerned considers appropriate—

(i) by an amount or amounts not in excess of the pay adjustment provided under section 5303 for corresponding rates of pay in the appropriate schedule or scale of pay;

(ii) if there are no corresponding rates of pay, by an amount or amounts equal or equivalent, insofar as practicable and with such exceptions and modifications as may be necessary to provide for appropriate pay relationships between positions, to the amount of the pay adjustment provided under section 5303; or

(iii) in the case of minimum or maximum rates of pay, or monetary limitations of allowances with respect to pay, by an amount rounded to the nearest \$100 and computed on the basis of a percentage equal or equivalent, insofar as practicable and with such variations as may be appropriate, to the percentage of the pay adjustment provided under section 5303.

(b) An adjustment under subsection (a) in rates of pay, minimum or maximum rates of pay, the monetary limitations or allowances with respect to pay, shall be made in such manner as the appropriate authority concerned considers appropriate.

(c) This section does not authorize any adjustment in the rates of pay of employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

¹ See References in Text note below.

(d) This section does not impair any authority under which rates of pay may be fixed by administrative action.

(e) Pay may not be paid, by reason of any exercise of authority under this section, at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule.

(Added Pub. L. 91-656, §3(a), Jan. 8, 1971, 84 Stat. 1949; amended Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1437; Pub. L. 102-378, §2(27), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 104-186, title II, §215(3), Aug. 20, 1996, 110 Stat. 1745.)

REFERENCES IN TEXT

Section 166b-3a of title 40, referred to in subsec. (a)(1)(B), means section 166b-3a of former Title 40, Public Buildings, Property, and Works, which was transferred to section 1848 of Title 2, The Congress.

The General Schedule, referred to in subsec. (a)(2), is set out under section 5332 of this title.

Level V of the Executive Schedule, referred to in subsec. (e), is set out in section 5316 of this title.

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104-186 substituted “Chief Administrative Officer” for “Clerk”.

1992—Subsec. (a)(1)(B). Pub. L. 102-378 substituted “section 166b-3a” for “section 166b-3”.

1990—Pub. L. 101-509 amended section generally, substituting provisions authorizing adjustments in rates of pay, minimum or maximum rates of pay, and monetary limitations or allowances with respect to pay of certain Federal employees for provisions establishing Advisory Committee on Federal Pay and setting forth its duties.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

§ 5307. Limitation on certain payments

(a)(1) Except as otherwise permitted by or under law, or as otherwise provided under subsection (d), no allowance, differential, bonus, award, or other similar cash payment under this title may be paid to an employee in a calendar year if, or to the extent that, when added to the total basic pay paid or payable to such employee for service performed in such calendar year as an employee in the executive branch (or as an employee outside the executive branch to whom chapter 51 applies), such payment would cause the total to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year.

(2) This section shall not apply to any payment under—

(A) subchapter III or VII of chapter 55 or section 5596;

(B) chapter 57 (other than section 5753, 5754, 5755, or 5757);¹ or

(C) chapter 59 (other than section 5925, 5928, 5941(a)(2), or 5948).

(b)(1) Any amount which is not paid to an employee in a calendar year because of the limitation under subsection (a) shall be paid to such employee in a lump sum at the beginning of the following calendar year.

(2) Any amount paid under this subsection in a calendar year shall be taken into account for purposes of applying² the limitations under subsection (a) with respect to such calendar year.

(c) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this section (subject to subsection (d)), including regulations (consistent with section 5582) concerning how a lump-sum payment under subsection (b) shall be made with respect to any employee who dies before an amount payable to such employee under subsection (b) is made.

(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting “the total annual compensation payable to the Vice President under section 104 of title 3” for “the annual rate of basic pay payable for level I of the Executive Schedule” in the case of any employee who—

(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

(B) holds a position in or under an agency which is described in paragraph (2).

(2) An agency described in this paragraph is any agency which, for purposes of applying the limitation in the calendar year involved, has a performance appraisal system certified under this subsection as making, in its design and application, meaningful distinctions based on relative performance.

(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

(B) The certification of an agency performance appraisal system under this subsection shall be for a period not to exceed 24 months beginning on the date of certification, unless extended by the Director of the Office of Personnel Management for up to 6 additional months, except that such certification may be terminated at any time upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).

(Added Pub. L. 91-656, §3(a), Jan. 8, 1971, 84 Stat. 1950; amended Pub. L. 97-258, §3(a)(10), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1438; Pub. L. 102-77, §2, July 26, 1991, 105 Stat. 369; Pub. L. 107-273, div. A, title II, §207(b), Nov. 2, 2002, 116 Stat. 1780; Pub. L. 107-296, title XIII,

¹ See References in Text note below.

² So in original. Probably should be “applying”.

§ 1322, Nov. 25, 2002, 116 Stat. 2297; Pub. L. 110-372, § 3(a), Oct. 8, 2008, 122 Stat. 4045.)

REFERENCES IN TEXT

Level I of the Executive Schedule, referred to in subsecs. (a)(1) and (d)(1), is set out in section 5312 of this title.

Section 5757, referred to in subsec. (a)(2)(B), probably means the section 5757 of this title added by Pub. L. 107-273, relating to extended assignment incentive.

AMENDMENTS

2008—Subsec. (d)(2). Pub. L. 110-372, § 3(a)(1), substituted “applying the limitation in the calendar year involved, has a performance appraisal system certified under this subsection as making, in its design and application, meaningful distinctions based on relative performance” for “the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance”.

Subsec. (d)(3)(B). Pub. L. 110-372, § 3(a)(2), substituted “The certification of an agency performance appraisal system under this subsection shall be for a period not to exceed 24 months beginning on the date of certification, unless extended by the Director of the Office of Personnel Management for up to 6 additional months” for “An agency’s certification under this subsection shall be for a period of 2 calendar years” and struck out “, for purposes of either or both of those years,” after “time”.

2002—Subsec. (a)(1). Pub. L. 107-296, § 1322(b)(1), inserted “or as otherwise provided under subsection (d),” after “under law.”

Subsec. (a)(2)(B). Pub. L. 107-273 substituted “5755, or 5757” for “or 5755”.

Subsec. (c). Pub. L. 107-296, § 1322(b)(2), substituted “this section (subject to subsection (d)),” for “this section.”

Subsec. (d). Pub. L. 107-296, § 1322(a), added subsec. (d). 1991—Subsec. (a). Pub. L. 102-77, § 2(1)–(3), designated existing provisions as par. (1), substituted “cause the” for “cause to the”, and added par. (2).

Subsec. (b)(3). Pub. L. 102-77, § 2(4), struck out par. (3) which read as follows: “Paragraph (1) shall not apply to an amount if, or to the extent that, it is attributable to a payment the authority for which would derive from section 4505a(d), 5753(e), or 5754(e).”

1990—Pub. L. 101-509 amended section generally, substituting provisions prohibiting cash payments to employees in excess of annual rate of basic pay payable for level I of Executive Schedule in a calendar year, for provisions authorizing adjustments in rates of pay, minimum or maximum rates of pay, and monetary limitations or allowances with respect to pay of certain Federal employees.

1982—Subsec. (a). Pub. L. 97-258 substituted “sections 1341, 1342, and 1349-1351 and subchapter II of chapter 15” for “section 665”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-372, § 3(c), Oct. 8, 2008, 122 Stat. 4046, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Oct. 8, 2008].”

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107-273, div. A, title II, § 207(c), Nov. 2, 2002, 116 Stat. 1780, provided that: “The amendments made by this section [enacting section 5757 of this title and amending this section] shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act [Nov. 2, 2002].”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EXTENSION OF CERTIFICATION

Pub. L. 110-372, § 3(b), Oct. 8, 2008, 122 Stat. 4045, provided that:

“(1) EXTENSION TO 2009.—

“(A) IN GENERAL.—For any certification of a performance appraisal system under section 5307(d) of title 5, United States Code, in effect on the date of enactment of this Act [Oct. 8, 2008] and scheduled to expire at the end of calendar year 2008, the Director of the Office of Personnel Management may provide that such a certification shall be extended without requiring additional justification by the agency.

“(B) LIMITATION.—The expiration of any extension under this paragraph shall be not later than the later of—

“(i) June 30, 2009; or

“(ii) the first anniversary of the date of the certification.

“(2) EXTENSION TO 2010.—

“(A) IN GENERAL.—For any certification of a performance appraisal system under section 5307(d) of title 5, United States Code, in effect on the date of enactment and scheduled to expire at the end of calendar year 2009, the Director of the Office of Personnel Management may provide that such a certification shall be extended without requiring additional justification by the agency.

“(B) LIMITATION.—The expiration of any extension under this paragraph shall be not later than the later of—

“(i) June 30, 2010; or

“(ii) the second anniversary of the date of the certification.”

FREEZE ON DISCRETIONARY AWARDS, BONUSES, AND SIMILAR PAYMENTS FOR FEDERAL POLITICAL APPOINTEES

Memorandum of President of the United States, Aug. 3, 2010, 75 F.R. 47433, provided:

Memorandum for the Assistant to the President and Chief of Staff [and] The Heads of Executive Departments and Agencies

At a time when so many American families are struggling to make ends meet, I am committed to making sure the Federal Government is spending the taxpayers’ money wisely and carefully, and cutting costs wherever possible. I am committed to ending programs that do not work, streamlining those that do, and bringing a new responsibility for stewardship of tax dollars. Like households and businesses across the country, the Federal Government is tightening its belt. This effort began during my first days in office, when I froze the salaries of the senior members of my White House Staff.

As a next step in this effort, I direct you to suspend cash awards, quality step increases, bonuses, and similar discretionary payments or salary adjustments to any politically appointed Federal employee, commencing immediately, and continuing through the end of Fiscal Year 2011. I also direct the Office of Personnel Management to issue guidance, in consultation with the Office of Management and Budget, to assist departments and agencies in implementing this policy.

In addition to these actions freezing discretionary payments, I have proposed in my Budget for Fiscal Year 2011 a salary freeze for senior political appointees throughout the Federal Government. Unlike the administrative action I have taken today in this memorandum, my proposed salary freeze requires legislation, so it cannot be implemented absent legislative action by the Congress.

I appreciate the hard work of our Federal workforce, and understand how important these payments can be

to many workers and their families. Yet like households and businesses across the country, we need to make tough choices about how to spend our funds.

This memorandum shall be carried out to the extent permitted by law and consistent with executive departments' and agencies' legal authorities. Nothing in this memorandum shall be construed to affect payments or salary adjustments for Federal employees who are not political appointees. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[§ 5308. Omitted]

CODIFICATION

Section, added Pub. L. 91-656, §3(a), Jan. 8, 1971, 84 Stat. 1951, relating to pay limitation, was omitted in the general revision of this subchapter by Pub. L. 101-509.

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

§ 5311. The Executive Schedule

The Executive Schedule, which is divided into five pay levels, is the basic pay schedule for positions, other than Senior Executive Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, to which this subchapter applies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 459; Pub. L. 95-454, title IV, §§408(b)(1), 414(b)(1), Oct. 13, 1978, 92 Stat. 1173, 1178; Pub. L. 96-54, §2(a)(24), Aug. 14, 1979, 93 Stat. 382; Pub. L. 100-325, §2(h)(1), (2), May 30, 1988, 102 Stat. 582; Pub. L. 101-509, title V, §529 [title I, §104(c)], Nov. 5, 1990, 104 Stat. 1427, 1447.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 2210. Aug. 14, 1964, Pub. L. 88-426, §302, 78 Stat. 415.

The words "There is hereby established" are omitted as executed. The word "offices" is omitted as included in "positions". The words "Executive Schedule" are substituted for "Federal Executive Salary Schedule".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1990—Pub. L. 101-509 struck out "(a)" before "The Executive Schedule, which" and struck out subsec. (b) which read as follows:

"(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director of the Office of Personnel Management shall determine the number and classification of executive level positions in existence in the executive branch on that date of enactment, and shall publish the determination in the Federal Register. Effective beginning on the date of the publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

but does not include any Senior Executive Service position (as defined in section 3132(a) of this title) or any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service."

1988—Subsec. (a). Pub. L. 100-325, §2(h)(1), inserted reference to positions in Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

Subsec. (b)(2). Pub. L. 100-325, §2(h)(2), substituted "(as defined in section 3132(a) of this title) or any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service" for "as defined in section 3132(a) of this title" in concluding provision.

1979—Subsec. (b)(1). Pub. L. 96-54 inserted "of the Office of Personnel Management" after "Director".

1978—Pub. L. 95-454, §408(b)(1), inserted reference to Senior Executive Service positions.

Pub. L. 95-454, §414(b)(1), designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

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 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

PLAN FOR AUTHORIZING EXECUTIVE LEVEL POSITIONS IN EXECUTIVE BRANCH; PRESIDENTIAL SUBMISSION TO CONGRESS

Section 414(b)(2) of Pub. L. 95-454 required President to transmit by Jan. 1, 1980, a plan to Congress for authorizing executive level positions in executive branch.

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

- Secretary of State.
Secretary of the Treasury.
Secretary of Defense.
Attorney General.
Secretary of the Interior.
Secretary of Agriculture.
Secretary of Commerce.
Secretary of Labor.
Secretary of Health and Human Services.
Secretary of Housing and Urban Development.
Secretary of Transportation.
United States Trade Representative.
Secretary of Energy.

Secretary of Education.
 Secretary of Veterans Affairs.
 Secretary of Homeland Security.
 Director of the Office of Management and Budget.
 Commissioner of Social Security, Social Security Administration.
 Director of National Drug Control Policy.
 Chairman, Board of Governors of the Federal Reserve System.
 Director of National Intelligence.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89-670, §10(d)(1), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91-375, §6(c)(12), Aug. 12, 1970, 84 Stat. 776; Pub. L. 93-618, title I, §141(b)(3)(A), Jan. 3, 1975, 88 Stat. 1999; Pub. L. 94-82, title II, §202(b)(1), Aug. 9, 1975, 89 Stat. 419; Pub. L. 95-91, title VII, §710(c), Aug. 4, 1977, 91 Stat. 609; Pub. L. 96-54, §2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96-88, title V, §508(c), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 97-456, §3(d)(1), (5), Jan. 12, 1983, 96 Stat. 2505; Pub. L. 99-198, title XI, §1113(d), Dec. 23, 1985, 99 Stat. 1480; Pub. L. 99-260, §4(c), Mar. 20, 1986, 100 Stat. 49; Pub. L. 100-527, §13(c), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100-679, §11(a), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 100-690, title I, §1003(a)(4)(A), Nov. 18, 1988, 102 Stat. 4182; Pub. L. 103-296, title I, §108(e)(1), Aug. 15, 1994, 108 Stat. 1486; Pub. L. 105-277, div. C, title VII, §713(a)(1), Oct. 21, 1998, 112 Stat. 2681-693; Pub. L. 106-569, title X, §1002(a)(1), Dec. 27, 2000, 114 Stat. 3028; Pub. L. 107-296, title XVII, §1702(a)(1), Nov. 25, 2002, 116 Stat. 2313; Pub. L. 108-458, title I, §1015(a), Dec. 17, 2004, 118 Stat. 3664.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2211(a).	Aug. 14, 1964, Pub. L. 88-426, §303(a), 78 Stat. 416.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Paragraph designation for the position added by Pub. L. 96-88 has been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96-54.

AMENDMENTS

2004—Pub. L. 108-458 inserted item relating to Director of National Intelligence.

2002—Pub. L. 107-296 inserted item relating to Secretary of Homeland Security.

2000—Pub. L. 106-569 inserted item relating to Chairman, Board of Governors of the Federal Reserve System.

1998—Pub. L. 105-277 inserted item relating to Director of National Drug Control Policy.

1994—Pub. L. 103-296 inserted item relating to Commissioner of Social Security, Social Security Administration.

1988—Pub. L. 100-690, §§1003(a)(4)(A), 1009, temporarily inserted item relating to Director of National Drug Control Policy. See Effective and Termination Dates of 1988 Amendments note below.

Pub. L. 100-679 inserted item relating to Director of Office of Management and Budget.

Pub. L. 100-527 inserted item relating to Secretary of Veterans Affairs.

1986—Pub. L. 99-260 struck out item relating to Special Assistant for Agricultural Trade and Food Aid.

1985—Pub. L. 99-198 inserted item relating to Special Assistant for Agricultural Trade and Food Aid.

1983—Pub. L. 97-456, §3(d)(5), substituted “United States Trade Representative” for “Special Representative for Trade Negotiations”.

1979—Pub. L. 96-88, §508(g), substituted “Health and Human Services” for “Health, Education, and Welfare” in item relating to the Secretary of Health and Human Services.

Pars. (1) to (14). Pub. L. 96-54 struck out paragraph designations for positions listed herein.

Par. (15). Pub. L. 96-88, §508(c), added par. (15) relating to Secretary of Education. See Codification note set out above.

1977—Par. (14). Pub. L. 95-91 added par. (14) relating to Secretary of Energy.

1975—Pub. L. 94-82 substituted provisions applying level I of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title for provisions applying such level I to positions for which annual rate of basic pay is \$35,000.

Par. (13). Pub. L. 93-618 added par. (13) relating to Special Representative for Trade Negotiations.

1970—Par. (5). Pub. L. 91-375 struck out par. (5) relating to Postmaster General.

1966—Pub. L. 89-670 added par. (11) relating to Secretary of Housing and Urban Development, and par. (12) relating to Secretary of Transportation.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-569, title X, §1002(b), Dec. 27, 2000, 114 Stat. 3028, provided that: “This section [amending this section and sections 5313 and 5314 of this title] and the amendments made by this section shall take effect on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve System beginning on or after the date of the enactment of this Act [Dec. 27, 2000].”

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by Pub. L. 100-690 effective Jan. 21, 1989, and repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100-690.

Section 11(e) of Pub. L. 100-679 provided that: “The amendments made by this section [amending sections 5312 to 5315 of this title] shall be effective on January 20, 1989.”

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans’ Benefits.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

Section 2(a)(25)(B) of Pub. L. 96-54 provided that: The amendments made by subparagraph (A) [amending sec-

tions 5312 to 5316 of this title] shall take effect January 1, 1980”.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective 90 days after Secretary of Transportation first takes office, or on any earlier date after Oct. 15, 1966, as President prescribes and publishes in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89-670.

SHORT TITLE OF 1975 AMENDMENT

Section 201 of title II of Pub. L. 94-82 provided that: “This title [enacting section 5318 of this title and section 461 of Title 28, Judiciary and Judicial Procedure, amending sections 5305, 5312, 5313, 5314, 5315 and 5316 of this title, sections 31, 60a note, 136a, 136a-1 and 356 of Title 2, The Congress, section 104 of Title 3, The President, section 68 of Title 11, Bankruptcy, sections 5, 44, 135, 173, 213, 252 and 792 of Title 28, sections 42a and 51a of former Title 31, Money and Finance, sections 162a and 166b of former Title 40, Public Buildings, Property, and Works, and section 303 of Title 44, Public Printing and Documents, and enacting provisions set out as a note under section 356 of Title 2] may be cited as the ‘Executive Salary Cost-of-Living Adjustment Act’.”

COMPENSATION AND EMOLUMENTS OF SECRETARY OF THE INTERIOR; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 2005

Pub. L. 111-1, § 1, Jan. 16, 2009, 123 Stat. 3, provided that:

“(a) IN GENERAL.—The compensation and other emoluments attached to the office of Secretary of the Interior shall be those in effect January 1, 2005, notwithstanding any increase in such compensation or emoluments after that date under any provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 2005, and ending at noon of January 3, 2011.

“(b) CIVIL ACTION AND APPEAL.—

“(1) JURISDICTION.—Any person aggrieved by an action of the Secretary of the Interior may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of the Interior on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

“(2) THREE JUDGE PANEL.—Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of the Interior on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

“(3) APPEAL.—

“(A) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Sec-

retary of the Interior under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

“(B) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken under subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

“(c) EFFECTIVE DATE.—This joint resolution shall take effect at 12:00 p.m. on January 20, 2009.”

COMPENSATION AND EMOLUMENTS OF SECRETARY OF STATE; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 2007

Pub. L. 110-455, Dec. 19, 2008, 122 Stat. 5036, provided that:

“(a) IN GENERAL.—The compensation and other emoluments attached to the office of Secretary of State shall be those in effect January 1, 2007, notwithstanding any increase in such compensation or emoluments after that date under any provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 2007, and ending at noon of January 3, 2013.

“(b) CIVIL ACTION AND APPEAL.—

“(1) JURISDICTION.—Any person aggrieved by an action of the Secretary of State may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

“(2) THREE JUDGE PANEL.—Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

“(3) APPEAL.—

“(A) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of State under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

“(B) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken under subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

“(c) EFFECTIVE DATE.—This joint resolution shall take effect at 12:00 p.m. on January 20, 2009.”

COMPENSATION AND EMOLUMENTS OF SECRETARY OF THE TREASURY AT LEVEL IN EFFECT ON JANUARY 1, 1989

For provisions limiting compensation and emoluments of Secretary of the Treasury at levels in effect on Jan. 1, 1989, see section 1(a) of Pub. L. 103-2, set out

as a note under section 301 of Title 31, Money and Finance.

COMPENSATION AND EMOLUMENTS OF SECRETARY OF STATE; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 1977

Pub. L. 96-241, § 1, May 3, 1980, 94 Stat. 343, limited the compensation and other emoluments attached to the office of Secretary of State to those in effect Jan. 1, 1977, during the period beginning May 3, 1980, and ending on the date on which the first individual appointed to that office after May 3, 1980, ceases to hold that office.

COMPENSATION AND EMOLUMENTS OF ATTORNEY GENERAL; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 1969

Provisions of Pub. L. 93-178, § 1, Dec. 10, 1973, 87 Stat. 697, which fixed the compensation and other emoluments attached to the Office of Attorney General at level in effect on Jan. 1, 1969, notwithstanding any other provision of law enacted or becoming effective during period from noon, Jan. 3, 1969, through noon, Jan. 2, 1975, were repealed by Pub. L. 94-2, Feb. 18, 1975, 89 Stat. 4, effective as of Feb. 4, 1975.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

- Deputy Secretary of Defense.
- Deputy Secretary of State.
- Deputy Secretary of State for Management and Resources.
- Administrator, Agency for International Development.
- Administrator of the National Aeronautics and Space Administration.
- Deputy Secretary of Veterans Affairs.
- Deputy Secretary of Homeland Security.
- Under Secretary of Homeland Security for Management.
- Deputy Secretary of the Treasury.
- Deputy Secretary of Transportation.
- Chairman, Nuclear Regulatory Commission.
- Chairman, Council of Economic Advisers.
- Director of the Office of Science and Technology.
- Director of the Central Intelligence Agency.
- Secretary of the Air Force.
- Secretary of the Army.
- Secretary of the Navy.
- Administrator, Federal Aviation Administration.
- Director of the National Science Foundation.
- Deputy Attorney General.
- Deputy Secretary of Energy.
- Deputy Secretary of Agriculture.

Director of the Office of Personnel Management.

Administrator, Federal Highway Administration.

Administrator of the Environmental Protection Agency.

Under Secretary of Defense for Acquisition, Technology, and Logistics.

Deputy Secretary of Labor.

Deputy Director of the Office of Management and Budget.

Independent Members, Thrift Depositor Protection Oversight Board.

Deputy Secretary of Health and Human Services.

Deputy Secretary of the Interior.

Deputy Secretary of Education.

Deputy Secretary of Housing and Urban Development.

Deputy Director for Management, Office of Management and Budget.

Director of the Federal Housing Finance Agency.

Deputy Commissioner of Social Security, Social Security Administration.

Administrator of the Community Development Financial Institutions Fund.

Deputy Director of National Drug Control Policy.

Members, Board of Governors of the Federal Reserve System.

The¹ Under Secretary of Transportation for Security.

Under Secretary of Transportation for Policy.

Chief Executive Officer, Millennium Challenge Corporation.

Principal Deputy Director of National Intelligence.

Director of the National Counterterrorism Center.

Director of the National Counter Proliferation Center.

Administrator of the Federal Emergency Management Agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89-670, § 10(d)(2), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90-83, § 1(13), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-407, § 15(a)(1), July 18, 1968, 82 Stat. 366; Pub. L. 91-644, title I, § 8(b), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 92-255, title II, § 212(a), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92-302, § 2(a), May 18, 1972, 86 Stat. 149; Pub. L. 92-352, title I, § 104(1), July 13, 1972, 86 Stat. 490; Pub. L. 92-596, § 6, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 93-438, title III, § 310(1), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93-496, § 16(c), Oct. 28, 1974, 88 Stat. 1533; Pub. L. 94-82, title II, § 202(b)(2), Aug. 9, 1975, 89 Stat. 419; Pub. L. 94-237, § 4(c)(6), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-561, § 1(a), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 95-91, title VII, § 710(d), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-140, § 3(d)(1), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 95-454, title II, § 201(b)(1), Oct. 13, 1978, 92 Stat. 1121; Pub. L. 96-54, § 2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96-465, title II, § 2302, Oct. 17, 1980, 94 Stat. 2164; Pub. L. 97-449, §§ 3(1), 7(b), Jan. 12, 1983, 96 Stat. 2441, 2444; Pub. L. 98-80, § 2(a)(1), Aug. 23, 1983, 97 Stat. 485; Pub. L.

¹ So in original. The word "The" probably should not appear.

98–216, §3(a)(1), Feb. 14, 1984, 98 Stat. 6; Pub. L. 99–348, title V, §501(d)(1), July 1, 1986, 100 Stat. 708; Pub. L. 99–619, §2(a)(2), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 100–204, title I, §178(a)(1), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 100–527, §13(d), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100–679, §11(b), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 101–73, title V, §501(c), Aug. 9, 1989, 103 Stat. 394; Pub. L. 101–509, title V, §529 [title I, §112(b)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 101–576, title II, §207(a), Nov. 15, 1990, 104 Stat. 2846; Pub. L. 102–233, title III, §315(b), Dec. 12, 1991, 105 Stat. 1772; Pub. L. 102–550, title XIII, §1351(a), Oct. 28, 1992, 106 Stat. 3969; Pub. L. 103–160, div. A, title IX, §904(e)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–296, title I, §108(e)(2), Aug. 15, 1994, 108 Stat. 1486; Pub. L. 103–325, title I, §104(i), Sept. 23, 1994, 108 Stat. 2169; Pub. L. 105–277, div. C, title VII, §713(a)(2), div. G, subdiv. A, title XII, §1224(1), title XIII, §1332(1), Oct. 21, 1998, 112 Stat. 2681–693, 2681–772, 2681–785; Pub. L. 106–65, div. A, title IX, §911(e), Oct. 5, 1999, 113 Stat. 719; Pub. L. 106–553, §1(a)(2) [title IV, §404(b)], Dec. 21, 2000, 114 Stat. 2762, 2762A–96; Pub. L. 106–569, title X, §1002(a)(2), Dec. 27, 2000, 114 Stat. 3028; Pub. L. 107–71, title I, §101(c)(1), Nov. 19, 2001, 115 Stat. 602; Pub. L. 107–295, title II, §215(b), Nov. 25, 2002, 116 Stat. 2102; Pub. L. 107–296, title XVII, §1702(a)(2), Nov. 25, 2002, 116 Stat. 2313; Pub. L. 108–199, div. D, title VI, §604(b)(4)(B), Jan. 23, 2004, 118 Stat. 212; Pub. L. 108–458, title I, §1015(b), Dec. 17, 2004, 118 Stat. 3664; Pub. L. 109–295, title VI, §612(a)(1), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 110–53, title XXIV, §2405(e), Aug. 3, 2007, 121 Stat. 550; Pub. L. 110–289, div. A, title I, §1161(g)(1), July 30, 2008, 122 Stat. 2780; Pub. L. 111–259, title VIII, §807(a), Oct. 7, 2010, 124 Stat. 2749.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2211(b) (less (15)).	Aug. 14, 1964, Pub. L. 88–426, §303(b) (less (15)), 78 Stat. 416.

The proviso in paragraph (15) of former section 2211(b) is carried into section 5314. The remainder of paragraph (15) is omitted but not repealed, see table III. The part of paragraph (15) that is omitted but not repealed provides that the position of Director of the Federal Bureau of Investigation shall be in Level II of the Federal Executive Salary Schedule so long as the position is held by the incumbent of the position on August 14, 1964. The omission of this provision from title 5, without repealing the corresponding provision of the source statute, in effect leaves existing statute unchanged insofar as it relates to the present incumbent of the position of Director of the Federal Bureau of Investigation.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

The deletion of paragraph (6) of 5 U.S.C. 5313 reflects the abolition of the position of “Administrator of the Housing and Home Finance Agency” by the act of September 9, 1965, Public Law 89–174, sections 5(a), 9(c), 79 Stat. 669, 671.

AMENDMENTS

2010—Pub. L. 111–259 substituted “Director of the Central Intelligence Agency” for “Director of Central Intelligence”.

2008—Pub. L. 110–289 substituted “Director of the Federal Housing Finance Agency” for “Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development”.

2007—Pub. L. 110–53 inserted item relating to Under Secretary of Homeland Security for Management.

2006—Pub. L. 109–295 inserted item relating to Administrator of the Federal Emergency Management Agency.

2004—Pub. L. 108–458 inserted items relating to Principal Deputy Director of National Intelligence, Director of the National Counterterrorism Center, and Director of the National Counter Proliferation Center.

Pub. L. 108–199 inserted item relating to Chief Executive Officer, Millennium Challenge Corporation.

2002—Pub. L. 107–296 inserted item relating to Deputy Secretary of Homeland Security.

Pub. L. 107–295 inserted item relating to Under Secretary of Transportation for Policy.

2001—Pub. L. 107–71 inserted item relating to Under Secretary of Transportation for Security.

2000—Pub. L. 106–569 struck out item relating to Chairman, Board of Governors of the Federal Reserve System and inserted item relating to Members, Board of Governors of the Federal Reserve System.

Pub. L. 106–553 inserted item relating to Deputy Secretary of State for Management and Resources.

1999—Pub. L. 106–65 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

1998—Pub. L. 105–277, §1332(1), struck out item relating to Director of the United States Information Agency.

Pub. L. 105–277, §1224(1), struck out item relating to Director of the United States Arms Control and Disarmament Agency.

Pub. L. 105–277, §713(a)(2), inserted item relating to Deputy Director of National Drug Control Policy.

1994—Pub. L. 103–325 inserted item relating to Administrator of the Community Development Financial Institutions Fund.

Pub. L. 103–296 inserted item relating to Deputy Commissioner of Social Security, Social Security Administration.

1993—Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

1992—Pub. L. 102–550 inserted item relating to Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.

1991—Pub. L. 102–233 substituted “Independent Members, Thrift Depositor Protection Oversight Board” for “Independent Members, Oversight Board, Resolution Trust Corporation”.

1990—Pub. L. 101–576 inserted item relating to Deputy Director for Management, Office of Management and Budget.

Pub. L. 101–509 inserted items relating to Deputy Secretary of Health and Human Services, Deputy Secretary of the Interior, Deputy Secretary of Education, and Deputy Secretary of Housing and Urban Development.

1989—Pub. L. 101–73 inserted item relating to Independent Members, Oversight Board, Resolution Trust Corporation.

1988—Pub. L. 100–679 inserted item relating to Deputy Director of Office of Management and Budget and struck out item relating to Director of Office of Management and Budget.

Pub. L. 100–527 substituted “Deputy Secretary of Veterans Affairs” for “Administrator of Veterans Affairs”.

1987—Pub. L. 100–204 struck out item relating to Ambassadors at Large.

1986—Pub. L. 99–619 inserted item relating to Deputy Secretary of Labor.

Pub. L. 99–348 inserted item relating to Under Secretary of Defense for Acquisition.

1984—Pub. L. 98–216 substituted “Director of the Office of Management and Budget” for “Director of the Bureau of the Budget”.

1983—Pub. L. 98-80 inserted item relating to Administrator of Environmental Protection Agency.

Pub. L. 97-449, §3(1), inserted item relating to Administrator, Federal Highway Administration.

1980—Pub. L. 96-465 inserted item relating to Ambassadors at Large.

1979—Pars. (1)–(24). Pub. L. 96-54 struck out paragraph designations for positions listed herein.

1978—Par. (24). Pub. L. 95-454 added par. (24) relating to Director of Office of Personnel Management.

1977—Par. (1). Pub. L. 95-140 substituted “Deputy Secretary of Defense” for “Deputy Secretaries of Defense (2)”.

Par. (22). Pub. L. 95-91 substituted “Deputy Secretary of Energy” for “Administrator of Energy Research and Development Administration”.

1976—Par. (21). Pub. L. 94-237 struck out par. (21) relating to Director of Special Action Office for Drug Abuse Prevention.

Par. (23). Pub. L. 94-561 added par. (23) relating to Deputy Secretary of Agriculture.

1975—Pub. L. 94-82 substituted provisions applying level II of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level II to positions for which annual rate of basic pay is \$30,000.

1974—Par. (7). Pub. L. 93-496 substituted “Deputy Secretary of Transportation” for “Under Secretary for Transportation”.

Par. (8). Pub. L. 93-438 substituted “Chairman, Nuclear Regulatory Commission” for “Chairman, Atomic Energy Commission”.

Par. (22). Pub. L. 93-438 added par. (22) relating to Deputy Secretary of Energy.

1972—Par. (1). Pub. L. 92-596 substituted “Deputy Secretaries of Defense (2)” for “Deputy Secretary of Defense”.

Par. (2). Pub. L. 92-352 substituted “Deputy Secretary of State” for “Under Secretary of State”.

Par. (6). Pub. L. 92-302 added par. (6) relating to Deputy Secretary of the Treasury. A prior par. (6), “Administrator of the Housing and Home Finance Agency,” was repealed by Pub. L. 90-83, §1(13), Sept. 11, 1967, 81 Stat. 198.

Par. (21). Pub. L. 92-255 added par. (21) relating to Director of Special Action Office for Drug Abuse Prevention.

1971—Par. (20). Pub. L. 91-644 added par. (20) relating to position of Deputy Attorney General being formerly level III under former section 5314(1) of this title.

1968—Par. (19). Pub. L. 90-407 added par. (19) relating to Director of National Science Foundation.

1966—Pub. L. 89-670 substituted “Under Secretary of Transportation” for “Administrator of the Federal Aviation Agency” in item (7), and inserted item (19) relating to Administrator, Federal Aviation Administration.

CHANGE OF NAME

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out as an Effective Date of 2004 Amend-

ment; Transition Provisions note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve System beginning on or after Dec. 27, 2000, see section 1002(b) of Pub. L. 106-569, set out as a note under section 5312 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1224(1) of Pub. L. 105-277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

Amendment by section 1332(1) of Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-233 effective Feb. 1, 1992, see section 318 of Pub. L. 102-233, set out as a note under section 1441 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Health and Human Services, Under Secretary of the Interior, Under Secretary of Education, and Under Secretary of Housing and Urban Development, see section 529 [title I, §112(e)] of Pub. L. 101-509, set out as a note under section 3404 of Title 20, Education.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-679 effective Jan. 20, 1989, see section 11(e) of Pub. L. 100-679, set out as a note under section 5312 of this title.

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 178(b) of Pub. L. 100-204 provided that: “The amendments made by subsection (a) [amending sections 5313 and 5315 of this title] shall take effect 30 days after the date of enactment of this Act [Dec. 22, 1987] and shall not affect the salary of any individual holding the rank of Ambassador at Large immediately before the date of enactment of this Act during the period such individual continues to serve in such position.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-619 applicable to incumbent Under Secretary of Labor on Nov. 6, 1986, serving after such date, see section 2(f)(1) of Pub. L. 99-619, set out as a Present Incumbent note under section 552 of Title 29, Labor.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96-54, set out as a note under section 5312 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 OF 1976 AMENDMENT

Section 5 of Pub. L. 94-561 provided that:

“(a) Except as otherwise provided in this section, this Act [enacting section 2212b of Title 7, Agriculture, amending sections 5313 to 5316 of this title, sections 2210 and 2211 of Title 7, and section 714g of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 2210 of Title 7] shall take effect on its date of enactment [Oct. 19, 1976].

“(b) Subsection (b)(1) of section 3 of this Act [amending section 5316 of this title] shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act [section 2212b of Title 7].”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811 to 5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-302 effective May 18, 1972, see section 3 of Pub. L. 92-302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 15(a)(4) of Pub. L. 90-407 provided that: “The amendments made by this subsection [amending sections 5313, 5314, and 5316 of this title] (and the amendments made by sections 3 and 4 of this Act [amending section 1864 and enacting section 1864a of Title 42, The Public Health and Welfare] insofar as they relate to rates of basic pay) shall take effect on the first day of the first calendar month which begins on or after the date of the enactment of this Act [July 18, 1968].”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective April 1, 1967, see section 16(a), formerly §15(a), of Pub. L. 89-670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Office of Director of Office of Science and Technology abolished and functions vested by law in such office transferred to Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

BONUS ELIGIBILITY OF UNDER SECRETARY OF TRANSPORTATION FOR SECURITY

Pub. L. 107-71, title I, §101(c)(2), Nov. 19, 2001, 115 Stat. 602, provided that: “In addition to the annual rate of pay authorized by section 5313 of title 5, United States Code, the Under Secretary may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of pay, based on the Secretary’s evaluation of the Under Secretary’s performance.”

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92-302, not eligible to an increase on basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92-302, May 18, 1972, 86 Stat. 149.

DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION,
DEPARTMENT OF JUSTICE

Director of Federal Bureau of Investigation, Department of Justice to receive compensation at rate prescribed for level II of Federal Executive Salary Schedule [this section], effective as of day following date on which person holding such office on June 19, 1968, ceases to serve as Director, see section 1101(a) of Pub. L. 90-351, June 19, 1968, 82 Stat. 236, set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration, and Under Secretary of Commerce for Travel and Tourism.

Under Secretaries of State (6).

Under Secretaries of the Treasury (3).

Administrator of General Services.

Administrator of the Small Business Administration.

Deputy Administrator, Agency for International Development.

Chairman of the Merit Systems Protection Board.

Chairman, Federal Communications Commission.

Chairman, Board of Directors, Federal Deposit Insurance Corporation.

Chairman, Federal Energy Regulatory Commission.

Chairman, Federal Trade Commission.

Chairman, Surface Transportation Board.

Chairman, National Labor Relations Board.

Chairman, Securities and Exchange Commission.

Chairman, National Mediation Board.

Chairman, Railroad Retirement Board.

Chairman, Federal Maritime Commission.

Comptroller of the Currency.

Commissioner of Internal Revenue.

Under Secretary of Defense for Policy.

Under Secretary of Defense (Comptroller).

Under Secretary of Defense for Personnel and Readiness.

Under Secretary of Defense for Intelligence.
Deputy Chief Management Officer of the Department of Defense.

Under Secretary of the Air Force.
Under Secretary of the Army.
Under Secretary of the Navy.
Deputy Administrator of the National Aeronautics and Space Administration.
Deputy Director of the Central Intelligence Agency.
Director of the Office of Emergency Planning.
Director of the Peace Corps.
Deputy Director, National Science Foundation.
President of the Export-Import Bank of Washington.
Members, Nuclear Regulatory Commission.
Members, Defense Nuclear Facilities Safety Board.
Director of the Federal Bureau of Investigation, Department of Justice.
Administrator of the National Highway Traffic Safety Administration.
Administrator of the Federal Motor Carrier Safety Administration.
Administrator, Federal Railroad Administration.
Chairman, National Transportation Safety Board.
Chairman of the National Endowment for the Arts the incumbent of which also serves as Chairman of the National Council on the Arts.
Chairman of the National Endowment for the Humanities.
Director of the Federal Mediation and Conciliation Service.
Federal Transit Administrator.
President, Overseas Private Investment Corporation.
Chairman, Postal Regulatory Commission.
Chairman, Occupational Safety and Health Review Commission.
Governor of the Farm Credit Administration.
Chairman, Equal Employment Opportunity Commission.
Chairman, Consumer Product Safety Commission.
Under Secretaries of Energy (3).
Chairman, Commodity Futures Trading Commission.
Deputy United States Trade Representatives (3).
Chief Agricultural Negotiator.
Chairman, United States International Trade Commission.
Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.
Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.
Associate Attorney General.
Chairman, Federal Mine Safety and Health Review Commission.
Chairman, National Credit Union Administration Board.
Deputy Director of the Office of Personnel Management.

Under Secretary of Agriculture for Farm and Foreign Agricultural Services.
Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.
Under Secretary of Agriculture for Natural Resources and Environment.
Under Secretary of Agriculture for Research, Education, and Economics.
Under Secretary of Agriculture for Food Safety.
Under Secretary of Agriculture for Marketing and Regulatory Programs.
Director, Institute for Scientific and Technological Cooperation.
Under Secretary of Agriculture for Rural Development.
Administrator, Maritime Administration.
Executive Director, Federal Retirement Thrift Investment Board.
Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.
Director, Trade and Development Agency.
Under Secretary for Health, Department of Veterans Affairs.
Under Secretary for Benefits, Department of Veterans Affairs.
Under Secretary for Memorial Affairs, Department of Veterans Affairs.
Under Secretaries, Department of Homeland Security.
Director of the Bureau of Citizenship and Immigration Services.
Director of the Office of Government Ethics.
Administrator for Federal Procurement Policy.
Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.
Director of the Office of Thrift Supervision.
Chairperson of the Federal Housing Finance Board.
Executive Secretary, National Space Council.
Controller, Office of Federal Financial Management, Office of Management and Budget.
Administrator, Research and Innovative Technology Administration.
Deputy Director for Demand Reduction, Office of National Drug Control Policy.
Deputy Director for Supply Reduction, Office of National Drug Control Policy.
Deputy Director for State and Local Affairs, Office of National Drug Control Policy.
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.
Register of Copyrights.
Commissioner of Customs, Department of Homeland Security.
Under Secretary of Education¹
Administrator of the Centers for Medicare & Medicaid Services.
Administrator of the Office of Electronic Government.

¹ So in original. Probably should be followed by a period.

Administrator, Pipeline and Hazardous Materials Safety Administration.

Director, Pension Benefit Guaranty Corporation.

Deputy Administrators, Federal Emergency Management Agency.

Chief Executive Officer, International Clean Energy Foundation.

Independent Member of the Financial Stability Oversight Council (1).

Director of the Office of Financial Research.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89-670, §10(d)(3), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90-83, §1(14), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-206, title II, §215(a), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90-351, title I, §505, June 19, 1968, 82 Stat. 205, as amended by Pub. L. 91-644, title I, §7(1), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 90-407, §15(a)(2), July 18, 1968, 82 Stat. 367; Pub. L. 90-623, §1(26), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 91-175, pt. V, §503(1), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91-375, §6(c)(13), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91-596, §12(c)(1), Dec. 29, 1970, 84 Stat. 1604; Pub. L. 91-644, title I, §§7(1), 8(a), Jan. 2, 1971, 84 Stat. 1887, 1888; Pub. L. 92-181, title V, §5.41(a), formerly §5.27(a), Dec. 10, 1971, 85 Stat. 625, as renumbered Pub. L. 99-205, title II, §205(a)(2), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 92-226, pt. IV, §403, Feb. 7, 1972, 86 Stat. 34; Pub. L. 92-261, §9(a), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92-302, §2(b), May 18, 1972, 86 Stat. 149; Pub. L. 92-352, title I, §104(2), July 13, 1972, 86 Stat. 490; Pub. L. 92-573, §4(h)(1), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 93-83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-438, title III, §310(2), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93-463, title I, §102(a), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93-618, title I, §§141(b)(3)(B), 172(c)(1), Jan. 3, 1975, 88 Stat. 1999, 2010; Pub. L. 94-82, title II, §202(b)(3), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94-123, §2(c)(1), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94-183, §2(17), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 92-255, title II, §209(a), as added Pub. L. 94-237, §4(b), Mar. 19, 1976, 90 Stat. 243; Pub. L. 94-461, §4(a), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 94-561, §1(b), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 95-91, title VII, §710(e), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-139, §3, Oct. 19, 1977, 91 Stat. 1171; Pub. L. 95-140, §3(d)(2), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 95-164, title III, §302(c)(1), Nov. 9, 1977, 91 Stat. 1320; Pub. L. 95-426, title I, §114(b)(1), Oct. 7, 1978, 92 Stat. 969; Pub. L. 95-454, title II, §§201(b)(2), 202(c)(1), Oct. 13, 1978, 92 Stat. 1121, 1131; Pub. L. 95-501, title V, §501(b), Oct. 21, 1978, 92 Stat. 1691; Pub. L. 95-630, title V, §502(d), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 96-53, title IV, §412(a), Aug. 14, 1979, 93 Stat. 377; Pub. L. 96-54, §2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96-88, title V, §508(d), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 90-351, title I, §808, as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1204; Pub. L. 96-355, §3(b), Sept. 24, 1980, 94 Stat. 1173; Pub. L. 97-31, §12(1)(A), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97-63, §4(a)(4), Oct. 16, 1981, 95 Stat. 1014; Pub. L. 97-195, §1(b)(1), June 16, 1982, 96 Stat. 115; Pub. L. 97-377, title I, §123, Dec. 21, 1982, 96 Stat. 1913; Pub. L. 97-449, §3(2), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 97-456, §3(d)(1), (6), Jan. 12, 1983, 96 Stat. 2505, 2506; Pub. L. 98-80, §2(b)(1), Aug. 23, 1983, 97 Stat. 485; Pub. L. 98-164, title I, §125(b)(1), Nov. 22, 1983, 97 Stat. 1026; Pub. L. 98-216, §3(a)(2), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98-443, §9(e), Oct. 4,

1984, 98 Stat. 1707; Pub. L. 98-473, title II, §609J(a), Oct. 12, 1984, 98 Stat. 2102; Pub. L. 98-497, title I, §107(h), Oct. 19, 1984, 98 Stat. 2292; Pub. L. 99-64, title I, §116(b), July 12, 1985, 99 Stat. 153; Pub. L. 99-93, title I, §116(b), title VII, §704(a)(1), Aug. 16, 1985, 99 Stat. 412, 445; Pub. L. 99-335, title II, §203, June 6, 1986, 100 Stat. 591; Pub. L. 99-348, title V, §501(d)(2), July 1, 1986, 100 Stat. 708; Pub. L. 99-500, §101(c) [title X, §§902(b), 903(b)(2)(A)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, and Pub. L. 99-591, §101(c) [title X, §§902(b), 903(b)(2)(A)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132; Pub. L. 99-619, §2(a)(3), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 99-659, title IV, §407(e)(1), Nov. 14, 1986, 100 Stat. 3740; Pub. L. 99-661, div. A, title IX, formerly title IV, §§902(b), 903(b)(2)(A), Nov. 14, 1986, 100 Stat. 3911, 3912, as renumbered Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100-418, title II, §2204(d)(1), Aug. 23, 1988, 102 Stat. 1331; Pub. L. 100-456, div. A, title XIV, §1441(b), Sept. 29, 1988, 102 Stat. 2084; Pub. L. 100-519, title II, §201(d)(4), Oct. 24, 1988, 102 Stat. 2594; Pub. L. 100-527, §13(e), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100-598, §8, Nov. 3, 1988, 102 Stat. 3035; Pub. L. 100-679, §11(c), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 100-690, title I, §§1003(a)(4)(B), 1007(c)(3), Nov. 18, 1988, 102 Stat. 4182, 4188; Pub. L. 101-73, title VII, §742(a)(1), Aug. 9, 1989, 103 Stat. 436; Pub. L. 101-328, §3(b), July 8, 1990, 104 Stat. 308; Pub. L. 101-509, title V, §529 [title I, §112(d)], Nov. 5, 1990, 104 Stat. 1427, 1455; Pub. L. 101-576, title II, §207(b), Nov. 15, 1990, 104 Stat. 2846; Pub. L. 102-103, title II, §202, Aug. 17, 1991, 105 Stat. 498; Pub. L. 102-233, title III, §315(c), Dec. 12, 1991, 105 Stat. 1772; Pub. L. 102-240, title III, §3004(d)(1), Dec. 18, 1991, 105 Stat. 2088; Pub. L. 102-378, §2(28), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 102-405, title III, §302(d), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 102-508, title IV, §401(c), Oct. 24, 1992, 106 Stat. 3310; Pub. L. 102-549, title II, §202(d), Oct. 28, 1992, 106 Stat. 3658; Pub. L. 102-552, title II, §201(b)(1), Oct. 28, 1992, 106 Stat. 4105; Pub. L. 103-160, div. A, title IX, §§901(b), 903(b), 904(e)(2), Nov. 30, 1993, 107 Stat. 1726, 1727, 1729; Pub. L. 103-204, §5(b)(1), Dec. 17, 1993, 107 Stat. 2382; Pub. L. 103-211, title II, §2003(b), Feb. 12, 1994, 108 Stat. 24; Pub. L. 103-236, title I, §162(d)(1), Apr. 30, 1994, 108 Stat. 405; Pub. L. 103-337, div. A, title IX, §903(c), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 103-354, title II, §§225(e)(2), 231(f)(2), 241(e), 245(e), 251(g), formerly 251(e), 261(c), 285(e), Oct. 13, 1994, 108 Stat. 3214, 3219, 3222, 3223, 3226, 3227, as amended Pub. L. 105-277, div. A, §101(a) [title X, §1001(3)], Oct. 21, 1998, 112 Stat. 2681, 2681-41, and renumbered Pub. L. 110-234, title VII, §7511(a)(3), May 22, 2008, 122 Stat. 1259, and Pub. L. 110-246, §4(a), title VII, §7511(a)(3), June 18, 2008, 122 Stat. 1664, 2021; Pub. L. 104-88, title III, §301(a), Dec. 29, 1995, 109 Stat. 943; Pub. L. 104-105, title II, §219(b)(1), Feb. 10, 1996, 110 Stat. 184; Pub. L. 104-127, title VII, §794(b), Apr. 4, 1996, 110 Stat. 1155; Pub. L. 104-293, title VIII, §812(a), Oct. 11, 1996, 110 Stat. 3482; Pub. L. 105-277, div. C, title VII, §713(a)(3), div. G, subdiv. A, title XII, §1224(2), subdiv. B, title XXIII, §2305(a)(2), Oct. 21, 1998, 112 Stat. 2681-693, 2681-772, 2681-825; Pub. L. 105-304, title IV, §401(a)(3), Oct. 28, 1998, 112 Stat. 2887; Pub. L. 105-368, title IV, §403(b)(1), Nov. 11, 1998, 112 Stat. 3338; Pub. L. 106-65, div. A, title IX, §911(b)(2), div. C, title XXXII, §3293(a),

Oct. 5, 1999, 113 Stat. 718, 969; Pub. L. 106-113, div. B, §§ 1000(a)(5) [title II, § 238(a)(2)], 1000(a)(9) [title IV, § 4720(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-302, 1501A-581; Pub. L. 106-159, title I, § 101(d)(1), Dec. 9, 1999, 113 Stat. 1751; Pub. L. 106-476, title II, § 2002, Nov. 9, 2000, 114 Stat. 2175; Pub. L. 106-569, title X, § 1002(a)(3), Dec. 27, 2000, 114 Stat. 3028; Pub. L. 107-110, title X, § 1071(a), Jan. 8, 2002, 115 Stat. 2088; Pub. L. 107-296, title IV, § 411(b)(2), title XVII, § 1702(a)(3), Nov. 25, 2002, 116 Stat. 2179, 2313; Pub. L. 107-314, div. A, title IX, § 901(c), Dec. 2, 2002, 116 Stat. 2620; Pub. L. 108-173, title IX, § 900(d)(1), Dec. 8, 2003, 117 Stat. 2370; Pub. L. 108-411, title III, § 302(b), Oct. 30, 2004, 118 Stat. 2319; Pub. L. 108-426, §§ 2(d), 4(f), Nov. 30, 2004, 118 Stat. 2424, 2426; Pub. L. 108-447, div. C, title VI, § 603(c)(1), Dec. 8, 2004, 118 Stat. 2967; Pub. L. 109-58, title X, § 1006(c)(2), Aug. 8, 2005, 119 Stat. 932; Pub. L. 109-163, div. A, title IX, § 901(a), Jan. 6, 2006, 119 Stat. 3397; Pub. L. 109-280, title IV, § 411(b), Aug. 17, 2006, 120 Stat. 935; Pub. L. 109-295, title VI, § 612(a)(2), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 109-364, div. A, title IX, § 942(b), Oct. 17, 2006, 120 Stat. 2365; Pub. L. 109-435, title VI, § 604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 110-69, title III, § 3002(c)(1), Aug. 9, 2007, 121 Stat. 586; Pub. L. 110-140, title IX, § 922(b)(4)(B), Dec. 19, 2007, 121 Stat. 1733; Pub. L. 110-181, div. A, title IX, § 904(a)(3), Jan. 28, 2008, 122 Stat. 274; Pub. L. 111-84, div. A, title IX, § 906(d)(1), Oct. 28, 2009, 123 Stat. 2428; Pub. L. 111-203, title I, §§ 111(i)(2), 152(j), July 21, 2010, 124 Stat. 1394, 1414; Pub. L. 111-259, title IV, § 423(b)(1), Oct. 7, 2010, 124 Stat. 2728; Pub. L. 111-358, title IV, § 403(b)(1)(A), Jan. 4, 2011, 124 Stat. 4000.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(1)-(44)	5 U.S.C. 2211(c) (less (39) and (46)).	Aug. 14, 1964, Pub. L. 88-426, § 303(c) (less (39) and (46)), 78 Stat. 416.
(45)	5 U.S.C. 2211(b)(15) (proviso).	Aug. 14, 1964, Pub. L. 88-426, § 303(b)(15) (proviso), 78 Stat. 416.

The provisos in paragraphs (39) and (46) of former section 2211(c) are carried into section 5315. The remainders of paragraphs (39) and (46) are omitted but not repealed, see table III. The parts of paragraphs (39) and (46) that are omitted but not repealed provide that the positions of Director of Selective Service and Associate Director of the Federal Bureau of Investigation shall be in Level III so long as the positions are held by the incumbents of the positions on August 14, 1964. The omission of these provisions from title 5, without repealing the corresponding provisions of the source statute, in effect, leaves existing statute unchanged insofar as it relates to the present incumbents of the positions of Director of Selective Service and Associate Director of the Federal Bureau of Investigation.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5314(49)	20: 954(d) (2d sentence).	Sept. 29, 1965, Pub. L. 89-209, § 5(d)(1) (2d sentence), 79 Stat. 847.

1967 ACT—CONTINUED

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5314(50)	20:956(b)(1) (2d sentence).	Sept. 29, 1965, Pub. L. 89-209, § 7(b)(1) (2d sentence), 79 Stat. 850.
5314(51)	5 App.: 2211(c)(47).	July 18, 1966, Pub. L. 89-504, § 408(a), 80 Stat. 299.
5314(52)	42:3533(a) (as applicable to compensation of Under Secretary).	Sept. 9, 1965, Pub. L. 89-174, § 4(a) (as applicable to compensation of Under Secretary), 79 Stat. 668.

The deletion of paragraph (41) of 5 U.S.C. 5314 reflects the abolition of the position of “Deputy Administrator of the Housing and Home Finance Agency” by the act of September 9, 1965, Public Law 89-174, sections 5(a), 9(c), 79 Stat. 669, 671.

In paragraph (49), the words “In lieu of receiving compensation at the rate prescribed by section 785(c) of this title” are omitted since the provisions of 20 U.S.C. 785(c) relating to compensation are repealed by this bill; also see table II. The wording further reflects the first sentence of 20 U.S.C. 954(d), and conforms to 5 U.S.C. 5314 which applies to positions rather than individuals.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 identically renumbered section 251(e) of Pub. L. 103-354, cited as a credit to this section, as section 251(g) of that Act. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234.

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Paragraph designation for the position added by Pub. L. 96-88 has been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96-54.

AMENDMENTS

2011—Pub. L. 111-358 inserted item relating to Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.

2010—Pub. L. 111-259 substituted “Deputy Director of the Central Intelligence Agency” for “Deputy Directors of Central Intelligence (2)”.

Pub. L. 111-203, § 152(j), inserted item relating to Director of the Office of Financial Research.

Pub. L. 111-203, § 111(i)(2), inserted item relating to Independent Member of the Financial Stability Oversight Council.

2009—Pub. L. 111-84 substituted “Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.” for “Deputy Under Secretary of Defense for Acquisition and Technology.”

2008—Pub. L. 110-181 inserted item relating to Deputy Chief Management Officer of the Department of Defense.

2007—Pub. L. 110-140 inserted item relating to Chief Executive Officer, International Clean Energy Foundation.

Pub. L. 110-69 struck out item relating to Under Secretary of Commerce for Technology.

2006—Pub. L. 109-435 substituted “Chairman, Postal Regulatory Commission” for “Chairman, Postal Rate Commission”.

Pub. L. 109-364 struck out item relating to Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Pub. L. 109-295 inserted item relating to Deputy Administrators, Federal Emergency Management Agency.

Pub. L. 109-280 inserted item relating to Director, Pension Benefit Guaranty Corporation.

Pub. L. 109-163, which directed insertion of items relating to Under Secretary of the Air Force, Under Secretary of the Army, and Under Secretary of the Navy after “Under Secretary of Defense for Intelligence”, was executed by inserting such items after “Under Sec-

retary of Defense for Intelligence.”, to reflect the probable intent of Congress.

2005—Pub. L. 109-58 substituted “Under Secretaries of Energy (3)” for “Under Secretaries of Energy (2)”.

2004—Pub. L. 108-447 struck out item relating to Chairman, Board of Directors of the Tennessee Valley Authority.

Pub. L. 108-426, § 4(f), substituted “Administrator, Research and Innovative Technology Administration” for “Administrator, Research and Special Programs Administration”.

Pub. L. 108-426, § 2(d), inserted item relating to Administrator, Pipeline and Hazardous Materials Safety Administration.

Pub. L. 108-411 inserted item relating to Administrator of the Office of Electronic Government.

2003—Pub. L. 108-173 inserted item relating to Administrator of Centers for Medicare & Medicaid Services.

2002—Pub. L. 107-314 inserted item relating to Under Secretary of Defense for Intelligence.

Pub. L. 107-296, § 1702(a)(3), inserted items relating to Under Secretaries, Department of Homeland Security and Director of the Bureau of Citizenship and Immigration Services.

Pub. L. 107-296, § 411(b)(2), substituted “Commissioner of Customs, Department of Homeland Security.” for “Commissioner of Customs, Department of the Treasury”.

Pub. L. 107-110 inserted item relating to Under Secretary of Education.

2000—Pub. L. 106-569 struck out item relating to Members, Board of Governors of the Federal Reserve System.

Pub. L. 106-476 inserted item relating to Chief Agricultural Negotiator.

1999—Pub. L. 106-159 inserted item relating to Administrator of the Federal Motor Carrier Safety Administration.

Pub. L. 106-113, § 1000(a)(9) [title IV, § 4720(a)], substituted “Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.” for “Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.”

Pub. L. 106-113, § 1000(a)(5) [title II, § 238(a)(2)], inserted item relating to Commissioner of Customs, Department of the Treasury.

Pub. L. 106-65, § 3293(a), substituted “Under Secretaries of Energy (2)” for “Under Secretary, Department of Energy”.

Pub. L. 106-65, § 911(b)(2), inserted item relating to Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

1998—Pub. L. 105-368 inserted item relating to Under Secretary for Memorial Affairs, Department of Veterans Affairs.

Pub. L. 105-304 inserted items relating to Assistant Secretary of Commerce and Commissioner of Patents and Trademarks and Register of Copyrights.

Pub. L. 105-277, § 2305(a)(2), substituted “Under Secretaries of State (6)” for “Under Secretaries of State (5)”.

Pub. L. 105-277, § 1224(2), struck out item relating to Deputy Director of the United States Arms Control and Disarmament Agency.

Pub. L. 105-277, § 713(a)(3), inserted items relating to Deputy Director for Demand Reduction, Office of National Drug Control Policy, Deputy Director for Supply Reduction, Office of National Drug Control Policy, and Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

Pub. L. 105-277, § 101(a) [title X, § 1001(3)], added Pub. L. 103-354, § 285(e). See 1994 Amendment note below.

1996—Pub. L. 104-293 substituted “Deputy Directors of Central Intelligence (2)” for “Deputy Director of Central Intelligence”.

Pub. L. 104-127 substituted “Under Secretary of Agriculture for Rural Development” for “Under Secretary of Agriculture for Rural Economic and Community Development”.

Pub. L. 104-105 struck out item relating to Chairperson, Board of Directors of the Farm Credit System Insurance Corporation.

1995—Pub. L. 104-88 substituted “Chairman, Surface Transportation Board” for “Chairman, Interstate Commerce Commission”.

1994—Pub. L. 103-354, § 251(g), formerly § 251(e), as renumbered by Pub. L. 110-246, § 7511(a)(3), inserted item relating to Under Secretary of Agriculture for Research, Education, and Economics.

Pub. L. 103-354, § 285(e), as added by Pub. L. 105-277, § 101(a) [title X, § 1001(3)], inserted item relating to Under Secretary of Agriculture for Marketing and Regulatory Programs.

Pub. L. 103-354, §§ 225(e)(2), 231(f)(2), 241(e), 245(e), 261(c), substituted “Under Secretary of Agriculture for Farm and Foreign Agricultural Services” for “Under Secretary of Agriculture for International Affairs and Commodity Programs”, inserted items relating to Under Secretaries of Agriculture for Food, Nutrition, and Consumer Services; for Natural Resources and Environment; and for Food Safety, and substituted “Under Secretary of Agriculture for Rural Economic and Community Development” for “Under Secretary of Agriculture for Small Community and Rural Development”.

Pub. L. 103-337 substituted “Under Secretary of Defense (Comptroller)” for “Comptroller of the Department of Defense”.

Pub. L. 103-236 inserted item relating to Under Secretaries of State (5) and struck out items relating to Under Secretary of State for Political Affairs and Under Secretary of State for Economic and Agricultural Affairs and an Under Secretary of State for Coordinating Security Assistance Programs and Under Secretary of State for Management and Counselor of the Department of State.

Pub. L. 103-211 inserted item relating to Under Secretary of the Treasury (3) and struck out items relating to Under Secretary of the Treasury (or Counselor) and Under Secretary of the Treasury for Monetary Affairs.

1993—Pub. L. 103-204, which directed striking out of “chief executive officer of the Resolution Trust Corporation.”, was executed by striking “chief executive officer, Resolution Trust Corporation.” to reflect the probable intent of Congress.

Pub. L. 103-160 inserted items relating to Comptroller of the Department of Defense and Under Secretary of Defense for Personnel and Readiness and substituted “Deputy Under Secretary of Defense for Acquisition and Technology” for “Deputy Under Secretary of Defense for Acquisition”.

1992—Pub. L. 102-552 inserted item relating to Chairperson, Board of Directors of the Farm Credit System Insurance Corporation.

Pub. L. 102-549 substituted “Director, Trade and Development Agency” for “Director, Trade and Development Program”.

Pub. L. 102-508 inserted item relating to Administrator, Research and Special Programs Administration.

Pub. L. 102-405 substituted “Under Secretary for Health, Department of Veterans Affairs” for “Chief Medical Director, Department of Veterans Affairs” and “Under Secretary for Benefits, Department of Veterans Affairs” for “Chief Benefits Director, Department of Veterans Affairs”.

Pub. L. 102-378 struck out each of the items relating to Under Secretary of Education, Under Secretary of Health and Human Services, Under Secretary of the Interior, and Under Secretary of Housing and Urban Development.

1991—Pub. L. 102-240 substituted “Federal Transit Administrator” for “Urban Mass Transportation Administrator”.

Pub. L. 102-233 inserted item relating to chief executive officer, Resolution Trust Corporation.

Pub. L. 102-103 inserted item relating to Under Secretary of Education.

1990—Pub. L. 101-576 inserted item relating to Controller, Office of Federal Financial Management, Office of Management and Budget.

Pub. L. 101-509 directed the amendment of this section by striking the following:

“Under Secretary of Health and Human Services.
“Under Secretary of the Interior.
“Under Secretary of Education.
“Under Secretary of Housing and Urban Development.”

Section did not contain the positions in the order referred to in Pub. L. 101-509. See 1992 Amendment note above for Pub. L. 102-378.

Pub. L. 101-328 inserted item relating to Executive Secretary, National Space Council.

1989—Pub. L. 101-73 inserted items relating to Director of the Office of Thrift Supervision and Chairperson of the Federal Housing Finance Board, and struck out item relating to Chairman of the Federal Home Loan Bank Board.

1988—Pub. L. 100-690, §1007(c)(3), struck out item relating to Director of Office of Drug Abuse Policy.

Pub. L. 100-690, §§1003(a)(4)(B), 1009, temporarily inserted items relating to Deputy Director for Demand Reduction, Office of National Drug Control Policy, and Deputy Director for Supply Reduction, Office of National Drug Control Policy. See Effective and Termination Dates of 1988 Amendments note below.

Pub. L. 100-679 inserted items relating to Administrator for Federal Procurement Policy and to Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, and struck out item relating to Deputy Director of Office of Management and Budget.

Pub. L. 100-598 inserted item relating to Director of Office of Government Ethics.

Pub. L. 100-527 inserted items relating to Chief Medical Director, Department of Veterans Affairs, and Chief Benefits Director, Department of Veterans Affairs, and struck out item relating to Deputy Administrator of Veterans' Affairs.

Pub. L. 100-519 inserted item relating to Under Secretary of Commerce for Technology.

Pub. L. 100-456 inserted item relating to Members, Defense Nuclear Facilities Safety Board after item relating to Members, Nuclear Regulatory Commission.

Pub. L. 100-418 inserted item relating to Director, Trade and Development Program.

1986—Pub. L. 99-659 substituted “Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration” for “Administrator, National Oceanic and Atmospheric Administration”.

Pub. L. 99-619 struck out item relating to Under Secretary of Labor.

Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661, amended section identically, inserting item relating to Deputy Under Secretary of Defense for Acquisition and striking out item relating to Director of Defense Research and Engineering.

Pub. L. 99-348 substituted “Under Secretary of Defense for Policy” for “Under Secretaries of Defense (2)” and inserted item relating to Director of Defense Research and Engineering.

Pub. L. 99-335 inserted item relating to Executive Director, Federal Retirement Thrift Investment Board.

1985—Pub. L. 99-93, §116(b), substituted “Under Secretary of State for Economic and Agricultural Affairs” for “Under Secretary of State for Economic Affairs”.

Pub. L. 99-93, §704(a)(1), inserted item relating to Deputy Director of United States Arms Control and Disarmament Agency.

Pub. L. 99-64 inserted item relating to Under Secretary of Commerce for Export Administration.

1984—Pub. L. 98-497 inserted item relating to Archivist of United States.

Pub. L. 98-473 struck out item relating to Director of Office of Justice Assistance, Research, and Statistics.

Pub. L. 98-443 struck out item relating to Chairman of Civil Aeronautics Board.

Pub. L. 98-216 substituted “Deputy Director of the Office of Management and Budget” for “Deputy Director of the Bureau of the Budget”.

1983—Pub. L. 98-164 inserted item relating to Counselor of Department of State.

Pub. L. 98-80 inserted item relating to Deputy Administrator of Environmental Protection Agency.

Pub. L. 97-456, §3(d)(6), substituted “Deputy United States Trade Representatives (3)” for “Deputy Special Representatives for Trade Negotiations (2)”.

Pub. L. 97-449 substituted “Administrator of the National Highway Traffic Safety Administration” for “Administrator, Federal Highway Administration”.

1982—Pub. L. 97-377 inserted item relating to Executive Director of Property Review Board.

Pub. L. 97-195 substituted “Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, and Under Secretary of Commerce for Travel and Tourism” for “Under Secretary of Commerce and Under Secretary of Commerce for Travel and Tourism”.

1981—Pub. L. 97-63 substituted “Under Secretary of Commerce and Under Secretary of Commerce for Travel and Tourism” for “Under Secretary of Commerce”.

Pub. L. 97-31 inserted item relating to Administrator, Maritime Administration.

1980—Pub. L. 96-355 inserted item relating to Under Secretary of Agriculture for Small Community and Rural Development.

1979—Pub. L. 96-157 inserted item relating to Director, Office of Justice Assistance, Research, and Statistics, and struck out item relating to Administrator of Law Enforcement Assistance.

Pub. L. 96-88, §508(g), substituted “Health and Human Services” for “Health, Education, and Welfare” in item relating to Under Secretary of Health and Human Services.

Par. (5). Pub. L. 96-88, §508(d), added par. (5) relating to Under Secretary of Education. See Codification note above.

Pars. (1) to (70). Pub. L. 96-54 struck out paragraph designations for positions listed herein.

Par. (70). Pub. L. 96-53 added par. (70) relating to Director, Institute for Scientific and Technological Cooperation.

1978—Par. (9). Pub. L. 95-426 inserted “and Under Secretary of State for Management”.

Par. (17). Pub. L. 95-454, §202(c)(1), substituted “Merit Systems Protection Board” for “United States Civil Service Commission”.

Par. (66). Pub. L. 95-630 added par. (66) relating to Chairman, National Credit Union Administration Board.

Par. (68). Pub. L. 95-454, §201(b)(2), added par. (68) relating to Deputy Director of Office of Personnel Management.

Par. (69). Pub. L. 95-501 added par. (69) relating to Under Secretary of Agriculture for International Affairs and Commodity Programs.

1977—Par. (21). Pub. L. 95-91 substituted “Federal Energy Regulatory Commission” for “Federal Power Commission”.

Par. (32). Pub. L. 95-140 substituted “Under Secretaries of Defense (2)” for “Director of Defense Research and Engineering, Department of Defense”.

Par. (60). Pub. L. 95-91 substituted “Under Secretary, Department of Energy” for “Deputy Administrator, Energy Research and Development Administration”.

Par. (66). Pub. L. 95-164 added par. (66) relating to Chairman, Federal Mine Safety and Health Review Commission.

Pub. L. 95-139 added par. (66) relating to Associate Attorney General.

1976—Par. (3). Pub. L. 94-561 repealed par. (3) relating to Under Secretary of Agriculture.

Par. (64). Pub. L. 94-237 added par. (64) relating to Director of Office of Drug Abuse Policy.

Par. (65). Pub. L. 94-461 added par. (65) relating to Administrator, National Oceanic and Atmospheric Administration.

1975—Pub. L. 94-82 substituted provisions applying level III of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with

respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level III to positions for which annual rate of basic pay is \$29,500.

Par. (38). Pub. L. 94-123 repealed par. (38) relating to Chief Medical Director in Department of Medicine and Surgery, Veterans' Administration.

Par. (54). Pub. L. 94-183 redesignated par. (55), relating to Chairman, Postal Rate Commission, as par. (54).

Pars. (56), (57). Pub. L. 94-183 redesignated par. (57) relating to Chairman, Occupational Safety and Health Review Commission, and par. (58) relating to Governor of the Farm Credit Administration, as pars. (56) and (57), respectively.

Par. (60). Pub. L. 93-618, §141(b)(3)(B), added par. (60) relating to Deputy Special Representative for Trade Negotiations. For renumbering by Pub. L. 94-183, see item relating to par. (62) hereunder.

Par. (61). Pub. L. 94-183 redesignated par. (60), relating to Chairman, Commodity Futures Trading Commission, as par. (61).

Pub. L. 93-618, §172(c)(1), added par. (61). For renumbering by Pub. L. 94-183, see item relating to par. (63) hereunder.

Pars. (62), (63). Pub. L. 94-183 redesignated par. (60) relating to Deputy Special Representatives for Trade Negotiations, and par. (61) relating to Chairman, United States International Trade Commission, as pars. (62) and (63), respectively.

1974—Par. (42). Pub. L. 93-438 substituted "Members, Nuclear Regulatory Commission" for "Members, Atomic Energy Commission".

Par. (60). Pub. L. 93-463 added par. (60) relating to Chairman, Commodity Futures Trading Commission.

Pub. L. 93-438 added par. (60) relating to Deputy Administrator, Energy Research and Development Administration.

1973—Par. (55). Pub. L. 93-83 reenacted par. (55) relating to Administrator of Law Enforcement Assistance.

1972—Par. (9). Pub. L. 92-352 substituted "and" for "or", after "Political Affairs".

Pub. L. 92-226 included position of an Under Secretary of State for Coordinating Security Assistance Programs.

Par. (10). Pub. L. 92-302 substituted "Under Secretary of the Treasury (or Counselor)" for "Under Secretary of the Treasury".

Par. (58). Pub. L. 92-261 added par. (58) relating to Chairman, Equal Employment Opportunity Commission.

Par. (59). Pub. L. 92-573 added par. (59) relating to Chairman, Consumer Product Safety Commission.

1971—Pars. (1) to (54). Pub. L. 91-644, §8(a), struck out par. (1) relating to Deputy Attorney General, now a level II position under section 5313 of this title, renumbered pars. (2) through (54) as (1) through (53), respectively.

Par. (55). Pub. L. 91-644, §7(1), in amending section 505 of Pub. L. 90-351, renumbered par. (90) "Administrator of Law Enforcement Assistance" of section 5315 of this title as par. (55) of this section.

Par. (58). Pub. L. 92-181 added par. (58) relating to Governor of Farm Credit Administration.

1970—Par. (3). Pub. L. 91-375, §6(c)(13)(A), struck out par. (3) relating to Deputy Postmaster General.

Par. (55). Pub. L. 91-375, §6(c)(13)(B), added par. (55) relating to Chairman, Postal Rate Commission.

Par. (57). Pub. L. 91-596 added par. (57) relating to Chairman, Occupational Safety and Health Review Commission.

1969—Par. (54). Pub. L. 91-175 added par. (54) relating to President, Overseas Private Investment Corporation.

1968—Par. (40). Pub. L. 90-407 substituted "Deputy Director, National Science Foundation" for "Director of the National Science Foundation".

Par. (53). Pub. L. 90-623 added par. (53) relating to Urban Mass Transportation Administrator.

1967—Pub. L. 90-206 increased annual rate of basic pay from \$28,500 to \$29,500.

1966—Pub. L. 89-670 added pars. (46) to (48), relating to Administrator of Federal Highway Administration, Ad-

ministrator of the Federal Railroad Administration, and Chairman of National Transportation Safety Board, respectively, and repealed par. (6) which provided for Under Secretary of Commerce for Transportation, subject to the provisions of section 1657 of former Title 49, Transportation.

CHANGE OF NAME

"Export-Import Bank of Washington", referred to in text, was changed to "Export-Import Bank of the United States" in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, as provided for in section 1(a) of Pub. L. 90-267, Mar. 13, 1968, 82 Stat. 47.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-259 applicable on the earlier of (1) the date of the appointment by the President of an individual to serve as Deputy Director of the Central Intelligence Agency (CIA) pursuant to section 403-4c of Title 50, War and National Defense, as added by section 423(a) of Pub. L. 111-259, with certain exceptions; or (2) the date of the cessation of the performance of the duties of the Deputy Director of the CIA by the individual administratively performing such duties as of Oct. 7, 2010, see section 423(c) of Pub. L. 111-259, set out as an Effective Date note under section 403-4c of Title 50.

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title IX, §942(c), Oct. 17, 2006, 120 Stat. 2365, provided that: "The amendments made by this section [amending this section and section 5315 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006], and shall apply with respect to individuals appointed as Deputy Under Secretary of Defense for Logistics and Materiel Readiness on or after that date."

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108-447 take office or May 18, 2005, see section 604(b) of Pub. L. 108-447, set out as an Appointments; Effective Date; Transition note under section 831a of Title 16, Conservation.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-173, title IX, §900(d)(3), Dec. 8, 2003, 117 Stat. 2370, provided that: "The amendments made by this subsection [amending this section and section 5315 of this title] take effect on January 1, 2004."

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107-110, title X, §1071(b), Jan. 8, 2002, 115 Stat. 2088, provided that: "This section [amending this section] shall take effect on the first day of the first pay period on or after the date of enactment of this Act [Jan. 8, 2002]."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve

System beginning on or after Dec. 27, 2000, see section 1002(b) of Pub. L. 106-569, set out as a note under section 5312 of this title.

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by Pub. L. 106-159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106-159, set out as a note under section 104 of Title 49, Transportation.

Pub. L. 106-113, div. B, §1000(a)(5) [title II, §238(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-302, provided that: "The amendment made by this subsection [probably means this section, amending this section and section 5315 of this title] shall take effect on January 1, 2000."

Amendment by section 1000(a)(9) [title IV, §4720(a)] of Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of Title 35, Patents.

Amendment by section 3293(a) of Pub. L. 106-65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1224(2) of Pub. L. 105-277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102-552 effective Jan. 1, 1996, see section 201(c)(1) of Pub. L. 102-552, set out as an Effective Date of 1992 Amendment; Transitional Provision note under section 2277a-2 of Title 12, Banks and Banking.

Amendment by Pub. L. 102-378 effective as of the first day of the first applicable pay period beginning on or after Nov. 5, 1990, see section 9(b)(10) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102-233 effective Feb. 1, 1992, see section 318 of Pub. L. 102-233, set out as a note under section 1441 of Title 12, Banks and Banking.

Amendment by Pub. L. 102-103 effective on first day of first pay period beginning on or after Aug. 17, 1991, see section 203 of Pub. L. 102-103, set out as a note under section 3412 of Title 20, Education.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Health and Human Services, Under Secretary of the Interior, Under Secretary of Education, and Under Secretary of Housing and Urban Development, see section 529 [title I, §112(e)] of Pub. L. 101-509, set out as a note under section 3404 of Title 20, Education.

Section 6 of Pub. L. 101-328 provided that: "The provisions of this Act [amending this section and enacting provisions set out as notes under section 2471 of Title 42, The Public Health and Welfare] are effective as of October 1, 1989."

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by Pub. L. 100-690 effective Jan. 21, 1989, and amendment by section 1003(a)(4)(B) of Pub. L. 100-690 repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100-690.

Amendment by Pub. L. 100-679 effective Jan. 20, 1989, see section 11(e) of Pub. L. 100-679, set out as a note under section 5312 of this title.

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 116(d) of Pub. L. 99-64, as amended by Pub. L. 99-441, §5, Oct. 3, 1986, 100 Stat. 1118, provided that: "The provisions of section 15(a) of the Export Administration Act of 1979 [50 U.S.C. App. 2414(a)], as amended by subsection (a) of this section, and the amendments made by subsections (b) and (c) of this section [amending sections 5314 and 5315 of this title] shall take effect on October 1, 1987."

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of Title 44, Public Printing and Documents.

Amendment by section 609J of Pub. L. 98-473 effective Oct. 12, 1984, see section 609AA of Pub. L. 98-473, set out as an Effective Date note under section 3711 of Title 42, The Public Health and Welfare.

Section 9(v) of Pub. L. 98-443 provided that: "The amendments made by this section [amending sections 5314 and 5315 of this title, sections 1622 and 2145 of Title 7, Agriculture, sections 4746 and 9746 of Title 10, Armed Forces, sections 18, 21, 1607, 1681s, 1691c, and 1692f of Title 15, Commerce and Trade, section 18b of Title 16, Conservation, sections 47 and 7701 of Title 26, Internal Revenue Code, section 3726 of Title 31, Money and Finance, sections 3401, 5005, 5401, and 5402 of Title 39, Postal Service, section 3502 of Title 44, Public Printing and Documents, and sections 1159a, 1159b, 1301, 1305, 1377, 1382, 1388, 1389, and 1537 of former Title 49, Transportation] shall take effect on January 1, 1985."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-63 effective Oct. 1, 1981, see section 6 of Pub. L. 97-63, set out as a note under section 2121 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-355 effective Oct. 1, 1980, see section 10 of Pub. L. 96-355, set out as an Effective Date note under section 2204b of Title 7, Agriculture.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

Amendment by Pub. L. 96-54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96-54, set out as a note under section 5312 of this title.

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of Title 12, Banks and Banking.

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.

Section 114(c) of Pub. L. 95-426 provided that: "The amendments made by this section [amending sections 5314 and 5315 of this title and section 2652 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as a note under section 2652 of Title 22] shall take effect on October 1, 1978."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of Title 30, Mineral Lands and Mining.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 6(a), formerly section 6(a)(1), of Pub. L. 94-123, as renumbered Pub. L. 96-330, title I, §101, Aug. 26, 1980, 94 Stat. 1030, provided that: "The amendments made by section 2 of this Act [enacting former section 4118 of Title 38, Veterans' Benefits, amending this section, section 5315 of this title, and former section 4107 of Title 38, and enacting provisions set out as notes under former section 4118 of Title 38] shall become effective on October 12, 1975."

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811 to 5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment by Pub. L. 93-83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83, Aug. 6, 1973, 83 Stat. 218.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-302 effective May 18, 1972, see section 3 of Pub. L. 92-302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Amendment by Pub. L. 90-407 effective on first day of first calendar month which begins on or after July 18, 1968, see section 15 (a)(4) of Pub. L. 90-407, set out as a note under section 5313 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967 as prescribed by President and published in Federal Reg-

ister, see section 16(a), formerly §15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

TRANSFER OF FUNCTIONS

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92-302, not eligible to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92-302, May 18, 1972, 86 Stat. 149.

DIRECTOR OF FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE

Director of Federal Bureau of Investigation, Department of Justice to receive compensation at rate prescribed for level II of Federal Executive Salary Schedule (5 U.S.C. 5313), effective as of day following date on which person holding such office on June 19, 1968, ceases to serve as Director, see section 1101(a) of Pub. L. 90-351, set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure.

Position of Director of Federal Bureau of Investigation, referred to in text, placed temporarily in level II during incumbency of incumbent on Aug. 14, 1964, by Pub. L. 88-426, Aug. 14, 1964, §303(b)(15), 78 Stat. 416.

Section 1101(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. 90-351, June 19, 1968, 82 Stat. 236), which is set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure, provided in part that when present incumbent of position of Director leaves office, his successors will be paid at rate prescribed for level II.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

- Deputy Administrator of General Services.
- Associate Administrator of the National Aeronautics and Space Administration.
- Assistant Administrators, Agency for International Development (6).
- Regional Assistant Administrators, Agency for International Development (4).
- Assistant Secretaries of Agriculture (3).
- Assistant Secretaries of Commerce (11).
- Assistant Secretaries of Defense (16).
- Assistant Secretaries of the Air Force (4).
- Assistant Secretaries of the Army (5).
- Assistant Secretaries of the Navy (4).
- Assistant Secretaries of Health and Human Services (6).

- Assistant Secretaries of the Interior (6).
 Assistant Attorneys General (11).
 Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training.
 Assistant Secretaries of State (24) and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate.
 Assistant Secretaries of the Treasury (10).
 Members, United States International Trade Commission (5).
 Assistant Secretaries of Education (10).
 General Counsel, Department of Education.
 Director of Civil Defense, Department of the Army.
 Deputy Director of the Office of Emergency Planning.
 Deputy Director of the Office of Science and Technology.
 Deputy Director of the Peace Corps.
 Assistant Directors of the Office of Management and Budget (3).
 General Counsel of the Department of Agriculture.
 General Counsel of the Department of Commerce.
 General Counsel of the Department of Defense.
 General Counsel of the Department of Health and Human Services.
 Solicitor of the Department of the Interior.
 Solicitor of the Department of Labor.
 General Counsel of the National Labor Relations Board.
 General Counsel of the Department of the Treasury.
 First Vice President of the Export-Import Bank of Washington.
 Members, Council of Economic Advisers.
 Members, Board of Directors of the Export-Import Bank of Washington.
 Members, Federal Communications Commission.
 Member, Board of Directors of the Federal Deposit Insurance Corporation.
 Directors, Federal Housing Finance Board.
 Members, Federal Energy Regulatory Commission.
 Members, Federal Trade Commission.
 Members, Surface Transportation Board.
 Members, National Labor Relations Board.
 Members, Securities and Exchange Commission.
 Members, Merit Systems Protection Board.
 Members, Federal Maritime Commission.
 Members, National Mediation Board.
 Members, Railroad Retirement Board.
 Director of Selective Service.
 Associate Director of the Federal Bureau of Investigation, Department of Justice.
 Members, Equal Employment Opportunity Commission (4).
 Director, Community Relations Service.
 Members, National Transportation Safety Board.
 General Counsel, Department of Transportation.
 Deputy Administrator, Federal Aviation Administration.
- Assistant Secretaries of Transportation (4).
 Deputy Federal Highway Administrator.
 Administrator of the Saint Lawrence Seaway Development Corporation.
 Assistant Secretary for Science, Smithsonian Institution.
 Assistant Secretary for History and Art, Smithsonian Institution.
 Deputy Administrator of the Small Business Administration.
 Assistant Secretaries of Housing and Urban Development (8).
 General Counsel of the Department of Housing and Urban Development.
 Commissioner of Interama.
 Federal Insurance Administrator, Federal Emergency Management Agency.
 Executive Vice President, Overseas Private Investment Corporation.
 Members, National Credit Union Administration Board (2).
 Members, Postal Regulatory Commission (4).
 Members, Occupational Safety and Health Review Commission.
 Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).
 Members, Consumer Product Safety Commission (4).
 Members, Commodity Futures Trading Commission.
 Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.
 Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.
 Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.
 Executive Director for Operations, Nuclear Regulatory Commission.
 President, Government National Mortgage Association, Department of Housing and Urban Development.
 Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.
 Director, Bureau of Prisons, Department of Justice.
 Assistant Secretaries of Energy (8).
 General Counsel of the Department of Energy.
 Administrator, Economic Regulatory Administration, Department of Energy.
 Administrator, Energy Information Administration, Department of Energy.
 Director, Office of Indian Energy Policy and Programs, Department of Energy.
 Director, Office of Science, Department of Energy.
 Assistant Secretary of Labor for Mine Safety and Health.
 Members, Federal Mine Safety and Health Review Commission.
 President, National Consumer Cooperative Bank.
 Special Counsel of the Merit Systems Protection Board.
 Chairman, Federal Labor Relations Authority.
 Assistant Secretaries, Department of Homeland Security.

General Counsel, Department of Homeland Security.

Officer for Civil Rights and Civil Liberties, Department of Homeland Security.

Chief Financial Officer, Department of Homeland Security.

Chief Information Officer, Department of Homeland Security.

Deputy Director, Institute for Scientific and Technological Cooperation.

Director of the National Institute of Justice.

Director of the Bureau of Justice Statistics.

Chief Counsel for Advocacy, Small Business Administration.

Assistant Administrator for Toxic Substances, Environmental Protection Agency.

Assistant Administrator, Office of Solid Waste, Environmental Protection Agency.

Assistant Administrators, Environmental Protection Agency (8).

Director of Operational Test and Evaluation, Department of Defense.

Director of Cost Assessment and Program Evaluation, Department of Defense.

Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State.

Ambassadors at Large.

Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Assistant Secretaries, Department of Veterans Affairs (7).

General Counsel, Department of Veterans Affairs.

Commissioner of Food and Drugs, Department of Health and Human Services¹

Chairman, Board of Veterans' Appeals.

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Director, United States Marshals Service.

Chairman, United States Parole Commission.

Director, Bureau of the Census, Department of Commerce.

Director of the Institute of Museum and Library Services.

Chief Financial Officer, Department of Agriculture.

Chief Financial Officer, Department of Commerce.

Chief Financial Officer, Department of Education.

Chief Financial Officer, Department of Energy.

Chief Financial Officer, Department of Health and Human Services.

Chief Financial Officer, Department of Housing and Urban Development.

Chief Financial Officer, Department of the Interior.

Chief Financial Officer, Department of Justice.

Chief Financial Officer, Department of Labor.

Chief Financial Officer, Department of State.

Chief Financial Officer, Department of Transportation.

Chief Financial Officer, Department of the Treasury.

Chief Financial Officer, Department of Veterans Affairs.

Chief Financial Officer, Environmental Protection Agency.

Chief Financial Officer, National Aeronautics and Space Administration.

Commissioner, Office of Navajo and Hopi Indian Relocation.

Principal Deputy Under Secretary of Defense for Policy.

Principal Deputy Under Secretary of Defense for Personnel and Readiness.

Principal Deputy Under Secretary of Defense (Comptroller).

Principal Deputy Under Secretary of Defense for Intelligence.

General Counsel of the Department of the Army.

General Counsel of the Department of the Navy.

General Counsel of the Department of the Air Force.

Liaison for Community and Junior Colleges, Department of Education.

Director of the Office of Educational Technology.

Director of the International Broadcasting Bureau.

The² Commissioner of Labor Statistics, Department of Labor.

Administrator, Rural Utilities Service, Department of Agriculture.

Chief Information Officer, Department of Agriculture.

Chief Information Officer, Department of Commerce.

Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this title).

Chief Information Officer, Department of Education.

Chief Information Officer, Department of Energy.

Chief Information Officer, Department of Health and Human Services.

Chief Information Officer, Department of Housing and Urban Development.

Chief Information Officer, Department of the Interior.

Chief Information Officer, Department of Justice.

Chief Information Officer, Department of Labor.

Chief Information Officer, Department of State.

Chief Information Officer, Department of Transportation.

Chief Information Officer, Department of the Treasury.

Chief Information Officer, Department of Veterans Affairs.

Chief Information Officer, Environmental Protection Agency.

Chief Information Officer, National Aeronautics and Space Administration.

¹ So in original. Probably should be followed by a period.

² The word "The" probably should not appear.

Chief Information Officer, Agency for International Development.

Chief Information Officer, Federal Emergency Management Agency.

Chief Information Officer, General Services Administration.

Chief Information Officer, National Science Foundation.

Chief Information Officer, Nuclear Regulatory Agency.

Chief Information Officer, Office of Personnel Management.

Chief Information Officer, Small Business Administration.

Chief Information Officer of the Intelligence Community.

General Counsel of the Central Intelligence Agency.

Principal Deputy Administrator, National Nuclear Security Administration.

Additional Deputy Administrators of the National Nuclear Security Administration (3), but if the Deputy Administrator for Naval Reactors is an officer of the Navy on active duty, (2).

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

General Counsel of the Office of the Director of National Intelligence.

Chief Medical Officer, Department of Homeland Security.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 461; Pub. L. 89-670, §10(d)(4), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 89-734, §1(1), Nov. 2, 1966, 80 Stat. 1163; Pub. L. 89-779, §8(c)(1), Nov. 6, 1966, 80 Stat. 1364; Pub. L. 90-83, §1(15), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-206, title II, §215(b), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90-351, title I, §505, June 19, 1968, 82 Stat. 205; Pub. L. 90-448, title XI, §1105(b), title XVII, §1708(b), Aug. 1, 1968, 82 Stat. 567, 606; Pub. L. 90-623, §1(4), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91-121, title IV, §404(b), Nov. 19, 1969, 83 Stat. 207; Pub. L. 91-175, pt. V, §503(2), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91-206, §5(b), Mar. 10, 1970, 84 Stat. 51; Pub. L. 91-375, §6(c)(14), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91-469, §42(b), Oct. 21, 1970, 84 Stat. 1038; Pub. L. 91-477, §3(b), Oct. 21, 1970, 84 Stat. 1072; Pub. L. 91-596, §§12(c)(2), 29(b), Dec. 29, 1970, 84 Stat. 1604, 1619; Pub. L. 91-611, title II, §211(b), Dec. 31, 1970, 84 Stat. 1829; Pub. L. 91-644, title I, §7 (1), (2), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 92-22, §2, June 1, 1971, 85 Stat. 76; Pub. L. 92-181, title V, §5.41(a), formerly §5.27(a), Dec. 10, 1971, 85 Stat. 625, renumbered Pub. L. 99-205, title II, §205(a)(2), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 92-215, §2, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92-255, title II, §212(b), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92-261, §9(b), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92-302, §2(c), May 18, 1972, 86 Stat. 149; Pub. L. 92-352, title I, §104(3), July 13, 1972, 86 Stat. 490; Pub. L. 92-419, title VI, §604(b), Aug. 30, 1972, 86 Stat. 676; Pub. L. 92-573, §4(h)(2), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 92-603, title IV, §404(b), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 90-351, title I, §506(a), as added Pub. L. 93-83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-126, §9(b), as added Pub. L. 93-312, §9, June 8, 1974, 88 Stat. 238; Pub. L. 93-383, title VIII, §818(c), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93-400, §13, Aug. 30, 1974, 88 Stat. 799;

Pub. L. 93-438, title III, §310(3), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93-463, title I, §102(b), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93-618, title I, §172(c)(2), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94-82, title II, §202(b)(4), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94-123, §2(c)(2), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94-183, §2(18), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 92-255, title II, §209(b), as added Pub. L. 94-237, §4(b), Mar. 19, 1976, 90 Stat. 243; Pub. L. 94-375, §17(c), Aug. 3, 1976, 90 Stat. 1077; Pub. L. 94-461, §4(b), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 94-503, title II, §202(b), Oct. 15, 1976, 90 Stat. 2426; Pub. L. 94-561, §3(a), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 95-88, title I, §124(b), Aug. 3, 1977, 91 Stat. 542; Pub. L. 95-91, title VII, §710(f), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-105, title I, §109(d), Aug. 17, 1977, 91 Stat. 847; Pub. L. 95-108, §2(b), Aug. 17, 1977, 91 Stat. 871; Pub. L. 95-164, title III, §302(b), Nov. 9, 1977, 91 Stat. 1319; Pub. L. 95-173, §9(b), Nov. 12, 1977, 91 Stat. 1360; Pub. L. 95-351, title III, §302, Aug. 20, 1978, 92 Stat. 514; Pub. L. 95-426, title I, §§114(b)(2), 115(b)(1), Oct. 7, 1978, 92 Stat. 969; Pub. L. 95-452, §10(a), Oct. 12, 1978, 92 Stat. 1108; Pub. L. 95-454, title II, §§202(c)(2), (3), title VII, §703(d), Oct. 13, 1978, 92 Stat. 1131, 1217; Pub. L. 95-630, title V, §502(e), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 96-39, title XI, §1106(c)(4), July 26, 1979, 93 Stat. 312; Pub. L. 96-53, title IV, §412(b), Aug. 14, 1979, 93 Stat. 377; Pub. L. 96-54, §2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96-88, title V, §508(e), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 96-107, title VIII, §820(e)(1), Nov. 9, 1979, 93 Stat. 819; Pub. L. 96-132, §5, Nov. 30, 1979, 93 Stat. 1045; Pub. L. 96-153, title VI, §603(b), Dec. 21, 1979, 93 Stat. 1138; Pub. L. 90-351, title I, §809, as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1204; Pub. L. 96-302, title IV, §403, July 2, 1980, 94 Stat. 850; Pub. L. 96-511, §4(d), Dec. 11, 1980, 94 Stat. 2826; Pub. L. 97-31, §12(1)(B), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97-35, title III, §396(h)(4), Aug. 13, 1981, 95 Stat. 441; Pub. L. 97-98, title XIV, §1414(b), Dec. 22, 1981, 95 Stat. 1303; Pub. L. 97-195, §1(b)(2), June 16, 1982, 96 Stat. 115; Pub. L. 97-252, title XI, §1117(d), Sept. 8, 1982, 96 Stat. 753; Pub. L. 97-325, §8(b), Oct. 15, 1982, 96 Stat. 1605; Pub. L. 97-449, §3(3), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 98-80, §2(c)(1), Aug. 23, 1983, 97 Stat. 485; Pub. L. 98-94, title XII, §§1211(b), 1212(d), Sept. 24, 1983, 97 Stat. 686, 687; Pub. L. 98-164, title I, §125(b)(2), Nov. 22, 1983, 97 Stat. 1026; Pub. L. 98-202, §6(b), Dec. 2, 1983, 97 Stat. 1382; Pub. L. 98-216, §3(a)(3), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98-369, title III, §2332(b), July 18, 1984, 98 Stat. 1089; Pub. L. 98-443, §9(e), Oct. 4, 1984, 98 Stat. 1707; Pub. L. 98-473, title II, §§609J(b), 1701(b), Oct. 12, 1984, 98 Stat. 2102, 2185; Pub. L. 98-594, §1(b), Oct. 30, 1984, 98 Stat. 3129; Pub. L. 99-64, title I, §116(c), July 12, 1985, 99 Stat. 153; Pub. L. 99-73, §6(b)(1), July 29, 1985, 99 Stat. 173; Pub. L. 99-93, title I, §115(b), title VII, §704(a)(2), Aug. 16, 1985, 99 Stat. 411, 445; Pub. L. 99-399, title I, §104(c), title IV, §§412(c), 413(e), formerly 413(a)(5), Aug. 27, 1986, 100 Stat. 856, 867, 868, as renumbered Pub. L. 100-204, title I, §134(b), Dec. 22, 1987, 101 Stat. 1344; Pub. L. 99-500, §101(c) [title X, §903(b)(2)(B)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, and Pub. L. 99-591, §101(c) [title X, §903(b)(2)(B)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132; Pub. L. 99-619, §2(b)(2), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 99-659, title IV, §407(e)(2), Nov. 14, 1986, 100 Stat.

3740; Pub. L. 99-661, div. A, title IX, formerly title IV, §903(b)(2)(B), Nov. 14, 1986, 100 Stat. 3912, as renumbered Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100-204, title I, §178(a)(2), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 100-297, title III, §3001(b)(2), Apr. 28, 1988, 102 Stat. 331; Pub. L. 100-418, title II, §2301(i), formerly §2301(h), title V, §5112(c)(2), Aug. 23, 1988, 102 Stat. 1341, 1431, as renumbered Pub. L. 102-429, title II, §203(b)(1), Oct. 21, 1992, 106 Stat. 2201; Pub. L. 100-485, title VI, §603(b), Oct. 13, 1988, 102 Stat. 2409; Pub. L. 100-504, title I, §103(a), Oct. 18, 1988, 102 Stat. 2521; Pub. L. 100-527, §13(f), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100-607, title V, §503(b)(2), Nov. 4, 1988, 102 Stat. 3121; Pub. L. 100-679, §11(d), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 100-687, div. A, title II, §201(b)(1), Nov. 18, 1988, 102 Stat. 4109; Pub. L. 100-690, title I, §§1003(a)(4)(C), 1007(c)(4), title VII, §§7252(b)(3), 7608(e), Nov. 18, 1988, 102 Stat. 4182, 4188, 4436, 4517; Pub. L. 101-73, title V, §501(b)(2)(A), title VII, §742(a)(2), Aug. 9, 1989, 103 Stat. 393, 436; Pub. L. 101-189, div. A, title XI, §1112, Nov. 29, 1989, 103 Stat. 1554; Pub. L. 101-319, §3(a), July 3, 1990, 104 Stat. 290; Pub. L. 101-509, title V, §529 [title I, §113(2)], Nov. 5, 1990, 104 Stat. 1427, 1455; Pub. L. 101-512, title III, §318 [title II, §202(a)(2)], Nov. 5, 1990, 104 Stat. 1960, 1975; Pub. L. 101-576, title II, §207(c), Nov. 15, 1990, 104 Stat. 2846; Pub. L. 102-138, title I, §122(d)(1), Oct. 28, 1991, 105 Stat. 659; Pub. L. 102-180, §3(g), Dec. 2, 1991, 105 Stat. 1231; Pub. L. 102-183, title IV, §404, Dec. 4, 1991, 105 Stat. 1267; Pub. L. 102-190, div. A, title IX, §§901(b), 903(a)(1), div. C, title XXXV, §3504(a), Dec. 5, 1991, 105 Stat. 1450, 1451, 1586; Pub. L. 102-325, title XV, §1553(b), July 23, 1992, 106 Stat. 839; Pub. L. 102-359, §2(b)(1), Aug. 26, 1992, 106 Stat. 962; Pub. L. 102-552, title II, §201(b)(2), Oct. 28, 1992, 106 Stat. 4105; Pub. L. 103-123, title I, §108(a)(2), Oct. 28, 1993, 107 Stat. 1234; Pub. L. 103-160, div. A, title IX, §§902(a)(2), 903(c)(2), Nov. 30, 1993, 107 Stat. 1727, 1728; Pub. L. 103-171, §3(b)(1), Dec. 2, 1993, 107 Stat. 1991; Pub. L. 103-204, §23(b), Dec. 17, 1993, 107 Stat. 2408; Pub. L. 103-227, title II, §233(b), Mar. 31, 1994, 108 Stat. 155; Pub. L. 103-236, title I, §162(d)(2), title III, §307(b)(2), title VII, §708(b), Apr. 30, 1994, 108 Stat. 405, 436, 494; Pub. L. 103-272, §4(b)(2), July 5, 1994, 108 Stat. 1361; Pub. L. 103-296, title I, §§106(a)(7)(B), 108(e)(3), Aug. 15, 1994, 108 Stat. 1476, 1486; Pub. L. 103-333, title I, §106, Sept. 30, 1994, 108 Stat. 2548; Pub. L. 103-337, div. A, title IX, §901(b), Oct. 5, 1994, 108 Stat. 2822; Pub. L. 103-354, title II, §§218(d), 232(b)(3), Oct. 13, 1994, 108 Stat. 3212, 3219; Pub. L. 104-88, title III, §301(b), Dec. 29, 1995, 109 Stat. 943; Pub. L. 104-105, title II, §219(b)(2), Feb. 10, 1996, 110 Stat. 184; Pub. L. 104-106, div. A, title IX, §902(b), div. E, title LI, §5125(e), Feb. 10, 1996, 110 Stat. 401, 686; Pub. L. 104-127, title VII, §723(b), Apr. 4, 1996, 110 Stat. 1119; Pub. L. 104-208, div. A, title I, §101(e) [title VII, §709(b)(1)], (f) [title VI, §662(c)(1)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-313, 3009-314, 3009-380; Pub. L. 104-293, title VIII, §§812(b), 813(c), Oct. 11, 1996, 110 Stat. 3482, 3483; Pub. L. 105-85, div. A, title X, §1073(e)(1), div. C, title XXXV, §3550(b), Nov. 18, 1997, 111 Stat. 1906, 2074; Pub. L. 105-245, title III, §309(b)(2)(A), Oct. 7, 1998, 112 Stat. 1853; Pub. L. 105-261, div. A, title IX, §901(b), Oct. 17, 1998, 112

Stat. 2091; Pub. L. 105-277, div. A, §101(a) [title X, §1003], div. G, subdiv. A, title XII, §1224(3), title XIII, §§1314(c), 1332(2), subdiv. B, title XXIII, §2305(b)(2), Oct. 21, 1998, 112 Stat. 2681, 2681-42, 2681-772, 2681-776, 2681-785, 2681-825; Pub. L. 105-368, title IV, §403(b)(2), Nov. 11, 1998, 112 Stat. 3338; Pub. L. 106-65, div. C, title XXXII, §§3293(b), 3294(a)(1), Oct. 5, 1999, 113 Stat. 969, 970; Pub. L. 106-113, div. B, §§1000(a)(5) [title II, §238(a)(1)], 1000(a)(9) [title IV, §4720(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-302, 1501A-581; Pub. L. 106-422, §1(c), Nov. 1, 2000, 114 Stat. 1872; Pub. L. 107-107, div. A, title IX, §901(b), (c)(2), div. C, title XXXI, §3141(b), Dec. 28, 2001, 115 Stat. 1194, 1370; Pub. L. 107-171, title VI, §6201(d)(1), title X, §10704(b), May 13, 2002, 116 Stat. 419, 518; Pub. L. 107-189, §22(b), June 14, 2002, 116 Stat. 708; Pub. L. 107-279, title IV, §404(b), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 107-287, §5(d), Nov. 7, 2002, 116 Stat. 2030; Pub. L. 107-296, title XVII, §1702(a)(4), (5), Nov. 25, 2002, 116 Stat. 2313; Pub. L. 107-314, div. A, title IX, §902(d), Dec. 2, 2002, 116 Stat. 2621; Pub. L. 108-173, title IX, §900(d)(2), Dec. 8, 2003, 117 Stat. 2370; Pub. L. 108-177, title I, §105(d)(3), Dec. 13, 2003, 117 Stat. 2604; Pub. L. 108-447, div. C, title VI, §603(c)(2), Dec. 8, 2004, 118 Stat. 2967; Pub. L. 108-458, title I, §1015(c), Dec. 17, 2004, 118 Stat. 3664; Pub. L. 109-58, title V, §502(b)(2), title X, §1006(c)(3), Aug. 8, 2005, 119 Stat. 764, 932; Pub. L. 109-163, div. A, title IX, §901(b), Jan. 6, 2006, 119 Stat. 3397; Pub. L. 109-177, title V, §506(a)(3), Mar. 9, 2006, 120 Stat. 247; Pub. L. 109-295, title VI, §612(a)(3), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 109-364, div. A, title IX, §§901(b), 942(a), Oct. 17, 2006, 120 Stat. 2350, 2365; Pub. L. 109-435, title VI, §604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 110-49, §11(b), July 26, 2007, 121 Stat. 260; Pub. L. 110-343, div. A, title I, §101(a)(3)(B)(i), Oct. 3, 2008, 122 Stat. 3767; Pub. L. 110-409, §4(a)(2), Oct. 14, 2008, 122 Stat. 4303; Pub. L. 111-11, title XIII, §13004(b), Mar. 30, 2009, 123 Stat. 1449; Pub. L. 111-23, title I, §101(a)(3), May 22, 2009, 123 Stat. 1706; Pub. L. 111-84, div. A, title IX, §906(d)(2), Oct. 28, 2009, 123 Stat. 2428; Pub. L. 111-259, title VIII, §807(b), Oct. 7, 2010, 124 Stat. 2749; Pub. L. 111-358, title IV, §403(b)(1)(B), Jan. 4, 2011, 124 Stat. 4000; Pub. L. 111-383, div. A, title IX, §901(n)(1), (2)(A), Jan. 7, 2011, 124 Stat. 4326, 4327; Pub. L. 112-87, title IV, §404, Jan. 3, 2012, 125 Stat. 1888.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(1)-(69)	5 U.S.C. 2211(d).	Aug. 14, 1964, Pub. L. 88-426, §303(d), 78 Stat. 417.
(70), (71)	5 U.S.C. 2211(c)(39) (proviso), (46) (proviso).	Aug. 14, 1964, Pub. L. 88-426, §303(c)(39) (proviso), (46) (proviso), 78 Stat. 417.
(72)-(77)	5 U.S.C. 2211(g).	Aug. 14, 1964, Pub. L. 88-426, §303(g), 78 Stat. 422.

Paragraphs (72)-(77) are added on authority of former section 2211(g) which authorized the President to place, from Aug. 15, 1964, to Feb. 1, 1965, not more than 30 positions in Levels IV and V of the Federal Executive Salary Schedule. Pursuant to this authority, the President by Executive Order No. 11189, Nov. 23, 1964, as amended by Executive Order No. 11195, Jan. 30, 1965, placed the positions listed in paragraphs (72)-(77) in Level IV.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5315(12)	5 App.: 2211(d)(12).	Aug. 26, 1965, Pub. L. 89-136, § 601(b), 79 Stat. 569.
5315(17)	5 App.: 2211(d)(17).	Aug. 9, 1965, Pub. L. 89-115, § 4(c) (words before semicolon), 79 Stat. 449.
	[Uncodified].	Oct. 2, 1965, Pub. L. 89-234, § 1(b) (last sentence), 79 Stat. 903.
		1966 Reorg. Plan No. 2, § 5(a), eff. May 10, 1966, 80 Stat. 1609.
5315(18)	[Uncodified].	1966 Reorg. Plan No. 2, § 2 (last 20 words), eff. May 10, 1966, 80 Stat. 1609.
5315(21)	5 App.: 2211(d)(21).	July 5, 1966, Pub. L. 89-492, § 3, 80 Stat. 262.
5315(30)	5 App.: 2211(d)(30).	July 18, 1966, Pub. L. 89-504, § 408(b), 80 Stat. 299.
5315(87), (88).	42: 3533(a) (as applicable to compensation of four Assistant Secretaries and General Counsel).	Sept. 9, 1965, Pub. L. 89-174, § 4(a) (as applicable to compensation of four Assistant Secretaries and General Counsel), 79 Stat. 668.
5315(89)	22: 2083(a) (1st sentence, less 1st 20 words).	Feb. 19, 1966, Pub. L. 89-355, § 3(a) (1st sentence, less 1st 20 words), 80 Stat. 6.

The deletion of paragraphs (25)–(28) of 5 U.S.C. 5315 reflects the abolition of the positions of “Commissioner, Community Facilities Administration”, “Commissioner, Federal Housing Administration”, “Commissioner, Public Housing Administration”, and “Commissioner, Urban Renewal Administration” by the act of September 9, 1965, Public Law 89-174, sections 5(a), 9(c), 79 Stat. 669, 671.

The redesignation of paragraphs (78) and (79), added by Public Law 89-734, and of paragraph (78), added by Public Law 89-779, as paragraphs “(84)”, “(85)”, and “(86)”, respectively, reflects the addition of paragraphs (78)–(83) by section 10(d)(4) of Public Law 89-670.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. The paragraph designation for the positions added or amended by Pub. L. 96-88 and Pub. L. 96-302 has been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96-54.

Amendment by Pub. L. 94-237 to formerly designated par. (95) of this section has been editorially made to formerly designated par. (96) of this section relating to the Deputy Director, Office of Drug Abuse Policy, in view of redesignation of par. (95) as (96) by Pub. L. 94-183 as the probable intent of Congress.

AMENDMENTS

2012—Pub. L. 112-87 inserted item relating to Chief Information Officer of the Intelligence Community.

2011—Pub. L. 111-383, § 901(n)(2)(A), struck out item relating to Director of Defense Research and Engineering.

Pub. L. 111-383, § 901(n)(1), substituted “(16)” for “(12)” in item relating to Assistant Secretaries of Defense.

Pub. L. 111-358 struck out item relating to Director, National Institute of Standards and Technology, Department of Commerce.

2010—Pub. L. 111-259 substituted “General Counsel of the Office of the Director of National Intelligence” for “General Counsel of the Central Intelligence Agency”.

2009—Pub. L. 111-84 substituted “(12)” for “(10)” in item relating to Assistant Secretaries of Defense, inserted items relating to Principal Deputy Under Secretaries of Defense for Policy, for Personnel and Readiness, and for Intelligence, and Principal Deputy Under Secretary of Defense (Comptroller), and struck out items relating to Deputy Under Secretaries of Defense for Policy, for Personnel and Readiness, and for Logistics and Materiel Readiness.

Pub. L. 111-23 inserted item relating to Director of Cost Assessment and Program Evaluation, Department of Defense.

Pub. L. 111-11 substituted “(8)” for “(7)” in item relating to Assistant Secretaries of Energy.

2008—Pub. L. 110-409 struck out items relating to Inspectors General of Departments of Education, Energy, Health and Human Services, Agriculture, Housing and Urban Development, Labor, Transportation, Veterans Affairs, Homeland Security, Defense, State, Commerce, the Interior, Justice, and the Treasury, Agency for International Development, Environmental Protection Agency, Export-Import Bank, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Tennessee Valley Authority, Federal Deposit Insurance Corporation, Resolution Trust Corporation, Central Intelligence Agency, Social Security Administration, and United States Postal Service.

Pub. L. 110-343 substituted “(10)” for “(9)” in item relating to Assistant Secretaries of the Treasury.

2007—Pub. L. 110-49 substituted “(9)” for “(8)” in item relating to Assistant Secretaries of the Treasury.

2006—Pub. L. 109-435 substituted “Members, Postal Regulatory Commission (4)” for “Members, Postal Rate Commission (4)”.

Pub. L. 109-364, § 942(a), inserted item relating to Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Pub. L. 109-364, § 901(b), substituted “(10)” for “(9)” in item relating to Assistant Secretaries of Defense.

Pub. L. 109-295 inserted item relating to Chief Medical Officer, Department of Homeland Security.

Pub. L. 109-177, § 506(a)(3), substituted “(11)” for “(10)” in item relating to Assistant Attorneys General.

Pub. L. 109-163 struck out items relating to Under Secretary of the Air Force, Under Secretary of the Army, and Under Secretary of the Navy.

2005—Pub. L. 109-58, § 1006(c)(3), substituted “(7)” for “(6)” in item relating to Assistant Secretaries of Energy.

Pub. L. 109-58, § 502(b)(2), inserted item relating to Director, Office of Indian Energy Policy and Programs, Department of Energy.

2004—Pub. L. 108-453 inserted item relating to General Counsel of the Office of the National Intelligence Director and struck out item relating to Assistant Directors of Central Intelligence.

Pub. L. 108-447 struck out item relating to Members, Board of Directors of the Tennessee Valley Authority.

2003—Pub. L. 108-177 substituted “(8)” for “(7)” in item relating to Assistant Secretaries of the Treasury.

Pub. L. 108-173 struck out item relating to Administrator of the Health Care Financing Administration.

2002—Pub. L. 107-314, which directed the repeal of Pub. L. 107-107, § 901(c), was executed by substituting “(9)” for “(8)” in item relating to Assistant Secretaries of Defense to reflect the probable intent of Congress. See 2001 Amendment note below.

Pub. L. 107-296, § 1702(a)(5), struck out item relating to Commissioner of Immigration and Naturalization, Department of Justice.

Pub. L. 107-296, § 1702(a)(4), inserted items relating to Assistant Secretaries, Department of Homeland Security, General Counsel, Department of Homeland Security, Officer for Civil Rights and Civil Liberties, Department of Homeland Security, Chief Financial Officer, Department of Homeland Security, Chief Information Officer, Department of Homeland Security, and Inspector General, Department of Homeland Security.

Pub. L. 107-287 substituted “(7)” for “(6)” in item relating to Assistant Secretaries, Department of Veterans Affairs.

Pub. L. 107-279 struck out item relating to Commissioner, National Center for Education Statistics.

Pub. L. 107-189 inserted item relating to Inspector General, Export-Import Bank.

Pub. L. 107-171, § 10704(b), substituted “(3)” for “(2)” in item relating to Assistant Secretaries of Agriculture.

Pub. L. 107-171, § 6201(d)(1), struck out item relating to Executive Director of the Alternative Agricultural Research and Commercialization Corporation.

2001—Pub. L. 107-107, § 3141(b), inserted item relating to Principal Deputy Administrator, National Nuclear Security Administration and inserted “Additional” before “Deputy Administrators of the National Nuclear Security Administration”.

Pub. L. 107-107, § 901(c)(2), which substituted “(8)” for “(9)” in item relating to Assistant Secretaries of Defense, was repealed by Pub. L. 107-314. See 2002 Amendment note above.

Pub. L. 107-107, § 901(b), inserted item relating to Deputy Under Secretary of Defense for Personnel and Readiness.

2000—Pub. L. 106-422 inserted item relating to Inspector General, Tennessee Valley Authority.

1999—Pub. L. 106-113, § 1000(a)(9) [title IV, § 4720(b)], inserted item relating to Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

Pub. L. 106-113, § 1000(a)(5) [title II, § 238(a)(1)], struck out “Commissioner of Customs, Department of the Treasury”.

Pub. L. 106-65, § 3294(a)(1), substituted “(6)” for “(8)” in item relating to Assistant Secretaries of Energy.

Pub. L. 106-65, § 3293(b), inserted item relating to Deputy Administrators of the National Nuclear Security Administration.

1998—Pub. L. 105-368 struck out item relating to Director of the National Cemetery System.

Pub. L. 105-277, § 2305(b)(2), which directed the substitution of “Assistant Secretaries of State (24)” for “Assistant Secretaries of State (20)”, was executed by making the substitution for “20 Assistant Secretaries of State” in item relating to Assistant Secretaries of State and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate, to reflect the probable intent of Congress.

Pub. L. 105-277, § 1332(2), struck out item relating to Deputy Director of the United States Information Agency and substituted “Director of the International Broadcasting Bureau.” for “Director of the International Broadcasting Bureau, the United States Information Agency.”

Pub. L. 105-277, § 1314(c), struck out item relating to Inspector General, United States Information Agency.

Pub. L. 105-277, § 1224(3), struck out item relating to Assistant Directors, United States Arms Control and Disarmament Agency (4) and substituted “Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State” for “Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency”.

Pub. L. 105-277, § 101(a) [title X, § 1003], substituted “Assistant Secretaries of Agriculture (2)” for “Assistant Secretaries of Agriculture (3)”.

Pub. L. 105-261 substituted “(9)” for “(10)” in item relating to Assistant Secretaries of Defense.

Pub. L. 105-245 substituted “Director, Office of Science, Department of Energy” for “Director, Office of Energy Research, Department of Energy”.

1997—Pub. L. 105-85, § 3550(b), struck out item relating to Administrator of the Panama Canal Commission.

Pub. L. 105-85, § 1073(e)(1), inserted “the” before “Interior” in item relating to Chief Information Officer of Department of the Interior and before “Treasury” in item relating to Chief Information Officer of Department of the Treasury.

1996—Pub. L. 104-293 inserted items relating to Assistant Directors of Central Intelligence and General Counsel of Central Intelligence Agency.

Pub. L. 104-208, § 101(f) [title VI, § 662(c)(1)], inserted item relating to Inspector General, United States Postal Service.

Pub. L. 104-208, § 101(e) [title VII, § 709(b)(1)], substituted “Museum and Library Services” for “Museum Services” after “Director of the Institute of”.

Pub. L. 104-127 inserted item relating to Executive Director of the Alternative Agricultural Research and Commercialization Corporation.

Pub. L. 104-106, § 5125(e), inserted items relating to Chief Information Officer of Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, and Veterans Affairs and Chief Information Officer of Environmental Protection Agency, National Aeronautics and Space Administration, Agency for International Development, Federal Emergency Management Agency, General Services Administration, National Science Foundation, Nuclear Regulatory Agency, Office of Personnel Management, and Small Business Administration.

Pub. L. 104-106, § 902(b), substituted “(10)” for “(11)” in item relating to Assistant Secretaries of Defense.

Pub. L. 104-105 struck out item relating to Members, Board of Directors of the Farm Credit System Insurance Corporation.

1995—Pub. L. 104-88 substituted “Members, Surface Transportation Board” for “Members, Interstate Commerce Commission”.

1994—Pub. L. 103-354 substituted “(3)” for “(7)” in item relating to Assistant Secretaries of Agriculture and inserted item relating to Administrator, Rural Utilities Service, Department of Agriculture.

Pub. L. 103-337 substituted “(11)” for “(10)” in item relating to Assistant Secretaries of Defense.

Pub. L. 103-333 inserted item relating to Commissioner of Labor Statistics, Department of Labor.

Pub. L. 103-296, § 103(e)(3), inserted item relating to Inspector General, Social Security Administration.

Pub. L. 103-296, § 106(a)(7)(B), struck out item relating to Commissioner of Social Security, Department of Health and Human Services.

Pub. L. 103-272 substituted “Saint” for “St.” in item relating to Administrator of Saint Lawrence Seaway Development Corporation.

Pub. L. 103-236, § 708(b), substituted “Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency” for “Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency (2)”.

Pub. L. 103-236, § 307(b)(2), inserted item relating to Director of the International Broadcasting Bureau, United States Information Agency.

Pub. L. 103-236, § 162(d)(2), directed insertion of item relating to 20 Assistant Secretaries of State and 4 other State Department Officials to be appointed by the President, and struck out “Assistant Secretaries of State (15).”, “Legal Adviser of the Department of State.”, “Chief of Protocol, Department of State.”, “Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.”, “Assistant Secretary for International Narcotics Matters, Department of State.”, and “Assistant Secretary for South Asian Affairs, Department of State.” New item was inserted in lieu of “Assistant Secretaries of State (15).” to reflect the probable intent of Congress.

Pub. L. 103-227 inserted item relating to Director of the Office of Educational Technology.

1993—Pub. L. 103-204 inserted item relating to Inspector General, Federal Deposit Insurance Corporation.

Pub. L. 103-171 substituted “(6)” for “(5)” in item relating to Assistant Secretaries of Health and Human Services.

Pub. L. 103-160 substituted “(10)” for “(11)” in item relating to Assistant Secretaries of Defense and struck out item relating to Chief Financial Officer, Department of Defense.

Pub. L. 103-123 inserted item relating to Commissioner of Customs, Department of the Treasury.

1992—Pub. L. 102-552 inserted item relating to Members, Board of Directors of the Farm Credit System Insurance Corporation.

Pub. L. 102-359 substituted “(10)” for “(6)” in item relating to Assistant Secretaries of Education.

Pub. L. 102-325 inserted item relating to Liaison for Community and Junior Colleges, Department of Education.

1991—Pub. L. 102-190, §3504(a), inserted item relating to Administrator of the Panama Canal Commission.

Pub. L. 102-190, §903(a)(1), inserted items relating to General Counsels of the Departments of the Army, Navy, and Air Force.

Pub. L. 102-190, §901(b), inserted item relating to Deputy Under Secretary of Defense for Policy.

Pub. L. 102-183 inserted item relating to Inspector General of Central Intelligence Agency.

Pub. L. 102-180 inserted item relating to Commissioner, Office of Navajo and Hopi Indian Relocation.

Pub. L. 102-138 inserted item relating to Assistant Secretary for South Asian Affairs, Department of State.

1990—Pub. L. 101-576 inserted items relating to Chief Financial Officer of Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs and Chief Financial Officers of Environmental Protection Agency and National Aeronautics and Space Administration.

Pub. L. 101-512 inserted item relating to Director of the Institute of Museum Services.

Pub. L. 101-509 inserted item relating to Director, Bureau of the Census, Department of Commerce.

Pub. L. 101-319 inserted item relating to Chairman, United States Parole Commission.

1989—Pub. L. 101-189 substituted “(4)” for “(3)” in item relating to Assistant Secretaries of the Air Force.

Pub. L. 101-73, §742(a)(2), substituted “Directors, Federal Housing Finance Board” for “Members, Federal Home Loan Bank Board”.

Pub. L. 101-73, §501(b)(2)(A), inserted item relating to Inspector General, Resolution Trust Corporation.

1988—Pub. L. 100-690, §7608(e), inserted item relating to Director, United States Marshals Service.

Pub. L. 100-690, §7252(b)(3), inserted item relating to Administrator, Office of Juvenile Justice and Delinquency Prevention.

Pub. L. 100-690, §1007(c)(4), struck out item relating to Deputy Director of Office of Drug Abuse Policy.

Pub. L. 100-690, §§1003(a)(4)(C), 1009, temporarily inserted item relating to Associate Director for National Drug Control Policy, Office of National Drug Control Policy. See Effective and Termination Dates of 1988 Amendments note below.

Pub. L. 100-687 inserted item relating to Chairman, Board of Veterans’ Appeals.

Pub. L. 100-679 struck out items relating to Administrator for Federal Procurement Policy and Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Pub. L. 100-607 inserted item relating to Commissioner of Food and Drugs, Department of Health and Human Services.

Pub. L. 100-527 substituted “Inspector General, Department of Veterans Affairs” for “Inspector General, Veterans’ Administration” and inserted items relating to Assistant Secretaries, Department of Veterans Affairs (6), General Counsel, Department of Veterans Affairs, and Director of the National Cemetery System.

Pub. L. 100-504 inserted items relating to Inspector General for Departments of Commerce, Interior, Justice, and Treasury and for following agencies: Agency for International Development, Environmental Protection Agency, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, and Small Business Administration.

Pub. L. 100-485 substituted “(5)” for “(4)” in item relating to Assistant Secretaries of Health and Human Services.

Pub. L. 100-418, §5112(c)(2), substituted “Director, National Institute of Standards and Technology, Depart-

ment of Commerce” for “Director, National Bureau of Standards, Department of Commerce”.

Pub. L. 100-418, §2301(h), inserted item relating to Assistant Secretary of Commerce and Director General of United States and Foreign Commercial Service.

Pub. L. 100-297 inserted item relating to Commissioner, National Center for Education Statistics.

1987—Pub. L. 100-204 inserted item relating to Ambassadors at Large.

1986—Pub. L. 99-619 substituted “Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans’ Employment and Training” for “Assistant Secretaries of Labor (5)”.

Pub. L. 99-659 substituted “Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration” for “Deputy Administrator, National Oceanic and Atmospheric Administration” and struck out item relating to Associate Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661, amended section identically, inserting item relating to Director of Defense Research and Engineering.

Pub. L. 99-399, §104(c), substituted “(15)” for “(14)” in item relating to Assistant Secretaries of State.

Pub. L. 99-399, §§412(c), 413(e), formerly §413(a)(5), as renumbered by Pub. L. 100-204, §134(b), inserted items relating to Inspector General, United States Information Agency, and Inspector General, Department of State.

1985—Pub. L. 99-93, §704(a)(2)(A), struck out item relating to Deputy Director of United States Arms Control and Disarmament Agency.

Pub. L. 99-93, §704(a)(2)(B), inserted item relating to Assistant Directors, United States Arms Control and Disarmament Agency (4).

Pub. L. 99-93, §115(b)(1), struck out item relating to Director, Bureau of Intelligence and Research, Department of State.

Pub. L. 99-93, §115(b)(2), substituted “(14)” for “(13)” in item relating to Assistant Secretaries of State.

Pub. L. 99-73 inserted item relating to Director, National Bureau of Standards, Department of Commerce.

Pub. L. 99-64 substituted “(11)” for “(8)” in item relating to Assistant Secretaries of Commerce.

1984—Pub. L. 98-594 substituted “(7)” for “(5)” in item relating to Assistant Secretaries of the Treasury.

Pub. L. 98-473, §1701(b), struck out items relating to United States Attorney for Southern District of New York, United States Attorney for District of Columbia, United States Attorney for Northern District of Illinois, and United States Attorney for Central District of California.

Pub. L. 98-473, §609J(b), struck out item relating to Administrator of Law Enforcement Assistance.

Pub. L. 98-443 struck out item relating to members of Civil Aeronautics Board.

Pub. L. 98-369 inserted item relating to Administrator of Health Care Financing Administration.

Pub. L. 98-216 substituted “Assistant Directors of Office of Management and Budget (3)” for “Assistant Directors of the Bureau of the Budget (3)”.

1983—Pub. L. 98-202, §6(b)(1), inserted item relating to two Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency.

Pub. L. 98-202, §6(b)(2), struck out item relating to Special Representative for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency.

Pub. L. 98-164 struck out item relating to Counselor of Department of State.

Pub. L. 98-94, §1212(d)(1), substituted “(11)” for “(7)” in item relating to Assistant Secretaries of Defense.

Pub. L. 98-94, §1212(d)(2), substituted “(5)” for “(4)” in item relating to Assistant Secretaries of the Army.

Pub. L. 98-94, §1212(d)(3), substituted “(4)” for “(3)” in item relating to Assistant Secretaries of the Navy.

Pub. L. 98-94, §1211(b), inserted item relating to Director of Operational Test and Evaluation, Department of Defense.

Pub. L. 98-80 inserted items relating to Assistant Administrator for Toxic Substances, Environmental Protection Agency, Assistant Administrator, Office of Solid Waste, Environmental Protection Agency, and eight Assistant Administrators, Environmental Protection Agency.

Pub. L. 97-449 substituted "Deputy Federal Highway Administrator" for "Director of Public Roads".

1982—Pub. L. 97-325 substituted "(7)" for "(6)" in item relating to Assistant Secretaries of Agriculture.

Pub. L. 97-252 inserted item relating to Inspector General, Department of Defense.

Pub. L. 97-195 substituted "(8)" for "(7)" in item relating to Assistant Secretaries of Commerce.

1981—Pub. L. 97-98 substituted "(6)" for "(5)" in item relating to Assistant Secretaries of Agriculture.

Pub. L. 97-35 struck out item relating to Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

Pub. L. 97-31 substituted "(7)" for "(8)" in item relating to Assistant Secretaries of Commerce.

1980—Pub. L. 96-511 inserted item relating to Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Pub. L. 96-302 inserted item relating to Chief Counsel for Advocacy, Small Business Administration.

1979—Pub. L. 96-157 inserted items relating to Administrator of Law Enforcement Assistance, Director of National Institute of Justice, and Director of Bureau of Justice Statistics, and struck out items relating to Deputy Administrator for Policy Development and Deputy Administrator for Administration of Law Enforcement Assistance Administration.

Pub. L. 96-88, §508(g), substituted "Health and Human Services" for "Health, Education, and Welfare" in items relating to General Counsel of Department of Health and Human Services, Commissioner of Social Security, Department of Health and Human Services, and Inspector General, Department of Health and Human Services.

Pars. (1) to (128). Pub. L. 96-54 struck out paragraph designations for positions listed herein.

Pars. (13) to (16). Pub. L. 96-107 in par. (13), relating to Assistant Secretaries of Defense, substituted "(7)" for "(9)", par. (14), relating to Assistant Secretaries of the Air Force, "(3)" for "(4)", par. (15), relating to Assistant Secretaries of the Army, "(4)" for "(5)", and par. (16), relating to Assistant Secretaries of the Navy, "(3)" for "(4)".

Par. (17). Pub. L. 96-88, §508(e)(1), substituted "(4)" for "(5)" and "Health and Human Services" for "Health, Education, and Welfare" in par. (17) relating to Assistant Secretaries of Health and Human Services. See Codification note above.

Par. (19). Pub. L. 96-132 in par. (19), relating to Assistant Attorneys General, increased authorized number from nine to ten.

Par. (24). Pub. L. 96-39 inserted "(5)" at end of par. (24) relating to Members, United States International Trade Commission.

Pars. (25) to (27). Pub. L. 96-88, §508(e)(2), added pars. (25) to (27) relating to Assistant Secretaries of Education (6), General Counsel, Department of Education, and Inspector General, Department of Education, respectively. See Codification note above.

Par. (91). Pub. L. 96-153 substituted "Federal Emergency Management Agency" for "Department of Housing and Urban Development" in par. (91), relating to Federal Insurance Administrator, Federal Emergency Management Agency.

Par. (128). Pub. L. 96-53 added par. (128) relating to Deputy Director, Institute for Scientific and Technological Cooperation.

1978—Par. (10). Pub. L. 95-426, §114(b)(2), struck out par. (10) relating to Deputy Under Secretary of State.

Par. (66). Pub. L. 95-454, §202(c)(2), substituted "Merit Systems Protection Board" for "United States Civil Service Commission".

Par. (93). Pub. L. 95-630 substituted "Members, National Credit Union Administration Board (2)" for "Ad-

ministrator of the National Credit Union Administration".

Par. (122). Pub. L. 95-452 added par. (122) relating to Inspector General, Department of Health, Education, and Welfare.

Pub. L. 95-426, §115(b)(1), added par. (122) relating to Assistant Secretary for International Narcotics Matters, Department of State.

Pub. L. 95-351 added par. (122) relating to President, National Consumer Cooperative Bank.

Par. (123). Pub. L. 95-454, §202(c)(3), added par. (123) relating to Special Counsel of Merit Systems Protection Board.

Pub. L. 95-452 added par. (123) relating to Inspector General, Department of Agriculture.

Pub. L. 95-351 added par. (123) relating to Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

Par. (124). Pub. L. 95-454, §703(d), added par. (124) relating to Chairman of Federal Labor Relations Authority.

Pub. L. 95-452 added par. (124) relating to Inspector General, Department of Housing and Urban Development.

Pars. (125) to (127). Pub. L. 95-452 added pars. (125) to (127) relating to Inspectors General for Department of Labor, Department of Transportation, and Veterans' Administration, respectively.

1977—Par. (1). Pub. L. 95-105, §109(d)(1), struck out par. (1) relating to Administrator, Bureau of Security and Consular Affairs, Department of State.

Par. (12). Pub. L. 95-173 substituted "(8)" for "(6)" in par. (12) relating to Assistant Secretaries of Commerce.

Par. (22). Pub. L. 95-105, §109(d)(2), substituted "(13)" for "(11)" in par. (22) relating to Assistant Secretaries of State.

Par. (50). Pub. L. 95-108 added par. (50) relating to Special Representative for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency. A prior par. (50), relating to General Manager of Atomic Energy Commission, was repealed by Pub. L. 93-438, title III, §310(3), Oct. 11, 1974, 88 Stat. 1253.

Pars. (52), (53). Pub. L. 95-88 struck out par. (52) relating to Inspector General, Foreign Assistance, and par. (53) relating to Deputy Inspector General, Foreign Assistance.

Par. (60). Pub. L. 95-91 substituted "Federal Energy Regulatory Commission" for "Federal Power Commission" in par. (60) relating to Members, Federal Energy Regulatory Commission.

Par. (102). Pub. L. 95-91 struck out par. (102) relating to Assistant Administrators, Energy Research and Development Administration (6).

Pars. (114) to (119). Pub. L. 95-91 added pars. (114) to (119) relating to Assistant Secretaries of Energy (8), General Counsel of Department of Energy, Administrator, Economic Regulatory Administration, Department of Energy, Administrator, Energy Information Administration, Department of Energy, Inspector General, Department of Energy, and Director, Office of Energy Research, Department of Energy, respectively.

Pars. (120), (121). Pub. L. 95-164 added pars. (120) and (121) relating to Assistant Secretary of Labor for Mine Safety and Health and Members, Federal Mine Safety and Health Review Commission, respectively.

1976—Par. (11). Pub. L. 94-561 substituted "(5)" for "(4)" in par. (11) relating to Assistant Secretaries of Agriculture.

Par. (96). Pub. L. 94-237 substituted "Deputy Director of the Office of Drug Abuse Policy" for "Deputy Director of the Special Action Office for Drug Abuse Prevention".

Par. (108). Pub. L. 94-375 added par. (108) relating to President, Government National Mortgage Association, Department of Housing and Urban Development.

Par. (109). Pub. L. 94-461 added par. (109) relating to Deputy Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 94-503 added par. (109) relating to Commissioner of Immigration and Naturalization.

Par. (110). Pub. L. 94-461 added par. (110) relating to Associate Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 94-503 added par. (110) relating to United States Attorney for Northern District of Illinois.

Pars. (111) to (113). Pub. L. 94-503 added pars. (111) to (113) relating to United States Attorney for Central District of California, Director, Bureau of Prisons, Department of Justice, and Deputy Administrator for Administration of the Law Enforcement Assistance Administration, respectively.

1975—Pub. L. 94-82 substituted provisions applying level IV of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level IV to positions for which annual rate of basic pay is \$28,750.

Par. (24). Pub. L. 93-618 substituted “Members, United States International Trade Commission” for “Chairman of the United States Tariff Commission”.

Par. (31). Pub. L. 94-123 repealed par. (31) relating to Deputy Chief Medical Director in Department of Medicine and Surgery, Veterans’ Administration.

Pars. (93) to (107). Pub. L. 94-183 redesignated par. (92) Administrator of the National Credit Union Administration, par. (93) Members, Postal Rate Commission, par. (94) Members, Occupational Safety and Health Review Commission, par. (95) Deputy Director of the Special Action Office for Drug Abuse Prevention, par. (96) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury), par. (97) Members, Consumer Product Safety Commission, par. (97) Commissioner of Social Security, Department of Health, Education, and Welfare, par. (99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State, par. (100) Administrator for Federal Procurement Policy, par. (100) Assistant Administrators, Energy Research and Development Administration, par. (100) Members, Commodity Futures Trading Commission, par. (101) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission, par. (102) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, par. (103) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission, par. (104) Executive Director for Operations, Nuclear Regulatory Commission, as pars. (93) to (107), respectively.

1974—Par. (50). Pub. L. 93-438 struck out par. (50) relating to General Manager of Atomic Energy Commission.

Par. (87). Pub. L. 93-383 increased number of Assistant Secretaries of Housing and Urban Development from 6 to 8.

Par. (99). Pub. L. 93-126, §9(b), as added by Pub. L. 93-312, added par. (99) relating to Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

Par. (100). Pub. L. 93-463 added par. (100) relating to Members, Commodity Futures Trading Commission.

Pub. L. 93-438 added par. (100) relating to Assistant Administrators, Energy Research and Development Administration.

Pub. L. 93-400 added par. (100) relating to Administrator for Federal Procurement Policy.

Pars. (101) to (104). Pub. L. 93-438 added pars. (101) to (104) relating to Director of Nuclear Reactor Regulation, Director of Nuclear Material Safety and Safeguards, Director of Nuclear Regulatory Research, and Executive Director for Operations, respectively, of Nuclear Regulatory Commission.

1973—Par. (90). Pub. L. 93-83 substituted “Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration” for “Associate Administrator of Law Enforcement Assistance (2)”.

1972—Par. (10). Pub. L. 92-352 substituted “Secretary of State” for “Secretaries of State (2)”.

Par. (11). Pub. L. 92-419 substituted “(4)” for “(3)” in par. (11) relating to Assistant Secretaries of Agriculture.

Par. (23). Pub. L. 92-302, §2(c)(1), substituted “(5)” for “(4)” in par. (23) relating to Assistant Secretaries of the Treasury.

Par. (72). Pub. L. 92-261 substituted “Members, Equal Employment Opportunity Commission (4)” for “Chairman, Equal Employment Opportunity Commission”.

Par. (95). Pub. L. 92-255 added par. (95) relating to Deputy Director of Special Action Office for Drug Abuse Prevention.

Par. (96). Pub. L. 92-302, §2(c)(2), added par. (96) relating to Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

Par. (97). Pub. L. 92-603 added par. (97) relating to Commissioner of Social Security, Department of Health, Education, and Welfare.

Pub. L. 92-573 added par. (97) relating to Members, Consumer Product Safety Commission (4).

1971—Par. (13). Pub. L. 92-215 substituted “(9)” for “(8)” in par. (13) relating to Assistant Secretaries of Defense.

Par. (18). Pub. L. 92-22 substituted “(6)” for “(5)” in par. (18) relating to Assistant Secretaries of the Interior.

Par. (51). Pub. L. 92-181 struck out par. (51) relating to Governor of Farm Credit Administration.

Par. (90). Pub. L. 91-644, §7(1), (2), in amending section 505 of Pub. L. 90-351, struck out par. (90) “Administrator of Law Enforcement Assistance”, renumbered as par. (55) of section 5314 of this title, and renumbered par. (126) “Associate Administrator of Law Enforcement Assistance (2)” of section 5316 of this title as par. (90) of this section, respectively.

1970—Par. (12). Pub. L. 91-477 substituted “(6)” for “(5)” in par. (12) relating to Assistant Secretaries of Commerce. Pub. L. 91-469 also substituted “(6)” for “(5)” in par. (12). Thus, the correct figure in par. (12) presumably should be seven. See amendment of par. (12) by Pub. L. 95-173 above.

Par. (15). Pub. L. 91-611 substituted “(5)” for “(4)” in par. (15) relating to Assistant Secretaries of the Army.

Par. (20). Pub. L. 91-596, §29(b), substituted “(5)” for “(4)” in par. (20) relating to Assistant Secretaries of Labor.

Pars. (21), (45). Pub. L. 91-375, §6(c)(14)(A), struck out pars. (21) and (45) relating to Assistant Postmasters General (6) and General Counsel of Post Office Department, respectively.

Par. (92). Pub. L. 91-206 added par. (92) relating to Administrator of National Credit Union Administration.

Par. (93). Pub. L. 91-375, §6(c)(14)(B), added par. (93) relating to Members, Postal Rate Commission (4).

Par. (94). Pub. L. 91-596, §12(c)(2), added par. (94) relating to Members, Occupational Safety and Health Review Commission.

1969—Par. (13). Pub. L. 91-121 substituted “(8)” for “(7)” in par. (13) relating to Assistant Secretaries of Defense.

Par. (92). Pub. L. 91-175 added par. (92) relating to Executive Vice President, Overseas Private Investment Corporation.

1968—Pars. (14) to (16). Pub. L. 90-623 substituted “(4)” for “(3)” in pars. (14) to (16) relating to Assistant Secretaries of Air Force, Army, and Navy respectively.

Par. (87). Pub. L. 90-448, §1708(b), substituted “(6)” for “(4)” in par. (87) relating to Assistant Secretaries of Housing and Urban Development.

Par. (90). Pub. L. 90-351 added par. (90) relating to Administrator of Law Enforcement Assistance.

Par. (91). Pub. L. 90-448, §1105(b), added par. (91) relating to Federal Insurance Administrator, Department of Housing and Urban Development.

1967—Pub. L. 90-206 increased annual rate of basic pay from \$27,000 to \$28,750.

1966—Pub. L. 89-779 added par. (78) relating to Deputy Administrator of Small Business Administration.

Pub. L. 89-734 added par. (78) relating to Assistant Secretary for Science, Smithsonian Institution, and par. (79) relating to Assistant Secretary for History and Art, Smithsonian Institution.

Pub. L. 89-670 added par. (78) relating to Members, National Transportation Safety Board, par. (79) relat-

ing to General Counsel, Department of Transportation, and pars. (80) to (83), and repealed par. (2) which provided for Deputy Administrator of Federal Aviation Agency, subject to the provisions of section 1657 of former Title 49, Transportation.

CHANGE OF NAME

“Export-Import Bank of Washington”, referred to in items relating to First Vice President and Members, was changed to “Export-Import Bank of the United States” in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, as provided for in section 1(a) of Pub. L. 90-267, Mar. 13, 1968, 82 Stat. 47.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901 of Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-49, §12, July 26, 2007, 121 Stat. 260, provided that: “The amendments made by this Act [amending this section, section 301 of Title 31, Money and Finance, and section 2170 of the Appendix to Title 50, War and National Defense] shall apply after the end of the 90-day period beginning on the date of enactment of this Act [July 26, 2007].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 942(a) of Pub. L. 109-364 effective Oct. 17, 2006, and applicable with respect to individuals appointed as Deputy Under Secretary of Defense for Logistics and Materiel Readiness on or after that date, see section 942(c) of Pub. L. 109-364, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 2004 AMENDMENTS

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108-447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108-447 take office or May 18, 2005, see section 604(b) of Pub. L. 108-447, set out as an Appointments; Effective Date; Transition note under section 831a of Title 16, Conservation.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-173 effective Jan. 1, 2004, see section 900(d)(3) of Pub. L. 108-173, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-296, title XVII, §1702(b), Nov. 25, 2002, 116 Stat. 2313, provided that: “Notwithstanding section 4 [enacting provisions set out as a note under section 101 of Title 6, Domestic Security], the amendment made by subsection (a)(5) [amending this section] shall take effect on the date on which the transfer of functions specified under section 441 [enacting section 251 of Title 6] takes effect.”

Pub. L. 107-189, §22(e), June 14, 2002, 116 Stat. 708, provided that: “The amendments made by this section [amending this section and sections 9 and 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to this title] shall take effect on October 1, 2002.”

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title IX, §901(d), Dec. 28, 2001, 115 Stat. 1194, which provided that amendments made

by Pub. L. 107-107, §901(c) (amending this section and section 138 of Title 10, Armed Forces), were to take effect on the date on which a person was first appointed as Deputy Under Secretary of Defense for Personnel and Readiness, was repealed by Pub. L. 107-314, div. A, title IX, §902(d), Dec. 2, 2002, 116 Stat. 2621.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-422 effective 30 days after Nov. 1, 2000, see section 1(d)(1) of Pub. L. 106-422, set out as a note under section 8G of Pub. L. 95-452 [Inspector General Act of 1978] in the Appendix to this title.

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by section 1000(a)(5) [title II, §238(a)(1)] of Pub. L. 106-113 effective Jan. 1, 2000, see section 1000(a)(5) [title II, §238(b)] of Pub. L. 106-113, set out as a note under section 5314 of this title.

Amendment by section 1000(a)(9) [title IV, §4720(b)] of Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of Title 35, Patents.

Amendment by Pub. L. 106-65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1224(3) of Pub. L. 105-277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

Amendment by sections 1314(c) and 1332(2) of Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 5125(e) of Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, div. E, title LVII, Feb. 10, 1996, 110 Stat. 702.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 162(d)(2) of Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 108(b) of Pub. L. 103-123 provided that: “The amendments made by this section [amending this section and section 5316 of this title] shall take effect on the first applicable pay period after enactment [Oct. 28, 1993].”

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102-552 effective Jan. 1, 1996, see section 201(c)(1) of Pub. L. 102-552, set out as an Effective Date of 1992 Amendment; Transitional Provision note under section 2277a-2 of Title 12, Banks and Banking.

Section 2(b)(3) of Pub. L. 102-359 provided that: “The amendments made by paragraphs (1) and (2) [amending this section and section 5316 of this title] shall take effect on the first day of the first pay period that begins on or after the date of the enactment of this Act [Aug. 26, 1992].”

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 122(d)(2) of Pub. L. 102-138 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1991."

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101-512, set out as a note under section 951 of Title 20, Education.

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by sections 1003(a)(4)(C) and 1007(c)(4) of Pub. L. 100-690 effective Jan. 21, 1989, and amendment by section 1003(a)(4)(C) of Pub. L. 100-690 repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100-690.

Amendment by section 7252(b)(3) of Pub. L. 100-690 effective Oct. 1, 1988, see section 7296(a) of Pub. L. 100-690, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

Section 201(b)(2) of Pub. L. 100-687 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect when the President first appoints an individual as Chairman of the Board of Veterans' Appeals under section 4001(b)(1) [now 7101(b)(1)] of title 38, United States Code (as amended by subsection (a))."

Amendment by Pub. L. 100-679 effective Jan. 20, 1989, see section 11(e) of Pub. L. 100-679, set out as a note under section 5312 of this title.

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 100-504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100-504, set out as a note under section 5 of Pub. L. 95-452 [Inspector General Act of 1978] in the Appendix to this title.

Section 603(c) of Pub. L. 100-485 provided that: "The amendments made by this section [amending this section and enacting section 617 of Title 42, The Public Health and Welfare] shall become effective on February 1, 1989."

Amendment by Pub. L. 100-297 effective July 1, 1988, but with amendments authorizing appropriations for fiscal year 1988 effective Apr. 28, 1988, see section 6303 of Pub. L. 100-297, set out as an Effective Date of 1988 Amendment note under section 1071 of Title 20, Education.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-204 effective 30 days after Dec. 22, 1987, but not to affect salary of any individual holding rank of Ambassador at Large immediately before Dec. 22, 1987, during the period such individual continues to serve in such position, see section 178(b) of Pub. L. 100-204, set out as a note under section 5313 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-619 applicable to incumbent Assistant Secretary of Labor for Veterans' Employment on Nov. 6, 1986, serving after such date, see section 2(f)(2) of Pub. L. 99-619, set out as a Present Incumbent note under section 553 of Title 29, Labor.

EFFECTIVE DATE OF 1985 AMENDMENTS

Section 6(c) of Pub. L. 99-73 provided that: "The amendments made by this section [amending this section and section 5316 of this title and section 274 of Title 15, Commerce and Trade] shall be effective October 1, 1985."

Amendment by Pub. L. 99-64 effective Oct. 1, 1987, see section 116(d) of Pub. L. 99-64, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by section 609J of Pub. L. 98-473 effective Oct. 12, 1984, see section 609AA of Pub. L. 98-473, set out as an Effective Date note under section 3711 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 98-443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98-443, set out as a note under section 5314 of this title.

Amendment by Pub. L. 98-369 applicable to appointments made after July 18, 1984, see section 2332(c) of Pub. L. 98-369, set out as an Effective Date note under section 1317 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 1211(b) of Pub. L. 98-94 effective Nov. 1, 1983, see section 1211(c) of Pub. L. 98-94, set out as an Effective Date note under section 139 of Title 10, Armed Forces.

Amendment by section 1212(d) of Pub. L. 98-94 effective Oct. 1, 1983, see section 1212(e) of Pub. L. 98-94, set out as a note under section 138 of Title 10.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-325 effective Oct. 15, 1982, see section 8(e) of Pub. L. 97-325.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

Amendment by Pub. L. 97-35 effective on day after Final Government Equity Redemption Date, see section 396(i) of Pub. L. 97-35, set out as a note under section 3011 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-511 effective Apr. 1, 1981, see section 5 of Pub. L. 96-511, set out as a note under section 2904 of Title 44, Public Printing and Documents.

Amendment by Pub. L. 96-302 effective Oct. 1, 1980, see section 507 of Pub. L. 96-302, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

Amendment by Pub. L. 96-54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96-54, set out as a note under section 5312 of this title.

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96-39 effective July 26, 1979, see section 1114 of Pub. L. 96-39, set out as an Effective Date note under section 2581 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of Title 12, Banks and Banking.

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.

Amendment by Pub. L. 95-452 effective Oct. 1, 1978, see section 12 of Pub. L. 95-452 set out in the Appendix to this title.

Amendment by section 114(b)(2) of Pub. L. 95-426 effective Oct. 1, 1978, see section 114(c) of Pub. L. 95-426, set out as a note under section 5314 of this title.

Section 115(b)(2) of Pub. L. 95-426 provided that: "The amendment made by paragraph (1) of this subsection [amending this section] shall take effect on October 1, 1978."

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of Title 30, Mineral Lands and Mining.

Amendment by Pub. L. 95-88 effective July 1, 1978, see section 124(c) of Pub. L. 95-88, set out as a note under section 2384 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-123 effective Oct. 12, 1975, see section 6(a) of Pub. L. 94-123, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811-5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment by Pub. L. 93-83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83, Aug. 6, 1973, 83 Stat. 218.

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 404(c) of Pub. L. 92-603 provided that: "The amendments made by the preceding provisions of this section [amending this section and section 5316 of this title] shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted [Oct. 30, 1972]."

Amendment by Pub. L. 92-302 effective May 18, 1972, see section 3 of Pub. L. 92-302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

REPEALS

Pub. L. 93-496, § 16(c), Oct. 28, 1974, 88 Stat. 1533, cited as a credit to this section, was repealed by Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of responsibilities of the Department of Homeland Security Chief Information Officer related to the implementation of the Integrated Wireless Network to the Director for Emergency Communications, see section 571(d)(2) of Title 6, Domestic Security.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions, vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

Office of Deputy Director of Office of Science and Technology abolished and functions vested by law in such office transferred to Director of National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

ABOLITION OF ONE POSITION OF ASSISTANT ADMINISTRATOR, AGENCY FOR INTERNATIONAL DEVELOPMENT

One of the 6 positions of Assistant Administrator, Agency for International Development, provided for in this section, was abolished by Reorg. Plan No. 2 of 1979, § 7, 44 F.R. 41165, 93 Stat. 1378, set out in the Appendix to this title.

INSPECTOR GENERAL, UNITED STATES POSTAL SERVICE

Section 101(f) [title VI, § 662(c)(1)] of Pub. L. 104-208 provided in part that: "The amendment made by the preceding sentence [amending this section] shall apply notwithstanding section 410 or any other provision of title 39, United States Code."

COMPENSATION OF DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT ADMINISTRATION

Section 6153(c) of Pub. L. 100-690 provided that: "The Deputy Administrator of the Drug Enforcement Administration shall receive compensation at the rate now or hereafter prescribed by law for positions of Level IV of the Executive Schedule Pay Rate (5 U.S.C. 5315)."

TEMPORARY INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Number of Assistant Secretaries of Defense authorized at level IV of Executive Schedule under this section to be increased by one (to a total of 12) until Jan. 20, 1989, see section 1311 of Pub. L. 100-180, set out as a note under section 138 of Title 10, Armed Forces.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92-302, not eligi-

ble to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92-302, May 18, 1972, 86 Stat. 149.

ASSOCIATE DIRECTOR OF FEDERAL BUREAU OF
INVESTIGATION

Position of Associate Director of Federal Bureau of Investigation placed temporarily in level III during incumbency of incumbent on Aug. 14, 1964, by Pub. L. 88-426, Aug. 14, 1964, §303(c)(46), 78 Stat. 417.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

Administrator of the National Capital Transportation Agency.

Associate Administrators of the Small Business Administration (4).

Associate Administrators, National Aeronautics and Space Administration (7).

Associate Deputy Administrator, National Aeronautics and Space Administration.

Deputy Associate Administrator, National Aeronautics and Space Administration.

Archivist of the United States.

Assistant Secretary of Health and Human Services for Administration.

Assistant Attorney General for Administration.

Assistant and Science Adviser to the Secretary of the Interior.

Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice.

Chairman of the Renegotiation Board.

Chairman of the Subversive Activities Control Board.

Chief Counsel for the Internal Revenue Service, Department of the Treasury.

Commissioner, Federal Acquisition Service, General Services Administration.

Director, United States Fish and Wildlife Service, Department of the Interior.

Commissioner of Indian Affairs, Department of the Interior.

Commissioners, Indian Claims Commission (5).

Commissioner, Public Buildings Service, General Services Administration.

Commissioner of Reclamation, Department of the Interior.

Commissioner of Vocational Rehabilitation, Department of Health and Human Services.

Commissioner of Welfare, Department of Health and Human Services.

Director, Bureau of Mines, Department of the Interior.

Director, Geological Survey, Department of the Interior.

Deputy Commissioner of Internal Revenue, Department of the Treasury.

Associate Director of the Federal Mediation and Conciliation Service.

Associate Director for Volunteers, Peace Corps.

Associate Director for Program Development and Operations, Peace Corps.

Assistants to the Director of the Federal Bureau of Investigation, Department of Justice (2).

Assistant Directors, Office of Emergency Planning (3).

Fiscal Assistant Secretary of the Treasury.

General Counsel of the Agency for International Development.

General Counsel of the Nuclear Regulatory Commission.

General Counsel of the National Aeronautics and Space Administration.

Manpower Administrator, Department of Labor.

Members, Renegotiation Board.

Members, Subversive Activities Control Board.

Assistant Administrator of General Services.

Director, United States Travel Service, Department of Commerce.

Administrator, Wage and Hour and Public Contracts Division, Department of Labor.

Assistant Director (Program Planning, Analysis and Research), Office of Economic Opportunity.

Deputy Director, National Security Agency.

Director, Bureau of Land Management, Department of the Interior.

Director, National Park Service, Department of the Interior.

National Export Expansion Coordinator, Department of Commerce.

Staff Director, Commission on Civil Rights.

Assistant Secretary for Administration, Department of Transportation.

Director, United States National Museum, Smithsonian Institution.

Director, Smithsonian Astrophysical Observatory, Smithsonian Institution.

Administrator of the Environmental Science Services Administration.

Associate Directors of the Office of Personnel Management (5).

Assistant Federal Highway Administrator.

Deputy Administrator of the National Highway Traffic Safety Administration.

Deputy Administrator of the Federal Motor Carrier Safety Administration.

Assistant Federal Motor Carrier Safety Administrator.

Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.

Vice Presidents, Overseas Private Investment Corporation (3).

Deputy Administrator, Federal Transit Administration, Department of Transportation.

General Counsel of the Equal Employment Opportunity Commission.

Executive Director, Advisory Council on Historic Preservation.

Additional Officers, Department of Energy (14).

Additional officers, Nuclear Regulatory Commission (5).

Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

Assistant Administrators (3), National Oceanic and Atmospheric Administration.

General Counsel, National Oceanic and Atmospheric Administration.

Members, Federal Labor Relations Authority (2) and its General Counsel.

Additional officers, Institute for Scientific and Technological Cooperation (2).

Additional officers, Office of Management and Budget (6).

Associate Deputy Secretary, Department of Transportation.

Chief Scientist, National Oceanic and Atmospheric Administration.

Director, Indian Health Service, Department of Health and Human Services.

Commissioners, United States Parole Commission (8).

Commissioner, Administration on Children, Youth, and Families.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 463; Pub. L. 89-670, §10(d)(5), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 89-734, §1(2), Nov. 2, 1966, 80 Stat. 1163; Pub. L. 89-779, §8(c)(2), Nov. 6, 1966, 80 Stat. 1364; Pub. L. 90-9, §6, Apr. 10, 1967, 81 Stat. 12; Pub. L. 90-83, §1(16), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-206, title II, §215(c), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90-351, title I, §506, June 19, 1968, 82 Stat. 205; Pub. L. 90-407, §15(a)(3), July 18, 1968, 82 Stat. 367; Pub. L. 90-623, §1(4), (5), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91-175, pt. V, §503(3), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91-375, §6(c)(15), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91-453, §12, Oct. 15, 1970, 84 Stat. 968; Pub. L. 91-644, title I, §7(2), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 92-22, §3, June 1, 1971, 85 Stat. 76; Pub. L. 92-255, title II, §212(c), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92-261, §9(c), (d), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92-302, §2(d), May 18, 1972, 86 Stat. 149; Pub. L. 92-603, title IV, §404(a), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 93-43, §2(c), June 18, 1973, 87 Stat. 78; Pub. L. 93-74, §8, July 23, 1973, 87 Stat. 175; Pub. L. 90-351, title I, §506(b), as added Pub. L. 93-83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-271, §2, Apr. 22, 1974, 88 Stat. 92; Pub. L. 93-126, §9(c), as added Pub. L. 93-312, §9, June 8, 1974, 88 Stat. 238; Pub. L. 93-383, title VIII, §818(b), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93-438, title III, §310(4), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93-463, title I, §102(c), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 93-618, title I, §172(c)(3), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94-82, title II, §202(b)(5), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94-183, §2(19), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 94-237, §4(c)(6), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-307, §7, June 4, 1976, 90 Stat. 681; Pub. L. 94-370, §15(b), July 26, 1976, 90 Stat. 1032; Pub. L. 94-422, title II, §202, Sept. 28, 1976, 90 Stat. 1323; Pub. L. 94-503, title II, §202(c), Oct. 15, 1976, 90 Stat. 2427; Pub. L. 94-561, §3(b), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 94-582, §26, Oct. 21, 1976, 90 Stat. 2889; Pub. L. 95-89, title II, §209,

Aug. 4, 1977, 91 Stat. 558; Pub. L. 95-91, title VII, §710(g), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-115, §3(a)(6), Oct. 3, 1977, 91 Stat. 1049; Pub. L. 95-219, §3(b), Dec. 28, 1977, 91 Stat. 1614; Pub. L. 95-452, §10(b), Oct. 12, 1978, 92 Stat. 1108; Pub. L. 95-454, title II, §§201(b)(3), 202(c)(4), title VII, §703(e), Oct. 13, 1978, 92 Stat. 1121, 1131, 1217; Pub. L. 95-521, title IV, §406, Oct. 26, 1978, 92 Stat. 1864; Pub. L. 96-53, title IV, §412(c), Aug. 14, 1979, 93 Stat. 377; Pub. L. 96-54, §2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96-70, title III, §3302(e)(11), Sept. 27, 1979, 93 Stat. 499; Pub. L. 96-88, title V, §508(f), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 96-107, title VIII, §820(e)(2), Nov. 9, 1979, 93 Stat. 819; Pub. L. 96-209, title I, §109, Mar. 14, 1980, 94 Stat. 97; Pub. L. 96-466, title V, §504(d), Oct. 17, 1980, 94 Stat. 2203; Pub. L. 97-31, §12(1)(C), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97-113, title VII, §705(b)(3), Dec. 29, 1981, 95 Stat. 1545; Pub. L. 97-258, §2(a), Sept. 13, 1982, 96 Stat. 1052; Pub. L. 97-325, §8(c), Oct. 15, 1982, 96 Stat. 1605; Pub. L. 97-449, §3(4), (5), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 98-557, §26(b), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 99-73, §6(b)(2), July 29, 1985, 99 Stat. 173; Pub. L. 99-93, title VII, §704(a)(3), Aug. 16, 1985, 99 Stat. 446; Pub. L. 99-145, title XII, §1204(c), Nov. 8, 1985, 99 Stat. 721; Pub. L. 99-383, §7(b)(2), Aug. 21, 1986, 100 Stat. 814; Pub. L. 99-619, §2(c)(2), (d), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 99-659, title IV, §407(e)(3), Nov. 14, 1986, 100 Stat. 3740; Pub. L. 100-180, div. A, title XII, §1245(c), Dec. 4, 1987, 101 Stat. 1165; Pub. L. 100-504, title I, §103(b), Oct. 18, 1988, 102 Stat. 2522; Pub. L. 100-527, §13(g), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100-598, §8, Nov. 3, 1988, 102 Stat. 3035; Pub. L. 100-607, title V, §503(b)(1), Nov. 4, 1988, 102 Stat. 3121; Pub. L. 100-690, title VII, §7252(b)(4), Nov. 18, 1988, 102 Stat. 4436; Pub. L. 100-713, title VI, §601(d), Nov. 23, 1988, 102 Stat. 4826; Pub. L. 101-319, §§3(b), 4, July 3, 1990, 104 Stat. 290, 291; Pub. L. 101-501, title IX, §915(b)(1)(B), Nov. 3, 1990, 104 Stat. 1263; Pub. L. 101-509, title V, §529 [title I, §113(1)], Nov. 5, 1990, 104 Stat. 1427, 1455; Pub. L. 102-190, div. A, title IX, §903(a)(2), div. C, title XXXV, §3504(b), Dec. 5, 1991, 105 Stat. 1451, 1586; Pub. L. 102-240, title III, §3004(d)(2), title VI, §6006(d), Dec. 18, 1991, 105 Stat. 2088, 2174; Pub. L. 102-359, §2(b)(2), Aug. 26, 1992, 106 Stat. 962; Pub. L. 103-123, title I, §108(a)(1), Oct. 28, 1993, 107 Stat. 1234; Pub. L. 103-333, title I, §106, Sept. 30, 1994, 108 Stat. 2549; Pub. L. 103-354, title II, §294, Oct. 13, 1994, 108 Stat. 3237; Pub. L. 104-106, div. A, title IX, §904(b)(2), Feb. 10, 1996, 110 Stat. 403; Pub. L. 104-201, div. A, title X, §1073(e)(1)(A), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 105-85, div. A, title X, §1073(e)(2), Nov. 18, 1997, 111 Stat. 1906; Pub. L. 105-277, div. G, subdiv. A, title XII, §1224(4), title XIII, §1332(3), Oct. 21, 1998, 112 Stat. 2681-772, 2681-785; Pub. L. 105-393, title I, §103, Nov. 13, 1998, 112 Stat. 3617; Pub. L. 106-44, §2(b), Aug. 5, 1999, 113 Stat. 223; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(b)(4)], Nov. 29, 1999, 113 Stat. 1536, 1501A-583; Pub. L. 106-159, title I, §101(d)(2), Dec. 9, 1999, 113 Stat. 1751; Pub. L. 107-171, title X, §10702(c)(2), May 13, 2002, 116 Stat. 517; Pub. L. 108-426, §3(c), Nov. 30, 2004, 118 Stat. 2425; Pub. L. 109-313, §2(b), Oct. 6, 2006, 120 Stat. 1734; Pub. L. 111-383, div. A, title IX, §901(n)(2)(B), (3), Jan. 7, 2011, 124 Stat. 4327.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(1)–(99)	5 U.S.C. 2211(e).	Aug. 14, 1964, Pub. L. 88–426, § 303(e), 78 Stat. 419.
(100)–(116) ..	5 U.S.C. 2211(g).	Aug. 14, 1964, Pub. L. 88–426, § 303(g), 78 Stat. 422.

Paragraphs (100)–(116) are added on authority of former section 2211(g) which authorized the President to place, from Aug. 15, 1964, to Feb. 1, 1965, not more than 30 positions in Levels IV and V of the Federal Executive Salary Schedule. Pursuant to this authority, the President by Executive Order No. 11189, Nov. 23, 1964, as amended by Executive Order No. 11195, Jan. 30, 1965, placed the positions listed in paragraphs (100)–(116) in Level V.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5316(60)	5 App.: 2211(e)(60).	July 5, 1966, Pub. L. 89–492, § 4(1), 80 Stat. 262.
5316(94)	5 App.: 2211(e)(94).	Sept. 9, 1965, Pub. L. 89–174, § 5(b)(as applicable to § 303(e)(94) of the Federal Executive Salary Act of 1964), 79 Stat. 669.
5316(95)	5 App.: 2211(e)(95).	Aug. 9, 1965, Pub. L. 89–115, § 4(c)(words after semicolon), 79 Stat. 449.
5316(120)	5 App.: 2211(e)(100).	Aug. 26, 1965, Pub. L. 89–136, § 601(c), 79 Stat. 570.
5316(121)	[Uncodified].	1965 Reorg. Plan No. 2, § 4(a)(2d sentence, less 1st 18 words), eff. July 13, 1965, 79 Stat. 1318.
5316(122)	42:3533(b) (last 29 words).	Sept. 9, 1965, Pub. L. 89–174, § 4(b)(last 29 words), 79 Stat. 668.
5316(123)	5 App.: 2211(e)(101).	July 5, 1966, Pub. L. 89–492, § 4(2), 80 Stat. 262.
5316(124)	49: 1652(f)(2) (last 15 words in 2d sentence).	Oct. 15, 1966, Pub. L. 89–670, § 3(f)(2)(last 15 words in 2d sentence), 80 Stat. 932.
5316(125)	49: 1652(f)(1) (last 15 words in 2d sentence).	Oct. 15, 1966, Pub. L. 89–670, § 3(f)(1)(last 15 words in 2d sentence), 80 Stat. 932.

The deletion of paragraphs (22), (38), and (83) of 5 U.S.C. 5316 reflects (1) the termination, effective June 30, 1965, of the position of “Area Redevelopment Administrator, Department of Commerce” pursuant to Public Law 87–27 (sec. 29, 75 Stat. 63; 42 U.S.C. 2525); (2) the abolition of the position of “Chief, Weather Bureau, Department of Commerce” by 1965 Reorganization Plan No. 2 (sec. 2(a), 79 Stat. 1318); and (3) the abolition of the position of “General Counsel of the Housing and Home Finance Agency” by Public Law 89–174 (sec. 5(a), 9(c), 79 Stat. 669, 671).

The redesignation of paragraphs (117) and (118) as paragraphs “(118)” and “(119)”, respectively, eliminates duplicate paragraph numbering effected by section 10(d)(5) of Public Law 89–670 and section 1(2) of Public Law 89–734.

CODIFICATION

The paragraph designations for the positions added by Pub. L. 96–88 have been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96–54.

AMENDMENTS

2011—Pub. L. 111–383, § 901(n)(3), struck out items relating to Director, Defense Advanced Research Projects Agency, Department of Defense, Deputy General Counsel, Department of Defense, Deputy Under Secretaries

of Defense for Research and Engineering, Department of Defense, and Special Assistant to the Secretary of Defense.

Pub. L. 111–383, § 901(n)(2)(B), struck out item relating to Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.

2006—Pub. L. 109–313 substituted “Commissioner, Federal Acquisition Service, General Services Administration” for “Commissioner, Federal Supply Service, General Services Administration”.

2004—Pub. L. 108–426 struck out item relating to Director, Bureau of Transportation Statistics.

2002—Pub. L. 107–171 struck out items relating to General Counsel, Commodity Futures Trading Commission and Executive Director, Commodity Futures Trading Commission.

1999—Pub. L. 106–159 inserted items relating to Deputy Administrator of the Federal Motor Carrier Safety Administration and Assistant Federal Motor Carrier Safety Administrator.

Pub. L. 106–113 which directed amendment of this section by striking out items relating to Commissioner of Patents, Department of Commerce, Deputy Commissioner of Patents and Trademarks, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks, was executed by striking out items relating to Deputy Commissioner of Patents and Trademarks, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks to reflect the probable intent of Congress and the intervening amendment by Pub. L. 106–44, § 2(b), which struck out item relating to Commissioner of Patents, Department of Commerce. See below.

Pub. L. 106–44 struck out item relating to Commissioner of Patents, Department of Commerce.

1998—Pub. L. 105–393 struck out item relating to Administrator for Economic Development.

Pub. L. 105–277, § 1332(3), struck out items relating to Deputy Director, Policy and Plans, United States Information Agency, and Associate Director (Policy and Plans), United States Information Agency.

Pub. L. 105–277, § 1224(4), struck out item relating to General Counsel of the United States Arms Control and Disarmament Agency.

1997—Pub. L. 105–85 substituted “Nuclear and Chemical and Biological Defense Programs” for “Atomic Energy”.

1996—Pub. L. 104–201 inserted “Defense” before “Advanced Research Projects Agency”.

Pub. L. 104–106, which directed amendment of section by substituting “Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.” for “The Assistant to the Secretary of Defense for Atomic Energy, Department of Defense.”, could not be executed because the words to be substituted for did not appear.

1994—Pub. L. 103–354 struck out following items relating to Department of Agriculture: Administrator, Agricultural Marketing Service, Administrator, Agricultural Research Service, Administrator, Agricultural Stabilization and Conservation Service, Administrator, Farmers Home Administration, Administrator, Foreign Agricultural Service, Administrator, Rural Electrification Administration, Administrator, Soil Conservation Service, Chief Forester of the Forest Service, Director of Science and Education, Administrator, Animal and Plant Health Inspection Service, and Administrator, Federal Grain Inspection Service.

Pub. L. 103–333 struck out item relating to Commissioner of Labor Statistics, Department of Labor.

1993—Pub. L. 103–123 struck out item relating to Commissioner of Customs, Department of the Treasury.

1992—Pub. L. 102–359 struck out item relating to Additional Officers, Department of Education.

1991—Pub. L. 102–240, § 6006(d), inserted item relating to Director, Bureau of Transportation Statistics.

Pub. L. 102–240, § 3004(d)(2), substituted “Deputy Administrator, Federal Transit Administration” for “Deputy Administrator, Urban Mass Transportation Administration”.

Pub. L. 102-190, §3504(b), struck out item relating to Administrator of the Panama Canal Commission.

Pub. L. 102-190, §903(a)(2), struck out items relating to General Counsels of the Departments of the Air Force, Army, and Navy.

1990—Pub. L. 101-509 struck out item relating to Director, Bureau of the Census, Department of Commerce.

Pub. L. 101-501 inserted item relating to Commissioner, Administration on Children, Youth, and Families.

Pub. L. 101-319, §4, inserted items relating to Deputy Commissioner of Patents and Trademarks, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks.

Pub. L. 101-319, §3(b), inserted item relating to Commissioners, United States Parole Commission.

1988—Pub. L. 100-713 inserted item relating to Director, Indian Health Service, Department of Health and Human Services.

Pub. L. 100-690 struck out item relating to Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of Law Enforcement Assistance Administration.

Pub. L. 100-607 struck out item relating to Commissioner of Food and Drugs, Department of Health and Human Services.

Pub. L. 100-598 struck out item relating to Director of Office of Government Ethics.

Pub. L. 100-527 struck out items relating to Associate Deputy Administrator of Veterans' Affairs, Chief Benefits Director, Veterans' Administration, General Counsel of the Veterans' Administration, and Director, National Cemetery System, Veterans' Administration.

Pub. L. 100-504 struck out items relating to Inspectors General for Departments of Commerce and Interior and for Agency for International Development, Community Services Administration, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, and Small Business Administration and relating to Deputy Inspectors General for Departments of Energy and Health and Human Services.

1987—Pub. L. 100-180 substituted "Assistant to the Secretary of Defense for Atomic Energy, Department of Defense" for "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense".

1986—Pub. L. 99-659 inserted item relating to Chief Scientist, National Oceanic and Atmospheric Administration.

Pub. L. 99-619, §2(c)(2), struck out item relating to Assistant Secretary of Labor for Administration.

Pub. L. 99-619, §2(d), struck out item relating to Assistant Secretary of Labor for Veterans' Employment.

Pub. L. 99-383 struck out item relating to Assistant Directors, National Science Foundation (4).

1985—Pub. L. 99-145 struck out item relating to Administrator of Education for Overseas Dependents, Department of Education.

Pub. L. 99-93 struck out item relating to Assistant Directors, United States Arms Control and Disarmament Agency (4).

Pub. L. 99-73 struck out item relating to Director, National Bureau of Standards, Department of Commerce.

1984—Pub. L. 98-557 inserted item relating to Associate Deputy Secretary, Department of Transportation.

1983—Pub. L. 97-449, §3(4), substituted "Assistant Federal Highway Administrator" for "Director, National Highway Safety Bureau".

Pub. L. 97-449, §3(5), substituted "Deputy Administrator of the National Highway Traffic Safety Administration" for "Director, National Traffic Safety Bureau".

1982—Pub. L. 97-325 struck out item relating to Assistant Secretary of Agriculture for Administration.

Pub. L. 97-258 inserted item relating to Additional officers, Office of Management and Budget (6).

1981—Pub. L. 97-113 substituted "Inspector General, Agency for International Development" for "Auditor General of the Agency for International Development".

Pub. L. 97-31 purported to strike out "Maritime Administration, Department of Commerce" which was executed by striking out "Maritime Administrator, Department of Commerce." as the probable intent of Congress.

1980—Pub. L. 96-466 inserted item relating to Assistant Secretary of Labor for Veterans' Employment.

Pub. L. 96-209, §109(1), which provided for striking out par. (31) and inserting in lieu thereof "(31) Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice." was executed by striking out the item relating to the Chairman, Foreign Claims Settlement Commission of the United States which was designated par. (31) prior to amendment of this section by Pub. L. 96-54 and inserting the item relating to the Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice. See 1979 Amendment note below.

Pub. L. 96-209, §109(2), which provided for striking out par. (90) was executed by striking out item relating to Members, Foreign Claims Settlement Commission of United States which was designated par. (90) prior to amendment of this section by Pub. L. 96-54. See 1979 Amendment note below.

1979—Pub. L. 96-88, §508(f)(1), which provided for striking out par. (41) was executed by striking out item relating to Commissioner of Education, Department of Health, Education, and Welfare which was designated par. (41) prior to amendment of this section by Pub. L. 96-54. See 1979 Amendment note below.

Pub. L. 96-88, §508(g), substituted "Health and Human Services" for "Health, Education, and Welfare" in items relating to the Assistant Secretary of Health and Human Services for Administration, the Commissioner of Food and Drugs, the Commissioner of Vocational Rehabilitation, the Commissioner of Welfare, and the Deputy Inspector General of the Department of Health and Human Services.

Pars. (1) to (152). Pub. L. 96-54 struck out paragraph designations for positions listed herein.

Pars. (37), (38). Pub. L. 96-88, §508(f)(2), added pars. (37) and (38) relating to additional officers and Administrator of Education for Overseas Dependents in Department of Education, respectively. See Codification note set out above.

Par. (87). Pub. L. 96-70 substituted "Administrator of the Panama Canal Commission" for "Governor of the Canal Zone".

Par. (96). Pub. L. 96-107 substituted "Deputy Under Secretaries of Defense for Research and Engineering, Department of Defense" for "Deputy Directors of Defense Research and Engineering, Department of Defense".

Par. (152). Pub. L. 96-53 added par. (152) relating to two additional officers in Institute for Scientific and Technological Cooperation.

1978—Par. (99). Pub. L. 95-454, §202(c)(4), struck out par. (99) relating to Executive Director of United States Civil Service Commission.

Par. (122). Pub. L. 95-454, §201(b)(3), added par. (122) relating to five Associate Directors of Office of Personnel Management.

Par. (144). Pub. L. 95-452, §10(b), added par. (144) relating to Deputy Inspector General, Department of Health, Education, and Welfare.

Par. (145). Pub. L. 95-454, §703(e), added par. (145) relating to Members and General Counsel of Federal Labor Relations Authority.

Pub. L. 95-452 added par. (145) relating to Inspector General, Department of Commerce.

Par. (146). Pub. L. 95-521 added par. (146) relating to Director of Office of Government Ethics.

Pub. L. 95-452 added par. (146) relating to Inspector General, Department of the Interior.

Pars. (147) to (151). Pub. L. 95-452 added pars. (147) to (151) relating to Inspector General, Community Services Administration, Inspector General, Environmental Protection Agency, Inspector General, General Services Administration, Inspector General, National Aeronautics and Space Administration, and Inspector General, Small Business Administration, respectively.

1977—Par. (11). Pub. L. 95-89 substituted “(4)” for “(3)” in par. (11) relating to Associate Administrators of the Small Business Administration.

Par. (135). Pub. L. 95-91 substituted “Deputy Inspector General, Department of Energy” for “General Counsel, Energy Research and Development Administration”, covered in section 5315 by item relating to General Counsel of the Department of Energy.

Par. (136). Pub. L. 95-91 substituted “Department of Energy (14)” for “Energy Research and Development Administration (8)”.

Par. (140). Pub. L. 95-219 substituted “Assistant” for “Associate”, relating to Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

Par. (141). Pub. L. 95-219 added par. (141) relating to Assistant Administrator for Fisheries.

Pub. L. 95-115 added par. (141) relating to Associate Administrator Office of Juvenile Justice and Delinquency Prevention.

Pars. (142), (143). Pub. L. 95-219 added pars. (142) and (143) relating to three Assistant Administrators, National Oceanic and Atmospheric Administration and General Counsel, National Oceanic and Atmospheric Administration, respectively.

1976—Par. (15). Pub. L. 94-307 substituted “(7)” for “(6)” in par. (15) relating to Associate Administrators, National Aeronautics and Space Administration.

Par. (44). Pub. L. 94-503 struck out par. (44) relating to Commissioner of Immigration and Naturalization, Department of Justice.

Par. (55). Pub. L. 94-561, §3(b)(1), struck out par. (55) relating to Director of Agricultural Economics, Department of Agriculture.

Par. (58). Pub. L. 94-503 struck out par. (58) relating to Director, Bureau of Prisons, Department of Justice.

Pars. (115), (116). Pub. L. 94-503 struck out par. (115) relating to United States Attorney for Northern District of Illinois, and par. (116) relating to United States Attorney for Southern District of California.

Par. (131). Pub. L. 94-237 struck out par. (131) relating to Assistant Directors, Special Action Office for Drug Abuse Prevention (6).

Par. (134). Pub. L. 94-503 struck out par. (134) relating to Deputy Administrator for Administration of Law Enforcement Assistance Administration.

Par. (135). Pub. L. 94-422 added par. (135) relating to Executive Director, Advisory Council on Historic Preservation.

Par. (137). Pub. L. 94-582 added par. (137) relating to Administrator, Federal Grain Inspection Service, Department of Agriculture.

Pub. L. 94-561 added par. (137) relating to Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

Par. (140). Pub. L. 94-370 added par. (140) relating to Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

1975—Pub. L. 94-82 substituted provisions applying level V of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level V to positions for which annual rate of basic pay is \$28,000.

Par. (93). Pub. L. 93-613 struck out par. (93) relating to Members, United States Tariff Commission.

Pars. (134) to (139). Pub. L. 94-183 redesignated par. (133), Deputy Administrator for Administration of the Law Enforcement Assistance Administration, par. (134), General Counsel, Energy Research and Development Administration, par. (135), Additional officers, Energy Research and Development Administration (8), par. (135), General Counsel, Commodity Futures Trading Commission, par. (136), Additional officers, Nuclear Regulatory Commission (5), and par. (136), Executive Director, Commodity Futures Trading Commission, as pars. (134) to (139), respectively.

1974—Par. (29). Pub. L. 93-438 struck out par. (29) relating to Assistant General Manager, Atomic Energy Commission.

Par. (42). Pub. L. 93-271, §2, substituted “Director, United States Fish and Wildlife” for “Commissioner of Fish and Wildlife”.

Par. (62). Pub. L. 93-438 struck out par. (62) relating to Director of Regulation, Atomic Energy Commission. See section 5315 of this title.

Par. (69). Pub. L. 93-438 struck out par. (69) relating to Deputy General Manager, Atomic Energy Commission.

Par. (81). Pub. L. 93-438 substituted “General Counsel of the Nuclear Regulatory Commission” for “General Counsel of the Atomic Energy Commission”.

Par. (102). Pub. L. 93-438 struck out par. (102) relating to Assistant General Managers, Atomic Energy Commission (2).

Par. (109). Pub. L. 93-126, §9(c), as added by Pub. L. 93-312, repealed par. (109) relating to Director of International Scientific Affairs, Department of State.

Par. (122). Pub. L. 93-383 struck out par. (122) relating to Assistant Secretary of Housing and Urban Development for Administration.

Par. (134). Pub. L. 93-438 added par. (134) relating to General Counsel, Energy Research and Development Administration.

Pars. (135), (136). Pub. L. 93-463 added pars. (135) and (136) relating, respectively, to General Counsel, Commodity Futures Trading Commission, and Executive Director, Commodity Futures Trading Commission.

Pub. L. 93-438 added pars. (135) and (136) relating, respectively, to additional officers, Nuclear Regulatory Commission, and additional officers, Energy Research and Development Administration.

1973—Pars. (15) to (17). Pub. L. 93-74 added par. (15), Associate Administrators, National Aeronautics and Space Administration (6), and repealed provisions of former pars. (15) for an Associate Administrator for Advanced Research and Technology, (16) for Associate Administrator for Space Science and Applications, and (17) for Associate Administrator for Manned Space Flight, National Aeronautics and Space Administration.

Pars. (131) to (133). Pub. L. 93-43 redesignated par. (131) relating to General Counsel of the Equal Employment Opportunity Commission as par. (132), and added par. (133) relating to Director, National Cemetery System.

Par. (133). Pub. L. 93-83 added par. (133) relating to Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

1972—Pars. (28), (64). Pub. L. 92-302 struck out pars. (28) and (64) relating to an Assistant Secretary of the Treasury for Administration and a Deputy Under Secretary for Monetary Affairs, Department of the Treasury, respectively.

Par. (51). Pub. L. 92-603 struck out par. (51) relating to Commissioner of Social Security, Department of Health, Education, and Welfare. See section 5315 of this title.

Par. (111). Pub. L. 92-261, §9(c), struck out par. (111) relating to Members, Equal Employment Opportunity Commission (4). See section 5315 of this title.

Par. (131). Pub. L. 92-261, §9(d), added par. (131) relating to General Counsel of the Equal Employment Opportunity Commission.

Pub. L. 92-255 added par. (131) relating to Assistant Directors, Special Action Office for Drug Abuse Prevention.

1971—Par. (25). Pub. L. 92-22 struck out position of Assistant Secretary of the Interior for Administration. See section 1453a of Title 43 and section 5315 of this title.

Par. (126). Pub. L. 91-644 struck out par. (126) relating to Associate Administrator of Law Enforcement Assistance (2). See section 5315 of this title.

1970—Pars. (37), (60), (123). Pub. L. 91-375 struck out pars. (37), (60), and (123) relating to Chief Postal Inspector; Director, Research and Development; and Director, Construction Engineering, respectively.

Par. (130). Pub. L. 91-453 added par. (130) relating to Deputy Administrator, Urban Mass Transportation Administration, Department of Transportation.

1969—Pars. (128), (129). Pub. L. 91-175 added pars. (128) and (129) relating to Auditor-General of the Agency for International Development, and Vice Presidents, Overseas Private Investment Corporation (3), respectively.

1968—Par. (66). Pub. L. 90-407 substituted “Assistant Directors, National Science Foundation (4)” for “Deputy Director, National Science Foundation”.

Par. (126). Pub. L. 90-623, §1(4), inserted “(2)” at end of par. (126) relating to Associate Administrator of Law Enforcement Assistance.

Pub. L. 90-351 added par. (126) relating to Associate Administrator of Law Enforcement Assistance.

Par. (127). Pub. L. 90-623, §1(5), added par. (127) relating to Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.

1967—Pub. L. 90-206 increased annual rate of basic pay from \$26,000 to \$28,000.

Pars. (46), (47). Pub. L. 90-9 struck out par. (46) relating to Chief Commissioner, Indian Claims Commission, and substituted “Commissioners, Indian Claims Commission (5)” for “Associate Commissioners, Indian Claims Commission (2)” in par. (47).

1966—Pub. L. 89-779 substituted “Associate Administrators of the Small Business Administration (3)” for “Deputy Administrators of the Small Business Administration (4)” in par. (11).

Pub. L. 89-734 added par. (117) relating to Director, United States National Museum, Smithsonian Institution, and par. (118).

Pub. L. 89-670 added par. (117) relating to Assistant Secretary for Administration, Department of Transportation, and struck out pars. (10) Administrator of the Saint Lawrence Seaway Development Corporation, (12) Associate Administrator for Administration, Federal Aviation Agency, (13) Associate Administrator for Development, Federal Aviation Agency, (14) Associate Administrator for Programs, Federal Aviation Agency, (76) Federal Highway Administrator, Department of Commerce, and (82) General Counsel of the Federal Aviation Agency, subject to the provisions of section 1657 of former Title 49, Transportation.

CHANGE OF NAME

Bureau of Mines redesignated United States Bureau of Mines by section 10(b) of Pub. L. 102-285, set out as a note under section 1 of Title 30, Mineral Lands and Mining.

Geological Survey redesignated United States Geological Survey by provision of title I of Pub. L. 102-154, set out as a note under section 31 of Title 43, Public Lands.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901 of Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-313, §6, Oct. 6, 2006, 120 Stat. 1738, provided that: “This Act [see Short Title of 2006 Amendment note set out under section 101 of Title 40, Public Buildings, Property, and Works] and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act [Oct. 6, 2006].”

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by Pub. L. 106-159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106-159, set out as a note under section 104 of Title 49, Transportation.

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of Title 35, Patents.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-393 effective on date determined by Secretary of Commerce, but not later than 90 days after Nov. 13, 1998, see section 105 of Pub. L. 105-393, set out as an Effective Date note under section 3121 of Title 42, The Public Health and Welfare.

Amendment by section 1224(4) of Pub. L. 105-277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

Amendment by section 1332(3) of Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-123 effective on first applicable pay period after Oct. 28, 1993, see section 108(b) of Pub. L. 103-123, set out as a note under section 5315 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-359 effective on first day of first pay period that begins on or after Aug. 26, 1992, see section 2(b)(3) of Pub. L. 102-359, set out as a note under section 5315 of this title.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-690 effective Oct. 1, 1988, see section 7296(a) of Pub. L. 100-690, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 100-504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100-504, set out as a note under section 5 of Pub. L. 95-452 [Inspector General Act of 1978] in the Appendix to this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 2(e) of Pub. L. 99-619 provided that: “Subsection (c) of this section [amending this section and Reorg. Plan No. 6 of 1950, set out in the Appendix to this title] shall become effective on the day upon which the individual who is the incumbent of the position abolished by such subsection, as of the date of enactment [Nov. 6, 1986], ceases to hold the position.”

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-73 effective Oct. 1, 1985, see section 6(c) of Pub. L. 99-73, set out as a note under section 5315 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-325 to take effect on the appointment of a person to fill successor position created by section 2212c of Title 7, Agriculture, see section 8(e) of Pub. L. 97-325.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96-466, set out as a note under section 4101 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 96-209 effective Mar. 14, 1980, see title VI of Pub. L. 96-209, set out as an Effective Date note under section 1622a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L.

96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

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.

Amendment by Pub. L. 96-54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96-54, set out as a note under section 5312 of this title.

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENTS

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.

Amendment by Pub. L. 95-452 effective Oct. 1, 1978, see section 12 of Pub. L. 95-452 set out in the Appendix to this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of Title 7, Agriculture.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811-5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

Amendment by Pub. L. 93-271 effective July 1, 1974, see section 3 of Pub. L. 93-271, set out as a note under section 742b of Title 16, Conservation.

EFFECTIVE DATE OF 1973 AMENDMENTS

Offices and salaries modified under amendment by Pub. L. 93-83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83, Aug. 6, 1973, 83 Stat. 218.

Amendment by Pub. L. 93-43 effective June 18, 1973, see section 10(a) of Pub. L. 93-43, set out as an Effective Date note under section 2400 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92-603 effective on first day of first pay period of Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after first day of month which follows month in which Pub. L. 92-603 was enacted, see section 404(c) of Pub. L. 92-603, set out as a note under section 5315 of this title.

Amendment by Pub. L. 92-302, abolishing offices of Assistant Secretary of the Treasury for Administration and Deputy Under Secretary for Monetary Affairs, Department of the Treasury, effective on confirmation by Senate of Presidential appointees to fill the successor positions created by Pub. L. 92-302, see, section 3(b) of Pub. L. 92-302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-22 effective on Senate confirmation of Presidential appointment under section

1453a of Title 43 and section 5315(18) of this title, see note set out under section 1453a of Title 43, Public Lands.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Amendment by Pub. L. 90-407 effective on first day of first calendar month which begins on or after July 18, 1968, see section 15(a)(4) of Pub. L. 90-407, set out as a note under section 5313 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective as of beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

TRANSFER OF FUNCTIONS

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, set out in the Appendix to this title.

Environmental Science Services Administration in Department of Commerce, including offices of Administrator and Deputy Administrator thereof, abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created National Oceanic and Atmospheric Administration in Department of Commerce and transferred personnel, property, records, and unexpended balances of funds of Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. Components of Environmental Science Services Administration thus transferred included Weather Bureau [now National Weather Service], Coast and Geodetic Survey [now National Ocean Survey], Environmental Data Service, National Environmental Satellite Center, and ESSA Research Laboratories.

Bureau of Narcotics and Dangerous Drugs, including office of Director thereof, in Department of Justice abolished by 1973 Reorg. Plan No. 2, eff. July 1, 1973, 38 FR 15932, 87 Stat. 1091, set out in the Appendix to this title, 1973 Reorg. Plan No. 2 also created in Department of Justice an agency to be known as Drug Enforcement Administration, with an Administrator and Deputy Administrator appointed by President with advice and consent of Senate.

INDIAN CLAIMS COMMISSION

Indian Claims Commission terminated on Sept. 30, 1978, pursuant to Pub. L. 94-465, §2, Oct. 8, 1976, 90 Stat. 1990.

COMMISSIONER OF PATENTS

Commissioner of Patents redesignated Commissioner of Patents and Trademarks by Pub. L. 93-596, §3, Jan.

2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

ADMINISTRATOR OF BONNEVILLE POWER ADMINISTRATION

Bonneville Power Administration transferred to Department of Energy by section 7152 of Title 42, The Public Health and Welfare.

GENERAL COUNSEL OF MILITARY DEPARTMENTS

Pub. L. 100-456, div. A, title VII, § 703(b), Sept. 29, 1988, 102 Stat. 1996, which provided that, notwithstanding this section, the General Counsel of each of the military departments was to be paid at the highest rate of basic pay payable under section 5382 of this title, to a member of the Senior Executive Service, was repealed by Pub. L. 102-190, div. A, title IX, § 903(b), Dec. 5, 1991, 105 Stat. 1451.

COMPENSATION OF DEPUTY ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION

Pub. L. 95-567, title I, § 106(c), Nov. 2, 1978, 92 Stat. 2409, provided that: "The position of Deputy Assistant Secretary of Commerce for Communications and Information, established in Department of Commerce Organization Order Numbered 10-10 (effective March 26, 1978), shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code."

SUBVERSIVE ACTIVITIES CONTROL BOARD

Subversive Activities Control Board, Chairman and Members of which were compensated under this section, ceased operation on June 3, 1973, as unfunded by Congress.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5317. Presidential authority to place positions at levels IV and V

In addition to the positions listed in sections 5315 and 5316 of this title, the President, from time to time, may place in levels IV and V of the Executive Schedule positions held by not to exceed 34 individuals when he considers that action necessary to reflect changes in organization, management responsibilities, or workload in an Executive agency. Such an action with respect to a position to which appointment is made by the President by and with the advice and consent of the Senate is effective only at the time of a new appointment to the position. Notice of each action taken under this section shall be published in the Federal Register, except when the President determines that the publication would be contrary to the interest of national security. The President may not take action under this section with respect to a position the pay for which is fixed at a specific rate by this subchapter or by statute enacted after August 14, 1964.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 89-670, § 10(d)(6), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90-83, § 1(17), Sept. 11, 1967, 81 Stat. 199.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2211(f).	Aug. 14, 1964, Pub. L. 88-426, § 303(f), 78 Stat. 421.

The word "offices" is omitted as included in "positions". The term "Executive agency" is substituted for "Federal department or agency" in view of the definition in section 105. The words "after August 14, 1964" are substituted for "subsequent to the date of enactment of this Act".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

The amendment to 5 U.S.C. 5317 conforms to the style of title 5.

AMENDMENTS

1966—Pub. L. 89-670 increased from thirty to thirty-four the number of additional level IV and V positions authorized when necessary.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

EXECUTIVE ORDER NO. 11189

Ex. Ord. No. 11189, Nov. 23, 1964, 29 F.R. 15855, which placed certain positions in levels IV and V of the Executive Schedule, was revoked by Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315.

EXECUTIVE ORDER NO. 11195

Ex. Ord. No. 11195, Jan. 30, 1965, 30 F.R. 1169, which placed certain positions in levels IV and V of the Executive Schedule, was revoked by Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315.

EXECUTIVE ORDER NO. 11861

Ex. Ord. 11861, May 21, 1975, 40 F.R. 22531, as amended by Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579; Ex. Ord. No. 11872, July 21, 1975, 40 F.R. 30619; Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797; Ex. Ord. No. 11885, Oct. 15, 1975, 40 F.R. 48491; Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040; Ex. Ord. No. 11898, Jan. 14, 1976, 41 F.R. 2365; Ex. Ord. No. 11908, Mar. 18, 1976, 41 F.R. 11805; Ex. Ord. No. 11927, July 22, 1976, 41 F.R. 30583; Ex. Ord. No. 11976, Mar. 11, 1977, 42 F.R. 14081; Ex. Ord. No. 11983, May 4, 1977, 42 F.R. 23127; Ex. Ord. No. 11986, May 20, 1977, 42 F.R. 26407; Ex. Ord. No. 11995, June 8, 1977, 42 F.R. 29841; Ex. Ord. No. 11999, June 27, 1977, 42 F.R. 33255; Ex. Ord. No. 12025, Dec. 1, 1977, 42 F.R. 61447; Ex. Ord. No. 12035, Jan. 20, 1978, 43 F.R. 3073; Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315; Ex. Ord. No. 12069, June 30, 1978, 43 F.R. 28973, which related to the placement of certain positions in levels IV and V, was revoked by Ex. Ord. No. 12076, Aug. 18, 1978, 43 F.R. 37161, formerly set out below.

EXECUTIVE ORDER NO. 11864

Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579, which placed the position of Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury, to terminate effective August 1, 1975, in level IV of the Executive Schedule was superseded by Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797.

EXECUTIVE ORDER NO. 11995

Ex. Ord. No. 11995, June 8, 1977, 42 F.R. 29841, which placed the position of Executive Director, Federal Personnel Management Systems Study, United States

Civil Service Commission, in level V of the Executive Schedule, was revoked by Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315.

EXECUTIVE ORDER NO. 12076

Ex. Ord. No. 12076, Aug. 18, 1978, 43 F.R. 37161, as amended by Ex. Ord. No. 12099, Nov. 17, 1978, 43 F.R. 54191; Ex. Ord. No. 12111, Jan. 2, 1979, 44 F.R. 1071; Ex. Ord. No. 12119, Feb. 14, 1979, 44 F.R. 10039, which related to the placement of positions in levels IV and V of the Federal Executive Salary Schedule, was revoked by Ex. Ord. No. 12154, Sept. 4, 1979, 44 F.R. 51965, set out below.

EX. ORD. NO. 12154. PLACEMENT OF POSITIONS IN LEVELS IV AND V

Ex. Ord. No. 12154, Sept. 4, 1979, 44 F.R. 51965, as amended by Ex. Ord. No. 12199, Mar. 12, 1980, 45 F.R. 16441; Ex. Ord. No. 12236, Sept. 3, 1980, 45 F.R. 58805; Ex. Ord. No. 12237, Sept. 3, 1980, 45 F.R. 58807; Ex. Ord. No. 12422, May 20, 1983, 48 F.R. 23157; Ex. Ord. No. 12431, July 8, 1983, 48 F.R. 31849; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12678, Apr. 28, 1989, 54 F.R. 18872; Ex. Ord. No. 12679, June 23, 1989, 54 F.R. 27149; Ex. Ord. No. 12749, Feb. 4, 1991, 56 F.R. 4711; Ex. Ord. No. 12758, Apr. 5, 1991, 56 F.R. 14631; Ex. Ord. No. 12814, Sept. 10, 1992, 57 F.R. 42483; Ex. Ord. No. 12833, Jan. 19, 1993, 58 F.R. 5907; Ex. Ord. No. 12841, Mar. 9, 1993, 58 F.R. 13529; Ex. Ord. No. 12942, Dec. 12, 1994, 59 F.R. 64551; Ex. Ord. No. 13063, Sept. 30, 1997, 62 F.R. 51757, provided:

By the authority vested in me as President by Section 5317 of Title 5 of the United States Code it is hereby ordered as follows:

1-1. EXECUTIVE SCHEDULE POSITIONS

1-101. The following positions are placed in level IV of the Executive Schedule:

(a) Counselor to the Secretary, Department of the Treasury.

(b) Deputy Under Secretary for International Labor Affairs, Department of Labor.

(c) Administrator, Alcohol, Drug Abuse and Mental Health Administration, Department of Health and Human Services.

(d) Executive Secretary of the National Security Council.

(e) Administrator, Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

(f) Comptroller of the Department of Defense [now Under Secretary of Defense (Comptroller)].

(g) Assistant Secretary of the Air Force (1).

(h) Director, Office for Victims of Crime, Department of Justice.

(i) Director, Bureau of Justice Assistance, Department of Justice.

(j) Director of the National Institutes of Health.

(k) Members, Chemical Safety and Hazard Investigation Board (5).

(k)[(1)] Commissioner on Aging [now Assistant Secretary for Aging], Department of Health and Human Services[.]

1-102. The following positions are placed in level V of the Executive Schedule:

(a) Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense.

(b) Executive Assistant and Counselor to the Secretary of Labor, Department of Labor.

(c) Deputy Under Secretary for Education, Department of Education.

(d) Deputy Under Secretary for Education, Department of Education.

(e) Commissioner, Administration for Native Americans[.]

1-2. GENERAL PROVISIONS

1-201. Nothing in this Order shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position listed in Section 1-1 of this Order who was the occupant of that position immediately prior to the issuance of this Order.

1-202. Executive Order No. 12076, as amended, is hereby revoked.

§ 5318. Adjustments in rates of pay

(a) Subject to subsection (b), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of this title in the rates of pay under the General Schedule, the annual rate of pay for positions at each level of the Executive Schedule shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100), equal to the percentage of such annual rate of pay which corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.

(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule.

(Added Pub. L. 94-82, title II, §202(a), Aug. 9, 1975, 89 Stat. 419; amended Pub. L. 101-194, title VII, §704(a)(2)(A), Nov. 30, 1989, 103 Stat. 1769; Pub. L. 101-509, title V, §529 [title I, §101(b)(4)(A)], Nov. 5, 1990, 104 Stat. 1427, 1439; Pub. L. 103-356, title I, §101(3), Oct. 13, 1994, 108 Stat. 3411.)

REFERENCES IN TEXT

The General Schedule, referred to in text, is set out under section 5332 of this title.

Section 704(a)(1) of the Ethics Reform Act of 1989, referred to in subsec. (a), is section 704(a)(1) of Pub. L. 101-194, which is set out below.

AMENDMENTS

1994—Pub. L. 103-356 designated existing provisions as subsec. (a), substituted “Subject to subsection (b), effective” for “Effective”, and added subsec. (b).

1990—Pub. L. 101-509 substituted “5303” for “5305”.

1989—Pub. L. 101-194 substituted “corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect” for “corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 101 of Pub. L. 103-356 provided that the amendment made by that section is effective as of Dec. 31, 1994.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 704(b) of Pub. L. 101-194 provided that: “This section and the amendments made by this section

[amending this section, section 31 of Title 2, The Congress, section 104 of Title 3, The President, and section 461 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under this section] shall take effect on January 1, 1991.”

SALARY LEVELS OF SENIOR GOVERNMENT OFFICIALS

Pub. L. 102-90, title I, §6(a), Aug. 14, 1991, 105 Stat. 450, provided that: “The rate of pay for the offices referred to under section 703(a)(2)(B) of the Ethics Reform Act of 1989 [Pub. L. 101-194] (5 U.S.C. 5318 note) shall be the rate of pay that would be payable for each such office if the provisions of sections 703(a)(2)(B) and 1101(a)(1)(A) of such Act (5 U.S.C. 5318 note and 5305 note) had not been enacted.”

Section 703 of Pub. L. 101-194 provided that:

“(a) SALARY LEVELS.—

“(1) EXECUTIVE POSITIONS.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for positions in the Executive Schedule shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100).

“(2) LEGISLATIVE POSITIONS; OFFICE OF THE VICE PRESIDENT.—

“(A) GENERALLY.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the offices and positions under subparagraphs (A) and (B) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356(A) and (B)) shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100), except as provided in subparagraph (B).

“(B) EXCEPTIONS.—Nothing in subparagraph (A) shall affect the rate of basic pay for a Senator, the President pro tempore of the Senate, or the majority leader or the minority leader of the Senate.

“(3) JUDICIAL POSITIONS.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the Chief Justice of the United States, an associate justice of the Supreme Court of the United States, a judge of a United States circuit court, a judge of a district court of the United States, and a judge of the United States Court of International Trade shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100).

“(b) COORDINATION RULE.—If a pay adjustment under subsection (a) is to be made for an office or position as of the same date as any other pay adjustment affecting such office or position, the adjustment under subsection (a) shall be made first.”

REVISION IN METHOD BY WHICH ANNUAL PAY ADJUSTMENTS FOR CERTAIN EXECUTIVE, LEGISLATIVE, AND JUDICIAL POSITIONS ARE TO BE MADE

Section 704(a) of Pub. L. 101-194 provided that:

“(a) PERCENT CHANGE IN THE EMPLOYMENT COST INDEX.—

“(1) METHOD FOR COMPUTING PERCENT CHANGE IN THE ECI.—

“(A) DEFINITIONS.—For purposes of this paragraph—

“(i) the term ‘Employment Cost Index’ or ‘ECI’ means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics; and

“(ii) the term ‘base quarter’ means the 3-month period ending on December 31 of a year.

“(B) METHOD.—For purposes of the provisions of law amended by paragraph (2), the ‘most recent per-

centage change in the ECI’, as of any date, shall be one-half of 1 percent less than the percentage (rounded to the nearest one-tenth of 1 percent) derived by—

“(i) reducing—

“(I) the ECI for the last base quarter prior to that date, by

“(II) the ECI for the second to last base quarter prior to that date,

“(ii) dividing the difference under clause (i) by the ECI for the base quarter referred to in clause (i)(II), and

“(iii) multiplying the quotient under clause (ii) by 100, except that no percentage change determined under this paragraph shall be—

“(I) less than zero; or

“(II) greater than 5 percent.

“(2) PROVISIONS THROUGH WHICH NEW METHOD IS TO BE IMPLEMENTED.—

“(A) AMENDMENT TO TITLES 3, 5, AND 28 OF THE UNITED STATES CODE.—Section 104 of title 3, United States Code, section 5318 of title 5, United States Code, and section 461(a) of title 28, United States Code, are amended by striking ‘corresponds to’ and all that follows thereafter through the period, and inserting the following:

‘corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.’.

“(B) AMENDMENT TO THE LEGISLATIVE REORGANIZATION ACT OF 1946.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended by striking ‘corresponds to’ and all that follows thereafter through the period and inserting the following:

‘corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.’.”

REDUCTION OF RATE OF SALARY OR BASIC PAY OF OFFICES OR POSITIONS IN THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES TO THE SALARY OR BASIC PAY RATE PAYABLE AS OF JULY 14, 1983

Pub. L. 98-51, title III, §304, July 14, 1983, 97 Stat. 279, reduced the rate of salary or basic pay prescribed by law as of July 14, 1983, for any office or position at level I, II, or III of the Executive Schedule, any Member of Congress, and certain other offices and positions in the legislative, executive, or judicial branch, or in the government of the District of Columbia and also reduced the maximum rate of salary or basic pay prescribed by law as of July 14, 1983, for certain offices and positions in the legislative, executive, or judicial branch, or in the government of the District of Columbia.

LIMITATION ON MAXIMUM RATE OF SALARY INCREASES FOR SENIOR EXECUTIVE, JUDICIAL, AND LEGISLATIVE POSITIONS FOR SERVICES PERFORMED AFTER DECEMBER 17, 1982

Pub. L. 97-377, title I, §129(b)-(d), Dec. 21, 1982, 96 Stat. 1914, reduced salary increases for senior executive, judicial, and legislative positions (including Members of Congress but excluding Senators) from up to 27.2 percent to 15 percent.

FISCAL YEAR 1983 LIMITATION ON USE OF FUNDS FOR PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Section 306(a), (b), and (d) of S. 2939, Ninety-seventh Congress, 2nd Session, as reported Sept. 22, 1982, made applicable by Pub. L. 97-276, §101(e), Oct. 2, 1982, 96 Stat. 1189, as amended by Pub. L. 97-377, title I, §129(a),

Dec. 21, 1982, 96 Stat. 1914, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1983, to pay the salary or pay of any individual in an office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1982, if that rate was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

FISCAL YEAR 1982 LIMITATION ON USE OF FUNDS FOR
PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Section 305(a), (b), and (d) of H.R. 4120, as reported July 9, 1981, made applicable by Pub. L. 97-92, §101(g), Dec. 15, 1981, 95 Stat. 1190, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1982, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1981, if that rate was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Similar provisions were contained in Pub. L. 97-51, §101(c), Oct. 1, 1981, 95 Stat. 959, as amended by Pub. L. 97-85, Nov. 23, 1981, 95 Stat. 1098.

Pub. L. 97-92, §141, Dec. 15, 1981, 95 Stat. 1200, provided that nothing in section 305 of H.R. 4120, made applicable by section 101(g) of Pub. L. 97-92, required that the rate of salary or basic pay, payable to any individual for or on account of services performed after Dec. 31, 1981, be limited to or reduced to an amount which was less than \$59,500 for pay corresponding to the rate of basic pay for level III of the Executive Schedule under section 5314 of this title; \$58,500 for pay corresponding to the rate of basic pay for level IV of the Executive Schedule under section 5315 of this title; or \$57,500 for pay corresponding to the rate of basic pay for level V of the Executive Schedule under section 5316 of this title. Any adjustment to the pay of an employee paid by the Clerk of the House was to result in pay no less than that of an employee paid by the Secretary of the Senate holding an equivalent position.

FISCAL YEAR 1981 LIMITATION ON USE OF FUNDS FOR
PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Section 306(a), (b), and (d) of H.R. 7593, as passed the House of Representatives on July 21, 1980, made applicable by Pub. L. 96-536, §101(c), Dec. 16, 1980, 94 Stat. 3167, as amended by Pub. L. 97-12, title IV, §401, June 5, 1981, 95 Stat. 95, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1981, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1980, if the rate of salary or basic pay for that office or position was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Similar provisions were contained in Pub. L. 96-369, §101(c), Oct. 1, 1980, 94 Stat. 1352.

FISCAL YEAR 1980 LIMITATION ON USE OF FUNDS FOR
PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Pub. L. 96-86, §101(c), Oct. 12, 1979, 93 Stat. 657, for the fiscal year 1980, prohibited the use of funds available for payment to executive employees, including Members of Congress, entitled under existing law to approximately 12.9 percent increase in pay, to pay any such employee or official any sum in excess of 5.5 percent increase in existing pay, and such sum, if accepted, would be in lieu of the 12.9 percent due for such fiscal year.

FISCAL YEAR 1979 LIMITATION ON USE OF FUNDS FOR
PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Pub. L. 95-429, title VI, §613, Oct. 10, 1978, 92 Stat. 1017, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1979, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1978, if the rate of salary or basic pay for such office or position was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Identical provisions were enacted by Pub. L. 95-391, title III, §304, Sept. 30, 1978, 92 Stat. 788.

1977 COMPARABILITY ADJUSTMENT NOT EFFECTIVE FOR
CERTAIN POSITIONS

Pub. L. 95-66, July 11, 1977, 91 Stat. 270, nullified the first adjustment in pay which would have been made after July 11, 1977, under the following provisions of law: the second sentence of section 104 of Title 3, The President; par. (2) of section 31 of Title 2, The Congress; section 461 of Title 28, Judiciary and Judicial Procedure; and section 5318 of this title.

FISCAL YEAR 1977 LIMITATION ON USE OF FUNDS FOR
PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Pub. L. 94-440, title II, §100, Oct. 1, 1976, 90 Stat. 1446, prohibited the use of funds appropriated in any Act to pay the salary of an individual in a position or office referred to in section 356 of Title 2, The Congress, at a rate exceeding the salary rate for such position or office in effect on Sept. 30, 1976, except increases submitted by the President pursuant to sections 351 to 364 of Title 2.

SUBCHAPTER III—GENERAL SCHEDULE
PAY RATES

§ 5331. Definitions; application

(a) For the purpose of this subchapter, “agency”, “employee”, “position”, “class”, and “grade” have the meanings given them by section 5102 of this title.

(b) This subchapter applies to employees and positions to which chapter 51 applies, other than Senior Executive Service positions, positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and positions to which section 5376 applies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 95-454, title IV, §408(b)(2), Oct. 13, 1978, 92 Stat. 1173; Pub. L. 100-325, §2(h)(3), May 30, 1988, 102 Stat. 582; Pub. L. 101-509, title V, §529 [title I, §102(c)], Nov. 5, 1990, 104 Stat. 1427, 1444.)

HISTORICAL AND REVISION NOTES

The section is added on authority of former sections 1081, 1082, 1084, and 1091, which are carried into section 5102.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-509 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “This subchapter applies to employees and positions, other than Senior Executive Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, to which chapter 51 of this title applies.”

1988—Subsec. (b). Pub. L. 100-325 inserted reference to positions in Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

1978—Subsec. (b). Pub. L. 95-454 inserted reference to Senior Executive Service positions.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

REFERENCES IN OTHER LAWS TO CHAPTER 51 AND SUBCHAPTER III OF CHAPTER 53

References in laws to fix pay in accordance with this subchapter and chapter 51 of this title considered to include authority under section 5376 of this title, if applicable, but not to include any authority under section 5304 of this title or section 529 [title III, §302] of Pub. L. 101-509, set out as a note under section 5304 of this title, see section 529 [title I, §101(c)(2)] of Pub. L. 101-509, set out in a References in Other Laws to GS-16, 17, or 18 Pay Rates; Regulations note under section 5376 of this title.

§ 5332. The General Schedule

(a)(1) The General Schedule, the symbol for which is “GS”, is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies is entitled to basic pay in accordance with the General Schedule.

(2) The General Schedule is a schedule of annual rates of basic pay, consisting of 15 grades, designated “GS-1” through “GS-15”, consecutively, with 10 rates of pay for each such grade. The rates of pay of the General Schedule are adjusted in accordance with section 5303.

(b) When payment is made on the basis of an hourly, daily, weekly, or biweekly rate, the rate is computed from the appropriate annual rate of basic pay named by subsection (a) of this section in accordance with the rules prescribed by section 5504(b) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 90-83, §1(18), Sept. 11, 1967, 81 Stat. 199; Pub. L. 90-206, title II, §202(a), Dec. 16, 1967, 81 Stat. 624; Pub. L. 95-454, title V, §503(e), Oct. 13, 1978, 92 Stat. 1184; Pub. L. 98-615, title II, §204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 102-378, §2(29), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 103-89, §3(b)(1)(F), Sept. 30, 1993, 107 Stat. 982.)

HISTORICAL AND REVISION NOTES
1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 1113 (less (c)).	Oct. 28, 1949, ch. 782, §603 (less (d)), 63 Stat. 965. Oct. 24, 1951, ch. 554, §1(a), 65 Stat. 612. Sept. 1, 1954, ch. 1208, §109 (less (c)), 68 Stat. 1108. June 28, 1955, ch. 189, §2(a), 69 Stat. 172. June 20, 1958, Pub. L. 85-462, §2(a), 72 Stat. 203. July 1, 1960, Pub. L. 86-568, §112(a), 74 Stat. 298. Oct. 11, 1962, Pub. L. 87-793, §602(a), 76 Stat. 843. Aug. 14, 1964, Pub. L. 88-426, §102(a), 78 Stat. 400.
(b)	5 U.S.C. 1113(c).	Oct. 28, 1949, ch. 782, §603 (d), 63 Stat. 965. Sept. 1, 1954, ch. 1208, §109(c), 68 Stat. 1108.

In subsection (a), the words “the symbol for which is ‘GS’” are added on authority of former section 1111 which is carried into section 5104. So much as related to the Crafts, Protective, and Custodial Schedule is omitted as repealed effective not later than Sept. 11, 1955, by the Act of Sept. 1, 1954, §§109(b), 110(b), 68 Stat. 1108.

In subsection (b), reference to payment made on the basis of a “monthly” rate is omitted since section 5504(b), former section 944(c), no longer provides for converting a basic annual rate to a basic monthly rate.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5332(a)	5 App.: 1113(b).	Oct. 29, 1965, Pub. L. 89-301, §2(a), 79 Stat. 1111. July 18, 1966, Pub. L. 89-504, §102(a), 80 Stat. 288.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-89 struck out “, except an employee covered by the performance management and recognition system established under chapter 54,” after “whom this subchapter applies”.

1992—Subsec. (a). Pub. L. 102-378 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The General Schedule, the symbol for which is ‘GS’, is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies, except an employee covered by the performance management and recognition system established under chapter 54 of this title, is entitled to basic pay in accordance with the General Schedule.”

1984—Subsec. (a). Pub. L. 98-615 substituted “the performance management and recognition system established under chapter 54” for “the merit pay system established under section 5402”.

1978—Subsec. (a). Pub. L. 95-454 inserted in second sentence reference to an employee covered by the merit pay system established under section 5402 of this title.

1967—Subsec. (a). Pub. L. 90-206 increased the compensation in each step of each grade.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective May 4, 1991, see section 9(b)(4) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(a) of Pub. L. 95-454 provided that amendment by Pub. L. 95-454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 220(a)(2) of Pub. L. 90-206 provided, except as otherwise expressly provided, that: "Sections 202 [amending this section and enacting provisions set out as a note under this section], 203 [amending section 3301 of Title 39, The Postal Service], 204 [enacting section 3512A of Title 39, amending sections 3512, and 3513-3531 of Title 39, and enacting provisions set out as a note under section 3512A of Title 39], 205 [amending sections 3542-3544 of Title 39, and enacting provisions set out as notes under sections 3542, 3544, 3552, and 3560 of Title 39], 206 [amending sections 3560, 3573, and 3575 of Title 39, and enacting provisions set out as a note under section 3542 of Title 39], 208 [amending former section 4107 of Title 38, Veterans' Benefits], 209 [amending sections 867 and 870 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as a note under section 867 of Title 22], 210 [enacting provisions set out as a note under section 590h of Title 16, Conservation], 211 [enacting provisions set out as a note under this section and section 548 of Title 28, Judiciary and Judicial Procedure], 213 [except subsections (d) and (e)] [enacting provisions set out as notes under sections 603, 604, and 753 of Title 28], 214 [except subsections (j), (k), (l), (n), and (o)] [enacting sections 60e-14, 61-2, 74a-2, and 293c of Title 2, The Congress, amending section 1847 of Title 2, and enacting provisions set out as a note under section 8339 of this title], and 216 [enacting provisions set out as a note under section 60e-14 of Title 2] shall become effective as of the beginning of the first pay period which began on or after October 1, 1967."

SHORT TITLE

Section 1 of Pub. L. 90-206 provided: "That this Act [see Tables for classification] may be cited as the 'Postal Revenue and Federal Salary Act of 1967'."

Section 201 of title II of Pub. L. 90-206 provided that: "This title [see Tables for classification] may be cited as the 'Federal Salary Act of 1967'."

ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1972

Pub. L. 93-549, Dec. 26, 1974, 88 Stat. 1743, provided that no officer or employee of the United States shall have his or her pay reduced by reason of Ex. Ord. No. 11777, Apr. 12, 1974.

1970 INCREASE IN PAY RATES

Pub. L. 91-231, Apr. 15, 1970, 84 Stat. 195, known as the Federal Employees Salary Act of 1970, and effective on the first day of the first pay period beginning on or after Dec. 27, 1969, provided for an increase in the rates of basic pay, basic compensation, and salaries contained in the General Schedule, the Postal Field Service Schedule and Rural Carrier Schedule, the schedule relating to certain positions within the Department of Medicine and Surgery of the Veterans' Administration, and the Foreign Service schedules, and also for employees of Agricultural Stabilization and Conservation County Committees, for certain employees of the Legislative and Judicial Branches, for United States Attorneys, and for other employees of the United States

Government and the government of the District of Columbia whose rates of pay were fixed by administrative action and not otherwise increased.

INITIAL ADJUSTMENT OF 1967 PAY INCREASES

Pub. L. 90-206, title II, §§ 202(b), 220(a)(2), Dec. 16, 1967, 81 Stat. 625, 639, effective as of the beginning of the first pay period which began on or after Oct. 1, 1967, made various initial adjustments to the rates of basic pay of officers and employees referred to in the General Schedule set forth in the amendment to this section made by section 202(a) of Pub. L. 90-206.

1967 SALARY INCREASE FOR PERSONS WHOSE COMPENSATION RATES ARE FIXED BY ADMINISTRATIVE ACTION

Pub. L. 90-206, title II, §§ 211(b)-(d), 220(a)(2), Dec. 16, 1967, 81 Stat. 633, 639, effective as of the beginning of the first pay period which began on or after Oct. 1, 1967, authorized the increase of the rates of pay of certain officers and employees of the Federal Government and of the municipal government of the District of Columbia by amounts not to exceed the increases provided by title II of Pub. L. 90-206 for corresponding rates of pay in the appropriate schedule or scale of pay.

RETROACTIVE COMPENSATION UNDER 1967 PAY INCREASES

Pub. L. 90-206, title II, § 218, Dec. 16, 1967, 81 Stat. 638, provided for retroactive pay under title II of Pub. L. 90-206 only in the case of an individual in the service of the United States, including service in the Armed Forces, or the municipal government of the District of Columbia on Dec. 16, 1967, subject to certain restrictions.

EX. ORD. NO. 13594. ADJUSTMENTS OF CERTAIN RATES OF PAY

Ex. Ord. No. 13594, Dec. 19, 2011, 76 F.R. 80191, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Public Law 111-322), which freezes certain pay schedules for civilian Federal employees at 2010 levels through 2012 and provides for the phase-in of the full applicable locality pay rates in non-foreign areas pursuant to the Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note), it is hereby ordered as follows:

SECTION 1. *Statutory Pay Systems.* Pursuant to the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Public Law 111-322; December 22, 2010), the rates of basic pay or salaries of the statutory pay systems (as defined in 5 U.S.C. 5302(1)) are set forth on the schedules attached hereto and made a part hereof:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) The Foreign Service Schedule (22 U.S.C. 3963) at Schedule 2; and

(c) The schedules for the Veterans Health Administration of the Department of Veterans Affairs (38 U.S.C. 7306, 7404; section 301(a) of Public Law 102-40) at Schedule 3.

SEC. 2. *Senior Executive Service.* The ranges of rates of basic pay for senior executives in the Senior Executive Service, as established pursuant to 5 U.S.C. 5382, are set forth on Schedule 4 attached hereto and made a part hereof.

SEC. 3. *Certain Executive, Legislative, and Judicial Salaries.* The rates of basic pay or salaries for the following offices and positions are set forth on the schedules attached hereto and made a part hereof:

(a) The Executive Schedule (5 U.S.C. 5312-5318) at Schedule 5;

(b) The Vice President (3 U.S.C. 104) and the Congress (2 U.S.C. 31) at Schedule 6; and

(c) Justices and judges (28 U.S.C. 5, 44(d), 135, 252, and 461(a), and section 140 of Public Law 97-92) at Schedule 7.

SEC. 4. Uniformed Services. The rates of monthly basic pay (37 U.S.C. 203(a)) for members of the uniformed services, as adjusted under 37 U.S.C. 1009, and the rate of monthly cadet or midshipman pay (37 U.S.C. 203(c)) are set forth on Schedule 8 attached hereto and made a part hereof.

SEC. 5. Locality-Based Comparability Payments. (a) Pursuant to section 5304 of title 5, United States Code, the Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note), and the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Public Law 111-322; December 22, 2010), locality-based comparability payments shall be paid in accordance with Schedule 9 attached hereto and made a part hereof.

(b) The Director of the Office of Personnel Management shall take such actions as may be necessary to implement these payments and to publish appropriate notice of such payments in the Federal Register.

SEC. 6. Administrative Law Judges. Pursuant to section 5372 of title 5, United States Code, the rates of basic pay for administrative law judges are set forth on Schedule 10 attached hereto and made a part hereof.

SEC. 7. Effective Dates. Schedule 8 is effective January 1, 2012. The other schedules contained herein are effective on the first day of the first applicable pay period beginning on or after January 1, 2012.

SEC. 8. Prior Order Superseded. Executive Order 13561 of December 22, 2010, is superseded.

BARACK OBAMA.

SCHEDULE 1

General Schedule

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Table with 11 columns (1-10) and 15 rows (GS-1 to GS-15) showing pay rates for the General Schedule.

SCHEDULE 2

Foreign Service Schedule

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Table with 10 columns (Step, Class 1-9) and 14 rows showing pay rates for the Foreign Service Schedule.

SCHEDULE 3

Veterans Health Administration Schedules, Department of Veterans Affairs

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Table with 2 columns (Minimum, Maximum) and 13 rows showing pay rates for Veterans Health Administration Schedules.

SCHEDULE 3—Continued

Veterans Health Administration Schedules, Department of Veterans Affairs

Table with 3 columns (Grade, Minimum, Maximum) and 4 rows showing pay rates for Veterans Health Administration Schedules (Continued).

¹ This schedule does not apply to the Deputy Under Secretary for Health, the Associate Deputy Under Secretary for Health, Assistant Under Secretaries for Health who are physicians or dentists, Medical Directors, the Assistant Under Secretary for Nursing Programs, or the Director of Nursing Services.

² Pursuant to 38 U.S.C. 7404(d), the rate of basic pay payable to these employees is limited to the rate for level V of the Executive Schedule, which is \$145,700.

³ Pursuant to section 3 of Public Law 108-445 [see Tables for classification] and 38 U.S.C. 7431, Veterans Health Administration physicians and dentists may also be paid market pay and performance pay.

⁴ Pursuant to section 301(a) of Public Law 102-40 [38 U.S.C. 7451 note], these positions are paid according to the Nurse Schedule in 38 U.S.C. 4107(b), as in effect on August 14, 1990, with subsequent adjustments.

SCHEDULE 4

Senior Executive Service

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Table with 4 columns (Agency, Minimum, Maximum) and 2 rows showing pay rates for the Senior Executive Service.

SCHEDULE 5

Executive Schedule

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Level I	\$199,700
Level II	179,700
Level III	165,300
Level IV	155,500
Level V	145,700

SCHEDULE 6

Vice President and Members of Congress

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Vice President	\$230,700
Senators	174,000
Members of the House of Representatives	174,000
Delegates to the House of Representatives	174,000
Resident Commissioner from Puerto Rico	174,000
President pro tempore of the Senate	193,400
Majority leader and minority leader of the Senate	193,400
Majority leader and minority leader of the House of Representatives	193,400
Speaker of the House of Representatives	223,500

SCHEDULE 7

Judicial Salaries

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Chief Justice of the United States	\$223,500
Associate Justices of the Supreme Court	213,900
Circuit Judges	184,500
District Judges	174,000
Judges of the Court of International Trade	174,000

SCHEDULE 8

Pay of the Uniformed Services

(Effective January 1, 2012)

PART I—MONTHLY BASIC PAY

Years of Service (computed under 37 U.S.C. 205)
Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10 ² ..					
O-9					
O-8	\$9,683.10	\$10,000.20	\$10,210.80	\$10,269.60	\$10,532.40
O-7	8,045.70	8,419.80	8,592.60	8,730.00	8,979.00
O-6	5,963.40	6,551.70	6,981.30	6,981.30	7,008.00
O-5	4,971.30	5,600.40	5,988.00	6,061.20	6,303.00
O-4	4,289.40	4,965.60	5,296.80	5,370.60	5,678.10
O-3 ³ ..	3,771.30	4,275.30	4,614.60	5,031.00	5,271.90
O-2 ³ ..	3,258.60	3,711.30	4,274.40	4,418.70	4,509.60
O-1 ³ ..	2,828.40	2,943.90	3,558.60	3,558.60	3,558.60
	Over 8	Over 10	Over 12	Over 14	Over 16
O-10 ² ..					
O-9					
O-8	\$10,971.00	\$11,073.30	\$11,489.70	\$11,609.10	\$11,968.20
O-7	9,225.00	9,509.40	9,792.90	10,077.30	10,971.00
O-6	7,308.60	7,348.20	7,348.20	7,765.80	8,504.10
O-5	6,447.60	6,765.90	6,999.30	7,301.10	7,763.10
O-4	6,007.80	6,418.50	6,738.30	6,960.60	7,088.10
O-3 ³ ..	5,536.50	5,707.80	5,988.90	6,135.60	6,135.60
O-2 ³ ..	4,509.60	4,509.60	4,509.60	4,509.60	4,509.60
O-1 ³ ..	3,558.60	3,558.60	3,558.60	3,558.60	3,558.60
	Over 18	Over 20	Over 22	Over 24	Over 26
O-10 ² ..		¹ \$15,647.10	¹ \$15,723.30	¹ \$16,050.60	¹ \$16,620.00
O-9		13,685.10	13,882.50	14,167.20	14,664.00
O-8	\$12,487.80	12,966.60	13,286.40	13,286.40	13,286.40
O-7	11,725.50	11,725.50	11,725.50	11,725.50	11,785.20
O-6	8,937.60	9,370.50	9,617.10	9,866.70	10,350.60
O-5	7,982.40	8,199.30	8,446.20	8,446.20	8,446.20
O-4	7,161.90	7,161.90	7,161.90	7,161.90	7,161.90
O-3 ³ ..	6,135.60	6,135.60	6,135.60	6,135.60	6,135.60
O-2 ³ ..	4,509.60	4,509.60	4,509.60	4,509.60	4,509.60
O-1 ³ ..	3,558.60	3,558.60	3,558.60	3,558.60	3,558.60
	Over 28	Over 30	Over 32	Over 34	Over 36
O-10 ² ..	¹ \$16,620.00	¹ \$17,451.00	¹ \$17,451.00	¹ \$18,323.40	¹ \$18,323.40
O-9	14,664.00	¹ 15,397.50	¹ 15,397.50	¹ 16,167.60	¹ 16,167.60
O-8	13,286.40	13,618.80	13,618.80	13,959.30	13,959.30
O-7	11,785.20	12,021.00	12,021.00	12,021.00	12,021.00
O-6	10,350.60	10,557.30	10,557.30	10,557.30	10,557.30

SCHEDULE 8—Continued

Pay of the Uniformed Services

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-5	8,446.20	8,446.20	8,446.20	8,446.20	8,446.20
O-4	7,161.90	7,161.90	7,161.90	7,161.90	7,161.90
O-3 ³ ..	6,135.60	6,135.60	6,135.60	6,135.60	6,135.60
O-2 ³ ..	4,509.60	4,509.60	4,509.60	4,509.60	4,509.60
O-1 ³ ..	3,558.60	3,558.60	3,558.60	3,558.60	3,558.60
	Over 38	Over 40			
O-10 ² ..	¹ \$19,239.90	¹ \$19,239.90			
O-9	¹ 16,975.80	¹ 16,975.80			
O-8	13,959.30	13,959.30			
O-7	12,021.00	12,021.00			
O-6	10,557.30	10,557.30			
O-5	8,446.20	8,446.20			
O-4	7,161.90	7,161.90			
O-3 ³ ..	6,135.60	6,135.60			
O-2 ³ ..	4,509.60	4,509.60			
O-1 ³ ..	3,558.60	3,558.60			

¹Basic pay is limited to the rate of basic pay for level II of the Executive Schedule, which is \$14,975.10 per month for officers at pay grades O-7 through O-10, and limited to the rate of basic pay for level V of the Executive Schedule, which is \$12,141.60 per month, for officers at O-6 and below.

²For officers serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in 10 U.S.C. 161(c)), basic pay for this grade is calculated to be \$20,587.80 per month, regardless of cumulative years of service computed under 37 U.S.C. 205. Nevertheless, actual basic pay for these officers is limited to the rate of basic pay for level II of the Executive Schedule, which is \$14,975.10 per month.

³Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

Commissioned Officers With Over 4 Years Active Duty Service as an Enlisted Member or Warrant Officer⁴

Pay Grade	Over 4	Over 6	Over 8	Over 10
O-3E	\$5,031.00	\$5,271.90	\$5,536.50	\$5,707.80
O-2E	4,418.70	4,509.60	4,653.30	4,895.70
O-1E	3,558.60	3,800.10	3,940.80	4,084.50
	Over 12	Over 14	Over 16	Over 18
O-3E	\$5,988.90	\$6,226.20	\$6,362.40	\$6,548.10
O-2E	5,082.90	5,222.40	5,222.40	5,222.40
O-1E	4,225.50	4,418.70	4,418.70	4,418.70
	Over 20	Over 22	Over 24	Over 26
O-3E	\$6,548.10	\$6,548.10	\$6,548.10	\$6,548.10
O-2E	5,222.40	5,222.40	5,222.40	5,222.40
O-1E	4,418.70	4,418.70	4,418.70	4,418.70
	Over 28	Over 30	Over 32	Over 34
O-3E	\$6,548.10	\$6,548.10	\$6,548.10	\$6,548.10
O-2E	5,222.40	5,222.40	5,222.40	5,222.40
O-1E	4,418.70	4,418.70	4,418.70	4,418.70
	Over 36	Over 38	Over 40	
O-3E	\$6,548.10	\$6,548.10	\$6,548.10	
O-2E	5,222.40	5,222.40	5,222.40	
O-1E	4,418.70	4,418.70	4,418.70	

⁴Reservists with at least 1,460 points as an enlisted member and/or warrant officer which are creditable toward reserve retirement also qualify for these rates.

Warrant Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-5					
W-4	\$3,897.60	\$4,192.50	\$4,312.80	\$4,431.30	\$4,635.00
W-3	3,558.90	3,707.40	3,859.50	3,909.30	4,068.90
W-2	3,149.40	3,447.30	3,539.10	3,602.10	3,806.40
W-1	2,764.50	3,061.80	3,141.90	3,311.10	3,511.20
	Over 8	Over 10	Over 12	Over 14	Over 16
W-5					
W-4	\$4,836.90	\$5,040.90	\$5,348.70	\$5,618.10	\$5,874.30
W-3	4,382.70	4,709.10	4,862.70	5,040.60	5,224.20
W-2	4,123.80	4,281.00	4,436.10	4,625.40	4,773.30
W-1	3,805.80	3,943.50	4,135.50	4,324.80	4,473.60
	Over 18	Over 20	Over 22	Over 24	Over 26
W-5		\$6,930.00	\$7,281.60	\$7,543.50	\$7,833.30

Warrant Officers—Continued

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-4	\$6,084.00	6,288.60	6,589.20	6,836.10	7,117.80
W-3	5,553.60	5,776.20	5,909.40	6,051.00	6,243.30
W-2	4,907.40	5,067.60	5,173.20	5,256.90	5,256.90
W-1	4,610.70	4,776.90	4,776.90	4,776.90	4,776.90
	Over 28	Over 30	Over 32	Over 34	Over 36
W-5	\$7,833.30	\$8,225.40	\$8,225.40	\$8,636.40	\$8,636.40
W-4	7,117.80	7,260.00	7,260.00	7,260.00	7,260.00
W-3	6,243.30	6,243.30	6,243.30	6,243.30	6,243.30
W-2	5,256.90	5,256.90	5,256.90	5,256.90	5,256.90
W-1	4,776.90	4,776.90	4,776.90	4,776.90	4,776.90
	Over 38	Over 40			
W-5	\$9,068.70	\$9,068.70			
W-4	7,260.00	7,260.00			
W-3	6,243.30	6,243.30			
W-2	5,256.90	5,256.90			
W-1	4,776.90	4,776.90			

Enlisted Members

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9 ¹					
E-8					
E-7	\$2,679.60	\$2,924.70	\$3,036.60	\$3,185.10	\$3,300.90
E-6	2,317.30	2,550.30	2,662.30	2,772.30	2,896.30
E-5	2,123.40	2,265.90	2,375.40	2,487.60	2,602.20
E-4	1,946.70	2,046.30	2,157.30	2,266.50	2,363.10
E-3	1,757.40	1,868.10	1,981.20	1,981.20	1,981.20
E-2	1,671.30	1,671.30	1,671.30	1,671.30	1,671.30
E-1 ²	1,491.00	1,491.00	1,491.00	1,491.00	1,491.00
E-1 ³	1,378.80				
	Over 8	Over 10	Over 12	Over 14	Over 16
E-9 ¹		\$4,708.80	\$4,815.60	\$4,950.00	\$5,108.10
E-8	\$3,854.70	4,025.10	4,130.70	4,257.30	4,394.40
E-7	3,499.80	3,611.70	3,810.90	3,976.20	4,089.00
E-6	3,143.10	3,243.30	3,436.80	3,496.20	3,539.40
E-5	2,845.20	2,994.60	3,012.90	3,012.90	3,012.90
E-4	2,363.10	2,363.10	2,363.10	2,363.10	2,363.10
E-3	1,981.20	1,981.20	1,981.20	1,981.20	1,981.20
E-2	1,671.30	1,671.30	1,671.30	1,671.30	1,671.30
E-1 ²	1,491.00	1,491.00	1,491.00	1,491.00	1,491.00
E-1 ³					
	Over 18	Over 20	Over 22	Over 24	Over 26
E-9 ¹	\$5,267.70	\$5,523.60	\$5,739.60	\$5,967.30	\$6,315.30
E-8	4,641.60	4,766.70	4,980.00	5,098.20	5,389.50
E-7	4,209.30	4,256.10	4,412.40	4,496.40	4,815.90
E-6	3,589.80	3,589.80	3,589.80	3,589.80	3,589.80
E-5	3,012.90	3,012.90	3,012.90	3,012.90	3,012.90
E-4	2,363.10	2,363.10	2,363.10	2,363.10	2,363.10
E-3	1,981.20	1,981.20	1,981.20	1,981.20	1,981.20
E-2	1,671.30	1,671.30	1,671.30	1,671.30	1,671.30
E-1 ²	1,491.00	1,491.00	1,491.00	1,491.00	1,491.00
E-1 ³					
	Over 28	Over 30	Over 32	Over 34	Over 36
E-9 ¹	\$6,315.30	\$6,630.60	\$6,630.60	\$6,962.40	\$6,962.40
E-8	5,389.50	5,497.80	5,497.80	5,497.80	5,497.80
E-7	4,815.90	4,815.90	4,815.90	4,815.90	4,815.90
E-6	3,589.80	3,589.80	3,589.80	3,589.80	3,589.80
E-5	3,012.90	3,012.90	3,012.90	3,012.90	3,012.90
E-4	2,363.10	2,363.10	2,363.10	2,363.10	2,363.10
E-3	1,981.20	1,981.20	1,981.20	1,981.20	1,981.20
E-2	1,671.30	1,671.30	1,671.30	1,671.30	1,671.30
E-1 ²	1,491.00	1,491.00	1,491.00	1,491.00	1,491.00
E-1 ³					
	Over 38	Over 40			
E-9 ¹	\$7,311.00	\$7,311.00			
E-8	5,497.80	5,497.80			
E-7	4,815.90	4,815.90			
E-6	3,589.80	3,589.80			
E-5	3,012.90	3,012.90			
E-4	2,363.10	2,363.10			
E-3	1,981.20	1,981.20			
E-2	1,671.30	1,671.30			
E-1 ²	1,491.00	1,491.00			
E-1 ³					

¹For noncommissioned officers serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, basic pay for this grade is \$7,609.50 per month, regardless of cumulative years of service under 37 U.S.C. 205.

²Applies to personnel who have served 4 months or more on active duty.

³Applies to personnel who have served less than 4 months on active duty.

PART II—RATE OF MONTHLY CADET OR MIDSHIPMAN PAY

The rate of monthly cadet or midshipman pay authorized by 37 U.S.C. 203(c) is \$990.00.

NOTE: As a result of the enactment of sections 602-604 of Public Law 105-85, the National Defense Authorization Act for Fiscal Year 1998 [see Tables for classification], the Secretary of Defense now has the authority to adjust the rates of basic allowances for subsistence and housing. Therefore, these allowances are no longer adjusted by the President in conjunction with the adjustment of basic pay for members of the uniformed services. Accordingly, the tables of allowances included in previous orders are not included here.

SCHEDULE 9

Locality-Based Comparability Payments

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

Locality Pay Area ¹	Rate
Alaska ²	24.69%
Atlanta-Sandy Springs-Gainesville, GA-AL	19.29%
Boston-Worcester-Manchester, MA-NH-RI-ME	24.80%
Buffalo-Niagara-Cattaraugus, NY	16.98%
Chicago-Naperville-Michigan City, IL-IN-WI	25.10%
Cincinnati-Middletown-Wilmington, OH-KY-IN	18.55%
Cleveland-Akron-Elyria, OH	18.68%
Columbus-Marion-Chillicothe, OH	17.16%
Dallas-Fort Worth, TX	20.67%
Dayton-Springfield-Greenville, OH	16.24%
Denver-Aurora-Boulder, CO	22.52%
Detroit-Warren-Flint, MI	24.09%
Hartford-West Hartford-Willimantic, CT-MA	25.82%
Hawaii ²	16.51%
Houston-Baytown-Huntsville, TX	28.71%
Huntsville-Decatur, AL	16.02%
Indianapolis-Anderson-Columbus, IN	14.68%
Los Angeles-Long Beach-Riverside, CA	27.16%
Miami-Fort Lauderdale-Pompano Beach, FL	20.79%
Milwaukee-Racine-Waukesha, WI	18.10%
Minneapolis-St. Paul-St. Cloud, MN-WI	20.96%
New York-Newark-Bridgeport, NY-NJ-CT-PA	28.72%
Philadelphia-Camden-Vineland, PA-NJ-DE-MD	21.79%
Phoenix-Mesa-Scottsdale, AZ	16.76%
Pittsburgh-New Castle, PA	16.37%
Portland-Vancouver-Beaverton, OR-WA	20.35%
Raleigh-Durham-Cary, NC	17.64%
Richmond, VA	16.47%
Sacramento-Arden-Arcade-Yuba City, CA-NV	22.20%
San Diego-Carlsbad-San Marcos, CA	24.19%
San Jose-San Francisco-Oakland, CA	35.15%
Seattle-Tacoma-Olympia, WA	21.81%
Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA	24.22%
Rest of U.S. ²	14.16%

¹Locality Pay Areas are defined in 5 CFR 531.603.

²Under the Non-Foreign Area Retirement Equity Assurance Act of 2009 (sections 1911-1919, Public Law 111-84, October 28, 2009), the full amount of the applicable locality pay rate approved by the President applies in non-foreign areas effective with the first pay period beginning in January 2012. Alaska and Hawaii have separate locality pay rates as shown above. Other non-foreign areas (as identified in 5 CFR 591.205(b)(3)-(16)) are part of the Rest of U.S. locality pay area.

SCHEDULE 10

Administrative Law Judges

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2012)

AL-3/A	\$103,900
AL-3/B	111,800
AL-3/C	119,900
AL-3/D	127,800
AL-3/E	135,900
AL-3/F	143,700
AL-2	151,800
AL-1	155,500

PRIOR ADJUSTMENTS OF CERTAIN RATES OF PAY WERE CONTAINED IN THE FOLLOWING:

- Ex. Ord. No. 13561, Dec. 22, 2010, 75 F.R. 81817, effective Jan. 1, 2011, superseded by Ex. Ord. No. 13594.
- Ex. Ord. No. 13525, Dec. 23, 2009, 74 F.R. 69231, effective Jan. 1, 2010, superseded by Ex. Ord. No. 13561.
- Ex. Ord. No. 13483, Dec. 18, 2008, 73 F.R. 78587, effective Jan. 1, 2009, superseded by Ex. Ord. No. 13525.

Ex. Ord. No. 13454, Jan. 4, 2008, 73 F.R. 1481, effective Jan. 1, 2008, superseded by Ex. Ord. No. 13483.

Ex. Ord. No. 13420, Dec. 21, 2006, 71 F.R. 77571, effective Jan. 1, 2007, superseded by Ex. Ord. No. 13454.

Ex. Ord. No. 13393, Dec. 22, 2005, 70 F.R. 76655, effective Jan. 1, 2006, superseded by Ex. Ord. No. 13420.

Ex. Ord. No. 13368, Dec. 30, 2004, 70 F.R. 1147, effective Jan. 1, 2005, superseded by Ex. Ord. No. 13393.

Ex. Ord. No. 13332, Mar. 3, 2004, 69 F.R. 10891, effective Jan. 1, 2004, superseded by Ex. Ord. No. 13368.

Ex. Ord. No. 13322, Dec. 30, 2003, 69 F.R. 231, effective Jan. 1, 2004, superseded by Ex. Ord. No. 13332.

Ex. Ord. No. 13282, Dec. 31, 2002, 68 F.R. 1133, as amended by Ex. Ord. No. 13291, Mar. 21, 2003, 68 F.R. 14525, effective Jan. 1, 2003, superseded by Ex. Ord. No. 13322.

Ex. Ord. No. 13249, Dec. 28, 2001, 67 F.R. 639, effective Jan. 1, 2002, superseded by Ex. Ord. No. 13282, as amended.

Ex. Ord. No. 13182, Dec. 23, 2000, 65 F.R. 82879, 66 F.R. 10057, effective Jan. 1, 2001, superseded by Ex. Ord. No. 13249.

Ex. Ord. No. 13144, Dec. 21, 1999, 64 F.R. 72237, effective Jan. 1, 2000, superseded by Ex. Ord. No. 13182.

Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, effective Jan. 1, 1999, substantially superseded by Ex. Ord. No. 13144.

Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, effective Jan. 1, 1998, superseded by Ex. Ord. No. 13106.

Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, effective Jan. 1, 1997, superseded by Ex. Ord. No. 13071.

Ex. Ord. No. 12990, Feb. 29, 1996, 61 F.R. 8467, effective Jan. 1, 1996, superseded by Ex. Ord. No. 13033.

Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, as amended by Ex. Ord. No. 12990, § 3, Feb. 29, 1996, 61 F.R. 8467, effective Jan. 1, 1996, superseded by Ex. Ord. No. 13033.

Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, effective Jan. 1, 1995, superseded by Ex. Ord. No. 12984, as amended.

Ex. Ord. No. 12886, Dec. 23, 1993, 58 F.R. 68709, effective Jan. 1, 1994, superseded by Ex. Ord. No. 12944.

Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, as amended by Ex. Ord. No. 12886, § 3, Dec. 23, 1993, 58 F.R. 68709, effective Jan. 1, 1993, superseded by Ex. Ord. No. 12944.

Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, effective Jan. 1, 1992, superseded by Ex. Ord. No. 12826, as amended.

Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, effective Jan. 1, 1991, superseded by Ex. Ord. No. 12786.

Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, effective Jan. 1 and 31, 1990, superseded by Ex. Ord. No. 12736.

Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, effective Jan. 1, 1989, superseded by Ex. Ord. No. 12698.

Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, effective Jan. 1, 1988, superseded by Ex. Ord. No. 12663.

Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, effective Jan. 1, 1987, superseded by Ex. Ord. No. 12622.

Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, effective Jan. 1, 1985, superseded by Ex. Ord. No. 12578.

Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended by Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, effective Jan. 1, 1984, superseded by Ex. Ord. No. 12496, as amended.

Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, effective Oct. 1, 1982, superseded by Ex. Ord. No. 12456, as amended.

Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, effective Oct. 1, 1981, superseded by Ex. Ord. No. 12387.

Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, effective Oct. 1, 1980, superseded by Ex. Ord. No. 12330.

Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 44 F.R. 16443, effective Oct. 1, 1979, superseded by Ex. Ord. No. 12248.

Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, effective Oct. 1, 1978, superseded by Ex. Ord. No. 12165, as amended.

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, effective Oct. 1, 1977, superseded by Ex. Ord. No. 12087.

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, effective Oct. 1, 1976, superseded by Ex. Ord. No. 12010.

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, effective Oct. 1, 1975, superseded by Ex. Ord. No. 11941, as amended.

Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, effective Oct. 1, 1974, superseded by Ex. Ord. No. 11883.

Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27581, effective Oct. 1, 1973, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607, as amended by Ex. Ord. No. 11777, Apr. 12, 1974, 39 F.R. 13519, effective Oct. 1, 1972, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911, effective Jan. 1, 1972, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347, effective Jan. 1, 1971, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6247, effective first pay period on or after Dec. 27, 1969, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605, effective July 1, 1969, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641, effective July 1, 1968, superseded by Ex. Ord. No. 11811.

FREEZING FEDERAL EMPLOYEE PAY SCHEDULES AND RATES THAT ARE SET BY ADMINISTRATIVE DISCRETION

Memorandum of President of the United States, Dec. 22, 2010, 75 F.R. 81829, provided:

Memorandum for the Heads of Executive Departments and Agencies

On November 29, 2010, I proposed a two-year freeze in the pay of civilian Federal employees as the first of a number of difficult actions required to put our Nation on a sound fiscal footing. As I said then, Federal workers are not just a line in a budget. They are public servants who, like their private sector counterparts, may be struggling in these difficult economic times.

Despite the sacrifices that I knew a pay freeze would entail for our dedicated civil servants, I concluded that a two-year freeze in the upward statutory adjustment of pay schedules is a necessary first step in our effort to address the challenge of our fiscal reality. The Congress responded to my proposal by including such a freeze in the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (H.R. 3082) [Pub. L. 111-322], which I signed into law today (the “Act”). The Act freezes statutory pay adjustments for all executive branch pay schedules for a two-year period. It also generally prohibits executive departments and agencies from providing any base salary increases at all to senior executives or senior level employees, including performance-based increases.

While this legislation will prevent adjustments in executive branch pay schedules that are made by statute, some laws allow such adjustments to be made by agency heads as an exercise of administrative discretion. In order to ensure consistent treatment of executive branch employees and to promote the fiscal purposes of my original proposal, agency heads who have such discretion should not provide any upward adjustments in Federal employees’ pay schedules or rates during the two-year period covered by the statutory pay freeze.

Accordingly, you should suspend any increases to any pay systems or pay schedules covering executive branch employees that could otherwise take effect as a result of an exercise of administrative discretion during the period beginning on January 1, 2011, and ending on December 31, 2012. You also should forgo any general increases (including general increases for a geographic area, such as locality pay) in covered employees’ rates of pay that could otherwise take effect as a result of the exercise of administrative discretion during the same period. To the extent that an agency pay system provides performance-based increases in lieu of general increases, funds allocated for those performance-based increases should be correspondingly reduced to reflect the freezing of the employees’ base pay schedule.

This memorandum shall be carried out to the extent permitted by law and consistent with executive departments' and agencies' legal authorities. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Personnel Management shall issue guidance on implementing this memorandum, and is also hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 5333. Minimum rate for new appointments

New appointments shall be made at the minimum rate of the appropriate grade. However, under regulations prescribed by the Office of Personnel Management which provide for such considerations as the existing pay or unusually high or unique qualifications of the candidate, or a special need of the Government for his services, the head of an agency may appoint, with the approval of the Office in each specific case, an individual to a position at such a rate above the minimum rate of the appropriate grade as the Office may authorize for this purpose. The approval of the Office in each specific case is not required with respect to an appointment made by the Librarian of Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 90-83, §1(19), Sept. 11, 1967, 81 Stat. 199; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-54, §2(a)(26)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 101-509, title V, §529 [title I, §106, title II, §211(b)(1)], Nov. 5, 1990, 104 Stat. 1427, 1449, 1461.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	5 U.S.C. 1131.	Oct. 28, 1949, ch. 782, §801, 63 Stat. 969. Aug. 14, 1964, Pub. L. 88-426, §103(a), 78 Stat. 401.
(b)	5 U.S.C. 1133.	Oct. 28, 1949, ch. 782, §803, 63 Stat. 970. Sept. 1, 1954, ch. 1208, §104, 68 Stat. 1106. Oct. 11, 1962, Pub. L. 87-793, §604(c), 76 Stat. 848.

In subsection (b), the word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5333(a)	5 App.: 1131.	July 18, 1966, Pub. L. 89-504, §103, 80 Stat. 289.

AMENDMENTS

1990—Pub. L. 101-509 struck out “; higher rates for supervisors of prevailing rate employees” after “appointments” in section catchline, struck out “(a)” before “New appointments shall”, struck out “in GS-11 or above” after “individual to a position”, and struck out subsec. (b) which read as follows: “Under regulations

prescribed by the Office of Personnel Management, an employee in a position to which this subchapter applies, who regularly has responsibility for supervision (including supervision over the technical aspects of the work concerned) over employees whose pay is fixed and adjusted from time to time by wage boards or similar administrative authority as nearly as is consistent with the public interest in accordance with prevailing rates, may be paid at one of the rates for his grade which is above the highest rate of basic pay being paid to any such prevailing-rate employee regularly supervised, or at the maximum rate for his grade, as provided by the regulations.”

1979—Pub. L. 96-54 substituted “prevailing rate” for “wage-board” in section catchline.

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

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

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.

§ 5334. Rate on change of position or type of appointment; regulations

(a) The rate of basic pay to which an employee is entitled is governed by regulations prescribed by the Office of Personnel Management in conformity with this subchapter and chapter 51 of this title when—

- (1) he is transferred from a position in the legislative, judicial, or executive branch to which this subchapter does not apply;
- (2) he is transferred from a position in the legislative, judicial, or executive branch to which this subchapter applies to another such position;
- (3) he is demoted to a position in a lower grade;
- (4) he is reinstated, reappointed, or reemployed in a position to which this subchapter applies following service in any position in the legislative, judicial, or executive branch;
- (5) his type of appointment is changed;
- (6) his employment status is otherwise changed; or
- (7) his position is changed from one grade to another grade.

For the purpose of this subsection, an individual employed by the Appalachian Regional Commission under section 14306(a)(2) of title 40, who was a Federal employee immediately prior to such employment by a commission and within 6 months after separation from such employment is employed in a position to which this subchapter applies, shall be treated as if transferred from a position in the executive branch to which this subchapter does not apply.

(b) An employee who is promoted or transferred to a position in a higher grade is entitled

to basic pay at the lowest rate of the higher grade which exceeds his existing rate of basic pay by not less than two step-increases of the grade from which he is promoted or transferred. If, in the case of an employee so promoted or transferred who is receiving basic pay at a rate in excess of the maximum rate of his grade, there is no rate in the higher grade which is at least two step-increases above his existing rate of basic pay, he is entitled to—

- (1) the maximum rate of the higher grade; or
- (2) his existing rate of basic pay, if that rate is the higher.

If an employee so promoted or transferred is receiving basic pay at a rate saved to him under subchapter VI of this chapter on reduction in grade, he is entitled to—

- (A) basic pay at a rate two steps above the rate which he would be receiving if subchapter VI of this chapter were not applicable to him; or
- (B) his existing rate of basic pay, if that rate is the higher.

If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection.

(c) An employee in the legislative branch who is paid by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, and who has completed two or more years of service as such an employee, and a Member of the Senate or House of Representatives who has completed two or more years of service as such a Member, may, on appointment to a position to which this subchapter applies, have his initial rate of pay fixed—

- (1) at the minimum rate of the appropriate grade; or
- (2) at a step of the appropriate grade that does not exceed the highest previous rate of pay received by him during that service in the legislative branch.

(d) The rate of pay established for a teaching position as defined by section 901 of title 20 held by an individual who becomes subject to subsection (a) of this section is deemed increased by an amount determined under regulations which the Secretary of Defense shall prescribe for the determination of the yearly rate of pay of the position. The amount by which a rate of pay is increased under the regulations may not exceed the amount equal to 20 percent of that rate of pay.

(e) An employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may, on appointment to a position subject to this subchapter, have the initial rate of basic pay of the employee fixed at—

- (1) the lowest rate of the higher grade that exceeds the rate of basic pay of the employee with the county committee by not less than 2

step-increases of the grade from which the employee was promoted, if the Federal Civil Service position under this subchapter is at a higher grade than the last grade the employee had while an employee of the county committee;

(2) the same step of the grade as the employee last held during service with the county committee, if the Federal Civil Service position under this subchapter is at the same grade as the last grade the employee had while an employee of the county committee; or

(3) the lowest step of the Federal grade for which the rate of basic pay is equal to or greater than the highest previous rate of pay of the employee, if the Federal Civil Service position under this subchapter is at a lower grade than the last grade the employee had while an employee of the county committee.

(f)(1) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such employee's initial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed—

(A) if the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c) is equal to a rate of the appropriate grade, such rate of the appropriate grade;

(B) if the employee's highest previous rate of basic pay (as described in subparagraph (A)) is between two rates of the appropriate grade, the higher of those two rates; or

(C) if the employee's highest previous rate of basic pay (as described in subparagraph (A)) exceeds the maximum rate of the appropriate grade, the maximum rate of the appropriate grade.

(2) In the case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.

(g) In the case of an employee who—

- (1) moves to a new official duty station, and
- (2) by virtue of such move, becomes subject to a different pay schedule,

any rate adjustment under the preceding provisions of this section, with respect to such employee in connection with such move, shall be made—

(A) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move, and

(B) then, by applying the provisions of this section that would otherwise apply (if any),

treating the rate determined under subparagraph (A) as if it were the rate last received by the employee before the rate adjustment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 468; Pub. L. 90-103, title I, §105, Oct. 11, 1967, 81 Stat. 257; Pub. L. 90-367, §1, June 29, 1968, 82 Stat. 277; Pub. L. 90-623, §1(6), (24), Oct. 22, 1968, 82 Stat. 1312, 1314; Pub. L. 95-454, title V, §503(f), title VIII, §801(a)(2), (3)(F), (G), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1184, 1221, 1222, 1224; Pub. L. 96-54, §2(a)(27), Aug. 14, 1979, 93 Stat. 383; Pub. L. 98-615, title II, §204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 99-251, title III, §306(b), Feb. 27, 1986, 100 Stat. 27; Pub. L. 101-508, title VII, §7202(d), Nov. 5, 1990, 104 Stat. 1388-335; Pub. L. 103-89, §3(b)(1)(G), Sept. 30, 1993, 107 Stat. 982; Pub. L. 104-186, title II, §215(4), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 105-85, div. A, title XI, §1104(a), Nov. 18, 1997, 111 Stat. 1923; Pub. L. 105-393, title II, §223, Nov. 13, 1998, 112 Stat. 3626; Pub. L. 107-171, title X, §10701, May 13, 2002, 116 Stat. 515; Pub. L. 108-178, §4(a), Dec. 15, 2003, 117 Stat. 2640; Pub. L. 108-411, title III, §301(a)(3), Oct. 30, 2004, 118 Stat. 2315; Pub. L. 110-181, div. A, title XI, §1114, Jan. 28, 2008, 122 Stat. 360.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)-(d)	5 U.S.C. 1132.	Oct. 28, 1949, ch. 782, §802, 63 Stat. 969. Sept. 1, 1954, ch. 1208, §112 (as applicable to §802(b)), 68 Stat. 1108. May 29, 1958, Pub. L. 85-432, §4(a), (b), 72 Stat. 151. July 31, 1959, Pub. L. 86-122, §2(a), 73 Stat. 268. Oct. 11, 1962, Pub. L. 87-793, §604(a), (b), 76 Stat. 847. July 17, 1959, Pub. L. 86-91, §9, 73 Stat. 216.
(e)	5 U.S.C. 2357.	

In subsection (b), the words “under any provision of law” are omitted from the second sentence as unnecessary.

In subsection (e), the words “as defined by section 901 of title 20” are added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110-181 designated first sentence as par. (1), substituted “does not exceed—” for “does not exceed the highest previous rate of basic pay received by that employee during the employee’s service described in section 2105(c).”, added subpars. (A) to (C), and designated second sentence as par. (2).

2004—Subsec. (b). Pub. L. 108-411, §301(a)(3)(A), inserted concluding provisions.

Subsec. (g). Pub. L. 108-411, §301(a)(3)(B), added subsec. (g).

2003—Subsec. (a). Pub. L. 108-178 substituted “section 14306(a)(2) of title 40” for “section 106(2) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)”.

2002—Subsec. (e). Pub. L. 107-171 added subsec. (e) and struck out former subsec. (e) which read as follows: “An employee of a county committee established pursuant to section 590h(b) of title 16 may, upon appointment to a position subject to this subchapter, have his initial rate of basic pay fixed at the minimum rate of the appropriate grade, or at any step of such grade that

does not exceed the highest previous rate of basic pay received by him during service with such county committee.”

1998—Subsec. (a). Pub. L. 105-393 substituted “the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)” for “title 40, appendix, or by a regional commission established pursuant to section 3182 of title 42, under section 3186(a)(2) of that title”.

1997—Subsec. (d). Pub. L. 105-85 substituted “an amount determined under regulations which the Secretary of Defense shall prescribe for the determination of the yearly rate of pay of the position. The amount by which a rate of pay is increased under the regulations may not exceed the amount equal to 20 percent of that rate of pay.” for “20 percent to determine the yearly rate of pay of the position.”

1996—Subsec. (c). Pub. L. 104-186 substituted “Chief Administrative Officer” for “Clerk”.

1993—Subsec. (c)(2). Pub. L. 103-89, §3(b)(1)(G)(i), substituted “step” for “step, or for an employee appointed to a position covered by the performance management and recognition system established under chapter 54 of this title, any dollar amount.”.

Subsecs. (f), (g). Pub. L. 103-89, §3(b)(1)(G)(ii), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: “In the case of an employee covered by the performance management and recognition system established under chapter 54 of this title, all references in this section to ‘two steps’ or ‘two step-increases’ shall be deemed to mean 6 percent.”

1990—Subsec. (g). Pub. L. 101-508 added subsec. (g).

1986—Subsec. (e). Pub. L. 99-251 substituted “may, upon appointment to a position” for “may upon appointment to a position under the Department of Agriculture.”.

1984—Subsecs. (c)(2), (f). Pub. L. 98-615 substituted “the performance management and recognition system established under chapter 54” for “the merit pay system established under section 5402”.

1979—Subsec. (a). Pub. L. 96-54 substituted “106(2)” for “106(a)” and “3186(a)(2)” for “3186(2)”.

1978—Subsec. (a). Pub. L. 95-454, §906(a)(2), substituted “Office of Personnel Management” for “Civil Service Commission”.

Subsec. (b). Pub. L. 95-454, §801(a)(3)(F), substituted “subchapter VI of this chapter” for “section 5337 of this title” wherever appearing.

Subsec. (c). Pub. L. 95-454, §503(f)(1), in par. (2) inserted reference to an employee appointed to a position covered by the merit pay system established under section 5402 of this title.

Subsecs. (d) to (f). Pub. L. 95-454, §801(a)(2), (3)(G), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d), which related to regulations governing the retention of the rate of basic pay of an employee and his position covered by this subchapter and chapter 51 of this title, was struck out.

Pub. L. 95-454, §503(f)(2), added a new subsec. (f).

1968—Subsec. (a). Pub. L. 90-623, §1(6), substituted “title 40, appendix” for “the Appalachian Regional Development Act of 1965”, “section 3182 of title 42, under section 3186(2) of that title” for “section 502 of the Public Works and Economic Development Act of 1965, under section 506(2) of such Act”, and “6” for “six”.

Subsec. (f). Pub. L. 90-623, §1(24), substituted “section 590h(b) of title 16” for “section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))”.

Pub. L. 90-367 added subsec. (f).

1967—Subsec. (a). Pub. L. 90-103 provided for treatment as a transfer from a position in the executive branch to which this subchapter does not apply of certain regional commission employees who were Federal employees immediately prior to employment by a commission and were employed within six months after separation from the commission in a position subject to this subchapter.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or

after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-178, § 5, Dec. 15, 2003, 117 Stat. 2642, provided that: "This Act [see Tables for classification] and amendments and repeals made by this Act are effective August 21, 2002."

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1104(b) of Pub. L. 105-85 provided that:

"(1) The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Nov. 18, 1997].

"(2) In the case of a person who is employed in a teaching position referred to in section 5334(d) of title 5, United States Code, on the day before the effective date under paragraph (1), the rate of pay of that person determined under that section (as in effect on that day) may not be reduced by reason of the amendment made by subsection (a) for so long as the person continues to serve in that position or another such position without a break in service of more than three days on or after that day."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101-508, set out as a note under section 2105 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

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

Section 504(a) of Pub. L. 95-454 provided that amendment by section 503(f) of Pub. L. 95-454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

Amendment by section 801(a)(2), (3)(F), (G) of Pub. L. 95-454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of this title.

Amendment by section 906(a)(2) of 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 1968 AMENDMENT

Section 6 of Pub. L. 90-623 provided that:

"(a) Sections 1-5 of this Act [amending this section, sections 559, 2108, 3102, 3502, 5314, 5315, 5316, 5352, 5353, 5516, 5521, 5527, 5537, 5546, 5724, 6104, 6305, 6312, 6323, 6324, 8143, 8191, 8331, and 8347 of this title, sections 101, 510 [now 12102], 815, 1124, 3534, 4342, 5149, 6483, 6954, and 9342 of Title 10, Armed Forces, sections 101, 212, 205, 305, 306, 307, 308, 311, 406, 417, 554, 703, 904, 1001, and 1006 of Title 37, Pay and Allowances of the Uniformed Services, and sections 2727 and 2994b of Title 42, The Public Health and Welfare, and repealing section 8339 note of this title] restate, without substantive change, the laws replaced by those sections on the effective date of this Act. Laws effective after June 30, 1968, that are inconsistent with this Act [Oct. 22, 1968] supersede it to the extent of the inconsistency.

"(b) References made by other laws, regulations, and orders to the laws restated by this Act are deemed to refer to the corresponding provisions of this Act.

"(c) Actions taken under the laws restated by this Act are deemed to have been taken under the corresponding provisions of this Act.

"(d) Sections 1(2) and 1(14) of this Act [amending sections 2108 and 5724 of this title] are effective as of September 11, 1967, for all purposes.

"(e) Sections 1(13)(B) and 1(17) of this Act [amending sections 5546 and 6323 of this title] are effective as of September 6, 1966, for all purposes."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5335. Periodic step-increases

(a) An employee paid on an annual basis, and occupying a permanent position within the scope of the General Schedule, who has not reached the maximum rate of pay for the grade in which his position is placed, shall be advanced in pay successively to the next higher rate within the grade at the beginning of the next pay period following the completion of—

- (1) each 52 calendar weeks of service in pay rates 1, 2, and 3;
- (2) each 104 calendar weeks of service in pay rates 4, 5, and 6; or
- (3) each 156 calendar weeks of service in pay rates 7, 8, and 9;

subject to the following conditions:

(A) the employee did not receive an equivalent increase in pay from any cause during that period; and

(B) the work of the employee is of an acceptable level of competence as determined by the head of the agency.

(b) Under regulations prescribed by the Office of Personnel Management, the benefit of successive step-increases shall be preserved for employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

(c) When a determination is made under subsection (a) of this section that the work of an employee is not of an acceptable level of competence, the employee is entitled to prompt written notice of that determination and an op-

portunity for reconsideration of the determination within his agency under uniform procedures prescribed by the Office of Personnel Management. If the determination is affirmed on reconsideration, the employee is entitled to appeal to the Merit Systems Protection Board. If the reconsideration or appeal results in a reversal of the earlier determination, the new determination supersedes the earlier determination and is deemed to have been made as of the date of the earlier determination. The authority of the Office to prescribe procedures and the entitlement of the employee to appeal to the Board do not apply to a determination of acceptable level of competence made by the Librarian of Congress.

(d) An increase in pay granted by statute is not an equivalent increase in pay within the meaning of subsection (a) of this section.

(e) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate.

(f) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 469; Pub. L. 90-83, §1(20), Sept. 11, 1967, 81 Stat. 199; Pub. L. 95-251, §2(a)(1), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title V, §503(g), title IX, §906(a)(2), (8), Oct. 13, 1978, 92 Stat. 1184, 1224, 1225; Pub. L. 96-54, §2(a)(28), Aug. 14, 1979, 93 Stat. 383; Pub. L. 98-615, title II, §§203, 204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 101-508, title VII, §7202(e), Nov. 5, 1990, 104 Stat. 1388-336; Pub. L. 101-509, title V, §529 [title I, §104(d)(2)], Nov. 5, 1990, 104 Stat. 1427, 1447; Pub. L. 103-89, §3(b)(1)(H), Sept. 30, 1993, 107 Stat. 982.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)-(c)	5 U.S.C. 1121.	Oct. 11, 1962, Pub. L. 87-793, §603 "Sec. 701", 76 Stat. 847.
(d)	5 U.S.C. 1123 (as applicable to 5 U.S.C. 1121).	Oct. 11, 1962, Pub. L. 87-793, §603 "Sec. 703 (as applicable to §701)", 76 Stat. 847.

In subsection (a), the words "General Schedule" are substituted for "compensation schedules fixed by this chapter" since the General Schedule is now the only compensation schedule in that chapter. The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity.

In subsection (a)(B), the words "except a hearing examiner appointed under section 3105 of this title" are added on authority of the third sentence of former section 1010 and the fifth sentence of former section 1011, which are carried into sections 5362 and 559, respectively, and of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Title VII (sections 701-705) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 967-969, as amended by the following

Acts is omitted from the derivation and repealed (see Table II) as superseded by the Act of Oct. 11, 1962, Pub. L. 87-793, §603, 76 Stat. 847, which is carried into this section and section 5336:

June 28, 1950, ch. 382, §2, 64 Stat. 262.

Sept. 30, 1950, ch. 1123, §§9, 10, 64 Stat. 1100.

Oct. 24, 1951, ch. 554, §1(e), 65 Stat. 613.

Sept. 1, 1954, ch. 1208, §§102(a), 103(a), 112 (less applicability to §802(b)), 305(a), 68 Stat. 1105, 1108, 1113.

June 28, 1955, ch. 189, §2(e), 69 Stat. 175.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5335(c)	5 App.: 1121(c).	Oct. 29, 1965, Pub. L. 89-301, §3, 79 Stat. 1112.

The word "officer" is omitted as included in "employee", and the word "agency" is substituted for "department" to conform to the definition in 5 U.S.C. 5331.

AMENDMENTS

1993—Subsec. (e). Pub. L. 103-89, §3(b)(1)(H)(i), struck out "covered by the performance management and recognition system established under chapter 54 of this title, or," after "individual".

Subsecs. (f), (g). Pub. L. 103-89, §3(b)(1)(H)(ii), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: "Notwithstanding subsection (b) or (e) of this section, an increase in pay granted under section 5404 of this title is an equivalent increase in pay within the meaning of subsection (a) of this section and shall be taken into account in the case of any employee who, before becoming subject to this section, was granted such an increase while covered by the performance management and recognition system established under chapter 54 of this title."

1990—Subsec. (a)(B). Pub. L. 101-509 struck out "except an administrative law judge appointed under section 3105 of this title," after "work of the employee".

Subsec. (g). Pub. L. 101-508 added subsec. (g).

1984—Subsec. (e). Pub. L. 98-615, §204(a)(1), substituted "the performance management and recognition system established under chapter 54" for "the merit pay system established under section 5402".

Subsec. (f). Pub. L. 98-615, §203, added subsec. (f).

1979—Subsec. (a)(3)(B). Pub. L. 96-54 substituted "an administrative law judge" for "a administrative law judge".

1978—Subsec. (a). Pub. L. 95-251 substituted "administrative law judge" for "hearing examiner".

Subsec. (b). Pub. L. 95-454, §906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (c). Pub. L. 95-454, §906(a)(8), substituted references to Office of Personnel Management and Merit Systems Protection Board and Office and Board, respectively, for references to Civil Service Commission wherever appearing in text.

Subsec. (e). Pub. L. 95-454, §503(g), inserted reference to merit pay system established under section 5402 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

Amendment by Pub. L. 101-508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101-508, set out as a note under section 2105 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

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

Section 504(a) of Pub. L. 95-454 provided that amendment by section 503(g) of Pub. L. 95-454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

Amendment by section 906(a)(2), (8) of 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.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PAY INCREASES DEEMED EQUIVALENT INCREASES IN PAY

Section 5(a) of Pub. L. 103-89 provided that: "Notwithstanding the amendment made by section 3(b)(1)(H)(ii) [amending this section], an increase in pay granted under section 5404 of title 5, United States Code, before November 1, 1993, shall be deemed to be an equivalent increase in pay within the meaning of section 5335(a) of such title."

§ 5336. Additional step-increases

(a) Within the limit of available appropriations and under regulations prescribed by the Office of Personnel Management, the head of each agency may grant additional step-increases in recognition of high quality performance above that ordinarily found in the type of position concerned. However, an employee is eligible under this section for only one additional step-increase within any 52-week period.

(b) A step-increase under this section is in addition to those under section 5335 of this title and is not an equivalent increase in pay within the meaning of section 5335(a) of this title.

(c) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 469; Pub. L. 95-454, title V, §503(h), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1184, 1224; Pub. L. 98-615, title II, §204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 103-89, §3(b)(1)(I), Sept. 30, 1993, 107 Stat. 982.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a), (b)	5 U.S.C. 1122.	Oct. 11, 1962, Pub. L. 87-793, §603 "Sec. 702", 76 Stat. 847.
(c)	5 U.S.C. 1123 (less applicability to 5 U.S.C. 1121).	Oct. 11, 1962, Pub. L. 87-793, §603 "Sec. 703 (less applicability to §701)", 76 Stat. 847.

For repeal of Title VII (sections 701-705) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 967-969, as amended, see revision note for section 5335.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103-89 struck out "covered by the performance management and recognition system established under chapter 54 of this title, or," after "individual".

1984—Subsec. (c). Pub. L. 98-615 substituted "the performance management and recognition system established under chapter 54" for "the merit pay system established under section 5402".

1978—Subsec. (a). Pub. L. 95-454, §906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (c). Pub. L. 95-454, §503(h), inserted reference to merit pay system established under section 5402 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(a) of Pub. L. 95-454 provided that amendment by section 503(h) of Pub. L. 95-454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

Amendment by section 906(a)(2) of 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.

[§ 5337. Repealed. Pub. L. 95-454, title VIII, § 801(a)(2), Oct. 13, 1978, 92 Stat. 1221]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 470; Pub. L. 92-392, §3, Aug. 19, 1972, 86 Stat. 573, set forth provisions relating to pay saving for employees reduced in grade from a grade in the General Schedule. See section 5361 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, and an employee receiving pay on day before such ef-

fective date not to have such pay reduced or terminated and, unless section 5362 applies, employee is entitled to continuation of such pay, etc., see section 801(a)(4) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of this title.

§ 5338. Regulations

The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 470; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

The section is added on authority of former sections 1072 and 1072a, which are carried into section 5115.

AMENDMENTS

1978—Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

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.

SUBCHAPTER IV—PREVAILING RATE SYSTEMS

§ 5341. Policy

It is the policy of Congress that rates of pay of prevailing rate employees be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and be based on principles that—

(1) there will be equal pay for substantially equal work for all prevailing rate employees who are working under similar conditions of employment in all agencies within the same local wage area;

(2) there will be relative differences in pay within a local wage area when there are substantial or recognizable differences in duties, responsibilities, and qualification requirements among positions;

(3) the level of rates of pay will be maintained in line with prevailing levels for comparable work within a local wage area; and

(4) the level of rates of pay will be maintained so as to attract and retain qualified prevailing rate employees.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 564.)

PRIOR PROVISIONS

A prior section 5341, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90-83, §1(97), Sept. 11, 1967, 81 Stat. 220; Pub. L. 90-560, §4, Oct. 12, 1968, 82 Stat. 997, provided prevailing rate system for trades and crafts and is covered by sections 5343(c), (d) and 5349(a) of this title.

EFFECTIVE DATE

Section 15(a) of Pub. L. 92-392 provided that: “The provisions of this Act [enacting this subchapter and section 5550 of this title, amending sections 2105, 5337, 5541, 5544, 5548, 6101, 7154, and 8704 of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and sections 60a-1 and 60a-2 of Title 2, The Congress] are effective on the first day of the first applicable pay period which begins on or after the ninetieth day after

the date of enactment of this Act [Aug. 19, 1972], except that, in the case of those employees referred to in section 5342(a)(2)(B) and (C) of title 5, United States Code (as amended by the first section of this Act), such provisions are effective on the first day of the first applicable pay period which begins on or after the one hundred and eightieth day after such date of enactment or on such earlier date (not earlier than the ninetieth day after such date of enactment) as the Civil Service Commission may prescribe. Notwithstanding the provisions of this subsection, section 5343(e)(1)(D) and (E) and (e)(2)(C), as enacted by the first section of this Act, shall not be effective until the first day of the first pay period commencing after (1) the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 [formerly set out as a note under section 1904 of Title 12, Banks and Banking] to stabilize wages and salaries, or (2) April 30, 1973, whichever occurs first.”

REPEALS

Section 13 of Pub. L. 92-392 provided that:

“(a) All laws or parts of laws inconsistent with this Act [see Effective Date note above] are hereby repealed to the extent of such inconsistency.

“(b) Subsection (a) of this section does not repeal or otherwise affect section 5102(d) of title 5, United States Code, section 305 of title 44 of such Code, or the provisions contained in section 180 of former title 31, United States Code.”

§ 5342. Definitions; application

(a) For the purpose of this subchapter—

(1) “agency” means an Executive agency; but does not include—

(A) a Government controlled corporation;

(B) the Tennessee Valley Authority;

(C) the Virgin Islands Corporation;

(D) the Atomic Energy Commission;

(E) the Central Intelligence Agency;

(F) the National Security Agency, Department of Defense;

(G) the Bureau of Engraving and Printing, except for the purposes of section 5349 of this title;

(H) the Government Accountability Office; or¹

(J)² the Defense Intelligence Agency, Department of Defense; or

(K) the National Geospatial-Intelligence Agency, Department of Defense;

(2) “prevailing rate employee” means—

(A) an individual employed in or under an agency in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement;

(B) an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement; and

¹ So in original. The word “or” probably should not appear.

² So in original. Subsec. (a)(1) does not contain a subpar. (I).

(C) an employee of the Veterans' Canteen Service, Department of Veterans Affairs, excepted from chapter 51 of this title by section 5102(c)(14) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or labor experience and knowledge as the paramount requirement; and

(3) "position" means the work, consisting of duties and responsibilities, assignable to a prevailing rate employee.

(b)(1) Except as provided by paragraphs (2) and (3) of this subsection, this subchapter applies to all prevailing rate employees and positions in or under an agency.

(2) This subchapter does not apply to employees and positions described by section 5102(c) of this title other than by—

(A) paragraph (7) of that section to the extent that such paragraph (7) applies to employees and positions other than employees and positions of the Bureau of Engraving and Printing; and

(B) paragraph (14) of that section.

(3) This subchapter, except section 5348, does not apply to officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title.

(c) Each prevailing rate employee employed within any of the several States or the District of Columbia shall be a United States citizen or a bona fide resident of one of the several States or the District of Columbia unless the Secretary of Labor certifies that no United States citizen or bona fide resident of one of the several States or the District of Columbia is available to fill the particular position.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 564; amended Pub. L. 96-70, title III, §3302(e)(1), Sept. 27, 1979, 93 Stat. 498; Pub. L. 96-191, §8(d), Feb. 15, 1980, 94 Stat. 33; Pub. L. 97-468, title VI, §615(b)(1)(D), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 98-618, title V, §502(b), Nov. 8, 1984, 98 Stat. 3303; Pub. L. 102-54, §13(b)(1), June 13, 1991, 105 Stat. 274; Pub. L. 103-359, title V, §501(h), Oct. 14, 1994, 108 Stat. 3429; Pub. L. 104-201, div. A, title XI, §1122(a)(1), div. C, title XXXV, §3548(a)(3)(A), Sept. 23, 1996, 110 Stat. 2687, 2868; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-417, [div. A], title IX, §931(a)(1), Oct. 14, 2008, 122 Stat. 4575.)

PRIOR PROVISIONS

A prior section 5342, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471, provided for crews of vessels.

Provisions similar to those comprising subsec. (b) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5342 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

AMENDMENTS

2008—Subsec. (a)(1)(K). Pub. L. 110-417 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

2004—Subsec. (a)(1)(H). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1996—Subsec. (a)(1). Pub. L. 104-201, §3548(a)(3)(A), which directed amendment of subsec. (a)(1) by striking subpar. (G) and redesignating subpars. (H), (I), (J), (K), and (L) as (G), (H), (I), (J), and (K), respectively, was executed by striking subpar. (F), relating to the Panama Canal Commission, and redesignating subpars. (G), (H), (I), (K), and (L) as (F), (G), (H), (J), and (K), respectively, to reflect the probable intent of Congress, because subsec. (a)(1) does not contain a subpar. (J) and the amendments were included in a series of conforming amendments relating to the Panama Canal.

Subsec. (a)(1)(L). Pub. L. 104-201, §1122(a)(1), substituted "National Imagery and Mapping Agency" for "Central Imagery Office".

1994—Subsec. (a)(1)(J) to (L). Pub. L. 103-359 directed the amendment of subpar. (J) by striking out "or" at end which could not be executed because par. (1) does not contain a subpar. (J), added "or" at end of subpar. (K), and added subpar. (L).

1991—Subsec. (a)(2)(C). Pub. L. 102-54 substituted "Department of Veterans Affairs" for "Veterans' Administration".

1984—Subsec. (a)(1)(I) to (K). Pub. L. 98-618 struck out "or" at end of subpar. (I), inserted "or" at end of subpar. (J), and added subpar. (K).

1983—Subsec. (a)(1)(C) to (J). Pub. L. 97-468, eff. Jan. 5, 1985, struck out subpar. (C) which excluded the Alaska Railroad and redesignated subpars. (D) to (J) as (C) to (I), respectively. See Effective Date of 1983 Amendment note below.

1980—Subsec. (a)(1)(J). Pub. L. 96-191 added subpar. (J).

1979—Subsec. (a)(1)(G). Pub. L. 96-70 substituted "Commission" for "Company".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1122(a)(1) of Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-468 effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(b) of Pub. L. 97-468.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96-191.

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

Section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, except that in the case of employees referred to in subsec. (a)(2)(B) and (C) section effective on first day of first applicable pay period beginning on or after 180th day after Aug. 19, 1972, or on such earlier date (not earlier than 90th day after Aug. 19, 1972) as Civil Service Commission may prescribe, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

ABOLITION OF ATOMIC ENERGY COMMISSION

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

DISSOLUTION OF VIRGIN ISLANDS CORPORATION

Virgin Islands Corporation established to have succession until June 30, 1969, unless sooner dissolved by Act of Congress, by act June 30, 1949, ch. 285, 63 Stat.

350, as amended (48 U.S.C. 1407 et seq.). Corporation terminated its program June 30, 1965, and dissolved July 1, 1966. Act June 30, 1949, was repealed by Pub. L. 97-357, title III, § 308(e), Oct. 19, 1982, 96 Stat. 1710.

§ 5343. Prevailing rate determinations; wage schedules; night differentials

(a) The pay of prevailing rate employees shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided by section 206(a)(1) of title 29. To carry out this subsection—

(1) the Office of Personnel Management shall define, as appropriate—

(A) with respect to prevailing rate employees other than prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees having regular wage schedules and rates; and

(ii) wage areas for prevailing rate employees having special wage schedules and rates;

(B) with respect to prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees under such paragraphs having regular wage schedules and rates (but such boundaries shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed); and

(ii) wage areas for prevailing rate employees under such paragraphs having special wage schedules and rates;

(2) the Office of Personnel Management shall designate a lead agency for each wage area;

(3) subject to paragraph (5) of this subsection, and subsections (c)(1)–(3) and (d) of this section, a lead agency shall conduct wage surveys, analyze wage survey data, and develop and establish appropriate wage schedules and rates for prevailing rate employees;

(4) the head of each agency having prevailing rate employees in a wage area shall apply, to the prevailing rate employees of that agency in that area, the wage schedules and rates established by the lead agency, or by the Office of Personnel Management, as appropriate, for prevailing rate employees in that area; and

(5) the Office of Personnel Management shall establish wage schedules and rates for prevailing rate employees who are United States citizens employed in any area which is outside the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(b) The Office of Personnel Management shall schedule full-scale wage surveys every 2 years and shall schedule interim surveys to be conducted between each 2 consecutive full-scale wage surveys. The Office may schedule more frequent surveys when conditions so suggest.

(c) The Office of Personnel Management, by regulation, shall prescribe practices and proce-

dures for conducting wage surveys, analyzing wage survey data, developing and establishing wage schedules and rates, and administering the prevailing rate system. The regulations shall provide—

(1) that, subject to subsection (d) of this section, wages surveyed be those paid by private employers in the wage area for similar work performed by regular full-time employees, except that, for prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the wages surveyed shall be those paid by private employers to full-time employees in a representative number of retail, wholesale, service, and recreational establishments similar to those in which such prevailing rate employees are employed;

(2) for participation at all levels by representatives of organizations accorded recognition as the representatives of prevailing rate employees in every phase of providing an equitable system for fixing and adjusting the rates of pay for prevailing rate employees, including the planning of the surveys, the drafting of specifications, the selection of data collectors, the collection and the analysis of the data, and the submission of recommendations to the head of the lead agency for wage schedules and rates and for special wage schedules and rates where appropriate;

(3) for requirements for the accomplishment of wage surveys and for the development of wage schedules and rates for prevailing rate employees, including, but not limited to—

(A) nonsupervisory and supervisory prevailing rate employees paid under regular wage schedules and rates;

(B) nonsupervisory and supervisory prevailing rate employees paid under special wage schedules and rates; and

(C) nonsupervisory and supervisory prevailing rate employees described under paragraphs (B) and (C) of section 5342(a)(2) of this title;

(4) for proper differentials, as determined by the Office, for duty involving unusually severe working conditions or unusually severe hazards, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970;

(5) rules governing the administration of pay for individual employees on appointment, transfer, promotion, demotion, and other similar changes in employment status; and

(6) for a continuing program of maintenance and improvement designed to keep the prevailing rate system fully abreast of changing conditions, practices, and techniques both in and out of the Government of the United States.

(d)(1) A lead agency, in making a wage survey, shall determine whether there exists in the local wage area a number of comparable positions in private industry sufficient to establish wage schedules and rates for the principal types of positions for which the survey is made. The determination shall be in writing and shall take into

consideration all relevant evidence, including evidence submitted by employee organizations recognized as representative of prevailing rate employees in that area.

(2) When the lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish the wage schedules and rates on the basis of—

(A) local private industry rates; and

(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.

(e)(1) Each grade of a regular wage schedule for nonsupervisor prevailing rate employees shall have 5 steps with—

(A) the first step at 96 percent of the prevailing rate;

(B) the second step at 100 percent of the prevailing rate;

(C) the third step at 104 percent of the prevailing rate;

(D) the fourth step at 108 percent of the prevailing rate; and

(E) the fifth step at 112 percent of the prevailing rate.

(2) A prevailing rate employee under a regular wage schedule who has a work performance rating of satisfactory or better, as determined by the head of the agency, shall advance automatically to the next higher step within the grade at the beginning of the first applicable pay period following his completion of—

(A) 26 calendar weeks of service in step 1;

(B) 78 calendar weeks of service in step 2; and

(C) 104 calendar weeks of service in each of steps 3 and 4.

(3) Under regulations prescribed by the Office of Personnel Management, the benefits of successive step increases shall be preserved for prevailing rate employees under a regular wage schedule whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

(4) Supervisory wage schedules and special wage schedules authorized under subsection (c)(3) of this section may have single or multiple rates or steps according to prevailing practices in the industry on which the schedule is based.

(f) A prevailing rate employee is entitled to pay at his scheduled rate plus a night differential—

(1) amounting to 7½ percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 3 p.m. and midnight; and

(2) amounting to 10 percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 11 p.m. and 8 a.m.

A night differential under this subsection is a part of basic pay.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 566; amended Pub. L. 95-454, title IX,

§906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-70, title III, §3302(e)(10), Sept. 27, 1979, 93 Stat. 499; Pub. L. 99-145, title XII, §1242(a), Nov. 8, 1985, 99 Stat. 735; Pub. L. 104-201, div. C, title XXXV, §3548(a)(3)(B), Sept. 23, 1996, 110 Stat. 2868; Pub. L. 107-107, div. A, title XI, §1113(a), Dec. 28, 2001, 115 Stat. 1239; Pub. L. 108-136, div. A, title XI, §1122(a), Nov. 24, 2003, 117 Stat. 1636.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (c)(4), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 5343, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471, related to effective date of pay increases and is covered by section 5344(a) of this title.

Provisions similar to those comprising part of first sentence of subsec. (c) and subsec. (d) of this section were contained in Pub. L. 90-560, §4, Oct. 12, 1968, 82 Stat. 997 (formerly classified to section 5341(c) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

AMENDMENTS

2003—Subsec. (c)(4). Pub. L. 108-136 inserted before semicolon at end “, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970”.

2001—Subsec. (d)(2). Pub. L. 107-107 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “When the lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall—

“(A) establish the wage schedules and rates to be applicable to prevailing rate employees other than prevailing rate employees of the Department of Defense on the basis of—

“(i) local private industry rates; and

“(ii) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made; and

“(B) establish the wage schedules and rates to be applicable to prevailing rate employees of the Department of Defense only on the basis of local private industry rates.”

1996—Subsec. (a)(5). Pub. L. 104-201 struck out “the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979),” after “Puerto Rico.”

1985—Subsec. (d)(2). Pub. L. 99-145 amended par. (2) generally, designating existing provisions as subpar. (A), inserting “to be applicable to prevailing rate employees other than prevailing rate employees of the Department of Defense”, redesignating as cls. (i) and (ii) provisions previously designated subpars. (A) and (B), and adding subpar. (B).

1979—Subsec. (a)(5). Pub. L. 96-70 substituted “areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)” for “Canal Zone”.

1978—Subsecs. (a) to (c), (e)(3). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil

Service Commission” and “Office” for “Commission” wherever appearing.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title XI, §1122(c), Nov. 24, 2003, 117 Stat. 1637, provided that: “Subject to any vested constitutional property rights, any administrative or judicial determination after the date of the enactment of this Act [Nov. 24, 2003] concerning backpay for a differential established under sections 5343(c)(4) or 5545(d) of such title [this title] shall be based on occupational safety and health standards described in the amendments made by subsections (a) and (b) [amending this section and section 5545 of this title].”

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title XI, §1113(b), Dec. 28, 2001, 115 Stat. 1239, provided that: “Wage adjustments made pursuant to the amendment made by this section [amending this section] shall take effect in each applicable wage area on the first normal effective date of the applicable wage survey adjustment that occurs after the date of the enactment of this Act [Dec. 28, 2001].”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1242(b) of Pub. L. 99–145 provided that: “The rate of pay payable to a prevailing rate employee employed by the Department of Defense on the day before the date of enactment of this Act [Nov. 8, 1985] may not be reduced by reason of the amendment made by subsection (a) [amending this section].”

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 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 other than subsec. (e)(1)(D), (E), (2)(C) of this section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, and such subsec. (a)(1)(D), (E), (2)(C) not effective until first day of first pay period commencing after date on which President ceases to exercise his authority under Economic Stabilization Act of 1970 to stabilize wages and salaries, or Apr. 30, 1973, whichever occurs first, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

LIMITATION ON PAY ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES AND CREWS OF VESSELS

Pub. L. 111–117, div. C, title VII, §710, Dec. 16, 2009, 123 Stat. 3206, provided that:

“(a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2010, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

“(1) during the period from the date of expiration of the limitation imposed by the comparable section for previous fiscal years until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2010, in an amount that exceeds the rate payable for the applicable grade and

step of the applicable wage schedule in accordance with such section; and

“(2) during the period consisting of the remainder of fiscal year 2010, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

“(A) the percentage adjustment taking effect in fiscal year 2010 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

“(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2010 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

“(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

“(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2009, shall be determined under regulations prescribed by the Office of Personnel Management.

“(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2009, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

“(e) This section shall apply with respect to pay for service performed after September 30, 2009.

“(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

“(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

“(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.”

Similar provisions were contained in the following prior acts:

Pub. L. 111–8, div. D, title VII, §710, Mar. 11, 2009, 123 Stat. 682.

Pub. L. 110–161, div. D, title VII, §712, Dec. 26, 2007, 121 Stat. 2021.

Pub. L. 109–115, div. A, title VIII, §813, Nov. 30, 2005, 119 Stat. 2497.

Pub. L. 108–447, div. H, title VI, §613, Dec. 8, 2004, 118 Stat. 3275.

Pub. L. 108–199, div. F, title VI, §613, Jan. 23, 2004, 118 Stat. 352.

Pub. L. 108–7, div. J, title VI, §613, Feb. 20, 2003, 117 Stat. 465.

Pub. L. 107–67, title VI, §613, Nov. 12, 2001, 115 Stat. 547, as amended by Pub. L. 108–2, §3, Jan. 10, 2003, 117 Stat. 5.

Pub. L. 106–554, §1(a)(3) [title VI, §613], Dec. 21, 2000, 114 Stat. 2763, 2763A–157.

Pub. L. 106–58, title VI, §613, Sept. 29, 1999, 113 Stat. 468.

Pub. L. 105–277, div. A, §101(h) [title VI, §614], Oct. 21, 1998, 112 Stat. 2681–480, 2681–515.

Pub. L. 105–61, title VI, §614, Oct. 10, 1997, 111 Stat. 1311.

Pub. L. 104-208, div. A, title I, §101(f) [title VI, §616], Sept. 30, 1996, 110 Stat. 3009-314, 3009-356.

Pub. L. 104-52, title VI, §616, Nov. 19, 1995, 109 Stat. 500, as amended by Pub. L. 104-208, div. A, title I, §101(f) [title VI, §659 [title II, §206(b)(3)]], Sept. 30, 1996, 110 Stat. 3009-314, 3009-372, 3009-378.

Pub. L. 103-329, title VI, §617, Sept. 30, 1994, 108 Stat. 2419.

Pub. L. 103-123, title VI, §615, Oct. 28, 1993, 107 Stat. 1261.

Pub. L. 102-393, title VI, §616, Oct. 6, 1992, 106 Stat. 1768.

Pub. L. 102-141, title VI, §616, Oct. 28, 1991, 105 Stat. 870.

Pub. L. 101-509, title VI, §612, Nov. 5, 1990, 104 Stat. 1473.

Pub. L. 101-136, title VI, §612, Nov. 3, 1989, 103 Stat. 818.

Pub. L. 100-440, title VI, §612, Sept. 22, 1988, 102 Stat. 1753.

Pub. L. 100-202, §101(m) [title VI, §613], Dec. 22, 1987, 101 Stat. 1329-390, 1329-421.

Pub. L. 99-500, §101(m) [title VI, §613], Oct. 18, 1986, 100 Stat. 1783-308, 1783-330, and Pub. L. 99-591, §101(m) [title VI, §613], Oct. 30, 1986, 100 Stat. 3341-308, 3341-330.

Pub. L. 99-272, title XV, §15201(b), Apr. 7, 1986, 100 Stat. 332.

Pub. L. 99-190, §101(h) [H.R. 3036, title VI, §613], Dec. 19, 1985, 99 Stat. 1291.

Pub. L. 98-473, §101(j) [H.R. 5798, title VI, §616], Oct. 12, 1984, 98 Stat. 1963.

Pub. L. 98-369, div. B, title II, §2202, July 18, 1984, 98 Stat. 1058.

Pub. L. 98-270, title II, §202(b), Apr. 18, 1984, 98 Stat. 158.

Pub. L. 98-151, §101(f) [H.R. 4139, title VI, §616], Nov. 14, 1983, 97 Stat. 973.

Pub. L. 98-107, §110, Oct. 1, 1983, 97 Stat. 741.

Pub. L. 97-377, title I, §107, Dec. 21, 1982, 96 Stat. 1909.

Pub. L. 97-276, §109, Oct. 2, 1982, 96 Stat. 1191.

Pub. L. 97-35, title XVII, §1701(b), Aug. 13, 1981, 95 Stat. 754.

Pub. L. 96-536, §101(a) [incorporating Pub. L. 96-74, title VI, §613], Dec. 16, 1980, 94 Stat. 3166.

Pub. L. 96-369, §114, Oct. 1, 1980, 94 Stat. 1356.

Pub. L. 96-74, title VI, §613, Sept. 29, 1979, 93 Stat. 576.

Pub. L. 95-429, title VI, §614, Oct. 10, 1978, 92 Stat. 1018.

WAGE RATE FOR CERTAIN CORPS OF ENGINEERS EMPLOYEES

Pub. L. 99-661, div. A, title XIII, §1358, Nov. 14, 1986, 100 Stat. 3999, provided that:

“(a) WAGE DETERMINATIONS.—Notwithstanding any other provision of law, in the administration of the last undesignated paragraph preceding chapter 6 of title I of Public Law 97-257 (96 Stat. 832) [set out below], the individuals described in subsection (b) shall be paid wages determined in the same manner as that established in such undesignated paragraph with respect to United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules.

“(b) COVERED INDIVIDUALS.—The individuals described in subsection (a) are electric powerplant controllers and powerplant shift operators (as defined under regulations prescribed by the Secretary of Defense) assigned to the Soo Locks Power Plant in the Detroit District in the North Central Region of the United States Army Corps of Engineers.

“(c) EFFECTIVE DATE.—Subsection (a) applies with respect to pay periods commencing on or after the date of the enactment of this Act [Nov. 14, 1986].”

EMPLOYEES OF UNITED STATES CORPS OF ENGINEERS PAID FROM CORPS OF ENGINEERS SPECIAL POWER RATE SCHEDULES; CONSISTENCY OF WAGES WITH WAGES OF ENERGY AND INTERIOR DEPARTMENT EMPLOYEES

Pub. L. 110-114, title V, §5026, Nov. 8, 2007, 121 Stat. 1203, provided that: “Employees of the Corps of Engi-

neers who are paid wages determined under the last undesignated paragraph under the heading ‘Administrative Provisions’ of chapter V of the Supplemental Appropriations Act, 1982 (5 U.S.C. 5343 note; 96 Stat. 832) shall be allowed, through appropriate employee organization representatives, to participate in wage surveys under such paragraph to the same extent as are prevailing rate employees under subsection (c)(2) of section 5343 of title 5, United States Code. Nothing in such section 5343 shall be construed to affect which agencies are to be surveyed under such paragraph.”

Pub. L. 97-257, title I, §100, Sept. 10, 1982, 96 Stat. 832, provided in part that: “Without regard to any other provision of law limiting the amounts payable to prevailing wage rate employees, United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules shall be paid, beginning the effective date of each annual wage survey in the region after the date of enactment of this Act [Sept. 10, 1982], wages as determined by the Department of Defense Wage Fixing Authority to be consistent with wages of the Department of Energy and the Department of the Interior employees performing similar work in the corresponding area whose wage rates are established in accordance with section 9(b) of Public Law 92-392 or section 704 of Public Law 95-454 [set out as notes under this section].”

NEGOTIATING REQUIREMENTS FOR LABOR CONTRACTS, ETC., ON AND AFTER OCTOBER 13, 1978, AND NEGOTIATED UNDER PREVAILING RATES AND PRACTICES PRIOR TO AUGUST 19, 1972

Section 704 of Pub. L. 95-454 provided that:

“(a) Those terms and conditions of employment and other employment benefits with respect to Government prevailing rate employees to whom section 9(b) of Public Law 92-392 [set out as a note under this section] applies which were the subject of negotiation in accordance with prevailing rates and practices prior to August 19, 1972, shall be negotiated on and after the date of the enactment of this Act [Oct. 13, 1978] in accordance with the provisions of section 9(b) of Public Law 92-392 without regard to any provision of chapter 71 of title 5, United States Code (as amended by this title [title VII of Pub. L. 95-454]), to the extent that any such provision is inconsistent with this paragraph.

“(b) The pay and pay practices relating to employees referred to in paragraph (1) of this subsection shall be negotiated in accordance with prevailing rates and pay practices without regard to any provision of—

“(A) chapter 71 of title 5, United States Code (as amended by this title), to the extent that any such provision is inconsistent with this paragraph;

“(B) subchapter IV of chapter 53 and subchapter V of chapter 55 of title 5, United States Code; or

“(C) any rule, regulation, decision, or order relating to rates of pay or pay practices under subchapter IV of chapter 53 or subchapter V of chapter 55 of title 5, United States Code.”

CONVERSION RULES FOR WAGE SCHEDULE; SERVICE FOR ONE STEP INCREASE; PROHIBITION OF DECREASE IN BASIC PAY RATE; RETAINED PAY CONTINUED

Section 9(a) of Pub. L. 92-392 provided that:

“(1) Except as provided by this subsection, an employee’s initial rate of pay on conversion to a wage schedule established pursuant to the amendments made by this Act [see Effective Date note under section 5341 of this title] shall be determined under conversion rules prescribed by the Civil Service Commission. Service by an employee in a grade of a wage schedule performed before the effective date of the conversion of the employee to a wage schedule established pursuant to the amendments made by this Act shall be counted toward not to exceed one step increase under the time in step provisions of section 5343(e)(2) of title 5, United States Code, as amended by the first section of this Act [subsec. (e)(2) of this section].

“(2) In the case of any employee described in section 2105(c), 5102(c)(7), (8), or (14) of title 5, United States

Code, who is in the service as such an employee immediately before the effective date, with respect to him, of the amendments made by this Act [see Effective Date note under section 5341 of this title], such amendments shall not be construed to decrease his rate of basic pay in effect immediately before the date [see Effective Date note under section 5341 of this title] on which such amendments become effective with respect to him. In addition, if an employee is receiving retained pay by virtue of law or agency policy immediately before the date on which the first wage schedule applicable to him under this Act is effective, he shall continue to retain that pay in accordance with the specific instructions under which the retained pay was granted until he leaves his position or until he becomes entitled to a higher rate."

LABOR CONTRACTS PERTAINING TO WAGES, TERMS AND CONDITIONS OF EMPLOYMENT, AND OTHER EMPLOYMENT BENEFITS

Section 9(b) of Pub. L. 92-392 provided that: "The amendments made by this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and section 60a of Title 2, The Congress] shall not be construed to—

"(1) abrogate, modify, or otherwise affect in any way the provisions of any contract in effect on the date of enactment of this Act [Aug. 19, 1972] pertaining to the wages, the terms and conditions of employment, and other employment benefits, or any of the foregoing matters, for Government prevailing rate employees and resulting from negotiations between Government agencies and organizations of Government employees;

"(2) nullify, curtail, or otherwise impair in any way the right of any party to such contract to enter into negotiations after the date of enactment of this Act [Aug. 19, 1972] for the renewal, extension, modification, or improvement of the provisions of such contract or for the replacement of such contract with a new contract; or

"(3) nullify, change, or otherwise affect in any way after such date of enactment [Aug. 19, 1972] any agreement, arrangement, or understanding in effect on such date [Aug. 19, 1972] with respect to the various items of subject matter of the negotiations on which any such contract in effect on such date [Aug. 19, 1972] is based or prevent the inclusion of such items of subject matter in connection with the renegotiation of any such contract, or the replacement of such contract with a new contract, after such date [Aug. 19, 1972]."

WAGE SURVEY

Section 15(b) of Pub. L. 92-392 provided that: "A wage survey conducted by an agency before the effective date (with respect to employees covered by that wage survey) of this Act [see note under section 5341 of this title], for a wage schedule which becomes effective after that effective date [Aug. 19, 1972], is deemed to meet the requirement in this Act for a survey by a lead agency."

EQUITABLE WAGE ADJUSTMENTS FOR CERTAIN PREVAILING RATE EMPLOYEES

Pub. L. 92-298, §§ 1, 2, May 17, 1972, 86 Stat. 146, provided: "That this Act [enacting this note and amending sections 60a-1 and 60a-2 of Title 2, The Congress] may be cited as the 'Prevailing Rate Equalization Adjustment Act of 1972'.

"SEC. 2. (a) Notwithstanding any other provision of law or any provision of an Executive order or regulation, a wage schedule adjustment for employees of the Government of the United States whose pay is fixed and adjusted from time to time in accordance with prevailing rates—

"(1) if based on a wage survey ordered to be made on or after August 15, 1971, but not placed into effect before November 14, 1971, by reason of the provisions of Executive Order 11615 or Executive Order 11627 [formerly set out as notes under section 1904 of Title 12]; or

"(2) if based on a wage survey which had been scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, and which was ordered to be made on or after January 23, 1972; shall be effective on the date on which such wage schedule adjustment would have been effective under section 5343 of title 5, United States (Code), had the fiscal year 1972 schedule for wage surveys for such employees been followed.

"(b) Retroactive pay made under the provisions of this section will be made in accordance with section 5344 of title 5, United States Code."

§ 5344. Effective date of wage increase; retroactive pay

(a) Each increase in rates of basic pay granted, pursuant to a wage survey, to prevailing rate employees is effective not later than the first day of the first pay period which begins on or after the 45th day, excluding Saturdays and Sundays, following the date the wage survey is ordered to be made.

(b) Retroactive pay is payable by reason of an increase in rates of basic pay referred to in subsection (a) of this section only when—

(1) the individual is in the service of the Government of the United States, including service in the armed forces, or the government of the District of Columbia on the date of the issuance of the order granting the increase; or

(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

For the purpose of this subsection, service in the armed forces includes the period provided by statute for the mandatory restoration of the individual to a position in or under the Government of the United States or the government of the District of Columbia after he is relieved from training and service in the armed forces or discharged from hospitalization following that training and service.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 568.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5343 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

[§ 5345. Repealed. Pub. L. 95-454, title VIII, § 801(a)(2), Oct. 13, 1978, 92 Stat. 1221]

Section, added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 569, related to retained rate of pay on reduction in grade or reassignment.

A prior section 5345, added Pub. L. 90-206, title II, § 223(a), Dec. 16, 1967, 81 Stat. 641, which provided for position classification appeals, was omitted in the general amendment of this subchapter, and is covered by section 5346(c) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978,

and an employee receiving pay on day before such effective date not to have such pay reduced or terminated and, unless section 5362 applies, employee is entitled to continuation of such pay, etc., see section 801(a)(4) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of this title.

§ 5346. Job grading system

(a) The Office of Personnel Management, after consulting with the agencies and with employee organizations, shall establish and maintain a job grading system for positions to which this subchapter applies. In carrying out this subsection, the Office shall—

- (1) establish the basic occupational alignment and grade structure or structures for the job grading system;
- (2) establish and define individual occupations and the boundaries of each occupation;
- (3) establish job titles within occupations;
- (4) develop and publish job grading standards; and
- (5) provide a method to assure consistency in the application of job standards.

(b) The Office, from time to time, shall review such numbers of positions in each agency as will enable the Office to determine whether the agency is placing positions in occupations and grades in conformance with or consistently with published job standards. When the Office finds that a position is not placed in its proper occupation and grade in conformance with published standards or that a position for which there is no published standard is not placed in the occupation and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate occupation and grade and shall certify this action to the agency. The agency shall act in accordance with 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.)

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”.

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 appointed 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.)

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.

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. 89–544, 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.)

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).

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 Printing 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 concerned shall be deemed to have satisfied the requirements of section 5361(1) of this title if the tenure of his appointment is substantially equivalent to the tenure of any appointment referred to in such paragraph.

(b) Subsection (a) of this section does not modify or otherwise affect section 5102(d) of this title, section 305 of title 44, and section 5141 of title 31.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 572; amended Pub. L. 95-454, title VIII, §801(a)(3)(H), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 97-258, §3(a)(11), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 100-426, title III, §301, Sept. 9, 1988, 102 Stat. 1602; Pub. L. 101-474, §5(j), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90-83, §1(97), Sept. 11, 1967, 81 Stat. 220 (formerly classified to section 5341(a) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1990—Subsec. (a). Pub. L. 101-474 struck out “the Administrative Office of the United States Courts,” before “the Library of Congress”.

1988—Subsec. (a). Pub. L. 100-426 inserted reference to General Accounting Office.

1982—Subsec. (b). Pub. L. 97-258 substituted “section 5141” for “section 180”.

1978—Subsec. (a). Pub. L. 95-454 substituted “subchapter VI of this chapter, relating to grade and pay retention,” for “section 5345, relating to retention of pay,” “subchapter VI of this chapter” for “section 5345 of this title”, and “section 5361(1)” for “paragraph (2) of section 5345(a)”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L.

95-454, set out as an Effective Date note under section 5361 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.

SUBCHAPTER V—STUDENT-EMPLOYEES

§ 5351. Definitions

For the purpose of this subchapter—

(1) “agency” means an Executive agency, a military department, and the government of the District of Columbia; and

(2) “student-employee” means—

(A) a student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, and student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency; and

(B) any other student-employee, assigned or attached primarily for training purposes to a hospital, clinic, or medical or dental laboratory operated by an agency, who is designated by the head of the agency with the approval of the Office of Personnel Management.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1052.	Aug. 4, 1947, ch. 452, §2, 61 Stat. 727.

The section is restated in definition form. In paragraph (1), the words “an Executive agency, a military department” are coextensive with and substituted for “department, agency, or instrumentality of the Federal Government” in view of the definitions in sections 105 and 102.

The exception from the Classification Act of 1923, as amended, is omitted as obsolete and superseded by the Classification Act of 1949, as amended, which is carried into this title. The present exception from the Classification Act of 1949, as amended, is carried into section 5102(c)(16).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Par. (2)(B). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

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.

§ 5352. Stipends

The head of each agency, and the District of Columbia Council with respect to the government of the District of Columbia, shall fix the stipends of its student-employees. The stipend may not exceed the applicable maximum prescribed by the Office of Personnel Management.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 90-623, §1(7), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1051 (1st sentence), Aug. 4, 1947, ch. 452, §3 (1st sentence), 61 Stat. 727.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95-454 substituted "Office of Personnel Management" for "Civil Service Commission".

1968—Pub. L. 90-623 inserted ", and the District of Columbia Council with respect to the government of the District of Columbia," after "head of each agency" and substituted "its" for "his".

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 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93-198.

§ 5353. Quarters, subsistence, and laundry

An agency may provide living quarters, subsistence, and laundering to student-employees while at the hospitals, clinics, or laboratories. The reasonable value of the accommodations, when furnished, shall be deducted from the stipend of the student-employee. The head of the agency concerned, and the District of Columbia Council with respect to the government of the District of Columbia, shall fix the reasonable value of the accommodations at an amount not less than the lowest deduction applicable to regular employees at the same hospital, clinic, or laboratory for similar accommodations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 90-623, §1(8), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1051 (less 1st sentence), Aug. 4, 1947, ch. 452, §3 (less 1st sentence), 61 Stat. 727.

The section is restated for clarity. Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Pub. L. 90-623 inserted ", and the District of Columbia Council with respect to the government of the District of Columbia," after "head of the agency concerned".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93-198.

§ 5354. Effect of detail or affiliation; travel expenses

(a) Status as a student-employee is not terminated by a temporary detail to or affiliation with another Government or non-Government institution to procure necessary supplementary training or experience pursuant to an order of the head of the agency. A student-employee may receive his stipend and other perquisites provided under this subchapter from the hospital, clinic, or laboratory to which he is assigned or attached for not more than 60 days of a detail or affiliation for each training year, as defined by the head of the agency.

(b) When the detail or affiliation under subsection (a) of this section is to or with another Federal institution, the student-employee is entitled to necessary expenses of travel to and from the institution in accordance with subchapter I of chapter 57 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1055, Aug. 4, 1947, ch. 452, §6, 61 Stat. 728.

In subsection (b), the reference to "subchapter I of chapter 57 of this title" is substituted for the reference to "the Standardized Government Travel Regulations and the provisions of the Subsistence Expense Act of 1926, as amended" as the Subsistence Expense Act of 1926 was repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707 of subchapter I of chapter 57.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5355. Effect on other statutes

This subchapter does not limit the authority conferred on the Secretary of Veterans Affairs by chapter 73 of title 38.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 102-54, §13(b)(3), June 13, 1991, 105 Stat. 274.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1057, Aug. 4, 1947, ch. 452, §8, 61 Stat. 728; June 17, 1957, Pub. L. 85-56, §2201(19), 71 Stat. 159; Sept. 2, 1958, Pub. L. 85-857, §13(m), 72 Stat. 1265.

The prohibition is restated in positive form. Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1991—Pub. L. 102-54 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

§ 5356. Appropriations

Funds appropriated to an agency for expenses of its hospitals, clinics, and laboratories to which student-employees are assigned or attached are available to carry out the provisions of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1058. Aug. 4, 1947, ch. 452, §9, 61 Stat. 728.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER VI—GRADE AND PAY RETENTION

PRIOR PROVISIONS

A prior subchapter VI was renumbered VII by Pub. L. 95-454, title VIII, § 801(a)(3)(A)(i), Oct. 13, 1978, 92 Stat. 1221.

§ 5361. Definitions

For the purpose of this subchapter—

(1) “employee” means an employee to whom chapter 51 of this title applies, and a prevailing rate employee, as defined by section 5342(a)(2) of this title, whose employment is other than on a temporary or term basis;

(2) “agency” has the meaning given it by section 5102 of this title;

(3) “retained grade” means the grade used for determining benefits to which an employee to whom section 5362 of this title applies is entitled;

(4) “rate of basic pay” means—

(A) the rate of basic pay payable to an employee under law or regulations before any deductions or additions of any kind, but including—

(i) any applicable locality-based comparability payment under section 5304 or similar provision of law;

(ii) any applicable special pay under section 5305 or similar provision of law; and

(iii) subject to such regulations as the Office of Personnel Management may prescribe, any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;

(5) “covered pay schedule” means the General Schedule, any prevailing rate schedule established under subchapter IV of this chapter, or a special occupational pay system under subchapter IX;

(6) “position subject to this subchapter” means any position under a covered pay schedule;

(7) “reduction-in-force procedures” means procedures applied in carrying out any reduction in force due to a reorganization, due to lack of funds or curtailment of work, or due to any other factor; and

(8) “retained rate” means the rate of basic pay to which an employee is entitled under section 5363(b)(2).

(Added Pub. L. 95-454, title VIII, § 801(a)(1), Oct. 13, 1978, 92 Stat. 1218; amended Pub. L. 98-615, title II, § 204(a)(2), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 101-509, title V, § 529 [title I, § 105(b)(1)], Nov. 5, 1990, 104 Stat. 1427, 1448; Pub. L. 103-89, § 3(b)(1)(J), Sept. 30, 1993, 107 Stat. 982; Pub. L. 108-411, title III, § 301(a)(4), Oct. 30, 2004, 118 Stat. 2315.)

PRIOR PROVISIONS

A prior section 5361, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, which related to scientific and professional positions, was renumbered section 5371 of this title by Pub. L. 95-454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

2004—Par. (4). Pub. L. 108-411, § 301(a)(4)(A), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “‘rate of basic pay’ means, in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343 of this title;”

Par. (8). Pub. L. 108-411, § 301(a)(4)(B)–(D), added par. (8).

1993—Par. (5). Pub. L. 103-89 substituted “or a special occupational pay system under subchapter IX” for “a special occupational pay system under subchapter IX, or the performance management and recognition system under chapter 54 of this title”.

1990—Par. (5). Pub. L. 101-509 inserted “a special occupational pay system under subchapter IX,” before “or the performance”.

1984—Par. (5). Pub. L. 98-615 substituted “performance management and recognition system” for “merit pay system”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE

Section 801(a)(4) of Pub. L. 95-454 provided that:

“(A) The amendments made by this subsection [enacting sections 5361 to 5366 of this title and redesignating former sections 5361 to 5366 as sections 5371 to 5375 of this title, amending sections 559, 1305, 3104, 5102, 5107, 5334, 5349, and 8704 of this title, sections 4540, 7212, and 9540 of Title 10, Armed Forces, section 1715 of Title 15, Commerce and Trade, and section 3608 of Title 42, The Public Health and Welfare, and repealing sections 5337 and 5345 of this title] shall take effect on the first day of the first applicable pay period beginning on or after the 90th day after the date of the enactment of this Act [Oct. 13, 1978].

“(B) An employee who was receiving pay under the provisions of section 5334(d), 5337, or 5345 of title 5, United States Code, on the day before the effective date prescribed in subparagraph (A) of this paragraph shall not have such pay reduced or terminated by reason of the amendments made by this subsection and, unless section 5362 of such title 5 (as amended by subsection (a)(1) of this section) applies, such an employee is entitled to continue to receive pay as authorized by those provisions (as in effect on such date).”

§ 5362. Grade retention following a change of positions or reclassification

(a) Any employee—

(1) who is placed as a result of reduction-in-force procedures from a position subject to this subchapter to another position which is subject to this subchapter and which is in a lower grade than the previous position, and

(2) who has served for 52 consecutive weeks or more in one or more positions subject to this subchapter at a grade or grades higher than that of the new position,

is entitled, to the extent provided in subsection (c) of this section, to have the grade of the position held immediately before such placement be considered to be the retained grade of the employee in any position he holds for the 2-year period beginning on the date of such placement.

(b)(1) Any employee who is in a position subject to this subchapter and whose position has been reduced in grade is entitled, to the extent provided in subsection (c) of this section, to have the grade of such position before reduction be treated as the retained grade of such employee for the 2-year period beginning on the date of the reduction in grade.

(2) The provisions of paragraph (1) of this subsection shall not apply with respect to any reduction in the grade of a position which had not been classified at the higher grade for a continuous period of at least one year immediately before such reduction.

(c) For the 2-year period referred to in subsections (a) and (b) of this section, the retained grade of an employee under such subsection (a) or (b) shall be treated as the grade of the employee's position for all purposes (including pay and pay administration under this chapter and chapter 55 of this title, retirement and life insurance under chapters 83, 84, and 87 of this title, and eligibility for training and promotion under this title) except—

(1) for purposes of subsection (a) of this section,

(2) for purposes of applying any reduction-in-force procedures, or

(3) for such other purposes as the Office of Personnel Management may provide by regulation.

(d) The foregoing provisions of this section shall cease to apply to an employee who—

(1) has a break in service of one workday or more;

(2) is demoted (determined without regard to this section) for personal cause or at the employee's request;

(3) is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade; or

(4) elects in writing to have the benefits of this section terminate.

(Added Pub. L. 95-454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1219; amended Pub. L. 98-615, title II, §204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 103-89, §3(b)(1)(K), Sept. 30, 1993, 107 Stat. 982.)

PRIOR PROVISIONS

A prior section 5362, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, Pub. L. 95-251, §2(a)(1), (b)(1), Mar. 27, 1978, 92 Stat. 183, which related to hearing examiners, was renumbered section 5372 of this title by Pub. L. 95-454, title VIII, §801(a)(3)(A)(i), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103-89 substituted “chapter 55 of this title, retirement and life insurance under chapters 83, 84, and 87” for “chapters 54 and 55 of this title, retirement and life insurance under chapters 83 and 87” in introductory provisions, redesignated par. (4) as (3), and struck out former par. (3) which read as follows: “for purposes of determining whether the employee is covered by the performance management and recognition system established under chapter 54 of this title, or”.

1984—Subsec. (c)(3). Pub. L. 98-615 substituted “performance management and recognition system established under chapter 54” for “merit pay system established under section 5402”.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

ADDITIONAL PAY AND BENEFITS FOR EMPLOYEES REDUCED IN GRADE ON OR AFTER JANUARY 1, 1977, ETC.

Section 801(b) of Pub. L. 95-454 provided that:

“(1) Under regulations prescribed by the Office of Personnel Management, any employee—

“(A) whose grade was reduced on or after January 1, 1977, and before the effective date of the amendments made by subsection (a) of this section [see Effective Date note set out under section 5361 of this title] under circumstances which would have entitled the employee to coverage under the provisions of section 5362 of title 5, United States Code (as amended by subsection (a) of this section) if such amendments had been in effect at the time of the reduction; and

“(B) who has remained employed by the Federal Government from the date of the reduction in grade to the effective date of the amendments made by subsection (a) of this section without a break in service of one workday or more;

shall be entitled—

“(i) to receive the additional pay and benefits which such employee would have been entitled to receive if the amendments made by subsection (a) of this section had been in effect during the period beginning on the effective date of such reduction in grade and ending on the day before the effective date of such amendments, and

“(ii) to have the amendments made by subsection (a), of this section apply to such employee as if the reduction in grade had occurred on the effective date of such amendments.

“(2) No employee covered by this subsection whose reduction in grade resulted in an increase in pay shall have such pay reduced by reason of the amendments made by subsection (a) of this section.

“(3)(A) For purposes of this subsection, the requirements under paragraph (1)(B) of this subsection, relating to continuous employment following reduction in grade, shall be considered to be met in the case of any employee—

“(i) who separated from service with a right to an immediate annuity under chapter 83 of title 5, United States Code, or under another retirement system for Federal employees; or

“(ii) who died.

“(B) Amounts payable by reason of subparagraph (A) of this paragraph in the case of the death of an employee shall be paid in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts in the case of deceased employees.

“(4) The Office of Personnel Management shall have the same authority to prescribe regulations under this subsection as it has under section 5365 of title 5, United States Code, with respect to subchapter VI of chapter 53 of such title, as added by subsection (a) of this section.”

§ 5363. Pay retention

(a) Any employee—

(1) who ceases to be entitled to the benefits of section 5362 of this title by reason of the expiration of the 2-year period of coverage provided under such section;

(2) who is in a position subject to this subchapter and who is subject to a reduction or termination of a special rate of pay established under section 5305 of this title (or corresponding prior provision of this title);

(3) who is in a position subject to this subchapter and who (but for this section) would be subject to a reduction in pay under circumstances prescribed by the Office of Personnel Management by regulation to warrant the application of this section; or

(4) who is in a position subject to this subchapter and who is subject to a reduction or termination of a rate of pay established under subchapter IX of chapter 53;

is entitled to a rate of basic pay in accordance with regulations prescribed by the Office of Personnel Management in conformity with the provisions of this section.

(b)(1)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is less than or equal to the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at the lowest rate of basic pay payable for such grade that equals or exceeds such former rate of basic pay.

(B) This section shall cease to apply to an employee to whom subparagraph (A) applies once the appropriate rate of basic pay has been determined for such employee under this paragraph.

(2)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is greater than the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence

of the event involved, the employee is entitled to basic pay at a rate equal to the lesser of—

(i) the employee's former rate of basic pay; or

(ii) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved,

as adjusted by subparagraph (B).

(B) A rate to which an employee is entitled under this paragraph shall be increased at the time of any increase in the maximum rate of basic pay payable for the grade of the employee's position by 50 percent of the dollar amount of each such increase.

(3) For purposes of this subsection, the term “former rate of basic pay”, as used with respect to an employee in connection with an event described in subsection (a), means the rate of basic pay last received by such employee before the occurrence of such event.

(c)(1) Notwithstanding any other provision of this section, in the case of an employee who—

(A) moves to a new official duty station, and

(B) in conjunction with such move, becomes subject to both a different pay schedule and (disregarding this subsection) the preceding provisions of this section,

this section shall be applied—

(i) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the pay range) before the move, and

(ii) then, by applying the provisions of this section that would apply (if any), treating the rate determined under clause (i) as if it were the rate last received by the employee before the application of this section.

(2) A reduction in an employee's rate of basic pay resulting from a determination under paragraph (1)(ii) is not a basis for an entitlement under this section.

(3) The rate of basic pay for an employee who is receiving a retained rate at the time of moving to a new official duty station at which different pay schedules apply shall be subject to regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

(d) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe. The Office shall, for any purpose other than any of the purposes referred to in the preceding sentence, prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

(e) This section shall not apply, or shall cease to apply, to an employee who—

(1) has a break in service of 1 workday or more;

(2) is entitled, by operation of this subchapter, chapter 51 or 53, or any other provision of law, to a rate of basic pay which is

equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the retained rate to which the employee would otherwise be entitled; or

(3) is demoted for personal cause or at the employee's request.

(Added Pub. L. 95-454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1219; amended Pub. L. 101-509, title V, §529 [title I, §§101(b)(3)(B), 105(b)(2)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1448; Pub. L. 103-89, §3(b)(1)(L), Sept. 30, 1993, 107 Stat. 982; Pub. L. 108-411, title III, §301(a)(5), Oct. 30, 2004, 118 Stat. 2316.)

PRIOR PROVISIONS

A prior section 5363, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, which related to limitation on pay fixed by administrative action, was renumbered section 5373 of this title by Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-411, §301(a)(5)(A), inserted concluding provisions and struck out former concluding provisions which read as follows: “is entitled to basic pay at a rate equal to (A) the employee's allowable former rate of basic pay, plus (B) 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay if such allowable former rate exceeds such maximum rate for such grade.”

Subsecs. (b) to (e). Pub. L. 108-411, §301(a)(5)(B), added subsecs. (b) to (e) and struck out former subsecs. (b) and (c) which read as follows:

“(b) For the purpose of subsection (a) of this section, ‘allowable former rate of basic pay’ means the lower of—

“(1) the rate of basic pay payable to the employee immediately before the reduction in pay; or

“(2) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay.

“(c) The preceding provisions of this section shall cease to apply to an employee who—

“(1) has a break in service of one workday or more;

“(2) is entitled by operation of this subchapter or chapter 51 or 53 of this title to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

“(3) is demoted for personal cause or at the employee's request.”

1993—Subsec. (c)(2). Pub. L. 103-89 substituted “chapter 51 or 53” for “chapter 51, 53, or 54”.

1990—Subsec. (a)(2) to (4). Pub. L. 101-509 substituted “5305 of this title (or corresponding prior provision of this title);” for “5303 of this title; or” in par. (2), inserted “or” at end of par. (3), and added par. (4).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-411, title III, §301(d), Oct. 30, 2004, 118 Stat. 2317, provided that:

“(1) EFFECTIVE DATE.—This section [amending this section, sections 4505a, 5302, 5305, 5334, 5361, and 5365 of this title, and provisions set out as a note under section 5305 of this title] shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act [Oct. 30, 2004].

“(2) CONVERSION RULES.—

“(A) INDIVIDUALS RECEIVING A RETAINED RATE OR A RATE GREATER THAN THE MAXIMUM RATE FOR THE GRADE.—Subject to any regulations the Office of Personnel Management may prescribe, an employee

under a covered pay schedule who, on the day before the effective date of this section, is receiving a retained rate under section 5363 of title 5, United States Code, or is receiving under similar authority a rate of basic pay that is greater than the maximum rate of basic pay payable for the grade of the employee's position shall have that rate converted as of the effective date of this section, and the employee shall be considered to be receiving a retained rate under section 5363 of such title (as amended by this section). The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law.

“(B) DEFINITION.—For purposes of this paragraph, the term ‘covered pay schedule’ has the meaning given such term by section 5361 of title 5, United States Code.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

§ 5364. Remedial actions

Under regulations prescribed by the Office of Personnel Management, the Office may require any agency—

(1) to report to the Office information with respect to vacancies (including impending vacancies);

(2) to take such steps as may be appropriate to assure employees receiving benefits under section 5362 or 5363 of this title have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for the application of such sections;

(3) to establish a program under which employees receiving benefits under section 5362 or 5363 of this title are given priority in the consideration for or placement in positions which are equal to their retained grade or pay; and

(4) to place certain employees, notwithstanding the fact their previous position was in a different agency, but only in circumstances in which the Office determines the exercise of such authority is necessary to carry out the purpose of this section.

(Added Pub. L. 95-454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1220.)

PRIOR PROVISIONS

A prior section 5364, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, which related to miscellaneous positions in the executive branch, was renumbered section 5374 of this title by Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

§ 5365. Regulations

(a) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

(b) Under such regulations, the Office may provide for the application of all or portions of

the provisions of this subchapter (subject to any conditions or limitations the Office may establish)—

- (1) to any individual reduced to a grade of a covered pay schedule from a position not subject to this subchapter;
- (2) to individuals to whom such provisions do not otherwise apply; and
- (3) to situations the application to which is justified for purposes of carrying out the mission of the agency or agencies involved.

Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).

(Added Pub. L. 95-454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1220; amended Pub. L. 101-508, title VII, §7202(f), Nov. 5, 1990, 104 Stat. 1388-336; Pub. L. 108-411, title III, §301(a)(6), Oct. 30, 2004, 118 Stat. 2317.)

PRIOR PROVISIONS

A prior section 5365, added Pub. L. 91-34, §1(a), June 30, 1969, 83 Stat. 41; amended Pub. L. 94-183, §2(20), Dec. 31, 1975, 89 Stat. 1058, which related to the police force of National Zoological Park, was renumbered section 5375 of this title by Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-411 inserted “(subject to any conditions or limitations the Office may establish)” after “provisions of this subchapter” in introductory provisions.

1990—Subsec. (b). Pub. L. 101-508 inserted at end “Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101-508, set out as a note under section 2105 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5366. Appeals

(a)(1) In the case of the termination of any benefits available to an employee under this subchapter on the grounds such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than his retained grade or pay, such termination may be appealed to the Office of Personnel Management under procedures prescribed by the Office.

(2) Nothing in this subchapter shall be construed to affect the right of any employee to appeal—

(A) under section 5112(b) or 5346(c) of this title, or otherwise, any reclassification of a position; or

(B) under procedures prescribed by the Office of Personnel Management, any reduction-in-force action.

(b) For purposes of any appeal procedures (other than those described in subsection (a) of this section) or any grievance procedure negotiated under the provisions of chapter 71 of this title—

(1) any action which is the basis of an individual's entitlement to benefits under this subchapter, and

(2) any termination of any such benefits under this subchapter,

shall not be treated as appealable under such appeals procedures or grievable under such grievance procedure.

(Added Pub. L. 95-454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1221.)

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

AMENDMENTS

1978—Pub. L. 95-454, title VIII, §801(a)(3)(A)(i), Oct. 13, 1978, 92 Stat. 1221, redesignated former subchapter VI as VII.

§ 5371. Health care positions

(a) For the purposes of this section, “health care” means direct patient-care services or services incident to direct patient-care services.

(b) The Office of Personnel Management may, with respect to any employee described in subsection (c), provide that 1 or more provisions of chapter 74 of title 38 shall apply—

(1) in lieu of any provision of chapter 51 or 61, subchapter V of chapter 55, or any other provision of this chapter; or

(2) notwithstanding any lack of specific authority for a matter with respect to which chapter 51 or 61, subchapter V of chapter 55, or this chapter, relates.

(c) Authority under subsection (b) may be exercised with respect to any employee holding a position—

(1) to which chapter 51 applies, excluding any Senior Executive Service position and any

position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; and

(2) which involves health care responsibilities.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, §5361; renumbered §5371 and amended Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224; Pub. L. 101-509, title V, §529 [title II, §205(A)], Nov. 5, 1990, 104 Stat. 1427, 1456; Pub. L. 102-378, §2(31), Oct. 2, 1992, 106 Stat. 1350.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1162(b).	Oct. 4, 1961, Pub. L. 87-367, §202 "Sec. 2(b)". 75 Stat. 790. Oct. 11, 1962, Pub. L. 87-793, §1001(a)(1), 76 Stat. 863.

The authority to fix rates of pay is added on authority of former section 1161, which is carried into section 3104.

For repeal of the Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended, see revision note for section 3104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-378 substituted "chapter 74" for "chapter 73" in introductory provisions and inserted "subchapter V of chapter 55," after "61," in pars. (1) and (2).

1990—Pub. L. 101-509 amended section generally, substituting designated provisions directing that Office of Personnel Management may provide that chapter 73 of title 38 provisions apply to certain health care professionals for undesignated text authorizing agency heads to fix pay rates for scientific and professional positions at between GS-16 and GS-18 rates.

1978—Pub. L. 95-454, §906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of 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.

§ 5372. Administrative law judges

(a) For the purposes of this section, the term "administrative law judge" means an administrative law judge appointed under section 3105.

(b)(1)(A) There shall be 3 levels of basic pay for administrative law judges (designated as AL-1, 2, and 3, respectively), and each such judge shall be paid at 1 of those levels, in accordance with the provisions of this section.

(B) Within level AL-3, there shall be 6 rates of basic pay, designated as AL-3, rates A through F, respectively. Level AL-2 and level AL-1 shall each have 1 rate of basic pay.

(C) The rate of basic pay for AL-3, rate A, may not be less than 65 percent of the rate of basic pay for level IV of the Executive Schedule, and

the rate of basic pay for AL-1 may not exceed the rate for level IV of the Executive Schedule.

(2) The Office of Personnel Management shall determine, in accordance with procedures which the Office shall by regulation prescribe, the level in which each administrative-law-judge position shall be placed and the qualifications to be required for appointment to each level.

(3)(A) Upon appointment to a position in AL-3, an administrative law judge shall be paid at rate A of AL-3, and shall be advanced successively to rates B, C, and D of that level at the beginning of the next pay period following completion of 52 weeks of service in the next lower rate, and to rates E and F of that level at the beginning of the next pay period following completion of 104 weeks of service in the next lower rate.

(B) The Office of Personnel Management may provide for appointment of an administrative law judge in AL-3 at an advanced rate under such circumstances as the Office may determine appropriate.

(4) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for administrative law judges shall be adjusted by an amount determined by the President to be appropriate.

(c) The Office of Personnel Management shall prescribe regulations necessary to administer this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, §5362; Pub. L. 95-251, §2(a)(1), (b)(1), Mar. 27, 1978, 92 Stat. 183; renumbered §5372 and amended Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224; Pub. L. 101-509, title V, §529 [title I, §104(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1445; Pub. L. 102-378, §2(32), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 106-97, §1, Nov. 12, 1999, 113 Stat. 1322.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1010 (3d sentence).	June 11, 1946, ch. 324, §11 (3d sentence), 60 Stat. 244.

The exception from the operation of the efficiency rating system is omitted as covered by sections 4301(2)(E) and 5335(a)(B). The reference to "subchapter III of this chapter and chapter 51 of this title" is substituted for "the Classification Act of 1923, as amended" on authority of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(1)(C), is set out in section 5315 of this title.

The General Schedule, referred to in subsec. (b)(4), is set out under section 5332 of this title.

AMENDMENTS

1999—Subsec. (b)(1). Pub. L. 106-97, §1(1), designated first sentence as subpar. (A) and struck out after first sentence the following: "The rates of basic pay for those levels shall be as follows:

AL-3, rate A 65 percent of the rate of basic pay for level IV of the Executive Schedule.

AL-3, rate B	70 percent of the rate of basic pay for level IV of the Executive Schedule.
AL-3, rate C	75 percent of the rate of basic pay for level IV of the Executive Schedule.
AL-3, rate D	80 percent of the rate of basic pay for level IV of the Executive Schedule.
AL-3, rate E	85 percent of the rate of basic pay for level IV of the Executive Schedule.
AL-3, rate F	90 percent of the rate of basic pay for level IV of the Executive Schedule.
AL-2	95 percent of the rate of basic pay for level IV of the Executive Schedule.
AL-1	The rate of basic pay for level IV of the Executive Schedule."

Subsec. (b)(1)(B), (C). Pub. L. 106-97, §1(1), added subpars. (B) and (C).

Subsec. (b)(3)(A). Pub. L. 106-97, §1(2), substituted "at the beginning of the next pay period following" for "upon" in two places.

Subsec. (b)(4). Pub. L. 106-97, §1(3), added par. (4). 1992—Subsec. (c). Pub. L. 102-378 substituted "shall" for "shall."

1990—Pub. L. 101-509 amended section generally. Prior to amendment, section read as follows: "Administrative law judges appointed under section 3105 of this title are entitled to pay prescribed by the Office of Personnel Management independently of agency recommendations or ratings and in accordance with subchapter III of this chapter and chapter 51 of this title."

1978—Pub. L. 95-454, §906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Pub. L. 95-251 substituted "Administrative law judges" for "Hearing examiners" in section catchline and text.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of 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.

CONVERSION RULE FOR ADMINISTRATIVE LAW JUDGES

Section 529 [title I, §104(e)] of Pub. L. 101-509 provided that: "In making initial pay adjustments for administrative law judges after this section and the amendments made by this section [enacting section 5372a of this title, amending this section, sections 5102, 5311, and 5335 of this title, section 938 of Title 30, Mineral Lands and Mining, and section 607 of Title 41, Public Contracts] take effect [see Effective Date of 1990 Amendment note set out under section 5301 of this title], the rate of basic pay for any such judge shall, upon conversion to the new pay system, be at least equal to the rate which was payable to that individual immediately before such conversion."

PAY INCREASES

For adjustment of rates of basic pay for administrative law judges under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

§ 5372a. Contract appeals board members

(a) For the purpose of this section—

(1) the term "contract appeals board member" means a member of an agency board of contract appeals appointed under section 7105(a)(2), (c)(2), or (d)(2) of title 41 or a member of the Civilian Board of Contract Appeals

appointed under section 7105(b)(2) of title 41; and

(2) the term "appeals board" means an agency board of contract appeals established pursuant to section 7105(a)(1), (c)(1), or (d)(1) of title 41.

(b) Rates of basic pay for contract appeals board members shall be as follows:

(1) Chairman of an appeals board—the rate of basic pay payable for level IV of the Executive Schedule.

(2) Vice chairman of an appeals board—97 percent of the rate under paragraph (1).

(3) Other members of an appeals board—94 percent of the rate under paragraph (1).

(c) Rates of pay taking effect under this section shall be printed in the Federal Register and the Code of Federal Regulations.

(Added Pub. L. 101-509, title V, §529 [title I, §104(a)(2)], Nov. 5, 1990, 104 Stat. 1427, 1446; amended Pub. L. 109-163, div. A, title VIII, §847(f)(1), Jan. 6, 2006, 119 Stat. 3395; Pub. L. 111-350, §5(a)(9), Jan. 4, 2011, 124 Stat. 3841.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(1), is set out in section 5315 of this title.

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111-350, §5(a)(9)(A), substituted "section 7105(a)(2), (c)(2), or (d)(2) of title 41" for "section 8 of the Contract Disputes Act of 1978" and "section 7105(b)(2) of title 41" for "section 42 of the Office of Federal Procurement Policy Act".

Subsec. (a)(2). Pub. L. 111-350, §5(a)(9)(B), substituted "section 7105(a)(1), (c)(1), or (d)(1) of title 41" for "section 8 of the Contract Disputes Act of 1978".

2006—Subsec. (a)(1). Pub. L. 109-163 inserted "or a member of the Civilian Board of Contract Appeals appointed under section 42 of the Office of Federal Procurement Policy Act" after "of 1978".

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title VIII, §847(g), Jan. 6, 2006, 119 Stat. 3395, provided that: "Section 42 of the Office of Federal Procurement Policy Act, as added by this section, and the amendments and repeals made by this section [enacting section 438 of Title 41, Public Contracts, amending this section and sections 601 and 607 of Title 41, and enacting provisions set out as a note under section 607 of Title 41], shall take effect 1 year after the date of the enactment of this Act [Jan. 6, 2006]."

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5372b. Administrative appeals judges

(a) For the purpose of this section—

(1) the term "administrative appeals judge position" means a position the duties of which primarily involve reviewing decisions of administrative law judges appointed under section 3105; and

(2) the term "agency" means an Executive agency, as defined by section 105, but does not include the Government Accountability Office.

(b) Subject to such regulations as the Office of Personnel Management may prescribe, the head

of the agency concerned shall fix the rate of basic pay for each administrative appeals judge position within such agency which is not classified above GS-15 pursuant to section 5108.

(c) A rate of basic pay fixed under this section shall be—

- (1) not less than the minimum rate of basic pay for level AL-3 under section 5372; and
- (2) not greater than the maximum rate of basic pay for level AL-3 under section 5372.

(Added Pub. L. 106-554, §1(a)(3) [title VI, §645(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-169; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

GS-15, referred to in subsec. (b), is contained in the General Schedule which is set out under section 5332 of this title.

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

EFFECTIVE DATE

Pub. L. 106-554, §1(a)(3) [title VI, §645(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-170, provided that: “The amendment made by subsection (a)(1) [enacting this section] shall apply with respect to pay for service performed on or after the first day of the first applicable pay period beginning on or after—

- “(1) the 120th day after the date of the enactment of this Act [Dec. 21, 2000]; or
- “(2) if earlier, the effective date of regulations prescribed by the Office of Personnel Management to carry out such amendment.”

§ 5373. Limitation on pay fixed by administrative action

(a) Except as provided in subsection (b) and by the Government Employees Salary Reform Act of 1964 (78 Stat. 400) and notwithstanding the provisions of other statutes, the head of an Executive agency or military department who is authorized to fix by administrative action the annual rate of basic pay for a position or employee may not fix the rate at more than the rate for level IV of the Executive Schedule. This section does not impair the authorities provided by—

- (1) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b)¹ and 21A(e)(4)¹ of the Federal Home Loan Bank Act, section 2A(i)¹ of the Home Owners’ Loan Act, and sections 5.11 and 5.58 of the Farm Credit Act of 1971;
 - (2) section 831b of title 16;
 - (3) sections 403a-403c, 403e-403h, and 403j of title 50; or
 - (4)² section 4802.
- (4)² section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)).

(b) Subsection (a) shall not affect the authority of the Secretary of Defense or the Secretary of a military department to fix the pay of a civilian employee paid from nonappropriated funds, except that the annual rate of basic pay (including any portion of such pay attributable

to comparability with private-sector pay in a locality) of such an employee may not be fixed at a rate greater than the rate for level III of the Executive Schedule.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, §5363; renumbered §5373, Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221; Pub. L. 96-70, title III, §3302(e)(4), Sept. 27, 1979, 93 Stat. 498; Pub. L. 101-73, title VII, §742(b), title XII, §1209, Aug. 9, 1989, 103 Stat. 437, 523; Pub. L. 101-509, title V, §529 [title I, §101(b)(9)(H)], Nov. 5, 1990, 104 Stat. 1427, 1441; Pub. L. 104-201, div. C, title XXXV, §3548(a)(4), Sept. 23, 1996, 110 Stat. 2868; Pub. L. 106-65, div. A, title XI, §1102, Oct. 5, 1999, 113 Stat. 776; Pub. L. 107-123, §8(d)(1)(C), Jan. 16, 2002, 115 Stat. 2399; Pub. L. 107-171, title X, §10702(c)(3), May 13, 2002, 116 Stat. 517.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2212.	Aug. 14, 1964, Pub. L. 88-426, §308, 78 Stat. 432. Oct. 6, 1964, Pub. L. 88-631, §3(e), 78 Stat. 1008.

The words “head of an Executive agency or military department” are coextensive with and substituted for “head of any executive department, independent establishment, or agency in the executive branch” because of the definitions in sections 102 and 105.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The Government Employees Salary Reform Act of 1964 (78 Stat. 400), referred to in subsec. (a), is Pub. L. 88-426, Aug. 14, 1964, 78 Stat. 400. For complete classification of this Act to the Code, see Tables.

Level IV of the Executive Schedule, referred to in subsec. (a), is set out in section 5315 of this title.

Section 206 of the Bank Conservation Act, referred to in subsec. (a)(1), is classified to section 206 of Title 12, Banks and Banking.

Sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, referred to in subsec. (a)(1), were classified to former sections 1422b(b) and 1441a(e)(4), respectively, of Title 12, Banks and Banking. Section 1422b of Title 12 was repealed by Pub. L. 110-289, div. A, title II, §1204(1), July 30, 2008, 122 Stat. 2786. Section 1441a of Title 12 was repealed by Pub. L. 111-203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

Section 2A(i) of the Home Owners’ Loan Act, referred to in subsec. (a)(1), probably should be a reference to section 3(g) of the Home Owners’ Loan Act, act June 13, 1933, ch. 64, as amended by Pub. L. 101-73, title III, §301, Aug. 9, 1989, 103 Stat. 278, which was classified to section 1462a(g) of Title 12, Banks and Banking, prior to repeal by Pub. L. 111-203, title III, §369(3)(B), July 21, 2010, 124 Stat. 1558.

Sections 5.11 and 5.58 of the Farm Credit Act of 1971, referred to in subsec. (a)(1), are classified to sections 2245 and 2277a-7, respectively, of Title 12, Banks and Banking.

Section 403e-1 of Title 50, War and National Defense, included within the reference to sections 403e-403h of Title 50 in subsec. (a)(3), was enacted by Pub. L. 98-215, title IV, §402, Dec. 9, 1983, 97 Stat. 1477, after subsec. (a)(3) was enacted.

Level III of the Executive Schedule, referred to in subsec. (b), is set out in section 5314 of this title.

AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107-171, §10702(c)(3)(A), which directed amendment of par. (2) by striking “or” at end, could not be executed because the word “or” did not appear at the end. See below.

¹ See References in Text note below.

² So in original. Two pars. (4) have been enacted.

Pub. L. 107-123, §8(d)(1)(C)(i), struck out “or” at end. Subsec. (a)(3). Pub. L. 107-171, §10702(c)(3)(B), which directed substitution of “; or” for the period at the end, could not be executed because there was no period at the end. See below.

Pub. L. 107-123, §8(d)(1)(C)(ii), substituted “; or” for the period at the end.

Subsec. (a)(4). Pub. L. 107-171, §10702(c)(3)(C), added par. (4) relating to section 2(a)(7) of the Commodity Exchange Act.

Pub. L. 107-123, §8(d)(1)(C)(iii), added par. (4) relating to section 4802.

1999—Pub. L. 106-65 designated existing provisions as subsec. (a), substituted “(a) Except as provided in subsection (b) and” for “Except as provided”, and added subsec. (b).

1996—Pub. L. 104-201 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: “section 1202 of the Panama Canal Act of 1979;”.

1990—Pub. L. 101-509 substituted “rate for level IV of the Executive Schedule.” for “maximum rate for GS-18.”

1989—Par. (2). Pub. L. 101-73, §1209, amended par. (2) generally. Prior to amendment, par. (2) read as follows: “sections 248, 481, 1437, 1439, and 1819 of title 12;”.

Pub. L. 101-73, §742(b), inserted references to sections 1437 and 1439 of title 12.

1979—Par. (1). Pub. L. 96-70 substituted “section 1202 of the Panama Canal Act of 1979” for “section 121 of title 2, Canal Zone Code (76A Stat. 15)”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-123 effective Oct. 1, 2001, see section 11 of Pub. L. 107-123, set out as a note under section 78ee of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

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.

§ 5374. Miscellaneous positions in the executive branch

The head of the agency concerned shall fix the annual rate of basic pay for each position in the executive branch specifically referred to in, or covered by, a conforming change in statute made by section 305 of the Government Employees Salary Reform Act of 1964 (78 Stat. 422), or other position in the executive branch for which the annual pay is fixed at a rate of \$18,500 or more under special provision of statute enacted before August 14, 1964, which is not placed in a level of the Executive Schedule set forth in subchapter II of this chapter, at a rate equal to the pay rate of a grade and step of the General Schedule set forth in section 5332 of this title. The head of the agency concerned shall report each action taken under this section to the Office of Personnel Management and publish a notice thereof in the Federal Register, except when the President determines that the report and publication would be contrary to the interest of national security.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, §5364; renumbered §5374 and amended Pub. L. 95-454,

title VIII, §801(a)(3)(A)(ii), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2213.	Aug. 14, 1964, Pub. L. 88-426, §309, 78 Stat. 433.

The word “office” is omitted as included in “position”. The words “before August 14, 1964” are substituted for “prior to the date of enactment of this Act”. The words “pursuant to section 303 of this Act” are omitted as surplusage.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 305 of the Government Employees Salary Reform Act of 1964, referred to in text, means section 305 of Pub. L. 88-426, Aug. 14, 1964. For complete classification of this section to the Code, see Tables.

AMENDMENTS

1978—Pub. L. 95-454, §906(a)(2), substituted “Office of Personnel Management” for “Civil Service Commission”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of 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.

§ 5375. Police force of the National Zoological Park

The Secretary of the Smithsonian Institution shall fix the annual rates of basic pay for positions on the police force of the National Zoological Park as follows:

- (1) Private, not more than the maximum annual rate of basic pay payable for grade GS-7 of the General Schedule.
- (2) Sergeant, not more than the maximum annual rate of basic pay payable for grade GS-8 of the General Schedule.
- (3) Lieutenant, not more than the maximum annual rate of basic pay payable for grade GS-9 of the General Schedule.
- (4) Captain, not more than the maximum annual rate of basic pay payable for grade GS-10 of the General Schedule.

(Added Pub. L. 91-34, §1(a), June 30, 1969, 83 Stat. 41, §5365; amended Pub. L. 94-183, §2(20), Dec. 31, 1975, 89 Stat. 1058; renumbered §5375, Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221; Pub. L. 101-263, §1(a), Apr. 4, 1990, 104 Stat. 125; Pub. L. 102-378, §2(33), Oct. 2, 1992, 106 Stat. 1350.)

REFERENCES IN TEXT

General Schedule, referred to in text, is set out under section 5332 of this title.

AMENDMENTS

1992—Par. (2). Pub. L. 102-378 substituted “GS-8” for “GS-8,”.

1990—Pub. L. 101-263 inserted “the” before “National” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

“(1) Private—not more than the rate for GS-7, Step 5;
 “(2) Sergeant—not more than the rate for GS-8, Step 5;
 “(3) Lieutenant—not more than the rate for GS-9, Step 5;
 “(4) Captain—not more than the rate for GS-10, Step 5.”
 1975—Pub. L. 94-183 struck out designation “(a)” at beginning.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2 of Pub. L. 101-263 provided that: “The amendments made by section 1 [amending this section] shall apply with respect to pay periods beginning after the date of the enactment of this Act [Apr. 4, 1990].”

EFFECTIVE DATE

Section 3(a) of Pub. L. 91-34 provided that: “The foregoing provisions of this Act [enacting this section and amending sections 5102 and 5109 of this title and section 193n of former Title 40, Public Buildings, Property, and Works] shall become effective at the beginning of the first pay period which commences on or after the date of enactment of this Act [June 30, 1969].”

REDUCTION OF BASIC PAY RATE

Section 3(b) of Pub. L. 91-34 provided that: “No rate of basic pay shall be reduced by reason of the enactment of this Act [enacting this section and amending sections 5102 and 5109 of this title and section 193n of former Title 40, Public Buildings, Property, and Works].”

§ 5376. Pay for certain senior-level positions

(a) This section applies to—

- (1) positions that are classified above GS-15 pursuant to section 5108; and
- (2) scientific or professional positions established under section 3104;

but does not apply to—

- (A) any Senior Executive Service position under section 3132; or
- (B) any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151.

(b)(1) Subject to such regulations as the Office of Personnel Management prescribes, the head of the agency concerned shall fix the rate of basic pay for any position within such agency to which this section applies. A rate fixed under this section shall be—

- (A) not less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and
- (B) subject to paragraph (3), not greater than the rate of basic pay payable for level III of the Executive Schedule.

The payment of a rate of basic pay under this section shall not be subject to the pay limitation of section 5306(e) or 5373.

(2) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section for positions within an agency shall be adjusted by such amount as the head of such agency considers appropriate.

(3) In the case of an agency which has a performance appraisal system which, as designed

and applied, is certified under section 5307(d) as making meaningful distinctions based on relative performance, paragraph (1)(B) shall apply as if the reference to “level III” were a reference to “level II”.

(4) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under paragraph (3) to an agency with an applicable maximum rate of pay prescribed under paragraph (1)(B).

(Added Pub. L. 101-509, title V, §529 [title I, §102(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1443; amended Pub. L. 110-372, §2(b), Oct. 8, 2008, 122 Stat. 4044.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b), is set out under section 5332 of this title.

Levels II and III of the Executive Schedule, referred to in subsec. (b), are set out in sections 5313 and 5314 of this title, respectively.

AMENDMENTS

2008—Subsec. (b)(1)(B). Pub. L. 110-372, §2(b)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “not greater than the rate of basic pay payable for level IV of the Executive Schedule.”

Subsec. (b)(3), (4). Pub. L. 110-372, §2(b)(2), added pars. (3) and (4).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-372, §2(d), Oct. 8, 2008, 122 Stat. 4044, provided that:

“(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 3104, 3324, 3325, 5108 and 5304 of this title] shall take effect on the first day of the first pay period beginning on or after the 180th day following the date of enactment of this Act [Oct. 8, 2008].

“(2) NO REDUCTIONS IN RATES OF PAY.—

“(A) IN GENERAL.—The amendments made by this section may not result, at the time such amendments take effect, in a reduction in the rate of basic pay for an individual holding a position to which section 5376 of title 5, United States Code, applies.

“(B) DETERMINATION OF RATE OF PAY.—For the purposes of subparagraph (A), the rate of basic pay for an individual described in that subparagraph shall be deemed to be the rate of basic pay set for the individual under section 5376 of title 5, United States Code, plus any applicable locality pay paid to that individual on the day before the effective date under paragraph (1), subject to regulations that the Director of the Office of Personnel Management may prescribe.

“(3) REFERENCES TO MAXIMUM RATES.—Except as otherwise provided by law, any reference in a provision of law to the maximum rate under section 5376 of title 5, United States Code—

“(A) as provided before the effective date of the amendments made by this section, shall be considered a reference to the rate of basic pay for level IV of the Executive Schedule [5 U.S.C. 5315]; and

“(B) as provided on or after the effective date of the amendments made by this section, shall be considered a reference to—

“(i) the rate of basic pay for level III of the Executive Schedule [5 U.S.C. 5314]; or

“(ii) if the head of the agency responsible for administering the applicable pay system certifies that the employees are covered by a performance appraisal system meeting the certification criteria established by regulation under section 5307(d), level II of the Executive Schedule [5 U.S.C. 5313].”

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later

than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES; REGULATIONS

Section 529 [title I, § 101(c), (d)] of Pub. L. 101-509 provided that:

“(c) OTHER REFERENCES.—Until otherwise provided by law—

“(1) any reference in a provision of law (which is outside title 5, United States Code, and in effect immediately before this section takes effect [see Effective Date of 1990 Amendment note set out under section 5301 of this title], excluding any reference in a provision of law amended by this Act [see Short Title of 1990 Amendment note set out under section 5301 of this title])—

“(A)(i) to the rate of pay for grade GS-18 of the General Schedule, or to the maximum rate of pay under the General Schedule, shall be considered a reference to the maximum rate payable under section 5376 of such title (as amended by section 102(a));

“(ii) to the minimum rate of pay for grade GS-16 of the General Schedule shall be considered a reference to the minimum rate payable under section 5376 of such title (as amended by section 102(a)); and

“(iii) to a rate of pay for grade GS-16 or 17 of the General Schedule shall (except as provided in clause (ii)) be considered a reference to a rate of pay for a position classified above GS-15 pursuant to section 5108 of such title (as amended by section 102(b)(2)); and

“(B) to a rate of pay under the General Schedule shall not include any comparability payment payable under section 5304 of such title (as amended by this section) or any geographic adjustment payable under section 302 [section 529 [title III, § 302] of Pub. L. 101-509, set out as a note under section 5304 of this title]; and

“(2) any authority granted by a provision of law (which is outside such title, and in effect immediately before this section takes effect) to fix pay in accordance with chapter 51 and subchapter III of chapter 53 of such title—

“(A) shall not be considered to include any authority under section 5304 of such title (as amended by this section) or section 302; but

“(B) shall be considered to include authority under section 5376 of such title (as amended by section 102(a)), if applicable.

“(d) REGULATIONS.—The Office of Personnel Management may prescribe regulations, consistent with subsection (c)(1)(B) and section 303 [section 529 [title III, § 303] of Pub. L. 101-509, set out as a note under section 5301 of this title], governing the conversion or adjustment of rates of pay, where necessary because of the abolishment of grades GS-16, 17, and 18 of the General Schedule.”

[For reference to maximum rate under section 5376 of this title, see section 2(d)(3) of Pub. L. 110-372, set out as an Effective Date of 2008 Amendment note under this section.]

§ 5377. Pay authority for critical positions

(a) For the purpose of this section—

(1) the term “agency” has the meaning given it by section 5102; and

(2) the term “position” means—

(A) a position to which chapter 51 applies, including a position in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(B) a position under the Executive Schedule under sections 5312-5317;

(C) a position to which section 5372 applies (or would apply, but for this section);

(D) a position to which section 5372a applies (or would apply, but for this section);

(E) a position established under section 3104;

(F) a position in a category as to which a designation is in effect under subsection (i); and

(G) a position at the Federal Bureau of Investigation, the primary duties and responsibilities of which relate to intelligence functions (as determined by the Director of the Federal Bureau of Investigation).

(b) Authority under this section—

(1) may be granted or exercised only with respect to a position—

(A) which requires expertise of an extremely high level in a scientific, technical, professional, or administrative field; and

(B) which is critical to the agency’s successful accomplishment of an important mission; and

(2) may be granted or exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.

(d)(1) The rate of basic pay fixed under this section by an agency head may not be less than the rate of basic pay (including any comparability payments) which would then otherwise be payable for the position involved if this section had never been enacted.

(2) Basic pay may not be fixed under this section at a rate greater than the rate payable for level I of the Executive Schedule, except upon written approval of the President.

(e) The authority to fix the rate of basic pay under this section for a position shall terminate—

(1) whenever the Office of Personnel Management determines (in accordance with such procedures and subject to such terms or conditions as such Office by regulation prescribes) that 1 or more of the requirements of subsection (b) are no longer met; or

(2) as of such date as such Office may otherwise specify, except that termination under this paragraph may not take effect before the authority has been available for such position for at least 1 calendar year.

(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.

(h) The Office of Personnel Management shall report to the Committee on Government Reform of the House of Representatives and the Com-

mittee on Governmental Affairs of the Senate each year, in writing, on the operation of this section. Each report under this subsection shall include—

(1) the number of positions, in the aggregate and by agency, for which higher rates of pay were authorized or paid under this section during any part of the period covered by such report; and

(2) the name of each employee to whom a higher rate of pay was paid under this section during any portion of the period covered by such report, the rate on rates paid under this section during such period, the dates between which each such higher rate was paid, and the rate or rates that would have been paid but for this section.

(i)(1) For the purpose of this subsection, the term “position” means the work, consisting of the duties and responsibilities, assignable to an employee, except that such term does not include any position under subsection (a)(2)(A)–(E).

(2) At the request of an agency head, the President may designate 1 or more categories of positions within such agency to be treated, for purposes of this section, as positions within the meaning of subsection (a)(2).

(Added Pub. L. 101–509, title V, § 529 [title I, § 103(a)], Nov. 5, 1990, 104 Stat. 1427, 1444; amended Pub. L. 102–378, § 2(34), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 108–411, title I, § 102, Oct. 30, 2004, 118 Stat. 2311; Pub. L. 108–447, div. B, title I, § 115, Dec. 8, 2004, 118 Stat. 2870.)

REFERENCES IN TEXT

Level I of the Executive Schedule, referred to in subsec. (d)(2), is set out in section 5312 of this title.

AMENDMENTS

2004—Subsec. (a)(2)(G). Pub. L. 108–447 added subpar. (G).

Subsec. (c). Pub. L. 108–411, § 102(1), (2), substituted “Office of Management and Budget” for “Office of Personnel Management” and “Office of Personnel Management” for “Office of Management and Budget”.

Subsec. (e)(1), (f). Pub. L. 108–411, § 102(2), substituted “Office of Personnel Management” for “Office of Management and Budget”.

Subsec. (g). Pub. L. 108–411, § 102(1)–(3), substituted “Office of Personnel Management” for “Office of Management and Budget” and “Office of Management and Budget” for “Office of Personnel Management” and struck out “prescribing regulations under this section or” before “making any decision”.

Subsec. (h). Pub. L. 108–411, § 102(2), (4), in introductory provisions, substituted “Office of Personnel Management” for “Office of Management and Budget” and “Committee on Government Reform” for “Committee on Post Office and Civil Service”.

1992—Subsec. (a)(2)(E), (F). Pub. L. 102–378, § 2(34)(A), added subpars. (E) and (F).

Subsec. (i). Pub. L. 102–378, § 2(34)(B), added subsec. (i).

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section assigned to the Director of the Office of Personnel Management by section 1 of Ex. Ord. No. 13415, Dec. 1, 2006, 71 F.R. 70641, set out as a note under section 4505a of this title.

§ 5378. Police forces of the Bureau of Engraving and Printing and the United States Mint

(a) The Secretary of the Department of the Treasury, or his designee, in his sole discretion shall fix the rates of basic pay for positions within the police forces of the United States Mint and the Bureau of Engraving and Printing without regard to the pay provisions of title 5, United States Code, except that no entry-level police officer shall receive basic pay for a calendar year that is less than the basic rate of pay for General Schedule GS–7 and no executive security official shall receive basic compensation for a calendar year that exceeds the basic rate of pay for General Schedule GS–15.

(b) For the purpose of this section, the term “police forces of the Bureau of Engraving and Printing and the United States Mint” means the employees of the Department of the Treasury who are appointed, under the authority of the Secretary of the Treasury, as police officers for the protection of the Bureau of Engraving and Printing and the United States Mint buildings and property.

(Added Pub. L. 101–509, title V, § 529 [title I, § 109(a)(1)(A)], Nov. 5, 1990, 104 Stat. 1427, 1451; amended Pub. L. 104–52, title V, § 521, Nov. 19, 1995, 109 Stat. 494; Pub. L. 105–61, title I, § 121, Oct. 10, 1997, 111 Stat. 1289.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of this title.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–61 amended subsec. (a) generally. Prior to amendment, subsec. (a) consisted of pars. (1) to (8) providing maximum levels of General Schedule at which Secretary of the Treasury was to set basic rates of pay for positions in police forces of Bureau of Engraving and Printing and United States Mint.

1995—Subsec. (a)(8). Pub. L. 104–52, which directed amendment of this section by adding par. (8), was executed by adding par. (8) at end of subsec. (a) to reflect the probable intent of Congress.

EFFECTIVE DATE; CONVERSION AND SAVINGS PROVISIONS

Section 529 [title I, § 109(c)] of Pub. L. 101–509 provided that:

“(1) This section and the amendments made by this section [enacting this section, amending section 5102 of this title, and enacting provisions set out as a note below] shall become effective on the first day of the first applicable pay period beginning on or after the 30th day following the date of enactment of this Act [Nov. 5, 1990].

“(2)(A) A special pay rate (as defined in subparagraph (B)) shall apply to an individual holding a position if—

“(i) as a result of the initial exercise of authority with respect to such position under the amendment

made by subsection (a)(1)(A) [enacting this section], such individual would (but for this paragraph) be paid—

“(I) at the step of the grade for which such special pay rate is then in effect; or

“(II) at a level which is between steps for which special pay rates are then in effect; and

“(ii) such position is within the area or location with respect to which that special pay rate or those special pay rates, as applicable, are then in effect.

The Secretary of the Treasury shall prescribe regulations for determining which special pay rate shall apply in a situation described in clause (i)(II).

“(B) For the purpose of this paragraph, the term ‘special pay rate’ means a rate which—

“(i) is established under section 5303 of title 5, United States Code (or a succeeding provision of law);

“(ii) is applicable to positions within the police forces of the Bureau of Engraving and Printing and the United States Mint; and

“(iii) has been in effect (including any adjustments under section 5303(d) of such title) since on or before the effective date of this section.

“(3) No rate of basic pay in effect immediately before this section takes effect shall be reduced by reason of the enactment of this section.”

SPECIAL PAY RATES NOT AFFECTED

Section 529 [title I, §109(b)] of Pub. L. 101-509, as amended by Pub. L. 102-378, §3(1), Oct. 2, 1992, 106 Stat. 1355, provided that: “Nothing in this section or in any amendment made by this section [enacting this section, amending section 5102 of this title, and enacting provisions set out as a note above] shall—

“(1) affect any special pay rate under section 5303 of title 5, United States Code, established before this section takes effect; or

“(2) impair any authority to fix or adjust special pay rates under such section 5303 (or a succeeding provision of law) for positions within the police forces of the Bureau of Engraving and Printing and the United States Mint.”

[Amendment by Pub. L. 102-378 to section 529 [title I, §109(b)] of Pub. L. 101-509, set out above, effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.]

§ 5379. Student loan repayments

(a)(1) For the purpose of this section—

(A) the term “agency” means an agency under subparagraph (A), (B), (C), (D), or (E) of section 4101(1) of this title, the Architect of the Capitol, the Botanic Garden, and the Office of Congressional Accessibility Services; and

(B) the term “student loan” means—

(i) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(ii) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and

(iii) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

(2) An employee shall be ineligible for benefits under this section if the employee occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

(b)(1) The head of an agency may, in order to recruit or retain highly qualified personnel, es-

tablish a program under which the agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee.

(2) Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned, except that the amount paid by an agency under this section may not exceed—

(A) \$10,000 for any employee in any calendar year; or

(B) a total of \$60,000 in the case of any employee.

(3) Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency’s entering into an agreement under this section with such employee.

(c)(1) An employee selected to receive benefits under this section must agree in writing, before receiving any such benefit, that the employee will—

(A) remain in the service of the agency for a period specified in the agreement (not less than 3 years), unless involuntarily separated; and

(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

(2) The payment agreed to under paragraph (1)(B) of this subsection may not be required of an employee who leaves the service of such employee’s agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee’s entrance into the service of the other agency that payment will be required under this subsection.

(3) If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2) of this subsection) is voluntarily separated before completing the required period of service fails to repay the amount agreed to under paragraph (1)(B) of this subsection, a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee’s estate, if applicable) by—

(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(B) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

(4) Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation account from which the amount involved was

originally paid. Any amount so credited shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

(d) An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

(1) separates from such agency; or

(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

(e) In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(f) Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

(g) The Director of the Office of Personnel Management, after consultation with heads of a representative number and variety of agencies and any other consultation which the Director considers appropriate, shall prescribe regulations containing such standards and requirements as the Director considers necessary to provide for reasonable uniformity among programs under this section.

(h)(1) Each head of an agency shall maintain, and annually submit to the Director of the Office of Personnel Management, information with respect to the agency on—

(A) the number of Federal employees selected to receive benefits under this section;

(B) the job classifications for the recipients; and

(C) the cost to the Federal Government of providing the benefits.

(2) The Director of the Office of Personnel Management shall prepare, and annually submit to Congress, a report containing the information submitted under paragraph (1), and information identifying the agencies that have provided benefits under this section.

(Added Pub. L. 101-510, div. A, title XII, §1206(b)(1), Nov. 5, 1990, 104 Stat. 1659; amended Pub. L. 106-398, §1 [[div. A], title XI, §1122(a), (b), (d)], Oct. 30, 2000, 114 Stat. 1654, 1654A-316; Pub. L. 108-123, §2, Nov. 11, 2003, 117 Stat. 1345; Pub. L. 108-136, div. A, title XI, §1123(a), Nov. 24, 2003, 117 Stat. 1637; Pub. L. 110-437, title V, §502, Oct. 20, 2008, 122 Stat. 4997.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1)(B)(i), (ii), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), C (§1087a et seq.), and D (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (a)(1)(B)(iii), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title VII of the Act is classified generally to part A (§292 et seq.) of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Part E of title VIII of the Act is classified generally to part E (§297a et seq.) of subchapter VI of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2008—Subsec. (a)(1)(A). Pub. L. 110-437 inserted “, the Architect of the Capitol, the Botanic Garden, and the Office of Congressional Accessibility Services” after “title”.

2003—Subsec. (b)(2)(A). Pub. L. 108-123, §2(1), and Pub. L. 108-136 amended subpar. (A) identically, substituting “\$10,000” for “\$6,000”.

Subsec. (b)(2)(B). Pub. L. 108-123, §2(2), substituted “\$60,000” for “\$40,000”.

2000—Subsec. (a)(1)(B)(i). Pub. L. 106-398, §1 [[div. A], title XI, §1122(a)(1)], inserted “(20 U.S.C. 1071 et seq.)” before semicolon.

Subsec. (a)(1)(B)(ii). Pub. L. 106-398, §1 [[div. A], title XI, §1122(a)(2)], substituted “part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.)” for “part E of title IV of the Higher Education Act of 1965”.

Subsec. (a)(1)(B)(iii). Pub. L. 106-398, §1 [[div. A], title XI, §1122(a)(3)], substituted “part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.)” for “part C of title VII of Public Health Service Act or under part B of title VIII of such Act”.

Subsec. (a)(2). Pub. L. 106-398, §1 [[div. A], title XI, §1122(b)(1)], amended par. (2) generally. Prior to amendment, par. (2) read as follows: “An employee shall be ineligible for benefits under this section if such employee occupies a position which—

“(A) is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(B) is not subject to subchapter III of this chapter.”

Subsec. (b)(1). Pub. L. 106-398, §1 [[div. A], title XI, §1122(b)(2)], struck out “professional, technical, or administrative” after “highly qualified”.

Subsec. (h). Pub. L. 106-398, §1 [[div. A], title XI, §1122(d)], added subsec. (h).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title XI, §1123(b), Nov. 24, 2003, 117 Stat. 1637, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2004.”

REGULATIONS

Pub. L. 106-398, §1 [[div. A], title XI, §1122(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-316, provided that:

“(1) Not later than 60 days after the date of the enactment of this Act [Oct. 30, 2000], the Director of the Office of Personnel Management shall issue proposed regulations under section 5379(g) of title 5, United States Code. The Director shall provide for a period of not less than 60 days for public comment on the regulations.

“(2) Not later than 240 days after the date of the enactment of this Act [Oct. 30, 2000], the Director shall issue final regulations.”

INSTITUTIONAL LOAN FORGIVENESS PROGRAMS

Pub. L. 110-315, title IX, §961, Aug. 14, 2008, 122 Stat. 3473, provided that: “Notwithstanding any other provision of law—

“(1) a public or private institution of higher education may provide an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, who is a current or former student

of such institution, financial assistance for the purpose of repaying a student loan or providing forbearance of student loan repayment if—

“(A) such repayment or forbearance is provided to such officer or employee in accordance with a written, published policy of the institution relating to repaying or providing forbearance, respectively, for students or former students who perform public service; and

“(B) in the case of a former student of the institution of higher education, the policy described in subparagraph (A) was in effect at the institution of higher education on the day before the date such officer or employee graduated from or otherwise ceased being a student at such institution; and

“(2) an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia may receive repayment or forbearance permitted under paragraph (1).”

[§ 5380. Repealed. Pub. L. 102-378, § 8(a), Oct. 2, 1992, 106 Stat. 1359]

Section, added Pub. L. 101-510, div. A, title XII, § 1206(i)(1), Nov. 5, 1990, 104 Stat. 1662, related to pay authority for critical positions. See section 5377 of this title. Pub. L. 102-378, § 8(a), repealed Pub. L. 101-510, § 1206(i)(1), and provided that this title shall read as if section 1206(i)(1) had not been enacted.

Pub. L. 101-510, § 1206(i)(3), provided that (A) unless section 5380 of this title did not take effect as provided in subpar. (B), such section would cease to be in effect on the earlier of Oct. 1, 1992, or the date of the enactment of the Federal Employees Pay Comparability Act of 1990 [Nov. 5, 1990], and (B) section 5380 of this title would not take effect if the Federal Employees Pay Comparability Act of 1990 [Pub. L. 101-509] was enacted before the date of the enactment of this Act [Nov. 5, 1990]. Pub. L. 102-378, § 8(a), repealed Pub. L. 101-510, § 1206(i)(3), and provided that this title shall read as if section 1206(i)(3) had not been enacted.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.

SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

§ 5381. Definitions

For the purpose of this subchapter, “agency”, “Senior Executive Service position”, “career appointee”, and “senior executive” have the meanings set forth in section 3132(a) of this title.

(Added Pub. L. 95-454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 101-136, title VI, § 625(b), Nov. 3, 1989, 103 Stat. 823.)

AMENDMENTS

1989—Pub. L. 101-136 inserted “‘career appointee,’” before “and”.

EFFECTIVE DATE

Subchapter effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415(a)(1), (b) of Pub. L. 95-454, set out as a note under section 3131 of this title.

§ 5382. Establishment of rates of pay for the Senior Executive Service

(a) Subject to regulations prescribed by the Office of Personnel Management, there shall be established a range of rates of basic pay for the

Senior Executive Service, and each senior executive shall be paid at one of the rates within the range, based on individual performance, contribution to the agency’s performance, or both, as determined under a rigorous performance management system. The lowest rate of the range shall not be less than the minimum rate of basic pay payable under section 5376, and the highest rate, for any position under this system or an equivalent system as determined by the President’s Pay Agent designated under section 5304(d), shall not exceed the rate for level III of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373.

(b) Notwithstanding the provisions of subsection (a), the applicable maximum shall be level II of the Executive Schedule for any agency that is certified under section 5307 as having a performance appraisal system which, as designed and applied, makes meaningful distinctions based on relative performance.

(c) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under subsection (b) to an agency with an applicable maximum rate of pay prescribed under subsection (a).

(Added Pub. L. 95-454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 101-509, title V, § 529 [title I, § 101(b)(4)(B), (6)(A), (9)(I)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1440, 1442; Pub. L. 108-136, div. A, title XI, § 1125(a)(2), Nov. 24, 2003, 117 Stat. 1638.)

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (a), is set out in section 5314 of this title.

Level II of the Executive Schedule, referred to in subsec. (b), is set out in section 5313 of this title.

AMENDMENTS

2003—Pub. L. 108-136 substituted “Establishment of rates of pay for the Senior Executive Service” for “Establishment and adjustment of rates of pay for the Senior Executive Service” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates. The rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

“(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable under section 5376 and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373 of this title.

“(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount determined by the President to be appropriate.

“(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for the Senior Executive Service.”

1990—Subsec. (b). Pub. L. 101-509, § 529 [title I, § 101(b)(6)(A), (9)(I)], substituted “under section 5376”

for “for GS-16 of the General Schedule” and “5306(e)” for “5308”.

Subsec. (c). Pub. L. 101-509, § 529 [title I, § 101(b)(4)(B)], substituted “5303” for “5305” and struck out at end “The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305(a)(3) or (c)(1) of this title.”

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-136 effective on first day of first pay period beginning on or after Jan. 1, 2004, but not to result in reduction in rate of basic pay for any senior executive during first year after effective date, see section 1125(c) of Pub. L. 108-136, set out as a note under section 5304 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

PAY INCREASES

For adjustment of rates of basic pay for the Senior Executive Service under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

EXECUTIVE ORDER NO. 12592

Ex. Ord. No. 12592, Apr. 10, 1987, 52 F.R. 13417, as amended by Ex. Ord. No. 12609, Sept. 23, 1987, 52 F.R. 36211, which related to the establishment, functions, administration, and termination of the President's Commission on Compensation of Career Federal Executives, was revoked by Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to this title.

§ 5383. Setting individual senior executive pay

(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates within a range established under section 5382 shall be paid to each senior executive under such appointing authority.

(b) Members of the Senior Executive Service shall be subject to the limitation under section 5307.

(c) Except as provided in regulations prescribed by the Office under section 5385, the rate of basic pay for any senior executive may not be adjusted more than once during any 12-month period.

(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only if the career appointee receives a written notice of the reduction at least 15 days in advance of the reduction.

(e)(1) This subsection applies to—

(A) any individual who, after serving at least 5 years of current continuous service in 1 or more positions in the competitive service, is appointed, without any break in service, as a career appointee; and

(B) any individual who—

(i) holds a position which is converted from the competitive service to a career re-

served position in the Senior Executive Service; and

(ii) as of the conversion date, has at least 5 years of current continuous service in 1 or more positions in the competitive service.

(2)(A) The initial rate of pay for a career appointee who is appointed under the circumstances described in paragraph (1)(A) may not be less than the rate of basic pay last payable to that individual immediately before being so appointed.

(B) The initial rate of pay for a career appointee following the position's conversion (as described in paragraph (1)(B)) may not be less than the rate of basic pay last payable to that individual immediately before such position's conversion.

(Added Pub. L. 95-454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 96-166, § 3, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 98-615, title III, § 305, Nov. 8, 1984, 98 Stat. 3219; Pub. L. 101-509, title V, § 529 [title I, § 101(b)(7)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 102-175, § 2, Dec. 2, 1991, 105 Stat. 1222; Pub. L. 102-378, § 2(35), Oct. 2, 1992, 106 Stat. 1351; Pub. L. 108-136, div. A, title XI, § 1125(a)(3), Nov. 24, 2003, 117 Stat. 1639.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, § 1125(a)(3)(A), substituted “which of the rates within a range established under section 5382” for “which of the rates established under section 5382 of this title”.

Subsec. (c). Pub. L. 108-136, § 1125(a)(3)(B), substituted “as provided in regulations prescribed by the Office under section 5385” for “for any pay adjustment under section 5382 of this title”.

1992—Subsec. (b). Pub. L. 102-378 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) In no event may the aggregate amount paid to a senior executive during any fiscal year under sections 4507, 5382, 5384, and 5948 of this title exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

“(2)(A) Any amount which is not paid to a senior executive during a fiscal year because of the limitation under paragraph (1) of this subsection shall be paid to that individual in a lump sum at the beginning of the following fiscal year.

“(B) Any amount paid under this paragraph during a fiscal year shall be taken into account for purposes of applying the limitation under paragraph (1) of this subsection with respect to such fiscal year.

“(C) The Office of Personnel Management shall prescribe regulations, consistent with section 5582 of this title, under which payment under this paragraph shall be made in the case of any individual whose death precludes payment under subparagraph (A) of this paragraph.”

1991—Subsec. (e). Pub. L. 102-175 added subsec. (e).

1990—Subsec. (b)(1). Pub. L. 101-509, which directed that “5304(j),” be struck out after the reference to section 4507, could not be executed because “5304(j),” does not appear in text.

1984—Subsec. (b). Pub. L. 98-615 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (b). Pub. L. 96-166 inserted reference to section 5948.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-136 effective on first day of first pay period beginning on or after Jan. 1, 2004, but not to result in reduction in rate of basic pay for any senior executive during first year after effective date, see section 1125(c) of Pub. L. 108-136, set out as a note under section 5304 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-615 effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98-615, set out as a note under section 3393 of this title.

SENIOR EXECUTIVE SERVICE; MAXIMUM AGGREGATE AMOUNT PAYABLE, ETC.; REPORT

Pub. L. 98-168, title III, §301(a), Nov. 29, 1983, 97 Stat. 1112, required Office of Personnel Management to study and, within 12 months after Nov. 29, 1983, submit to each House of Congress a report on effect which 5 U.S.C. 5383(b) (relating to maximum aggregate amount payable to a member of Senior Executive Service in a fiscal year) has had with respect to recruitment, retention, and morale of career appointees in Senior Executive Service.

§ 5384. Performance awards in the Senior Executive Service

(a)(1) To encourage excellence in performance by career appointees, performance awards shall be paid to career appointees in accordance with the provisions of this section.

(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

(b)(1) No performance award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful at the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

(2) The amount of a performance award under this section shall be determined by the agency head but may not be less than 5 percent nor more than 20 percent of the career appointee's rate of basic pay.

(3) The aggregate amount of performance awards paid under this section by an agency during any fiscal year may not exceed the greater of—

(A) an amount equal to 10 percent of the aggregate amount of basic pay paid to career appointees in such agency during the preceding fiscal year; or

(B) an amount equal to 20 percent of the average of the annual rates of basic pay paid to career appointees in such agency during the preceding fiscal year.

(c)(1) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

(2) not¹ less than a majority of the members of any review board referred to in paragraph (1) shall be career appointees whenever making recommendations under such paragraph with respect to a career appointee. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement.

(d) The Office of Personnel Management may issue guidance to agencies concerning the proportion of Senior Executive Service salary ex-

penses that may be appropriately applied to payment of performance awards and the distribution of awards.

(Added Pub. L. 95-454, title IV, §407(a), Oct. 13, 1978, 92 Stat. 1172; amended Pub. L. 98-615, title III, §302, Nov. 8, 1984, 98 Stat. 3217; Pub. L. 101-136, title VI, §625(a), Nov. 3, 1989, 103 Stat. 822; Pub. L. 105-277, div. A, §101(h) [title VI, §632(a)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-523.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105-277 substituted “10 percent” for “3 percent” in subpar. (A) and substituted “20 percent” for “15 percent” in subpar. (B).

1989—Subsec. (c). Pub. L. 101-136 designated existing provisions as par. (1) and added par. (2).

1984—Subsec. (b)(2). Pub. L. 98-615, §302(1), substituted “but may not be less than 5 percent nor more than 20 percent” for “but may not exceed 20 percent”.

Subsec. (b)(3). Pub. L. 98-615, §302(2), substituted provisions limiting the aggregate amount of performance awards paid under this section by an agency during any fiscal year to the greater of 3 percent of the aggregate basic pay of career appointees in that agency during the preceding fiscal year or 15 percent of the average of the annual rates of basic pay of such appointees during such fiscal year for provisions limiting the number of career appointees paid performance awards under this section during any fiscal year to 50 percent of the number of Senior Executive Service positions in such agency, except for an agency having less than 4 such positions.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(h) [title VI, §632(b)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-523, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1998, or the date of enactment of this Act [Oct. 21, 1998], whichever is later.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-615 effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98-615, set out as a note under section 3393 of this title.

LIMITATION ON NUMBER OF PERFORMANCE AWARDS FOR CAREER APPOINTEES

Section 306(c) of S. 2939, Ninety-seventh Congress, 2nd Session, as reported Sept. 22, 1982, and incorporated by reference in Pub. L. 97-276, §101(e), Oct. 2, 1982, 96 Stat. 1189, to be effective as if enacted into law, provided that: “None of the funds appropriated by this Act or any other Act shall be used by any agency to pay performance awards in fiscal year 1983 under section 5384 of title 5, United States Code, or any comparable personnel system established on or after October 13, 1978, to more than 20 per centum of the number of Senior Executive Service or comparable personnel system positions in such agency: *Provided*, That an agency with less than five Senior Executive Service employees or equivalent positions may grant one such performance award.”

Similar provisions were contained in the following acts:

Pub. L. 97-51, §§101(c), 124, Oct. 1, 1981, 95 Stat. 959, 965.

Pub. L. 96-536, §101(c), Dec. 16, 1980, 94 Stat. 3167.

Pub. L. 96-369, §101(c), Oct. 1, 1980, 94 Stat. 1352.

Pub. L. 96-304, title III, §303, July 8, 1980, 94 Stat. 927.

§ 5385. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

¹ So in original. Probably should be capitalized.

(Added Pub. L. 95-454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1172.)

SUBCHAPTER IX—SPECIAL OCCUPATIONAL PAY SYSTEMS

AMENDMENTS

1992—Pub. L. 102-378, § 2(36), Oct. 2, 1992, 106 Stat. 1351, struck out subchapter analysis, consisting of item 5391 “Definitions” and item 5392 “Establishment of special occupational pay systems”.

§ 5391. Definitions

For the purposes of this subchapter, “agency”, “employee”, and “position” have the meanings given them by section 5102.

(Added Pub. L. 101-509, title V, § 529 [title I, § 105(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1447.)

EFFECTIVE DATE

Subchapter effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5392. Establishment of special occupational pay systems

(a) Authority under this section may be exercised with respect to any occupation or group of occupations to which subchapter III applies (or would apply but for this section).

(b) Subject to subsection (a), the President’s pay agent (as referred to in section 5304(d)) may establish one or more special occupational pay systems for any positions within occupations or groups of occupations that the pay agent determines, for reasons of good administration, should not be classified under chapter 51 or subject to subchapter III.

(c) In establishing special occupational pay systems, the pay agent shall—

(1) identify occupations or groups of occupations for which chapter 51 and subchapter III do not function adequately;

(2) consider alternative approaches for determining the pay for employees in positions in such occupations or groups of occupations;

(3) give thorough consideration to the views of agencies employing such employees and labor organizations representing such employees, as well as other interested parties;

(4) publish a proposed plan for determining the pay of such employees in the Federal Register;

(5) conduct one or more public hearings;

(6) provide each House of Congress with a report at least 90 days in advance of the date the system is to take effect setting forth the details of the proposed plan; and

(7) not later than 30 days before the date the system is to take effect, publish in the Federal Register the details of the final plan for the special occupational pay system.

(d) A special occupational pay system may not—

(1) provide for a waiver of any law, rule, or regulation that could not be waived under section 4703(c); or

(2) provide a rate of basic pay for any employee in excess of the rate payable for level V of the Executive Schedule.

(e) Subject to subsection (d)(2), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section shall be adjusted by such amount as the Office considers appropriate.

(Added Pub. L. 101-509, title V, § 529 [title I, § 105(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1448.)

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (d)(2), is set out in section 5316 of this title.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of this title.

CHAPTER 54—HUMAN CAPITAL PERFORMANCE FUND

Sec. 5401.	Purpose.
5402.	Definitions.
5403.	Human Capital Performance Fund.
5404.	Human capital performance payments.
5405.	Regulations.
5406.	Agency plan.
5407.	Nature of payment.
5408.	Appropriations.

PRIOR PROVISIONS

A prior chapter 54, consisting of sections 5401 to 5410, related to performance management and recognition system, prior to repeal by Pub. L. 103-89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

TREATMENT OF EMPLOYEES COVERED BY PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM AS OF TERMINATION DATE

Pub. L. 103-89, § 4, Sept. 30, 1993, 107 Stat. 983, provided that:

“(a) DEFINITIONS.—For purposes of this section—

“(1) the term ‘employee’ means an individual employed by an agency (within the meaning of section 7103(a)(3) of title 5, United States Code);

“(2) the term ‘performance management and recognition system’ means the performance management and recognition system under [former] chapter 54 of title 5, United States Code;

“(3) the term ‘basic pay’ does not include any amount payable under section 302 [set out as a note under section 5304 of this title] or title IV [see Short Title set out in a note under section 5305 of this title] of FEPCA or section 5304 or 5304a of title 5, United States Code;

“(4) the term ‘pay rate’, as used in clauses (iii) through (v) of subsection (c)(2)(B), is used in the same way as such term is used under section 5335(a) of title 5, United States Code; and

“(5) the term ‘FEPCA’ means the Federal Employees Pay Comparability Act of 1990 [section 529 [§§ 1-412] of Pub. L. 101-509, see Short Title of 1990 Amendment; Rules of Construction note set out under section 5301 of this title] (contained in the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509; 104 Stat. 1427)).

“(b) APPLICABILITY.—Notwithstanding section 5332(a)(1) of title 5, United States Code (as amended by section 3(b)(1)(F)), or any other provision of law, the rate of basic pay for an employee covered by the performance management and recognition system on October 31, 1993, shall be determined in accordance with this section so long as such employee continues, without a break in service of more than 3 days, to occupy any position—

“(1) which is in the same grade of the General Schedule, and the same agency, as the position which such employee occupied on October 31, 1993; and