

## §9701.341

§9701.335 because of an unacceptable rating of record and whose rate of basic pay (including a locality or special rate supplement) falls below the minimum adjusted rate of his or her band as a result of that rating, DHS must—

(1) If the employee demonstrates performance that meets or exceeds performance expectations within 90 days after the date of the locality or special rate supplement adjustment, issue a new rating of record under §9701.409(b) and adjust the employee's pay prospectively by making the increase effective on the first day of the first pay period beginning on or after the date the new rating of record is issued; or

(2) Initiate action within 90 days after the date of the locality or special rate supplement adjustment to demote or remove the employee in accordance with the adverse action procedures established in subpart F of this part.

(b) If DHS fails to initiate a removal or demotion action under paragraph (a)(2) of this section within 90 days after the date of a locality or special rate supplement adjustment, the employee becomes entitled to the minimum adjusted rate of his or her band rate range on the first day of the first pay period beginning on or after the 90th day following the date of the locality or special rate supplement adjustment.

### PERFORMANCE-BASED PAY

#### §9701.341 General.

Sections 9701.342 through 9701.346 describe various types of performance-based pay adjustments that are part of the pay system established under this subpart. Generally, these within-band pay increases are directly linked to an employee's rating of record (as assigned under the performance management system described in subpart D of this part). These provisions are designed to provide DHS with the flexibility to allocate available funds based on performance as a means of fostering a high-performance culture that supports mission accomplishment. While performance measures primarily focus on an employee's contributions (as an individual or as part of a team) in accomplishing work assignments and achieving mission results, performance

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also may be reflected in the acquisition and demonstration of required competencies.

#### §9701.342 Performance pay increases.

(a) *Overview.* (1) The DHS pay system provides employees in a Full Performance or higher band with increases in basic pay based on individual performance ratings of record as assigned under a performance management system established under subpart D of this part. The DHS pay system uses pay pool controls to allocate pay increases based on performance points that are directly linked to the employee's rating of record, as described in this section. Performance pay increases are a function of the amount of money in the performance pay pool, the relative point value placed on ratings, and the distribution of ratings within that performance pay pool.

(2) The rating of record used as the basis for a performance pay increase is the one assigned for the most recently completed appraisal period (subject to the requirements of subpart D of this part), except that if the supervisor or other rating official determines that an employee's current performance is inconsistent with that rating, the supervisor or other rating official may prepare a more current rating of record, consistent with §9701.409(b). If an employee does not have a rating of record, DHS will use the modal rating received by other employees covered by the same pay pool during the most recent rating cycle for the purpose of determining the employee's performance pay increase.

(b) *Performance pay pools.* (1) DHS will establish pay pools for performance pay increases.

(2) Each pay pool covers a defined group of DHS employees, as determined by DHS.

(3) An authorized agency official(s) may determine the distribution of funds among pay pools and may adjust those amounts based on overall levels of organizational performance or contribution to the Department's mission.

(4) In allocating the monies to be budgeted for performance pay increases, the Secretary or designee must take into account the average value of within-grade and quality step increases