

### § 9701.343

under § 9701.323(a), as well as developmental pay adjustments under § 9701.345 (as determined by DHS in accordance with its implementing directives), and performance pay adjustments under this section based on the employee's last DHS rating of record. For employees who have no such 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. An employee returning to duty after receiving injury compensation will receive the full amount of the performance pay increase associated with his or her rating of record.

#### § 9701.343 Within-band reductions.

Subject to the adverse action procedures set forth in subpart F of this part, DHS may reduce an employee's rate of basic pay within a band for unacceptable performance or conduct. A reduction under this section may not be more than 10 percent or cause an employee's rate of basic pay to fall below the minimum rate of the employee's band rate range. Such a reduction may be made effective at any time.

#### § 9701.344 Special within-band increases.

DHS may issue implementing directives regarding special within-band basic pay increases for employees within a Full Performance or higher band established under § 9701.212 who possess exceptional skills in critical areas or who make exceptional contributions to mission accomplishment or in other circumstances determined by DHS. Increases under this section are in addition to any performance pay increases made under § 9701.342 and may be made effective at any time. Special within-band increases may not be based on length of service.

#### § 9701.345 Developmental pay adjustments.

DHS will issue implementing directives regarding pay adjustments within the Entry/Developmental band. These directives may require employees to meet certain standardized assessment or certification points as part of a formal training/developmental program. In administering Entry/Developmental

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band pay progression plans, DHS may link pay progression to the demonstration of required knowledge, skills, and abilities (KSAs)/competencies. DHS may set standard timeframes for progression through an Entry/Developmental band while allowing an employee to progress at a slower or faster rate based on his or her performance, demonstration of required competencies, and/or other factors.

#### § 9701.346 Pay progression for new supervisors.

DHS will issue implementing directives requiring an employee newly appointed to or selected for a supervisory position to meet certain assessment or certification points as part of a formal training/developmental program. In administering performance pay increases for these employees under § 9701.342, DHS may take into account the employee's success in completing a formal training/developmental program, as well as his or her performance.

#### PAY ADMINISTRATION

#### § 9701.351 Setting an employee's starting pay.

DHS will, after coordination with OPM, issue implementing directives regarding the starting rate of pay for an employee, including—

- (a) An individual who is newly appointed or reappointed to the Federal service;
- (b) An employee transferring to DHS from another Federal agency; and
- (c) A DHS employee who moves from a noncovered position to a position already covered by this subpart.

#### § 9701.352 Use of highest previous rate.

DHS will issue implementing directives regarding the discretionary use of an individual's highest previous rate of basic pay received as a Federal employee or as an employee of a Coast Guard nonappropriated fund instrumentality (NAFI) in setting pay upon reemployment, transfer, reassignment, promotion, demotion, placement in a different occupational cluster, or change in type of appointment. For this purpose, basic pay may include a locality-based payment or supplement under circumstances approved by DHS.

If an employee in a Coast Guard NAFI position is converted to an appropriated fund position under the pay system established under this subpart, DHS must use the existing NAFI rate to set pay upon conversion.

**§ 9701.353 Setting pay upon promotion.**

(a) Except as otherwise provided in this section, upon an employee's promotion, DHS must provide an increase in the employee's rate of basic pay equal to at least 8 percent. The rate of basic pay after promotion may not be less than the minimum rate of the higher band.

(b) DHS will issue implementing directives providing for an increase other than the amount specified in paragraph (a) of this section in the case of—

(1) An employee promoted from an Entry/Developmental band to a Full Performance band (consistent with the pay progression plan established for the Entry/Developmental band);

(2) An employee who was demoted and is then repromoted back to the higher band; or

(3) Employees in other circumstances specified by DHS implementing directives.

(c) An employee receiving a retained rate (*i.e.*, a rate above the maximum of the band) before promotion is entitled to a rate of basic pay after promotion that is at least 8 percent higher than the maximum rate of the employee's current band (except in circumstances specified by DHS implementing directives). The rate of basic pay after promotion may not be less than the minimum rate of the employee's new band rate range or the employee's existing retained rate of basic pay. If the maximum rate of the employee's new band rate range is less than the employee's existing rate of basic pay, the employee will continue to be entitled to the existing rate as a retained rate.

(d) DHS may determine the circumstances under which and the extent to which any locality or special rate supplements are treated as basic pay in applying the promotion increase rules in this section.

**§ 9701.354 Setting pay upon demotion.**

DHS will issue implementing directives regarding how to set an employ-

ee's pay when he or she is demoted. The directives must distinguish between demotions under adverse action procedures (as defined in subpart F of this part) and other demotions (e.g., due to expiration of a temporary promotion or canceling of a promotion during a new supervisor's probationary period). A reduction in basic pay upon demotion under adverse action procedures may not exceed 10 percent unless a larger reduction is needed to place the employee at the maximum rate of the lower band.

**§ 9701.355 Setting pay upon movement to a different occupational cluster.**

DHS will issue implementing directives regarding how to set an employee's pay when he or she moves voluntarily or involuntarily to a position in a different occupational cluster, including rules for determining whether such a movement is to a higher or lower band for the purpose of setting pay upon promotion or demotion under §§ 9701.353 and 9701.354, respectively.

**§ 9701.356 Pay retention.**

(a) Subject to the requirements of this section, DHS will, after coordination with OPM, issue implementing directives regarding the application of pay retention. Pay retention prevents a reduction in basic pay that would otherwise occur by preserving the former rate of basic pay within the employee's new band or by establishing a retained rate that exceeds the maximum rate of the new band.

(b) Pay retention must be based on the employee's rate of basic pay in effect immediately before the action that would otherwise reduce the employee's rate. A retained rate must be compared to the range of rates of basic pay applicable to the employee's position.

(c) In applying § 9701.323 (regarding pay increases provided at the time of a rate range adjustment under § 9701.322), any increase in the rate of basic pay for an employee receiving a retained rate is equal to one-half of the percentage value of any increase in the minimum rate of the employee's band.