

appointed by the agency head, or by another official or group acting on behalf of the agency head. Agency heads are encouraged to include women, minorities, and people with disabilities on PRBs.

(2) PRB members must be appointed in a way that assures consistency, stability, and objectivity in SES performance appraisal.

(3) When appraising a career appointee's performance or recommending a career appointee for a performance award, more than one-half of the PRB's members must be SES career appointees.

(4) The agency must publish notice of PRB appointments in the FEDERAL REGISTER before service begins.

(b) *Functions.* (1) Each PRB must review and evaluate the initial summary rating, the senior executive's response, and the higher level official's comments on the initial summary rating, and conduct any further review needed to make its recommendations.

(2) The PRB must make a written recommendation to the appointing authority about each senior executive's annual summary rating.

(3) PRB members may not take part in any PRB deliberations involving their own appraisals.

#### § 430.311 Training and evaluation.

(a) To assure that agency performance management systems are effectively implemented, agencies must provide appropriate information and training to supervisors and senior executives on performance management, including planning and appraising performance.

(b) Agencies must periodically evaluate the effectiveness of their performance management system(s) and implement improvements as needed.

(c) Agencies must maintain all performance-related records for no less than 5 years from the date the annual summary rating is issued, as required in § 293.404(b)(1) of this chapter.

#### § 430.312 OPM review of agency systems.

(a) Agencies must submit proposed SES performance management systems to OPM for approval.

(b) OPM will review agency systems for compliance with the requirements of law, OPM regulations, and OPM performance management policy.

(c) If OPM finds that an agency system does not meet the requirements and intent of subchapter II of chapter 43 of title 5, United States Code, or of this subpart, it will direct the agency to take corrective action, and the agency must comply.

### Subpart D—Performance Appraisal Certification for Pay Purposes

SOURCE: 69 FR 45550, 45551, July 29, 2004, unless otherwise noted.

NOTE TO SUBPART D: Regulations identical to this subpart appear at 5 CFR part 1330, subpart D.

#### § 430.401 Purpose.

(a) This subpart implements 5 U.S.C. 5307(d), as added by section 1322 of the Chief Human Capital Officers Act of 2002 (Title XIII of Public Law 107-296, the Homeland Security Act of 2002; November 25, 2002), which provides a higher aggregate limitation on pay for certain members of the Senior Executive Service (SES) under 5 U.S.C. 5382 and 5383 and employees in senior-level (SL) and scientific or professional (ST) positions paid under 5 U.S.C. 5376. In addition, this subpart is necessary to administer rates of basic pay for members of the SES under 5 U.S.C. 5382, as amended by section 1125 of the National Defense Authorization Act for Fiscal Year 2004. The regulations in this subpart strengthen the application of pay-for-performance principles to senior executives and senior professionals. Specifically, the statutory provisions authorize an agency to apply a higher maximum rate of basic pay for senior executives (consistent with 5 CFR part 534, subpart D, when effective) and apply a higher aggregate limitation on pay (consistent with 5 CFR part 530, subpart B) to its senior employees, but only after OPM, with OMB concurrence, has certified that the design and application of the agency's appraisal systems for these employees make meaningful distinctions based on relative performance. This subpart establishes the certification criteria and