and pay system established under sub-
parts B and C of this part, the fol-
lowing provisions do not apply:
(1) Time-in-grade restrictions that
apply to competitive service GS posi-
tions under 5 CFR part 300, subpart F;
(2) Supervisory differentials under 5
U.S.C. 5755; and
(3) Law enforcement officer special
rates and geographic adjustments
under sections 403 and 404 of the Fed-
eral Employees Pay Comparability Act

(d) Nothing in this part waives, modi-
ifies or otherwise affects the employ-
dment discrimination laws that the
Equal Employment Opportunity Com-
mision (EEOC) enforces under 42
Employees and applicants for employ-
ment in DHS will continue to be cov-
ered by EEOC’s Federal sector regula-
tions found at 29 CFR part 1614.

§ 9701.107 Program evaluation.

(a) DHS will establish procedures for
evaluating the regulations in this part
and their implementation. DHS will
provide designated employee represent-
atives with an opportunity to be
briefed and a specified timeframe to
provide comments on the design and
results of program evaluations.

(b) Involvement of employee rep-
resentatives under this section will
occur at the following stages:

(1) Identification of the scope, objec-
tives, and methodology to be used
in program evaluation; and

(2) Review of draft findings and rec-
ommendations.

(c) Involvement in the evaluation
process does not waive the rights of
any party under applicable law or regu-
lations.

Subpart B—Classification

EDITORIAL NOTE: At 73 FR 58435, Oct. 7, 2008, the application of subpart B to part 9701
was rescinded.

GENERAL

§ 9701.201 Purpose.

(a) This subpart contains regulations
establishing a classification structure
and rules for covered DHS employees
and positions to replace the classifica-
tion structure and rules in 5 U.S.C.
chapter 51 and the job grading system
in 5 U.S.C. chapter 53, subchapter IV, in
accordance with the merit principle of
equal pay for work of equal value.

(b) Any classification system pre-
scribed under this subpart must be es-
tablished in conjunction with the pay
system described in subpart C of this
part.

§ 9701.202 Coverage.

(a) This subpart applies to eligible
DHS employees and positions listed in
paragraph (b) of this section, subject to
a determination by the Secretary or
designee under § 9701.102(b).

(b) The following employees and posi-
tions are eligible for coverage under
this subpart:

(1) Employees and positions that
would otherwise be covered by the Gen-
eral Schedule classification system es-
tablished under 5 U.S.C. chapter 51;

(2) Employees and positions that
would otherwise be covered by a pre-
vailing rate system established under 5
U.S.C. chapter 53, subchapter IV;

(3) Employees in senior-level (SL)
and scientific or professional (ST) posi-
tions who would otherwise be covered
by 5 U.S.C. 5376; and

(4) Members of the Senior Executive
Service (SES) who would otherwise be
covered by 5 U.S.C. chapter 53, sub-
chapter VIII, subject to § 9701.102(d).

§ 9701.203 Waivers.

(a) When a specified category of em-
ployees is covered by a classification
system established under this subpart,
the provisions of 5 U.S.C. chapter 51
and 5 U.S.C. 3346, and related regu-
lations, are waived with respect to that
category of employees, except as pro-
vided in paragraph (b) of this section,
§ 9701.106, and § 9701.222(d) (with respect
to OPM’s authority under 5 U.S.C.
5112(b) and 5346(c) to act on requests for
review of classification decisions).

(b) Section 5106 of title 5, U.S. Code,
dealing with the classification of posi-
tions above GS–15, is not waived.

§ 9701.204 Definitions.

In this subpart:

Band means a work level or pay
range within an occupational cluster.