

Terry Jackson, Phone: (301) 415-6486,  
E-mail: [twj@nrc.gov](mailto:twj@nrc.gov)

**ATTENDANCE:** This seminar is free and open to the general public. All individuals planning to attend should pre-register with Ms. Francine Randolph by telephone or e-mail and provide their name, affiliation, phone number, and e-mail address.

**PROGRAM:** This seminar presents a survey of safety assessment practices found in nuclear, aviation, medical, railway, and other applications where the correct operation of a digital system is crucial to system safety. It also presents new research results related to digital design and safety assessment. The seminar is partitioned into two half-day sessions. The morning session examines the design of safety-critical digital systems, and the afternoon session addresses the assessment of safety-critical systems. Both sessions demonstrate techniques by illustrating their application to real industrial systems.

### I. Issues in the Design of Safety-Critical Systems

- Important terminology and concepts.
- Industry approaches and applications of safety-critical systems.
- Design methodologies and processes for safety-critical systems.
- Impact of commercial-off-the-shelf (COTS) hardware and software on safety-critical system design.
- Design principles for safety-critical systems.
- A safety-critical digital design methodology, architecture, application, and implementation.

### II. Issues in the Assessment of Safety-Critical Systems

- Safety assessment methodologies and processes for digital systems.
- Probabilistic modeling techniques for digital systems.
- Critical digital system parameters that impact safety.
- Fault coverage modeling and estimation.
- Impact of fault coverage on digital system safety.
- Example assessment of an industrial safety-critical digital system.

For the Nuclear Regulatory Commission.

Dated in Rockville, Maryland this 12th day of July 1999.

**John W. Craig,**

*Director, Division of Engineering Technology,  
Office of Nuclear Regulatory Research*

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## OFFICE OF PERSONNEL MANAGEMENT

### Interim OPM Criteria for IRS Broadbanding System

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice with request for comments.

**SUMMARY:** This notice publicizes interim criteria for broadbanding systems for the Internal Revenue Service (IRS). The Internal Revenue Service Restructuring and Reform Act of 1998 authorizes the Secretary of the Treasury to establish one or more broadbanding systems covering all or any portion of the IRS workforce under the General Schedule (GS). Title 5, United States Code, directs the Office of Personnel Management (OPM) to prescribe criteria for IRS broadbanding systems and specifies certain principles that such criteria must follow, at a minimum.

**DATES:** Submit comments on or before August 16, 1999.

**ADDRESSES:** Send written comments to Gregory Zygiel, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7305, Washington, DC 20415-8320, or submit comments electronically to [totalcomp@opm.gov](mailto:totalcomp@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Gregory Zygiel, 202-606-8047.

**SUPPLEMENTARY INFORMATION:** The Internal Revenue Service Restructuring and Reform Act of 1998 (Pub. L. 105-206) authorizes the Secretary of the Treasury to establish one or more broadbanding systems covering all or any portion of the IRS workforce under the General Schedule (GS). 5 U.S.C. 9509(b) directs OPM to prescribe criteria for IRS broadbanding systems and specifies certain principles that such criteria must follow, at a minimum. The criteria were developed after conferring with the Department of the Treasury, the Internal Revenue Service, and the National Treasury Employees Union. They are designed to incorporate the lessons learned from previous experience with broadbanding under personnel demonstration projects.

5 U.S.C. 9509(b)(3) requires that employees covered by IRS broadbanding systems will remain subject to the laws and regulations covering General Schedule employees (e.g., locality payments, the aggregate limitation on pay, premium pay, and recruitment and relocation bonuses and retention allowances), except as otherwise provided in the criteria.

The publication of these criteria permits IRS to implement broadbanding

systems under this authority. Before implementing any broadbanding system under this authority, IRS must develop written plans, policies, and implementing procedures that address each relevant criterion, including descriptions of broadbanding structure(s), classification criteria, positions covered, the method of pay progression within a band, pay-setting policies, policies for paying supervisors or management officials, and policies for converting positions into broadbanding systems. Any public comments may assist OPM in working with IRS as it develops such plans, policies, and procedures.

Dated: July 9, 1999.

Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

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### I. Authority

Section 9509 of title 5, United States Code, as added by the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (Public Law 105-206), provides the Secretary of the Treasury with the authority to establish one or more broadbanding systems covering all or any portion of the IRS workforce under the General Schedule (GS). Section 9509(b) directs the Office of Personnel Management (OPM) to prescribe criteria for IRS broadbanding systems and specifies certain principles that such criteria must follow, at a minimum.

### II. Applicability

Section 9509(a) defines a "broadbanded system" as a system for grouping positions for pay, job evaluation, and other purposes that is different from the General Schedule pay and classification system established under chapter 51 and subchapter III of chapter 53 of title 5, United States Code. Employees covered by IRS broadbanding systems are not covered by subchapter III of chapter 53 or by those provisions of chapter 51 that define General Schedule grades. However, selected provisions from those parts of law are used in applying parallel features to employees in IRS

broadbanding systems, as provided in these criteria.

As required by 5 U.S.C. 9509(b)(3), employees covered by IRS broadbanding systems are to be treated as if they are General Schedule employees for the purpose of applying other laws and regulations governing General Schedule employees, except as otherwise provided in these criteria. Applicable laws and regulations include, but are not limited to: 5 U.S.C. 5304, authorizing locality-based comparability payments; 5 U.S.C. 5307, establishing a limitation on aggregate pay; 5 U.S.C. chapter 55, subchapter V, authorizing various forms of premium pay; and 5 U.S.C. 5753 and 5754, authorizing recruitment and relocation bonuses and retention allowances.

**Note:** Many title 5 provisions apply to Federal employees on a more general basis and do not base coverage on whether an employee is covered by the General Schedule system (e.g., severance pay, leave, retirement, and insurance).

Employees in IRS broadbanding systems are not covered by the special salary rate program established under 5 U.S.C. 5305. However, IRS broadbanding systems may use a parallel authority to establish staffing supplements, which are linked to established special salary rates, as described in Appendix A.

These criteria apply only to broadbanding systems that cover General Schedule positions. 5 U.S.C. 9509(b)(1)(B) authorizes the Secretary of the Treasury, with the prior approval of the Director of OPM, to include in a broadbanding system positions that otherwise would be subject to subchapter IV of chapter 53 (prevailing rate systems) or 5 U.S.C. 5376 (senior-level positions). Including such positions would require OPM's separate review and approval of a specific plan for that purpose. The criteria presented here are not intended to apply to broadbanding systems that include such positions.

### III. Broadbanding System Plan

Before implementing any broadbanding system under this authority, IRS must develop a written plan that includes policies and implementing procedures to address each criterion that is relevant to the broadbanding system, including descriptions of broadbanding structure(s), positions covered, classification criteria, the method of pay progression within a band, policies for setting and adjusting pay, policies for paying supervisors or managerial employees, and policies for converting positions into broadbanding systems.

### IV. Definitions

Under these criteria—

**Band** means a pay level or work level within a career path containing one or more General Schedule grades and related ranges of pay.

**Broadbanding system** means a system for grouping positions for pay, job evaluation, and other purposes that is different from the General Schedule system established under chapter 51 and subchapter III of chapter 53 of title 5, United States Code, as a result of combining the grades and related ranges of pay for one or more occupational series.

**Career path** means a grouping of one or more occupational series into broad occupational families or career tracks for job evaluation, pay, or other purposes. A career path may contain one or more bands.

**Employee** means an individual who would otherwise be covered by chapter 51 and subchapter III of chapter 53 of title 5, United States Code, if not covered by a broadbanding system.

**Supervisor and managerial employee** have the meaning given those terms in OPM's General Schedule Supervisory Grade Evaluation Guide.

### V. Broadbanding Criteria

Criteria are provided below under the applicable principles listed in 5 U.S.C. 9509(b)(3)(A)–(F) (labeled A–F) and an additional principle (labeled G).

**A. Ensure That the Structure of Any Broadbanding System Maintains the Principle of Equal Pay for Substantially Equal Work**

IRS broadbanding systems must—

1. Link to the General Schedule.
2. Assign occupations to career paths based on the nature of work performed, the qualifications required, the normal career and pay progression, and other characteristics of those occupations.
3. Combine General Schedule grades into bands following the criteria in B. The range of difficulty and responsibility of each band must be the same as the range of difficulty and responsibility of the band's constituent grades (i.e., consistent with the grade level criteria in standards published by OPM in accordance with 5 U.S.C. 5105) and must represent the normal range of work performed in the organization.

4. Place positions into bands within career paths in accordance with—
  - a. Classification standards published by OPM under 5 U.S.C. 5105; or
  - b. Any agency guidance which places a position within its correct band and career path (but which need not be sufficient to determine a position's correct General Schedule grade).

5. Not include law enforcement officers covered by special salary rates under section 403 of the Federal Employees Pay Comparability Act of 1990 in the same band as non-law enforcement officers when the maximum grade in the band is any one of grades 3 through 10.

6. Use established General Schedule rates of pay (including any applicable locality rates or special salary rates) for premium pay purposes under subchapter V of chapter 55 of title 5, United States Code, and 5 CFR part 550, subpart A (i.e., for the purpose of determining the maximum hourly overtime rate and the biweekly premium pay limitation).

**B. Establish the Minimum and Maximum Number of Grades That May Be Combined Into Bands**

A band under an IRS broadbanding system may contain—

1. A minimum of one General Schedule grade.
2. A maximum of—
  - a. Eight General Schedule grades when grades 13, 14, and 15 are not included in the band;
  - b. Five General Schedule grades when grade 13 is included, but neither grade 14 nor 15 is included in the band;
  - c. Three General Schedule grades when grade 14 is included, but grade 15 is not included in the band; and
  - d. Two General Schedule grades when grade 15 is included in the band.

**C. Establish the Requirements for Setting the Minimum and Maximum Rates of Pay in a Band**

1. The minimum rate of basic pay for each band must equal the minimum rate of basic pay payable under 5 U.S.C. 5332 for the lowest General Schedule grade in that band. The maximum rate of basic pay for each band must equal the maximum rate of basic pay payable under 5 U.S.C. 5332 for the highest General Schedule grade in that band.

- a. Notwithstanding C1, preceding, the maximum rates of basic pay for bands covering law enforcement officers must equal the maximum special salary rates for grades 3 through 10 established under section 403 of the Federal Employees Pay Comparability Act of 1990, where applicable.

- b. The minimum and maximum rates of basic pay that define each band must be adjusted at the same time and in the same manner as adjustments are made in the corresponding minimum and maximum General Schedule rates of basic pay under 5 U.S.C. 5303 or similar provision of law.

2. The maximum rate of basic pay for any band may not exceed the maximum rate of basic pay for grade 15.

3. Employees in IRS broadbanding systems are not covered by the special salary rate authority in 5 U.S.C. 5305. However, IRS broadbanding systems may provide for the use of staffing supplements instead of special salary rates under Appendix A of these criteria. If special salary rates are not replaced with staffing supplements, special rate employees must be converted into a broadbanding system under the procedures established in Appendix B of these criteria.

4. Only employees receiving retained rates of pay under subchapter VI of chapter 53 of title 5, United States Code, as applied in the broadbanding system, or in an approved staffing supplement category may receive rates of pay that exceed the locality-adjusted band maximum rates.

*D. Establish the Requirements for Adjusting the Pay of an Employee Within a Band*

1. IRS broadbanding systems must include—

a. Policies for adjusting the pay of an employee within a band, including—

(1) Adjustments made in accordance with paragraphs D2a and D3a; and  
(2) Increases based on individual factors such as an employee's performance, skills, or competencies and/or time at pay level, except that such increases may not be based solely on time at pay level. Increases that advance an employee's relative position in a band (i.e., exceed the adjustments made in accordance with paragraphs D2a and D3a) may be paid only to employees whose performance meets or exceeds retention standards.

b. Policies concerning which level of management will make pay adjustment decisions for employees.

c. Principles for managing pay progression and payroll costs associated with basic pay adjustments. IRS must provide funding for salary increases under its broadbanding systems. Because broadbanding systems provide more choices on how to distribute pay to employees, it is necessary to have an overall budget to manage the costs associated with such choices. At a minimum, the salary increase budget must include funds equal to the amounts that would be required for individual pay adjustments made at the time of schedule adjustments under 5 U.S.C. 5303 (or similar provision of law) and locality-based comparability payments under 5 U.S.C. 5304 (or similar provision of law). A salary increase budget must meet salary cost

objectives and be consistent with policies and procedures for adjusting pay under a broadbanding system that are established to ensure equal pay for work of equal value.

2. IRS broadbanding systems must provide for—

a. Making adjustments in the rates of basic pay for all employees who are not supervisors or managerial employees equivalent to the annual adjustments provided to General Schedule employees under 5 CFR 531.205.

Employees on pay retention must be granted 50 percent of the increase in the maximum rate of basic pay for their band.

b. The payment of locality-based comparability payments for employees covered by 5 U.S.C. 5304 and 5 CFR part 531, subpart F, and special geographic adjustments for law enforcement officers covered by section 404 of the Federal Employees Pay Comparability Act of 1990 and 5 CFR part 531, subpart C. (See Appendix A for information on possible staffing supplements.)

3. IRS pay adjustment policies may provide for—

a. Determining the circumstances under which adjustments in rates of basic pay may be granted to supervisors or managerial employees up to the equivalent of the annual adjustments provided to General Schedule employees under 5 CFR 531.205. However, an employee's rate of basic pay may not fall below the minimum rate of his or her band as a result of receiving less than the full adjustment.

b. Reducing an employee's rate of basic pay within a band, but only for unacceptable performance, misconduct, or loss of supervisory status (if such loss results in reversal of a within-band adjustment granted at the time of placement in a supervisory position). Any reductions based on unacceptable performance or misconduct are adverse actions under 5 U.S.C. 7512.

c. Control points within bands. Control points are dollar points within bands that limit or restrict pay-setting or the movement of employees through the rate range of the band. If control points are used, IRS broadbanding systems must include policies on the number of control points within bands and how they are derived (e.g., as a percentage of the rate range) and applied (i.e., the circumstances under which an employee's rate of pay may be set or adjusted at, above, or below a control point).

*E. Establish the Requirements for Setting the Pay of a Supervisory Employee Whose Position Is in a Broad Band or Who Supervises Employees Whose Positions Are in Broad Bands*

1. IRS broadbanding systems may provide for a separate broadbanding system or career path for supervisors and managerial employees.

2. A supervisor's or managerial employee's rate of pay may not be based on the salaries of the employees he or she supervises or manages.

*F. Establish the Requirements and Methodologies for Setting the Pay of an Employee Upon Conversion to a Broadbanding System, Initial Appointment, Change of Position or Type of Appointment (Including Promotion, Demotion, Transfer, Reassignment, Reinstatement, Placement in Another Broad Band, or Movement to a Different Geographic Location), and Movement Between a Broadbanding System and Another Pay System*

1. Conversion into a broadbanding system. IRS broadbanding systems must include policies for determining the career path, band, and pay rate for employees upon conversion into the system consistent with the provisions in Appendix B. IRS broadbanding systems may also include policies for making prorated within-grade increase or career-ladder promotion payments to employees as an adjustment in basic pay or a lump-sum payment upon conversion from the General Schedule to a broadbanding system consistent with the provisions in Appendix B.

2. Pay-setting policies. IRS broadbanding systems must include policies for determining an employee's career path, band, and rate of basic pay upon initial appointment, promotion, demotion, transfer, reassignment, or placement in a different band or career path. The methods used to set pay must be consistent with the principle of equal pay for substantially equal work.

a. Pay must be set at least at the minimum rate and must not exceed the maximum rate of basic pay of the band to which assigned (unless pay retention applies).

b. Policies must specify the conditions under which pay may be set above the minimum rate of the band and the amount of any minimum or maximum pay increase upon promotion. The time-in-grade provisions in 5 CFR 300.601-605 do not apply to employees under a broadbanding system.

c. Upon movement to a different geographic area, locality-based

comparability payments and special pay adjustments for law enforcement officers must be redetermined and paid in accordance with 5 CFR part 531, subparts F and C, respectively. Staffing supplements must also be redetermined consistent with the provisions in Appendix A.

d. Movement of an employee to a band with a lower maximum rate of basic pay than the employee's former band is equivalent to a reduction in grade for the purpose of chapters 43 and 75 of title 5, United States Code.

3. Conversion to the General Schedule. Agencies must use the procedures in Appendix C of these criteria for determining an employee's GS equivalent grade and pay rate upon conversion from a broadbanding system to the General Schedule.

### G. Conform Related Provisions of Law and Regulations to Broadbanding Systems

1. For provisions of chapter 51 that apply to the determination of General Schedule grades, other than sections 5104 and 5105, the term "grade" is deemed to mean "band within a career path."

2. The provisions in these criteria related to grade and pay retention are based on the current grade and pay retention authority in subchapter VI of title 5, United States Code, and 5 CFR part 536. When applying the grade and pay retention provisions, users must substitute "band" for "grade". Under 5 U.S.C. 9509(c), the Secretary of the Treasury may provide for variations from the grade and pay retention authority for employees who are covered by broadbanding systems with prior approval of the Director of OPM and in accordance with a plan for implementing such variations.

3. In applying the severance pay provisions in 5 CFR part 550, subpart G, to employees covered by IRS broadbanding systems, the beginning of the first sentence in paragraph (c)(4) of the definition of "reasonable offer" at § 550.703 is deemed to read as follows:

(4) Not lower than two grade or pay levels (or one band level, in the case of a broadbanding system under which the next lower band comprises two or more grades) below the employee's current grade, pay, or band level. \* \* \*

### Appendix A—Staffing Supplements

Internal Revenue Service (IRS) broadbanding systems may use staffing supplements instead of the special salary rate authority in 5 U.S.C. 5305 under the following terms and conditions:

A. If an employee is assigned to an occupational series and geographic area covered by a special salary rate under 5

U.S.C. 5305 and is in a band where the maximum adjusted rate for the banded GS grades is a special rate that exceeds the maximum GS locality rate under 5 U.S.C. 5304 (or similar provision of law) for the banded grades, the employee is eligible for a staffing supplement.

B. Conversion. Upon conversion, the employee's broadbanding rate of basic pay is established by dividing the employee's old GS adjusted rate (the higher of the special rate or locality rate) by the staffing factor. The staffing factor is determined by dividing the maximum special rate for the banded grades by the GS unadjusted rate corresponding to that special rate (step 10 of the GS rate for the same grade as the special rate). The employee's staffing supplement is derived by multiplying the employee's broadbanding rate of basic pay by the staffing factor minus one. The employee's final staffing supplement-adjusted rate equals the employee's broadbanding rate of basic pay plus the staffing supplement. This amount will equal the employee's former GS adjusted rate of pay. Since the employee's total pay immediately after conversion into the broadbanding system will be the same as immediately before conversion, adverse action and pay retention provisions do not apply.

C. Formulas. The conversion rules in paragraph B are expressed by the following formulas:

1. Staffing Factor = Maximum special rate for banded grades Unadjusted GS rate corresponding to that special rate

2. Broadbanding Basic Rate = Old GS adjusted rate (special or locality rate) Staffing Factor

3. Staffing Supplement = Broadbanding Basic Rate × (Staffing Factor - 1)

4. Salary at conversion = Broadbanding Basic Rate + Staffing Supplement (sum will equal old GS adjusted rate)

D. If an employee is in a band where the maximum GS adjusted rate for the banded grades is a locality rate, the broadbanding basic rate upon conversion into a broadbanding system is derived by dividing the employee's former GS adjusted rate (the higher of the locality rate or special rate) by the applicable locality pay factor (e.g., 1.0787 in the Washington-Baltimore locality pay area in 1999). The employee's broadbanding locality-adjusted rate will equal the employee's former GS adjusted rate. Adverse action and pay retention provisions do not apply because there is no change in total salary.

E. The staffing supplement is added to the employee's broadbanding basic rate much like locality adjustments are added to basic pay. Any General Schedule or special rate schedule adjustment will require recomputation of the staffing supplement. Employees receiving a staffing supplement remain entitled to an underlying locality rate, which may, over time, supersede the need for a staffing supplement. If OPM discontinues or decreases a special rate schedule on which staffing supplements are based, pay retention rules will be applied, as appropriate. Upon geographic movement, an employee who receives a staffing supplement will have the supplement removed or recomputed to

reflect any applicable special rates in the new location, consistent with paragraph C. Any resulting reduction in pay is not an adverse action or a basis for pay retention.

F. The employee's broadbanding basic rate adjusted by the staffing supplement is basic pay for the same purposes as a locality rate under 5 CFR 531.606(b)—i.e., for retirement, life insurance, premium pay, and severance pay purposes, and for advances in pay. The staffing supplement is also basic pay under 5 U.S.C. 5363 and subchapter II of chapter 75 for the limited purpose of determining whether a reduction in basic pay occurs at the point of an employee's conversion into a broadbanding system. The staffing supplement will also be used to compute worker's compensation payments and lump-sum payments for accrued and accumulated annual leave.

G. The Office of Personnel Management may approve staffing supplements for categories of employees within an IRS broadbanding system who are not in approved special rate categories for General Schedule employees, consistent with the provisions in 5 U.S.C. 5305 (a) and (b).

### Appendix B—Conversion Into Broadbanding Systems

Internal Revenue Service (IRS) broadbanding systems must include policies for determining the career path, band, and pay rate for employees upon conversion into a broadbanding system under the following terms and conditions:

A. Employees may not suffer a reduction in total pay upon initial conversion to a broadbanding system.

B. If conversion into a broadbanding system is accompanied by a simultaneous geographic move, the employee's General Schedule pay entitlements in the new geographic area must be determined before converting the employee into the broadbanding system.

C. IRS broadbanding systems may include policies for making prorated within-grade increase or career-ladder promotion payments to employees as an adjustment in basic pay or a lump-sum payment upon conversion from the General Schedule to a broadbanding system under the following conditions:

1. The amount of any within-grade increase or career-ladder promotion payment may not be more than the prorated value of the employee's within-grade increase or career-ladder promotion at the time of conversion, based on the number of weeks of creditable service the employee has performed as of the date of initial conversion into the broadbanding system. There is no restriction on when such payments may be made.

2. A prorated within-grade increase or career-ladder promotion payment may be made only to an employee whose performance meets or exceeds retention standards at the time of conversion into a broadbanding system.

3. A within-grade increase payment may not be made to an employee receiving the maximum rate of pay for his or her grade (or band, if made after conversion into a broadbanding system) or a retained rate.

4. For employees receiving special rates before conversion into an IRS broadbanding

system, the pay conversion described in paragraph D must be applied before making any prorated within-grade increase or career-ladder promotion payment.

D. Special salary rate employees. If an IRS broadbanding system uses staffing supplements instead of special rates under 5 U.S.C. 5305, special rate employees must be converted into the system consistent with the provisions in Appendix A. If an IRS broadbanding system eliminates special salary rates, a new locality-adjusted rate of pay must be derived for each employee, as follows:

1. Divide the employee's adjusted rate of basic pay (the higher of the special rate or locality rate or similar adjusted rate) by the locality pay factor for the area (e.g., 1.0787 for the Washington-Baltimore locality pay area in 1999) to determine the new broadbanding rate of basic pay. If the employee's broadbanding rate of basic pay exceeds the maximum rate of basic pay for the employee's band, the employee must be placed on pay retention.

2. Add the full locality adjustment to the employee's broadbanding rate of basic pay, including any retained rate. The locality adjustment is basic pay under 5 U.S.C. 5363 and subchapter II of chapter 75 for the limited purpose of determining whether a reduction in basic pay occurs at the point of an employee's conversion into a broadbanding system.

E. Employees on pay retention. Upon conversion, employees on pay retention must be placed in the band commensurate with the grade of their position. If possible, an employee's rate of basic pay will be placed within the assigned band. If not possible (because the employee's retained rate is higher than the maximum rate of basic pay of the band), the employee will be placed on pay retention.

F. Employees on grade retention. Upon conversion, employees on grade retention must be placed in the band that encompasses their retained grade until the original 2-year grade retention period expires. When the 2-year period expires, employees must be moved to the band that encompasses the grade of their position. If the rate of basic pay exceeds the maximum rate of the new band, the employee is entitled to pay retention.

**Appendix C—Procedures for Converting Employees Back to the General Schedule Pay System**

When an employee covered by a broadbanding system moves to a General Schedule (GS) position, the following procedures must be used to convert the employee's band and pay rate to a GS equivalent grade and rate of pay. The converted GS-equivalent grade and rate of pay must be determined before movement or conversion out of the broadbanding system and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments and lateral transfers, the converted GS grade and rate of

pay becomes the employee's actual GS grade and rate of pay, unless the employee is immediately affected by a simultaneous geographic movement or another pay action. For non-lateral transfers, promotions, and other actions, the converted GS grade and rate of pay are deemed to be the employee's grade and rate of pay at the time of movement out of the broadbanding system and must be used in applying any GS pay administration rules applicable in connection with the employee's movement out of the broadbanding system (e.g., rules for promotions, highest previous rate, and pay retention).

A. GS grade level determination—Upon conversion of an employee out of a broadbanding system to the GS pay system, the employee's GS-equivalent grade level must be determined in accordance with the following rules:

1. An employee in a band encompassing a single GS grade must be converted to that grade.

2. For an employee in a band encompassing more than one GS grade, the employee's adjusted rate of pay under the broadbanding system (including any locality adjustment (or similar geographic adjustment) or staffing supplement, as applicable) must be compared with the rates of pay in the highest applicable GS rate range for each grade encompassed by the band. (For this purpose, a "GS rate range" includes a rate range in (1) The GS basic pay schedule, (2) the locality pay schedule (including any special geographic-adjusted schedule for law enforcement officers (LEOs)) for the locality pay area in which the position is located, or (3) the appropriate special rate schedule for the employee's occupational series and geographic location, as applicable). If the employee's occupational series is a two-grade interval series, consider only odd-numbered grades between GS-5 and GS-11.

3. If the employee's adjusted rate of pay under the broadbanding system fits into an area of the rate range for a GS grade in the band that does not overlap with the rate range of the next higher or lower grade in the same band, the employee is converted to that GS grade.

4. If the employee's adjusted rate of pay fits into an area of a rate range for a GS grade in the band that overlaps with the rate range of the next higher or lower grade in the same band, compare the employee's adjusted rate of pay with the dollar midpoint of the overlap area. If the employee's adjusted rate of pay is lower than the dollar midpoint of the overlap area, convert the employee to the lower grade. If the employee's rate of pay is equal to or higher than the dollar midpoint of the overlap area, convert the employee to the higher grade.

5. Exception: An employee may not be converted to a lower grade than the grade held by the employee immediately preceding conversion, lateral reassignment, or lateral transfer into the broadbanding system, unless

since that time the employee has undergone a reduction in band.

B. GS pay rate determination—An employee's pay within the converted GS grade must be set by converting the employee's adjusted rate of pay under the broadbanding system to a GS-equivalent rate of pay in accordance with the following rules:

1. The employee's adjusted rate of basic pay under the broadbanding system (including any locality adjustment (or similar geographic adjustment) or staffing supplement, as applicable) must be converted to a GS adjusted rate on the highest applicable rate range for the converted GS grade. (For this purpose, a "GS rate range" includes a rate range in (1) the GS basic pay schedule, (2) an applicable locality pay schedule (including any special geographic-adjusted schedule for LEOs), or (3) an applicable special rate schedule.)

2. If the highest applicable GS rate range is under a locality pay schedule, the employee's adjusted rate of pay under the broadbanding system must be converted to a GS locality rate of pay. If this rate falls between two steps of the locality pay schedule, the rate must be set at the higher step. The converted GS unadjusted rate of basic pay is the rate corresponding to the converted GS locality rate of pay. (If such an employee is also covered by a special rate schedule as a GS employee, the converted special rate must be determined based on the GS step position.)

3. If the highest applicable GS rate range is a special rate range, the employee's adjusted rate of pay under the broadbanding system must be converted to a special rate. If this rate falls between two steps of the special rate schedule, the rate must be set at the higher step. The converted GS unadjusted rate of basic pay is the rate corresponding to the converted special rate.

C. Apply the following procedures to determine the converted GS-equivalent grade and pay rate for employees retaining a band before conversion or for employees entitled to a retained rate exceeding the maximum rate of the highest applicable rate range. The employee's GS-equivalent grade and rate of pay derived using the procedures below must be used in applying any GS pay administration rules applicable in connection with the employee's movement out of the broadbanding system.

1. If an employee is retaining a band, apply the procedures in A1-A5 and B1-B3, preceding, using the grades encompassed by the employee's retained band to determine the employee's GS-equivalent retained grade and pay rate. The time in a retained band counts toward the 2-year limit on grade retention in 5 U.S.C. 5382.

2. If the employee's rate of pay under the broadbanding system is a retained rate, the employee's GS-equivalent grade is the highest grade encompassed in his or her band.

If the employee's adjusted retained rate:	Then:
(i) Is less than the maximum rate of the highest applicable rate range ..	Apply the procedures in B1-B3 to determine the employee's GS-equivalent pay rate.

If the employee's adjusted retained rate:	Then:
(ii) Exceeds the maximum rate of the highest applicable rate range and the employee is not in a special rate category.	Convert the employee's unadjusted retained rate to a GS-equivalent retained rate.
(iii) Exceeds the maximum rate of the highest applicable rate range and the employee is in a special rate category.	Convert the employee's adjusted retained rate to a GS-equivalent retained rate.

D. Within-grade increase "equivalent increase" determinations—Service under a broadbanding system is creditable for within-grade increase purposes upon conversion to the GS pay system. Basic pay increases (excluding general structural increases) under a broadbanding system are "equivalent increases" for the purpose of determining the commencement of a within-grade increase waiting period under 5 CFR 531.405(b). A performance-based increase in basic pay of any amount (including a zero increase) is considered an "equivalent increase" for this purpose.

[FR Doc. 99-18191 Filed 7-15-99; 8:45 am]

BILLING CODE 6325-01-P

## RAILROAD RETIREMENT BOARD

### Appointment of an Examiner and Request for Views and Comments: Public Hearing

**AGENCY:** Railroad Retirement Board.

**ACTION:** Notice.

**SUMMARY:** Pursuant to 20 CFR Part 258 the Railroad Retirement Board has appointed an examiner to consider the following issue: Whether an entity, which itself does not operate a line of railroad, but which leases to or contracts with another entity to operate all or part of a line of railroad should be considered an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

**DATES:** A hearing will be held to receive views and comments on this issue on August 19, 1999, at 10 a.m. (CDT) at the headquarters of the Railroad Retirement Board, Room 836, 844 North Rush Street, Chicago, Illinois 60611. Notice of appearance and summary of proposed testimony must be received by August 12, 1999, in order to present oral testimony. Otherwise, written views and comments must be received by August 20, 1999.

**ADDRESSES:** Send views, comments, or notice of appearance and summary of proposed testimony to Thomas W. Sadler, Designated Hearing Examiner, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

**FOR FURTHER INFORMATION CONTACT:** Thomas W. Sadler, Designated Hearing Examiner, (312) 751-4513.

**SUPPLEMENTARY INFORMATION:** The Railroad Retirement Board is an

independent agency in the executive branch of the Federal government which administers the Railroad Retirement Act and Railroad Unemployment Insurance Act. These statutes provide retirement, disability and unemployment benefits to railroad workers and their families. Benefits are financed primarily by taxes levied on employers and employees under the Acts.

Under the Railroad Retirement Act the term "employer" includes any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of title 49 of the United States Code. 45 U.S.C. 231(a)(1). A similar provision is found in the Railroad Unemployment Insurance Act. 45 U.S.C. 351(a) and (b). The Railroad Retirement Board, through appointment of an examiner, now requests views and comments on whether an entity, which itself does not operate a line of railroad, but which leases to or contracts with another entity to operate all or part of a line of railroad should be considered an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act. *See*, Railroad Ventures, Inc., reconsideration currently pending before this Board.

In framing your views and comments, you should consider what factors, if any, should be considered in deciding whether the lessor or non-operating entity is an employer. Some factors which the Railroad Retirement Board has considered in the past in making such determinations are:

(a) Whether the non-operating entity has previously been determined to be an employer under the Acts;

(b) Whether the non-operating entity has the capability to operate a railroad;

(c) Whether the non-operating entity is a government entity;

(d) Whether the non-operating entity by agreement or law must maintain the rail line;

(e) Whether the non-operating entity by agreement or law must adopt alterations, improvements or betterments to the rail line;

(f) Whether the non-operating entity is required by agreement or law to operate the rail line in event of default of the operating entity; and

(g) Whether the non-operating entity has any employees.

Dated: July 9, 1999.

By Authority of the Board.

For the Board,

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 99-18135 Filed 7-15-99; 8:45 am]

BILLING CODE 7905-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27047]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

July 9, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 3, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 3, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### **Sempre Energy, et al. (70-9511)**

Sempre Energy ("Sempra"), 101 Ash Street, San Diego, California 92101, a California holding company exempt from regulation under section 3(a)(1) of