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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 534

RIN 3206-AJ47

Basic Pay for Employees of Temporary Organizations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations on setting pay for employees of temporary organizations established by law or Executive order. These regulations will enable agencies to determine the rate of basic pay and locality payments for employees of temporary organizations.

EFFECTIVE DATE: The regulations are effective on November 12, 2002.

FOR FURTHER INFORMATION CONTACT: David Sweeney, (202) 606-2858, FAX: (202) 606-0824, or email: payleave@opm.gov.

SUPPLEMENTARY INFORMATION: On January 25, 2002, the Office of Personnel Management (OPM) issued interim regulations on compensation for employees of temporary organizations established by law or Executive order. (See 67 FR 3581.) Section 1101 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Public Law 106-398, October 30, 2000), added a new subchapter IV to chapter 31 of title 5, United States Code. Subchapter IV provides OPM with authority to establish regulations to determine the rate of basic pay for employees of temporary organizations without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code. (See 5 U.S.C. 3161 (d).) The 60-day comment period for the interim regulations ended on March 26, 2002. We received no

comments from either agencies or individuals. However, we are revising §§ 534.301 and 534.302 concerning the purpose and coverage of these regulations to improve readability and reduce redundancy. We are also revising § 534.304(b) to clarify that the cap on locality-adjusted rates of basic pay for employees in staff and other non-executive level positions is the rate for level IV of the Executive Schedule. This is consistent with the cap on locality rates for General Schedule employees. Other than these changes, we are adopting as final the interim rules for agencies to administer the basic pay rates for employees of temporary organizations under 5 U.S.C. part 534, subpart C. The final regulations do not apply to temporary organizations established prior to October 30, 2000.

Consistent with 5 U.S.C. 3161(d), § 534.303 of these final regulations provides that the rate of basic pay for executive level positions of a temporary organization may not exceed the maximum rate of basic pay established for the Senior Executive Service (SES) under 5 U.S.C. 5382. Employees in executive level positions must be paid locality payments under 5 U.S.C. 5304 in addition to basic pay, not to exceed the rate for level III of the Executive Schedule. Section 534.304 provides that the rate of basic pay for staff or other non-executive level positions in a temporary organization may not exceed the maximum rate of basic pay for GS-15 under 5 U.S.C. 5332. However, § 534.304(c) provides that the rate of basic pay for a senior staff position of a temporary organization may, in a case determined by the head of the temporary organization to be exceptional, exceed the maximum rate of basic pay for GS-15, but may not exceed the maximum rate of basic pay for the SES. As previously stated, staff and other non-executive positions also must be paid locality payments under 5 U.S.C. 5304, not to exceed the rate for level IV of the Executive Schedule.

In setting rates of basic pay for staff and other non-executive level positions, consideration should be given to the significance, scope, and technical complexity of the position and the qualifications required for the work involved. (See § 534.304 (a)(2).) This is consistent with a parallel requirement established under regulations issued by General Services Administration for

setting basic pay for advisory committee members and staff under the Federal Advisory Committee Act. (See 41 CFR 102-3.130.)

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 534

Government employees, Hospitals, Students, Wages.

Office of Personnel Management.

Kay Coles James,
Director.

Accordingly, the Office of Personnel Management is adopting the interim rule amending part 534 of title 5 of the Code of Federal Regulations which was published at 67 FR 3581 on January 25, 2002, as final with the following changes:

PART 534—PAY UNDER OTHER SYSTEMS

1. The authority citation for part 534 continues to read as follows:

Authority: 5 U.S.C. 1104, 3161(d), 5307, 5351, 5352, 5353, 5376, 5383, 5384, 5385, 5541, and 5550a.

2. Sections 534.301 and 534.302 are revised to read as follows:

Subpart C—Basic Pay for Employees of Temporary Organizations

§ 534.301 Purpose.

This subpart provides rules for determining the rate of basic pay and locality-adjusted rate of basic pay for employees who are appointed to positions in temporary organizations and compensated under 5 U.S.C. 3161. Such temporary organizations are established by law or Executive order. This subpart does not provide authority to establish other forms of compensation and benefits not authorized by title 5, United States Code, or another specific statutory authority.

§ 534.302 Coverage.

This subpart applies to employees in executive level and staff positions in temporary organizations. Such employees are not subject to the provisions applicable to General Schedule employees covered by chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

3. Paragraph (b) of § 534.304 is revised to read as follows:

§ 534.304 Basic pay for staff positions.

* * * * *

(b) Employees in staff and other non-executive level positions of temporary organizations must be paid locality payments in addition to basic pay in the same manner as employees covered by 5 U.S.C. 5304. Locality-adjusted rates of basic pay may not exceed the locality-adjusted rate of basic pay for grade GS-15 of the General Schedule under 5 U.S.C. 5304, for the locality pay area involved (not to exceed the rate for level IV of the Executive Schedule).

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM217; Special Conditions No. 25-209-SC]

Special Conditions: Boeing Commercial Airplane Group, Boeing Model 747-400 Series Airplane; Forward Lower Lobe (Service/Cargo) Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 747-400 series airplane. This airplane, as modified by the Boeing Commercial Airplane Group, Wichita, Kansas, will have novel or unusual design features associated with the installation of a forward lower lobe compartment that will have two functions: that of a service compartment and that of a class C cargo compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (425) 227-2145; facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2001, Boeing Commercial Airplane Group (BCAG)—Wichita Division Designated Alteration Station (DAS) applied for a supplemental type certificate for the installation, in a Boeing Model 747-400 series airplane, of a forward lower lobe compartment that combines two functions: that of a service compartment and that of a class C cargo compartment. The Boeing Model 747-400 series airplane, currently approved under Type Certificate A20WE, is a large transport category airplane with upper and main passenger decks. The main deck is limited to 550 passengers or less and the upper deck is limited to 110 passengers or less, depending on the interior configuration. Cargo compartments are installed below the main deck. The airplane is driven by four high-bypass turbojet engines capable of a static thrust in excess of 43,000 pounds.

The 747-400 configuration proposed for certification is an interim, but certifiable, configuration. The final interior will be installed by another modifier at a later date. Boeing proposes to certificate the model with the forward half of the main deck open and the aft half of the main deck configured for passengers. However, the main deck and upper deck will be certificated with limitations specifying zero occupancy and zero cargo.

Boeing proposes to modify the configuration defined above by installing a stair from the main deck to the forward lower lobe cargo compartment and proposes to use the forward cargo compartment as a service area and as a class C cargo compartment. Further, an air-stair would be installed to allow walk-in access from the ground to the forward lower lobe (service/cargo) compartment. The forward lower lobe (service/cargo) compartment design would have provisions for flammability and smoke protection. Access would be limited to one trained crewmember and access would be allowed during flight but not during taxi, takeoff and landing, or during a fire.

To accommodate access into the forward lower lobe (service/cargo)

compartment by a crewmember, Boeing proposes appropriate warning and emergency equipment will be installed as defined for a lower lobe service compartment in § 25.819. A flight attendant seat will be installed in the forward lower lobe (service/cargo) compartment for in-flight emergency use only. The seat will be located so that it meets all certification requirements for attendant seating. Speakers, warning lights, and buzzers will be installed in the forward lower lobe (service/cargo) compartment to warn the crewmember occupant of turbulent conditions, smoke detection, or the need to leave the area. A crew interphone will be provided for communications with the flight deck. In addition, emergency oxygen equipment will be provided as appropriate.

Boeing proposes the forward lower lobe (service/cargo) compartment will meet the class C requirements of § 25.857(c) and will include an approved built-in fire extinguisher or suppression system controllable from the cockpit. In the event of a fire, the forward lower lobe (service/cargo) compartment will be evacuated, and the pilot will initiate a Halon suppression system. A means will be provided to prevent inadvertent access to the compartment when the fire suppression system has been activated. The intention of the fire suppression system is to eliminate the necessity for sending someone into the compartment to fight a fire.

The existing regulations address a service area and a class C cargo compartment as independent compartments, but do not address one compartment that has two uses. The service compartment can be occupied and the class C cargo compartment cannot. Further, fire fighting is dealt with differently in each compartment. The crew fights a fire in a service compartment and a flooding extinguisher system is used to fight a fire in a class C cargo compartment. The concept Boeing proposes may be acceptable if it can be assured that when the compartment is used for either function, a level of safety would be achieved that would be equivalent to compartment installations that are independent. Therefore, special conditions requiring warnings, limitations, and equipment installations are issued to achieve a level of safety that would allow a lower lobe compartment to be used as a service compartment or a class C cargo compartment when the aircraft is to be certificated in a similar configuration to that which Boeing proposes (*i.e.* forward lower lobe compartment with stair access, emergency escape routes, etc.).