under section 1115 of title 31, United States Code; and

''(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

''(2) IMPLEMENTATION REPORT.—

''(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform [now Committee on Oversight and Government Reform] and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

''(B) CONTENT.—The report under this paragraph shall include—

''(i) evidence and supporting documentation justifying the plan; and

''(ii) budgeting projections on costs and benefits resulting from the plan.''

Subpart D—Pay and Allowances

CHAPTER 51—CLASSIFICATION

Sec.
5101. Purpose.
5102. Definitions; application.
5103. Determination of applicability.
5104. Basis for grading positions.
5105. Standards for classification of positions.
5106. Basis for classifying positions.
5107. Classification of positions.
5108. Classification of positions above GS–15.
5109. Positions classified by statute.
5110. Review of classification of positions.
5111. Revocation and restoration of authority to classify positions.
5112. General authority of the Office of Personnel Management.
5113. Classification records.
[5114. Repealed.]
5115. Regulations.

AMENDMENTS

1992—Pub. L. 102–378, § 2(22), Oct. 2, 1992, 106 Stat. 1348, substituted ''above GS–15'' for ''at GS–16, 17, and 18'' in item 5108.

1986—Pub. L. 99–386, title I, § 110(b), Aug. 22, 1986, 100 Stat. 822, struck out item 5114 ''Reports; positions in GS–16, 17, and 18''.

1978—Pub. L. 95–454, title IX, § 906(a)(17), Oct. 13, 1978, 92 Stat. 1226, substituted ''Office of Personnel Management'' for ''Civil Service Commission'' in item 5112.

§ 5101. Purpose

It is the purpose of this chapter to provide a plan for classification of positions whereby—

(1) in determining the rate of basic pay which an employee will receive—

(A) the principle of equal pay for substantially equal work will be followed; and

(B) variations in rates of basic pay paid to different employees will be in proportion to substantial differences in the difficulty, responsibility, and qualification requirements of the work performed and to the contributions of employees to efficiency and economy in the service; and

(2) individual positions will, in accordance with their duties, responsibilities, and qualification requirements, be so grouped and identified by classes and grades, as defined by section 5102 of this title, and the various classes will be so described in published standards, as provided by section 5105 of this title, that the resulting position-classification system can be used in all phases of personnel administration.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 443.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1071.	Oct. 28, 1949, ch. 782, § 101, 63 Stat. 954.

The words ''and for rates of basic compensation'' are omitted as inapplicable to this chapter since the provisions of former chapter 21 relating to rates of basic compensation are carried into subchapter III of chapter 53. The word ''officer'' is omitted as included in ''employee'' is defined in section 5102.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of the report.

REFERENCES IN OTHER LAWS TO CHAPTER 51 AND SUBCHAPTER III OF CHAPTER 53

References in laws to fix pay in accordance with this chapter and subchapter III of chapter 53 of this title considered to include authority under section 5376 of this title, if applicable, but not to include any authority under section 5304 of this title or section 529 [title III, § 302] of Pub. L. 101–509, set out as a note under section 5304 of this title, see section 529 [title I, § 101(c)(2)] of Pub. L. 101–509, set out in a References in Other Laws to GS–16, 17, or 18 Pay Rates; Regulations note under section 5376 of this title.

§ 5102. Definitions; application

(a) For the purpose of this chapter—

(1) ''agency'' means—

(A) an Executive agency;

(B) the Library of Congress;

(C) the Botanic Garden;

(D) the Government Printing Office;

(E) the Office of the Architect of the Capitol; and

(F) the government of the District of Columbia;

but does not include—

(i) a Government controlled corporation;

(ii) the Tennessee Valley Authority;

(iii) the Virgin Islands Corporation;

(iv) the Atomic Energy Commission;

(v) the Central Intelligence Agency;

(vi) the National Security Agency, Department of Defense;

(vii) the Government Accountability Office; or[1]

(ix)[2] the Defense Intelligence Agency, Department of Defense; or

(x) the National Geospatial-Intelligence Agency, Department of Defense.[3]

(2) ''employee'' means an individual employed in or under an agency;

(3) ''position'' means the work, consisting of the duties and responsibilities, assignable to an employee;

(4) ''class'' or ''class of positions'' includes all positions which are sufficiently similar, as to—

[1] So in original. The word ''or'' probably should not appear.

[2] So in original. Subsec. (a)(1) does not contain a cl. (viii).

[3] So in original. The period probably should be a semicolon.

(A) kind or subject-matter of work;

(B) level of difficulty and responsibility; and

(C) the qualification requirements of the work;

to warrant similar treatment in personnel and pay administration; and

(5) ''grade'' includes all classes of positions which, although different with respect to kind or subject-matter of work, are sufficiently equivalent as to—

(A) level of difficulty and responsibility; and

(B) level of qualification requirements of the work;

to warrant their inclusion within one range of rates of basic pay in the General Schedule.

(b) Except as provided by subsections (c) and (d) of this section, this chapter applies to all civilian positions and employees in or under an agency, including positions in local boards and appeal boards within the Selective Service System and employees occupying those positions.

(c) This chapter does not apply to—

[(1) Repealed. Pub. L. 91–375, § 6(c)(9), Aug. 12, 1970, 84 Stat. 776;]

(2) members of the Foreign Service whose pay is fixed under the Foreign Service Act of 1980; and positions in or under the Department of State which are—

(A) connected with the representation of the United States to international organizations; or

(B) specifically exempted by statute from this chapter or other classification or pay statute;

(3) physicians, dentists, nurses, and other employees in the Veterans Health Administration of the Department of Veterans Affairs whose pay is fixed under chapter 73 of title 38;

(4) teachers, school officials, and employees of the Board of Education of the District of Columbia whose pay is fixed under chapter 15 of title 31, District of Columbia Code; the chief judges and the associate judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and nonjudicial employees of the District of Columbia court system whose pay is fixed under title 11 of the District of Columbia Code;

(5) members of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, and the United States Secret Service Uniformed Division; members of the police force of the National Zoological Park whose pay is fixed under section 5375 of this title; and members of the police forces of the Bureau of Engraving and Printing and the United States Mint whose pay is fixed under section 5378 of this title;

(6) lighthouse keepers and civilian employees on lightships and vessels of the Coast Guard whose pay is fixed under section 432(f) and (g) of title 14;

(7) employees in recognized trades or crafts, or other skilled mechanical crafts, or in unskilled, semiskilled, or skilled manual-labor occupations, and other employees including foremen and supervisors in positions having trade, craft, or laboring experience and knowledge as the paramount requirement, and employees in the Bureau of Engraving and Printing whose duties are to perform or to direct manual or machine operations requiring special skill or experience, or to perform or direct the counting, examining, sorting, or other verification of the product of manual or machine operations;

(8) officers and members of crews of vessels;

(9) employees of the Government Printing Office whose pay is fixed under section 305 of title 44;

(10) civilian professors, instructors, and lecturers at a professional military education school (and, in the case of the George C. Marshall European Center for Security Studies, the Director and the Deputy Director) whose pay is fixed under section 1595, 4021, 7478, or 9021 of title 10; civilian professors, lecturers, and instructors at the Military Academy, the Naval Academy, and the Air Force Academy whose pay is fixed under sections 4338, 6952, and 9338, respectively, of title 10; senior professors, professors, associate and assistant professors, and instructors at the Naval Postgraduate School whose pay is fixed under section 7044 of title 10; the Provost and Academic Dean of the Naval Postgraduate School whose pay is fixed under section 7043 of title 10; civilian professors, instructors, and lecturers in the defense acquisition university structure (including the Defense Systems Management College) whose pay is fixed under section 1746(b) of title 10;

(11) aliens or noncitizens of the United States who occupy positions outside the United States;

[(12) Repealed. Pub. L. 104–201, div. C, title XXXV, § 3548(a)(2)(B), Sept. 23, 1996, 110 Stat. 3868;]

(13) employees who serve without pay or at nominal rates of pay;

(14) employees whose pay is not wholly from appropriated funds of the United States (other than employees of the Federal Retirement Thrift Investment Management System appointed under section 8474(c)(2) of this title), except that with respect to the Veterans' Canteen Service, Department of Veterans Affairs this paragraph applies only to employees necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots whose employment is authorized by section 7802 of title 38;

(15) employees whose pay is fixed under a cooperative agreement between the United States and—

(A) a State or territory or possession of the United States, or political subdivision thereof; or

(B) an individual or organization outside the service of the Government of the United States;

(16) student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, student occupational therapists, and other student employees, assigned or attached to a hospital, clinic, or laboratory primarily for training purposes, whose pay is fixed under subchapter

V of chapter 53 of this title or sections 7405 and 7406 of title 38;

(17) inmates, patients, or beneficiaries receiving care or treatment or living in Government agencies or institutions;

(18) experts or consultants, when employed temporarily or intermittently in accordance with section 3109 of this title;

(19) emergency or seasonal employees whose employment is of uncertain or purely temporary duration, or who are employed for brief periods at intervals;

(20) employees employed on a fee, contract, or piece work basis;

(21) employees who may lawfully perform their duties concurrently with their private profession, business, or other employment, and whose duties require only a portion of their time, when it is impracticable to ascertain or anticipate the proportion of time devoted to the service of the Government of the United States;

(22) ''teachers'' and ''teaching positions'' as defined by section 901 of title 20;

(23) administrative patent judges and designated administrative patent judges in the United States Patent and Trademark Office;

(24) temporary positions in the Bureau of the Census established under section 23 of title 13, and enumerator positions in the Bureau of the Census;

(25) positions for which rates of basic pay are individually fixed, or expressly authorized to be fixed, by other statute, at or in excess of the rate for level V of the Executive Schedule;

(26) civilian members of the faculty of the Coast Guard Academy whose pay is fixed under section 186 of title 14;

(27) members of the police of the Library of Congress whose pay is fixed under section 167 of title 2;

(28) civilian members of the faculty of the Air Force Institute of Technology whose pay is fixed under section 9314 of title 10;

(29) administrative law judges appointed under section 3105; or

(30) members of agency boards of contract appeals appointed under section 7105(a)(2), (c)(2), or (d)(2) of title 41.

(d) This chapter does not apply to an employee of the Office of the Architect of the Capitol whose pay is fixed by other statute. Subsection (c) of this section, except paragraph (7), does not apply to the Office of the Architect of the Capitol.

(e) Except as may be specifically provided, this chapter does not apply for pay purposes to any employee of the government of the District of Columbia during fiscal year 2006 or any succeeding fiscal year.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 444; Pub. L. 90–83, § 1(11), Sept. 11, 1967, 81 Stat. 197; Pub. L. 90–610, § 2, Oct. 21, 1968, 82 Stat. 1201; Pub. L. 91–34, § 2(a), June 30, 1969, 83 Stat. 41; Pub. L. 91–358, title I, § 172(f), July 29, 1970, 84 Stat. 591; Pub. L. 91–375, § 6(c)(9), Aug. 12, 1970, 84 Stat. 776; Pub. L. 93–176, § 1, Dec. 5, 1973, 87 Stat. 693; Pub. L. 94–183, § 2(12), (13), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 95–454, title VIII, § 801(a)(3)(D), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224; Pub. L. 96–54, § 2(a)(22), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–70, title III, § 3302(e)(1), (6), Sept. 27, 1979, 93 Stat. 498; Pub. L. 96–191, § 8(b), Feb. 15, 1980, 94 Stat. 33; Pub. L. 96–465, title II, § 2314(b), Oct. 17, 1980, 94 Stat. 2167; Pub. L. 97–468, title VI, § 615(b)(1)(C), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 98–618, title V, § 502(a), Nov. 8, 1984, 98 Stat. 3302; Pub. L. 99–145, title V, § 504(b), Nov. 8, 1985, 99 Stat. 622; Pub. L. 99–335, title II, § 207(n), June 6, 1986, 100 Stat. 598; Pub. L. 100–135, § 1(b)(2), Oct. 16, 1987, 101 Stat. 811; Pub. L. 101–189, div. A, title XI, § 1124(e), Nov. 29, 1989, 103 Stat. 1560; Pub. L. 101–474, § 5(h), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 101–509, title V, § 529 [title I, §§ 101(b)(9)(F), 104(d)(1), 109(a)(2)], Nov. 5, 1990, 104 Stat. 1427, 1441, 1447, 1451; Pub. L. 101–510, div. A, title XII, § 1209(h)(2), Nov. 5, 1990, 104 Stat. 1667; Pub. L. 102–40, title IV, § 403(c)(1), May 7, 1991, 105 Stat. 240; Pub. L. 102–54, § 13(b)(1), (2), June 13, 1991, 105 Stat. 274; Pub. L. 103–160, div. A, title V, § 533(c), title IX, § 923(b), Nov. 30, 1993, 107 Stat. 1658, 1731; Pub. L. 103–359, title V, § 501(g), Oct. 14, 1994, 108 Stat. 3429; Pub. L. 103–446, title XII, § 1203(b), Nov. 2, 1994, 108 Stat. 4689; Pub. L. 104–201, div. A, title XI, § 1122(a)(1), div. C, title XXXV, § 3548(a)(2), Sept. 23, 1996, 110 Stat. 2687, 2868; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(b)(3)], Nov. 29, 1999, 113 Stat. 1536, 1501A–583; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–375, div. A, title V, § 557(b)(5), Oct. 28, 2004, 118 Stat. 1916; Pub. L. 109–356, title III, § 303(b), Oct. 16, 2006, 120 Stat. 2040; Pub. L. 110–417, [div. A], title IX, § 931(a)(1), Oct. 14, 2008, 122 Stat. 4575; Pub. L. 111–282, § 4(c)(1), Oct. 15, 2010, 124 Stat. 3043; Pub. L. 111–350, § 5(a)(8), Jan. 4, 2011, 124 Stat. 3841.)

HISTORICAL AND REVISION NOTES
1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)(1)	5 U.S.C. 1081(a).	Oct. 28, 1949, ch. 782, § 201(a), 63 Stat. 954.
	5 U.S.C. 1082(12)–(20), (32).	Oct. 28, 1949, ch. 782, § 202 (12)–(20), 63 Stat. 954. May 29, 1959, Pub. L. 86–36, § 1, 73 Stat. 63. Sept. 23, 1959, Pub. L. 86–370, § 6(a) (less (4)), 73 Stat. 652.
(a)(3)–(5)	5 U.S.C. 1091.	Oct. 28, 1949, ch. 782, § 301, 63 Stat. 957.
(b)	5 U.S.C. 1081(b).	Oct. 28, 1949, ch. 782, § 201(b), 63 Stat. 954.
(c)	5 U.S.C. 1082(1)–(6), (7) (less provisos), (8) (less last 31 words), (9)–(11), (21)–(31), (33)–(35).	Oct. 28, 1949, ch. 782, § 202 (1)–(6), (7) (less last 25 words), (8) (less last 31 words), (9)–(11), (21)–(31), 63 Stat. 954. Sept. 1, 1954, ch. 1208, § 105(a) ''(7) (less provisos)'', 68 Stat. 1106. June 17, 1957, Pub. L. 85–56, § 2201(20), 71 Stat. 159. July 25, 1958, Pub. L. 85–550, § 16(a), (b)(1), 72 Stat. 411. Sept. 2, 1958, Pub. L. 85–857, § 13(*o*), 72 Stat. 1266. July 17, 1959, Pub. L. 86–91, § 3, 73 Stat. 213. Sept. 23, 1959, Pub. L. 86–370, § 6(a)(4), 73 Stat. 652. Sept. 13, 1960, Pub. L. 86–769, § 4, 74 Stat. 912.
(d)	5 U.S.C. 1084(b).	Oct. 28, 1949, ch. 782, § 204(b), 63 Stat. 957.

The section is reorganized and restated for clarity.

In subsection (a)(1)(i), the exception of ''a Government controlled corporation'' is added to preserve the application of this chapter to ''corporations wholly owned by the United States''. This is necessary as the defined term ''Executive agency'' includes the defined term ''Government corporation'' and the latter includes both Government owned and controlled corporations. Thus the exclusion of Government controlled corporations, which are distinct from wholly owned corporations, operates to preserve the application of the chapter to wholly owned corporations.

In subsection (a)(1)(vii), the words ''Panama Canal Company'' are substituted for ''Panama Railroad Company'' on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a)(2), 64 Stat. 1038.

The exception for the Inland Waterways Corporation in former section 1082(13) is omitted on authority of the Act of July 19, 1963, Pub. L. 88–67, 77 Stat. 81.

The exceptions for Production Credit Corporations and Federal Intermediate Credit Banks in former section 1082(18) and (19) are omitted as they are no longer ''corporations wholly owned by the United States''. Under the Farm Credit Act of 1956, 70 Stat. 659, the Production Credit Corporations were merged in the Federal Intermediate Credit Banks, and pursuant to that Act the Federal Intermediate Credit Banks have ceased to be corporations wholly owned by the United States.

Subsection (a)(2) is added for clarity. The reference to ''an individual employed in or under an agency'' includes both officers and employees of an agency.

In subsection (a)(5), the words ''in the General Schedule'' are substituted for the reference in former section 1091(3) to ''as specified in subchapter V of this chapter''.

In subsection (b), the reference to former section 1085 is omitted as unnecessary. Former section 1085 which exempted certain agencies from former sections 1151–1153 is carried into section 305.

In subsection (c)(1), the words ''chapter 45 of title 39'' are substituted for the reference in former section 1082(1) to ''chapter 23 of title 39'' on authority of the Act of July 10, 1955, ch. 137, § 805, 69 Stat. 130, and the Act of Sept. 2, 1960, Pub. L. 86–682, § 5, 74 Stat. 705.

In subsection (c)(2)(B), the words ''this chapter'' are substituted for the reference in former section 1082(2)(B) to ''the Classification Act of 1923, as amended,'' on authority of section 1106 of the Act of Oct. 28, 1949, 63 Stat. 972, and technical section 7(b).

In subsection (c)(4), the words ''chapter 15 of title 31, District of Columbia Code'' are substituted for the reference in former section 1082(4) to ''the District of Columbia Teachers Salary Act of 1947, as supplemented by Public Law 151, Eighty-first Congress, approved June 30, 1949'' on authority of the provisions contained therein. The words ''District of Columbia Court of General Sessions'' and ''District of Columbia Court of Appeals'' are substituted for ''Municipal Court for the District of Columbia'' and ''Municipal Court of Appeals for the District of Columbia'', respectively, on authority of D.C. Code §§ 11–902 and 11–702. The exception for judges of the Juvenile Court of the District of Columbia is based on D.C. Code § 11–1502.

In subsection (c)(5), the word ''officers'' is omitted as included in ''member''.

In subsection (c)(10), the words ''sections 6952 and 7478 of title 10'', ''section 7044 of title 10'', and ''section 7043 of title 10'' are substituted for the references in former section 1082(10) to ''section 1071 of title 34'', ''sections 1076–1076f of title 34'', and ''section 1074 of title 34'', respectively, on authority of the Act of Aug. 10, 1956, ch. 1041, § 49(b), 70A Stat. 640.

In subsection (c)(11), the words ''the United States'' are substituted for ''the several States and the District of Columbia''.

In subsection (c)(14), the words ''employees necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots whose employment is authorized by section 4202 of title 38'' are substituted for the reference in former section 1082(23) to ''positions which are exempt from this chapter, pursuant to section 4202 of title 38''.

In subsection (c)(16), the reference to ''section 4114 of title 38'' is substituted for the reference in former section 1082(25) to ''section 4114(b) of title 38'' to reflect the pay fixing authority contained in subsection (a)(1) of section 4114.

In subsection (c)(22), the words ''as defined by section 901 of title 20'' are substituted for ''as defined in the Defense Department Overseas Teachers Pay and Personnel Practices Act'' on authority of former section 2351, which is scheduled for transfer to section 901 of title 20.

In subsection (c)(25), the word ''schedule'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. The words ''for GS–18'' are substituted for ''of the highest grade established by this chapter''.

The second sentence of subsection (d) is based on former section 1084(c), which is carried into section 5103.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5102(c)(26) ..	5 App.: 1082(36).	June 9, 1966, Pub. L. 89–444, § 4, 80 Stat. 198.

The amendment to 5 U.S.C. 5102(c)(15) is made to correct a typographical error.

The amendment to 5 U.S.C. 5102(c)(26) reflects Public Law 89–444, section 4.

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (c)(2), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§ 3901 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

Level V of the Executive Schedule, referred to in subsec. (c)(25), is set out in section 5316 of this title.

AMENDMENTS

2011—Subsec. (c)(30). Pub. L. 111–350 substituted ''section 7105(a)(2), (c)(2), or (d)(2) of title 41'' for ''section 8 of the Contract Disputes Act of 1978''.

2010—Subsec. (c)(5). Pub. L. 111–282 substituted ''the United States Secret Service Uniformed Division'' for ''the Executive Protective Service''.

2008—Subsec. (a)(1)(x). Pub. L. 110–417 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

2006—Subsec. (e). Pub. L. 109–356 added subsec. (e).

2004—Subsec. (a)(1)(vii). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

Subsec. (b). Pub. L. 108–375, § 557(b)(5)(B), which directed amendment of subsec. (b) by substituting ''Provost and Academic Dean'' for ''Academic Dean'', could not be executed because the words ''Academic Dean'' did not appear.

Subsec. (c)(10). Pub. L. 108–375, § 557(b)(5)(A), substituted ''Provost and Academic Dean of the Naval Postgraduate School'' for ''Academic Dean of the Postgraduate School of the Naval Academy''.

1999—Subsec. (c)(23). Pub. L. 106–113 amended par. (23) generally. Prior to amendment, par. (23) read as follows: ''examiners-in-chief and designated examiners-in-chief in the Patent and Trademark Office, Department of Commerce;''.

1996—Subsec. (a)(1)(vi), (vii). Pub. L. 104–201, § 3548(a)(2)(A), redesignated cls. (vii) and (viii) as (vi) and (vii), respectively, and struck out former cl. (vi) which read as follows: ''the Panama Canal Commission;''.

Subsec. (a)(1)(viii). Pub. L. 104–201, § 3548(a)(2)(A)(ii), which directed redesignation of cl. (ix) as (viii) could not be executed because subsec. (a)(1) did not contain a cl. (ix). See 1983 Amendment note below. Former cl. (viii) redesignated (vii).

Subsec. (a)(1)(ix), (x). Pub. L. 104–201, § 3548(a)(2)(A)(ii), redesignated cls. (x) and (xi) as (ix) and (x), respectively.

Subsec. (a)(1)(xi). Pub. L. 104–201, § 3548(a)(2)(A)(ii), redesignated cl. (xi) as (x).

Pub. L. 104–201, § 1122(a)(1), substituted ''National Imagery and Mapping Agency'' for ''Central Imagery Office''.

Subsec. (c)(12). Pub. L. 104–201, § 3548(a)(2)(B), struck out par. (12) which read as follows: ''any Executive agency to the extent of any election under section 1212(b)(2) (relating to the Panama Canal Employment System) of the Panama Canal Act of 1979;''.

1994—Subsec. (a)(1)(ix) to (xi). Pub. L. 103–359 directed the amendment of cl. (ix) by striking ''or'' at end which could not be executed because par. (1) does not contain a cl. (ix), directed the substitution of ''; or'' for period at end of cl. (x) which was executed by inserting ''or'' at end of cl. (x) to reflect the probable intent of Congress because a semicolon already exists at end of cl. (x), and added cl. (xi).

Subsec. (c)(3). Pub. L. 103–446 struck out comma after ''Department of Veterans Affairs''.

1993—Subsec. (c)(10). Pub. L. 103–160, § 923(b), inserted ''(and, in the case of the George C. Marshall European Center for Security Studies, the Director and the Deputy Director)'' after ''professional military education school''.

Pub. L. 103–160, § 533(c), substituted ''at the Military Academy, the Naval Academy, and the Air Force Academy whose pay is fixed under sections 4338, 6952, and 9338, respectively, of title 10'' for ''at the Naval Academy whose pay is fixed under section 6952 of title 10''.

1991—Subsec. (c)(3). Pub. L. 102–54, § 13(b)(2), substituted ''Veterans Health Administration of the Department of Veterans Affairs'' for ''Department of Medicine and Surgery, Veterans' Administration''.

Subsec. (c)(14). Pub. L. 102–54, § 13(b)(1), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Pub. L. 102–40, § 403(c)(1)(A), substituted ''section 7802 of title 38'' for ''section 4202 of title 38''.

Subsec. (c)(16). Pub. L. 102–40, § 403(c)(1)(B), substituted ''sections 7405 and 7406'' for ''section 4114''.

1990—Subsec. (a)(1). Pub. L. 101–474 redesignated subpars. (C) to (G) as (B) to (F), respectively, and struck out former subpar. (B) which included Administrative Office of United States Courts within definition of ''agency''.

Subsec. (c)(5). Pub. L. 101–509, § 529 [title I, § 109(a)(2)], substituted ''members'' for ''and members'' after ''Protective Service;'' and inserted at end ''and members of the police forces of the Bureau of Engraving and Printing and the United States Mint whose pay is fixed under section 5378 of this title;''.

Subsec. (c)(10). Pub. L. 101–510 struck out ''and'' before ''the Academic Dean'' and inserted at end ''civilian professors, instructors, and lecturers in the defense acquisition university structure (including the Defense Systems Management College) whose pay is fixed under section 1746(b) of title 10;''.

Subsec. (c)(25). Pub. L. 101–509, § 529 [title I, § 101(b)(9)(F)], substituted ''rate for level V of the Executive Schedule'' for ''maximum rate for GS–18''.

Subsec. (c)(29), (30). Pub. L. 101–509, § 529 [title I, § 104(d)(1)], added pars. (29) and (30).

1989—Subsec. (c)(10). Pub. L. 101–189 inserted ''civilian professors, instructors, and lecturers at a professional military education school whose pay is fixed under section 1595, 4021, 7478, or 9021 of title 10;'', struck out ''the Naval War College and'' after ''instructors at'', and substituted ''section 6952'' for ''sections 6952 and 7478''.

1987—Subsec. (c)(27). Pub. L. 100–135 substituted ''police'' for ''special police force''.

1986—Subsec. (c)(14). Pub. L. 99–335 inserted ''(other than employees of the Federal Retirement Thrift Investment System appointed under section 8474(c)(2) of this title)''.

1985—Subsec. (c)(28). Pub. L. 99–145 added par. (28).

1984—Subsec. (a)(1)(viii) to (x). Pub. L. 98–618 struck out ''or'' at end of cl. (viii), inserted ''or'' at end of cl. (ix), and added cl. (x).

1983—Subsec. (a)(1)(iii) to (ix). Pub. L. 97–468, eff. Jan. 5, 1985, struck out cl. (iii) which excluded the Alaska Railroad and redesignated cls. (iv) to (ix) as (iii) to (viii), respectively. See Effective Date of 1983 Amendment note below.

1980—Subsec. (a)(1)(ix). Pub. L. 96–191 added cl. (ix).

Subsec. (c)(2). Pub. L. 96–465 substituted ''members of the Foreign Service whose pay is fixed under the Foreign Service Act of 1980'' for ''employees in the Foreign Service of the United States whose pay is fixed under chapter 14 of title 22''.

1979—Subsec. (a)(1)(vii). Pub. L. 96–70, § 3302(e)(1), substituted ''Commission'' for ''Company''.

Subsec. (c)(12). Pub. L. 96–70, § 3302(e)(6), substituted provisions relating to any Executive agency to the extent of any election under section 1212(b)(2) of the Panama Canal Act of 1979 for provisions relating to employees of an agency who are stationed in the Canal Zone or in the Republic of Panama.

Subsec. (c)(23). Pub. L. 96–54 inserted ''and Trademark'' after ''Patent''.

1978—Subsec. (c)(5). Pub. L. 95–454, § 801(a)(3)(D), substituted ''5375'' for ''5365''.

Subsec. (c)(12)(B). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1975—Subsec. (c)(5). Pub. L. 94–183, § 2(12), substituted ''Executive Protective Service'' for ''White House Police''.

Subsec. (c)(9). Pub. L. 94–183, § 2(13), substituted ''305'' for ''40''.

1973—Subsec. (b). Pub. L. 93–176 extended this chapter to include positions in local boards and appeal boards within the Selective Service System and employees occupying those positions.

1970—Subsec. (c)(1). Pub. L. 91–375 repealed provision declaring this chapter inapplicable to employees in the postal field service whose pay is fixed under chapter 45 of title 39.

Subsec. (c)(4). Pub. L. 91–358 expanded reference to include chief judges, substituted reference to the Superior Court of the District of Columbia for references to the District of Columbia Court of General Sessions and the Juvenile Court of the District of Columbia, and provided that chapter not apply to nonjudicial employees of the District of Columbia court system whose pay is fixed under title 11 of the District of Columbia Code.

1969—Subsec. (c)(5). Pub. L. 91–34 extended provisions to include members of the National Zoological Park police force whose pay is fixed under section 5365 of this title.

1968—Subsec. (c). Pub. L. 90–610 inserted par. (27).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–282, § 5, Oct. 15, 2010, 124 Stat. 3044, provided that: ''This Act [enacting chapter 102 of this title, amending this section and sections 5541, 6304, and 6324 of this title, enacting provisions set out as notes under section 10201 of this title, and amending provisions set out as notes under section 3056A of Title 18, Crimes and Criminal Procedure] and the amendments made by this Act shall take effect on the first day of the first pay period which begins after the date of the enactment of this Act [Oct. 15, 2010].''

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1122(a)(1) of Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201,

set out as a note under section 193 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 529 [title I, §§101(b)(9)(F), 104(d)(1)] of Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

Amendment by section 529 [title I, §109(a)(2)] of Pub. L. 101–509 effective on first day of first applicable pay period beginning on or after the 30th day following Nov. 5, 1990, see section 529 [title I, §109(c)] of Pub. L. 101–509, set out as an Effective Date note under section 5378 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–135, §3, Oct. 16, 1987, 101 Stat. 812, provided that: ''The amendments made by section 1 [amending this section and sections 167 and 167h of Title 2, The Congress] shall apply with respect to pay periods beginning after September 30, 1987, except that any pay increase for employees of the Library of Congress, pursuant to the amendments made by such section, shall be subject to appropriation and shall be implemented in four approximately equal annual increments, so that pay parity with the Capitol Police occurs beginning with the first pay period beginning after September 30, 1990.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–468 effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(b) of Pub. L. 97–468.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96–191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96–191.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 801(a)(3)(D) of Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of this title.

Amendment by section 906(2)(2) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–176 effective not later than beginning of first pay period which begins on or after 90th day following Dec. 5, 1973, see section 4 of Pub. L. 93–176, set out as a note under section 460 of the Appendix to Title 50, War and National Defense.

EFFECTIVE DATE OF 1970 AMENDMENTS

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

Amendment by Pub. L. 91–358 effective first day of seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91–358, set out as a note under section 1257 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–34 effective at beginning of first pay period which commences on or after June 30, 1969, see section 3(a) of Pub. L. 91–34, set out as an Effective Date note under section 5375 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90–610, §3, Oct. 21, 1968, 82 Stat. 1201, provided that: ''The amendments made by this Act [amending this section and section 167 of Title 2, The Congress] shall take effect on the first day of the first pay period which begins on or after the date of enactment of this Act [Oct. 21, 1968]. Notwithstanding any provisions of this Act, no rate of basic pay shall be reduced by reason of the enactment of this Act.''

EFFECTIVE DATE OF 1967 AMENDMENT

Section 9(h) of Pub. L. 90–83 provided that: ''Section 1(3) [amending section 1305 of this title], (10) [amending section 3324 of this title], (11) [amending this section], (12) [amending section 5108 of this title], (22) [enacting section 5534a of this title], (23) [amending the analysis for chapter 55 of this title], (83)(a) and (d) [amending section 8344 of this title], (89) [amending section 8521 of this title], (98) [amending section 902 of this title], (99) [amending section 903 of this title], and (100) [amending section 8113 of this title] of this Act is effective as of September 6, 1966, for all purposes.''

REPEALS

General repealer of provisions inconsistent with Pub. L. 92–392 as not repealing or affecting subsec. (d) of this section, see section 13 of Pub. L. 92–392, Aug. 19, 1972, 86 Stat. 575, set out as a note under section 5341 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF ATOMIC ENERGY COMMISSION

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

DISSOLUTION OF VIRGIN ISLANDS CORPORATION

Virgin Islands Corporation established to have succession until June 30, 1969, unless sooner dissolved by Act of Congress, by act June 30, 1949, ch. 285, 63 Stat. 350, as amended (48 U.S.C. 1407 et seq.). Corporation terminated its program June 30, 1965, and dissolved July 1,

1966. Act June 30, 1949, was repealed by Pub. L. 97–357, title III, § 308(e), Oct. 19, 1982, 96 Stat. 1710.

CIVILIAN MEMBERS OF FACULTY OF AIR FORCE INSTITUTE OF TECHNOLOGY ON NOVEMBER 8, 1985

Section 504(c) of Pub. L. 99–145 provided that: ''Section 9314(b)(2) of title 10, United States Code (as added by subsection (a)(1)(B)), and section 5102(c)(28) of title 5, United States Code (as added by subsection (b)), shall not apply to any person who on the date of the enactment of this Act [Nov. 8, 1985]—

''(1) is a civilian member of the faculty of the United States Air Force Institute of Technology;

''(2) is paid a rate of basic pay under the General Schedule; and

''(3) elects, under procedures prescribed by the Secretary of the Air Force, to continue to be paid under the General Schedule.''

PROHIBITION OF DECREASE IN BASIC PAY RATE OF SUBSEC. (c)(7), (8), OR (14) EMPLOYEES

Amendments by Pub. L. 92–392 not to decrease basic pay rate of subsec. (c)(7), (8), or (14) employees in service before effective date of the amendments as to such employees, see section 9(a)(2) of Pub. L. 92–392, Aug. 19, 1972, 86 Stat. 574, set out as a note under section 5343 of this title.

REDUCTION OF BASIC PAY RATE

Rate of basic pay not to be reduced by reason of the enactment of Pub. L. 91–34, which amended this section, see section 3(b) of Pub. L. 91–34, set out as a note under section 5365 of this title.

§ 5103. Determination of applicability

The Office of Personnel Management shall determine finally the applicability of section 5102 of this title to specific positions and employees, except for positions and employees in the Office of the Architect of the Capitol.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 446; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1083.	Oct. 28, 1949, ch. 782, § 203, 63 Stat. 956.
.....	5 U.S.C. 1084(c).	Oct. 28, 1949, ch. 782, § 204(c), 63 Stat. 957. Sept. 1, 1954, ch. 1208, § 105(b), 68 Stat. 1106.

Former sections 1083 and 1084(c) are combined and restated for clarity. The words ''hereinafter referred to as the Commission'' in former section 1083 are omitted as unnecessary. The exception from ''section 1082 (except paragraph (7) thereof)'' in former section 1084(c) is carried into section 5102(d).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5104. Basis for grading positions

The General Schedule, the symbol for which is ''GS'', is the basic pay schedule for positions to which this chapter applies. The General Schedule is divided into grades of difficulty and responsibility of work, as follows:

(1) Grade GS–1 includes those classes of positions the duties of which are to perform, under immediate supervision, with little or no latitude for the exercise of independent judgment—

(A) the simplest routine work in office, business, or fiscal operations; or

(B) elementary work of a subordinate technical character in a professional, scientific, or technical field.

(2) Grade GS–2 includes those classes of positions the duties of which are—

(A) to perform, under immediate supervision, with limited latitude for the exercise of independent judgment, routine work in office, business, or fiscal operations, or comparable subordinate technical work of limited scope in a professional, scientific, or technical field, requiring some training or experience; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(3) Grade GS–3 includes those classes of positions the duties of which are—

(A) to perform, under immediate or general supervision, somewhat difficult and responsible work in office, business, or fiscal operations, or comparable subordinate technical work of limited scope in a professional, scientific, or technical field, requiring in either case—

(i) some training or experience;

(ii) working knowledge of a special subject matter; or

(iii) to some extent the exercise of independent judgment in accordance with well-established policies, procedures, and techniques; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(4) Grade GS–4 includes those classes of positions the duties of which are—

(A) to perform, under immediate or general supervision, moderately difficult and responsible work in office, business, or fiscal operations, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) a moderate amount of training and minor supervisory or other experience;

(ii) good working knowledge of a special subject matter or a limited field of office, laboratory, engineering, scientific, or other procedure and practice; and

(iii) the exercise of independent judgment in accordance with well-established policies, procedures, and techniques; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(5) Grade GS–5 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, difficult and responsible work in office, busi-

ness, or fiscal administration, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) considerable training and supervisory or other experience;

(ii) broad working knowledge of a special subject matter or of office, laboratory, engineering, scientific, or other procedure and practice; and

(iii) the exercise of independent judgment in a limited field;

(B) to perform, under immediate supervision, and with little opportunity for the exercise of independent judgment, simple and elementary work requiring professional, scientific, or technical training; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(6) Grade GS–6 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, difficult and responsible work in office, business, or fiscal administration, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) considerable training and supervisory or other experience;

(ii) broad working knowledge of a special and complex subject matter, procedure, or practice, or of the principles of the profession, art, or science involved; and

(iii) to a considerable extent the exercise of independent judgment; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(7) Grade GS–7 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, work of considerable difficulty and responsibility along special technical or supervisory lines in office, business, or fiscal administration, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) considerable specialized or supervisory training and experience;

(ii) comprehensive working knowledge of a special and complex subject matter; procedure, or practice, or of the principles of the profession, art, or science involved; and

(iii) to a considerable extent the exercise of independent judgment;

(B) under immediate or general supervision, to perform somewhat difficult work requiring—

(i) professional, scientific, or technical training; and

(ii) to a limited extent, the exercise of independent technical judgment; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(8) Grade GS–8 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, very difficult and responsible work along special technical or supervisory lines in office, business, or fiscal administration, requiring—

(i) considerable specialized or supervisory training and experience;

(ii) comprehensive and thorough working knowledge of a specialized and complex subject matter, procedure, or practice, or of the principles of the profession, art, or science involved; and

(iii) to a considerable extent the exercise of independent judgment; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(9) Grade GS–9 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, very difficult and responsible work along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) somewhat extended specialized training and considerable specialized, supervisory, or administrative experience which has demonstrated capacity for sound independent work;

(ii) thorough and fundamental knowledge of a special and complex subject matter, or of the profession, art, or science involved; and

(iii) considerable latitude for the exercise of independent judgment;

(B) with considerable latitude for the exercise of independent judgment, to perform moderately difficult and responsible work, requiring—

(i) professional, scientific, or technical training equivalent to that represented by graduation from a college or university of recognized standing; and

(ii) considerable additional professional, scientific, or technical training or experience which has demonstrated capacity for sound independent work; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(10) Grade GS–10 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, highly difficult and responsible work along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) somewhat extended specialized, supervisory, or administrative training and experience which has demonstrated capacity for sound independent work;

(ii) thorough and fundamental knowledge of a specialized and complex subject matter, or of the profession, art, or science involved; and

(iii) considerable latitude for the exercise of independent judgment; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(11) Grade GS–11 includes those classes of positions the duties of which are—

(A) to perform, under general administrative supervision and with wide latitude for the exercise of independent judgment, work of marked difficulty and responsibility along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) extended specialized, supervisory, or administrative training and experience which has demonstrated important attainments and marked capacity for sound independent action or decision; and

(ii) intimate grasp of a specialized and complex subject matter, or of the profession, art, or science involved, or of administrative work of marked difficulty;

(B) with wide latitude for the exercise of independent judgment, to perform responsible work of considerable difficulty requiring somewhat extended professional, scientific, or technical training and experience which has demonstrated important attainments and marked capacity for independent work; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(12) Grade GS–12 includes those classes of positions the duties of which are—

(A) to perform, under general administrative supervision, with wide latitude for the exercise of independent judgment, work of a very high order of difficulty and responsibility along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) extended specialized, supervisory, or administrative training and experience which has demonstrated leadership and attainments of a high order in specialized or administrative work; and

(ii) intimate grasp of a specialized and complex subject matter or of the profession, art, or science involved;

(B) under general administrative supervision, and with wide latitude for the exercise of independent judgment, to perform professional, scientific, or technical work of marked difficulty and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and attainments of a high order in professional, scientific, or technical research, practice, or administration; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(13) Grade GS–13 includes those classes of positions the duties of which are—

(A) to perform, under administrative direction, with wide latitude for the exercise of independent judgment, work of unusual difficulty and responsibility along special technical, supervisory, or administrative lines, requiring extended specialized, supervisory, or administrative training and experience which has demonstrated leadership and marked attainments;

(B) to serve as assistant head of a major organization involving work of comparable level within a bureau;

(C) to perform, under administrative direction, with wide latitude for the exercise of independent judgment, work of unusual difficulty and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and marked attainments in professional, scientific, or technical research, practice, or administration; or

(D) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(14) Grade GS–14 includes those classes of positions the duties of which are—

(A) to perform, under general administrative direction, with wide latitude for the exercise of independent judgment, work of exceptional difficulty and responsibility along special technical, supervisory, or administrative lines which has demonstrated leadership and unusual attainments;

(B) to serve as head of a major organization within a bureau involving work of comparable level;

(C) to plan and direct or to plan and execute major professional, scientific, technical, administrative, fiscal, or other specialized programs, requiring extended training and experience which has demonstrated leadership and unusual attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

(D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(15) Grade GS–15 includes those classes of positions the duties of which are—

(A) to perform, under general administrative direction, with very wide latitude for the exercise of independent judgment, work of outstanding difficulty and responsibility along special technical, supervisory, or administrative lines which has demonstrated leadership and exceptional attainments;

(B) to serve as head of a major organization within a bureau involving work of comparable level;

(C) to plan and direct or to plan and execute specialized programs of marked difficulty, responsibility, and national significance, along professional, scientific, technical, administrative, fiscal, or other lines, requiring extended training and experience which has demonstrated leadership and unusual attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

(D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal im-

portance, difficulty, and responsibility, and requiring comparable qualifications.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 446; Pub. L. 101–509, title V, §529 [title I, §102(b)(1)], Nov. 5, 1990, 104 Stat. 1427, 1443.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1111.	Oct. 28, 1949, ch. 782, §601, 63 Stat. 959. Sept. 1, 1954, ch. 1208, §107, 68 Stat. 1108.
.....	5 U.S.C. 1112.	Oct. 28, 1949, ch. 782, §602, 63 Stat. 959. Sept. 1, 1954, ch. 1208, §108, 68 Stat. 1108. June 20, 1958, Pub. L. 85–462, §13(a), 72 Stat. 214.

Former sections 1111 and 1112 are combined and restated.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The General Schedule, referred to in text, is set out under section 5332 of this title.

AMENDMENTS

1990—Pub. L. 101–509 struck out ''18'' before ''grades'' in introductory provisions and struck out pars. (16) to (18) which described grades GS–16 to GS–18.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

JOB EVALUATION POLICY ACT OF 1970

Pub. L. 91–216, May 17, 1970, 84 Stat. 72, provided: ''That this Act may be cited as the 'Job Evaluation Policy Act of 1970'.

''TITLE I—CONGRESSIONAL FINDINGS WITH RESPECT TO JOB EVALUATION AND RANKING IN THE EXECUTIVE BRANCH

''SEC. 101. The Congress hereby finds that—

''(1) the tremendous growth required in the activities of the Federal Government in order to meet the country's needs during the past several decades has led to the need for employees in an ever-increasing and changing variety of occupations and professions, many of which did not exist when the basic principles of job evaluation and ranking were established by the Classification Act of 1923 [Act Mar. 4, 1923, ch. 265, 42 Stat. 1488]. The diverse and constantly changing nature of these occupations and professions requires that the Federal Government reassess its approach to job evaluation and ranking better to fulfill its role as an employer and assure efficient economical administration;

''(2) the large number and variety of job evaluation and ranking systems in the executive branch have resulted in significant inequities in selection, promotion, and pay of employees in comparable positions among these systems;

''(3) little effort has been made by Congress or the executive branch to consolidate or coordinate the various job evaluation and ranking systems, and there has been no progress toward the establishment of a coordinated system in which job evaluation and ranking, regardless of the methods used, is related to a unified set of principles providing coherence and equity throughout the executive branch;

''(4) within the executive branch, there has been no significant study of, or experimentation with the several recognized methods of job evaluation and ranking to determine which of those methods are most appropriate for use and application to meet the present and future needs of the Federal Government; and

''(5) notwithstanding the recommendations resulting from the various studies conducted during the last twenty years, the Federal Government has not taken the initiative to implement those recommendations with respect to the job evaluation and ranking systems within the executive branch, with the result that such systems have not, in many cases, been adapted or administered to meet the rapidly changing needs of the Federal Government.

''TITLE II—STATEMENT OF POLICY

''SEC. 201. It is the sense of Congress that—

''(1) the executive branch shall, in the interest of equity, efficiency, and good administration, operate under a coordinated job evaluation and ranking system for all civilian positions, to the greatest extent practicable;

''(2) the system shall be designed so as to utilize such methods of job evaluation and ranking as are appropriate for use in the executive branch, taking into account the various occupational categories of positions therein; and

''(3) the United States Civil Service Commission shall be authorized to exercise general supervision and control over such a system.

''TITLE III—PREPARATION OF A JOB EVALUATION AND RANKING PLAN BY THE CIVIL SERVICE COMMISSION AND REPORTS AND RECOMMENDATIONS TO CONGRESS

''SEC. 301. The Civil Service Commission, through such organizational unit which it shall establish within the Commission and which shall report directly to the Commission, shall prepare a comprehensive plan for the establishment of a coordinated system of job evaluation and ranking for civilian positions, in the executive branch. The plan shall include, among other things—

''(1) provision for the establishment of a method or methods for evaluating jobs and alining them by level;

''(2) a time schedule for the conversion of existing job evaluation and ranking systems into the coordinated system;

''(3) provision that the Civil Service Commission shall have general supervision of and control over the coordinated job evaluation and ranking system, including, if the Commission deems it appropriate, the authority to approve or disapprove the adoption, use and administration in the executive branch of the method or methods established under that system;

''(4) provision for the establishment of procedures for the periodic review by the Civil Service Commission of the effectiveness of the method or methods adopted for use under the system; and

''(5) provision for maintenance of the system to meet the changing needs of the executive branch in the future.

''SEC. 302. In carrying out its functions under section 301 of this Act, the Commission shall consider all recognized methods of job evaluation and ranking.

''SEC. 303. The Civil Service Commission is authorized to secure directly from any executive agency, as defined by section 105 of title 5, United States Code, or any bureau, office, or part thereof, information, suggestions, estimates, statistics, and technical assistance for the purposes of this Act; and each such executive agency or bureau, office, or part thereof is authorized and directed to furnish such information, suggestions, estimates, statistics, and technical assistance directly to the Civil Service Commission upon request by the Commission.

''SEC. 304. (a) Within one year after the date of enactment of this Act, the Commission shall submit to the

President and the Congress an interim progress report on the current status and results of its activities under this Act, together with its current findings.

''(b) Within two years after the date of enactment of this Act [Mar. 17, 1970]—

''(1) the Civil Service Commission shall complete its functions under this Act and shall transmit to the President a comprehensive report of the result of its activities, together with its recommendations (including its draft of proposed legislation to carry out such recommendations), and

''(2) the President shall transmit that report (including the recommendations and draft of proposed legislation of the Commission) to the Congress, together with such recommendations as the President deems appropriate.

''(c) The Commission shall submit to the Committees on Post Office and Civil Service of the Senate and House of Representatives once each calendar month, or at such other intervals as may be directed by those committees, or either of them, an interim progress report on the then current status and results of the activities of the Commission under this Act, together with the then current findings of the Commission.

''(d) The Commission shall periodically consult with, and solicit the views of, appropriate employee and professional organizations.

''(e) The organizational unit established under section 301 of this Act shall cease to exist upon the submission of the report to the Congress under subsection (b) of this section.''

§ 5105. Standards for classification of positions

(a) The Office of Personnel Management, after consulting the agencies, shall prepare standards for placing positions in their proper classes and grades. The Office may make such inquiries or investigations of the duties, responsibilities, and qualification requirements of positions as it considers necessary for this purpose. The agencies, on request of the Office, shall furnish information for and cooperate in the preparation of the standards. In the standards, which shall be published in such form as the Office may determine, the Office shall—

(1) define the various classes of positions in terms of duties, responsibilities, and qualification requirements;

(2) establish the official class titles; and

(3) set forth the grades in which the classes have been placed by the Office.

(b) The Office, after consulting the agencies to the extent considered necessary, shall revise, supplement, or abolish existing standards, or prepare new standards, so that, as nearly as may be practicable, positions existing at any given time will be covered by current published standards.

(c) The official class titles established under subsection (a)(2) of this section shall be used for personnel, budget, and fiscal purposes. However, this requirement does not prevent the use of organizational or other titles for internal administration, public convenience, law enforcement, or similar purposes.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 452; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1094.	Oct. 28, 1949, ch. 782, § 401, 63 Stat. 957.

The section is restated for clarity.

In subsection (b), the requirement that the Commission keep the standards up to date is omitted as included in the requirement that the Commission revise, supplement, or abolish existing standards, or prepare new standards so as to keep them current as nearly as practicable.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively, wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES

Pub. L. 111–352, § 12, Jan. 4, 2011, 124 Stat. 3882, provided that:

''(a) PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.—Not later than 1 year after the date of enactment of this Act [Jan. 4, 2011], the Director of the Office of Personnel Management, in consultation with the Performance Improvement Council, shall identify the key skills and competencies needed by Federal Government personnel for developing goals, evaluating programs, and analyzing and using performance information for the purpose of improving Government efficiency and effectiveness.

''(b) POSITION CLASSIFICATIONS.—Not later than 2 years after the date of enactment of this Act, based on the identifications under subsection (a), the Director of the Office of Personnel Management shall incorporate, as appropriate, such key skills and competencies into relevant position classifications.

''(c) INCORPORATION INTO EXISTING AGENCY TRAINING.—Not later than 2 years after the enactment of this Act, the Director of the Office of Personnel Management shall work with each agency, as defined under section 306(f) of title 5, United States Code, to incorporate the key skills identified under subsection (a) into training for relevant employees at each agency.''

§ 5106. Basis for classifying positions

(a) Each position shall be placed in its appropriate class. The basis for determining the appropriate class is the duties and responsibilities of the position and the qualifications required by the duties and responsibilities.

(b) Each class shall be placed in its appropriate grade. The basis for determining the appropriate grade is the level of difficulty, responsibility, and qualification requirements of the work of the class.

(c) Appropriated funds may not be used to pay an employee who places a supervisory position in a class and grade solely on the basis of the size of the organization unit or the number of subordinates supervised. These factors may be given effect only to the extent warranted by the work load of the organization unit and then only in combination with other factors, such as the kind, difficulty, and complexity of work supervised, the degree and scope of responsibility delegated to the supervisor, and the kind, degree, and character of the supervision exercised.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 453.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 1092.	Oct. 28, 1949, ch. 782, § 302, 63 Stat. 957.
(c)	5 U.S.C. 1093.	Oct. 28, 1949, ch. 782, § 303, 63 Stat. 957.

In subsection (c), the prohibition is restated in positive form. The words ''to pay'' are substituted for the words ''to pay the compensation of''. The words ''the group, section, bureau'' are omitted as included in the words ''the organization unit''. The word ''actually'' in the phrase ''of the supervision exercised'' is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5107. Classification of positions

Except as otherwise provided by this chapter, each agency shall place each position under its jurisdiction in its appropriate class and grade in conformance with standards published by the Office of Personnel Management or, if no published standards apply directly, consistently with published standards. When facts warrant, an agency may change a position which it has placed in a class or grade under this section from that class or grade to another class or grade. Subject to subchapter VI of chapter 53 of this title, these actions of an agency are the basis for pay and personnel transactions until changed by certificate of the Office.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 453; Pub. L. 95–454, title VIII, § 801(a)(3)(E), title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1222, 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1102(a).	Oct. 28, 1949, ch. 782, § 502(a), 63 Stat. 958.

The words ''to which this chapter applies'' are omitted as unnecessary in view of section 5102. The words ''Subject to section 5337 of this title'' are added to reflect the qualification imposed by that section.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission'', ''Office'' for ''Commission'', and ''subchapter VI of chapter 53'' for ''section 5337''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 803(a)(3)(E) of Pub. L. 95–454, substituting reference to subchapter VI of chapter 53 for reference to section 5337, effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of this title.

Amendment by section 906(a)(2), (3) of Pub. L. 95–454, substituting reference to Office of Personnel Management for reference to Civil Service Commission, effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5108. Classification of positions above GS–15

(a) The Office of Personnel Management may, for any Executive agency—

(1) establish, and from time to time revise, the maximum number of positions which may at any one time be classified above GS–15; and

(2) establish standards and procedures published by the Director of the Office of Personnel Management in such form as the Director may determine (including requiring agencies, where necessary in the judgment of the Office, to obtain the prior approval of the Office) in accordance with which positions may be classified above GS–15.

(b) The President, rather than the Office, shall exercise the authority under subsection (a) in the case of positions proposed to be placed in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

(c) The Librarian of Congress may classify positions in the Library of Congress above GS–15 pursuant to standards established by the Office in subsection (a)(2).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 453; Pub. L. 89–632, § 1(a)–(d), Oct. 8, 1966, 80 Stat. 878; Pub. L. 90–83, § 1(12), Sept. 11, 1967, 81 Stat. 197; Pub. L. 91–187, § 1, Dec. 30, 1969, 83 Stat. 850; Pub. L. 91–206, § 5(a), Mar. 10, 1970, 84 Stat. 51; Pub. L. 91–596, § 30, Dec. 29, 1970, 84 Stat. 1619; Pub. L. 91–644, title I, § 11, Jan. 2, 1971, 84 Stat. 1889; Pub. L. 91–656, § 9, Jan. 8, 1971, 84 Stat. 1955; Pub. L. 92–261, § 12, Mar. 24, 1972, 86 Stat. 112; Pub. L. 90–351, title I, § 506(c), as added Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–282, title III, § 301, May 14, 1974, 88 Stat. 137; Pub. L. 93–406, title I, § 507(b), title II, § 1051(b)(2), title IV, § 4002(c), Sept. 2, 1974, 88 Stat. 894, 951, 1005; Pub. L. 93–415, title II, § 201(g), Sept. 7, 1974, 88 Stat. 1113; Pub. L. 93–463, title IV, § 410, Oct. 23, 1974, 88 Stat. 1414; Pub. L. 93–516, title II, § 208(b), Dec. 7, 1974, 88 Stat. 1629; Pub. L. 93–651, title II, § 208(b), Nov. 21, 1974, 89 Stat. 2–14; Pub. L. 94–183, § 2(14), (15), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 94–233, § 13, Mar. 15, 1976, 90 Stat. 233; Pub. L. 94–503, title II, § 202(a), Oct. 15, 1976, 90 Stat. 2426; Pub. L. 95–91, title VII, § 710(b), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95–190, § 11(a), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 95–219, § 3(c), Dec. 28, 1977, 91 Stat. 1614; Pub. L. 95–251, § 1, Mar. 27, 1978, 92 Stat. 183; Pub. L. 95–454, title IV, § 414(a)(1)(A), (C), (D), Oct. 13, 1978, 92 Stat. 1177; Pub. L. 95–486, § 10, Oct. 20, 1978, 92 Stat. 1634; Pub. L. 95–563, § 14(g), Nov. 1, 1978, 92 Stat. 2390; Pub. L. 95–612, § 3(b), Nov. 8, 1978, 92 Stat. 3091; Pub. L. 95–624, § 22, Nov. 9, 1978, 92 Stat. 3466; Pub. L. 95–630, title V, § 502(c), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 96–54, § 2(a)(23), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–191, § 8(c), Feb. 15, 1980, 94 Stat. 33; Pub. L. 100–325, § 2(g), May 30, 1988, 102 Stat. 581; Pub. L. 100–702, title I, § 104(c)(2), Nov. 19, 1988, 102 Stat. 4645; Pub. L. 101–474, § 5(i), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 101–509, title V, § 529 [title I, § 102(b)(2)], Nov. 5, 1990, 104 Stat. 1427, 1443; Pub. L. 102–378, § 2(23), Oct. 2, 1992, 106 Stat. 1348; Pub. L. 110–372, § 2(c)(4), Oct. 8, 2008, 122 Stat. 4044; Pub. L. 111–68, div. A, title I, § 1403, Oct. 1, 2009, 123 Stat. 2038.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b), (c) (1)–(7), (d).	5 U.S.C. 1105(a)–(h), (j)–(*l*).	Oct. 28, 1949, ch. 782, § 505, 63 Stat. 959. Sept. 1, 1954, ch. 1208, § 101(a), 68 Stat. 1105. June 28, 1955, ch. 189, § 12(a), 69 Stat. 179. July 31, 1956, ch. 804, § 502, 70 Stat. 762. Aug. 14, 1957, Pub. L. 85–136, 71 Stat. 352. June 20, 1958, Pub. L. 85–462, §§ 10 (less ''(i)''), 11, 72 Stat. 213, 213A. Sept. 23, 1959, Pub. L. 86–370, § 2(a), (b), 73 Stat. 650. Sept. 23, 1959, Pub. L. 86–377, § 1(a), 73 Stat. 700. July 1, 1960, Pub. L. 86–568, § 203, 74 Stat. 305. Sept. 26, 1961, Pub. L. 87–322, § 1, 75 Stat. 685. Oct. 4, 1961, Pub. L. 87–367, §§ 102(a), (b), 103(1), 75 Stat. 786, 787. Oct. 11, 1962, Pub. L. 87–793, § 606, 76 Stat. 848. Aug. 14, 1964, Pub. L. 88–426, § 103(b), 78 Stat. 402.
(c)(8)	5 U.S.C. 298a.	July 7, 1955, ch. 279, § 201 (2d proviso on p. 273), 69 Stat. 273. Oct. 11, 1962, Pub. L. 87–793, § 607(b), 76 Stat. 850.
(c)(9)	45 U.S.C. 228j(b)(4) (4th sentence).	Sept. 6, 1958, Pub. L. 85–927, § 3, 72 Stat. 1781.

The section is reorganized for clarity.

In subsection (a)(2), the date ''October 4, 1961'' is substituted for ''the date of enactment of this subparagraph''.

Subsection (c)(6) is added on authority of section 302 of the Act of July 29, 1958, Pub. L. 85–568, 72 Stat. 433, 42 U.S.C. 2453, and Transfer Plan, effective March 15, 1960, 25 F.R. 2151, section 2(c) of which in effect transferred from the Department of Defense to the National Aeronautics and Space Administration 5 of the 372 positions authorized to be placed in GS–16, 17, and 18 pursuant to section 1(a) of the Act of Sept. 23, 1959, Pub. L. 86–377, 73 Stat. 700.

In subsection (c)(8), the words ''on and after July 7, 1955'' are omitted as obsolete.

In subsection (d), the words ''subsequent to February 1, 1958'' are omitted as obsolete and the words ''of the Government'' are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

The amendment to 5 U.S.C. 5108(c)(5) corrects a typographical error and conforms to the source law (act of October 11, 1962, Public Law 87–793, section 606(b), 76 Stat. 849; former 5 U.S.C. 1105(j)).

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–68 added subsec. (c).

2008—Subsec. (a)(2). Pub. L. 110–372 inserted ''published by the Director of the Office of Personnel Management in such form as the Director may determine'' after ''and procedures''.

1992—Subsec. (a)(2). Pub. L. 102–378 substituted a period for semicolon at end.

1990—Pub. L. 101–509 amended section generally, substituting provisions relating to classification of positions above GS–15, consisting of subsecs. (a) and (b), for provisions relating to classification of provisions at GS–16, 17, and 18, consisting of subsecs. (a) to (c).

Subsec. (c). Pub. L. 101–474 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1), which read as follows: ''the Director of the Administrative Office of the United States Courts, subject to the standards and procedures prescribed by this chapter, may place a total of 17 positions in GS–16, 17, and 18; and''.

1988—Subsec. (a). Pub. L. 100–325 added cl. (iii) and substituted ''the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service'' for ''GS–16, 17, and 18 in the Federal Bureau of Investigation'' in last sentence.

Subsec. (c)(1). Pub. L. 100–702 substituted ''17 positions'' for ''15 positions''.

1980—Subsec. (c). Pub. L. 96–191 struck out par. (1) which authorized Comptroller General, subject to procedures prescribed by this section, to place a total of 90 positions in General Accounting Office in GS–16, 17, and 18, and redesignated pars. (2) to (4) as (1) to (3), respectively.

1979—Subsec. (c)(4), (17). Pub. L. 96–54 redesignated par. (17), relating to executive departments or agencies in which boards of contracts appeals are established, as par. (4).

1978—Subsec. (a). Pub. L. 95–630 substituted ''3,310'' for ''3,301''.

Pub. L. 95–612 substituted ''3362'' for ''3301''.

Pub. L. 95–454, § 414(a)(1)(C), substituted provisions authorizing Director of Office of Personnel Management to establish the maximum number of positions, not to exceed 10,777, which may be placed in GS–16, 17, and 18, and the Senior Executive Service and to place positions in GS–16, 17, or 18, and requiring the President to carry out the Director's authority for proposed positions in the Federal Bureau of Investigation for provisions authorizing a majority of the Civil Service Commissioners to establish the maximum number of positions, not to exceed 3362 (in addition to certain specified positions), which may be placed in GS–16, 17, and 18, placing a percentage limitation on the number of positions placed in GS–17 and 18, and requiring the approval of a majority of the Commissioners to place positions in GS–16, 17, or 18.

Pub. L. 95–251 substituted ''340 administrative law judge'' for ''240 hearing examiner''.

Subsec. (c)(2). Pub. L. 95–454, § 414(a)(1)(A)(i), (D)(i), redesignated par. (3), relating to the Director of the Administrative Office of the United States, as (2) and repealed former par. (2) relating to the Federal Bureau of Investigation.

Subsec. (c)(3). Pub. L. 95–486 inserted provision subjecting the Director of the Administrative Office of the United States Courts to the standards and procedures prescribed by this chapter and substituted provision authorizing placement of 15 positions in GS–16, 17, and 18 for provision authorizing placement of 4 positions in GS–17.

Pub. L. 95–454, § 414(a)(1)(D), redesignated par. (12), relating to the Chief Judge of the United States Tax Court, as par. (3). Former par. (3) redesignated (2).

Subsec. (c)(4) to (11). Pub. L. 95–454, § 414(a)(1)(A)(i), repealed par. (4) relating to the Commissioner of Immigration and Naturalization, par. (5) relating to the Secretary of Defense, par. (6) relating to the Administrator of the National Aeronautics and Space Administration, pars. (7) and (8) relating to the Attorney General, par. (9) relating to the Railroad Retirement Board, par. (10) relating to the Secretary of Labor and the Occupational Safety and Health Review Commission, and par. (11) relating to the Law Enforcement Assistance Administration.

Subsec. (c)(8). Pub. L. 95–624 substituted ''45'' for ''32''.

Subsec. (c)(12). Pub. L. 95–454, § 414(a)(1)(D)(i), redesignated par. (12) relating to the Chief Judge of the United States Tax Court, as (3).

Subsec. (c)(13) to (16). Pub. L. 95–454, § 414(a)(1)(A)(i), repealed par. (13) relating to the Commodity Futures Trading Commission, par. (14) relating to the Secretary of Health, Education, and Welfare, par. (15) relating to the Chairman of the Equal Employment Opportunity Commission, and par. (16) relating to the Secretary of Health, Education, and Welfare.

Subsec. (c)(17). Pub. L. 95–563 added par. (17).

Subsec. (d). Pub. L. 95–454, § 414(a)(1)(A)(ii), repealed subsec. (d) which provided the order for reducing the positions authorized to be placed in grades GS–16, 17, and 18 under this section when a general authorization statute authorized additional positions in these grades.

Subsec. (e). Pub. L. 95–454, § 414(a)(1)(A)(ii), repealed subsec. (e) which authorized Commissioner of Internal Revenue to place 20 additional positions in grades GS–16 and 17.

Subsec. (f). Pub. L. 95–454, § 414(a)(1)(A)(ii), repealed subsec. (f) which authorized Secretary of Labor to place additional positions in grades GS–16, 17, and 18.

Subsec. (g). Pub. L. 95–454, § 414(a)(1)(A)(ii), repealed subsec. (g) which authorized Pension Benefit Guaranty Corporation to place additional positions in grades GS–16, 17, and 18.

1977—Subsec. (a). Pub. L. 95–219 substituted ''3301'' for ''3293''.

Pub. L. 95–190 substituted ''3293'' for ''3243''.

Pub. L. 95–91 substituted ''3243'' for ''2754''.

1976—Subsec. (c)(7). Pub. L. 94–233 restructured provisions and, as restructured, deleted authority relating to 8 positions of Member of the Board of Parole in GS–17.

Subsec. (c)(8). Pub. L. 94–503 substituted provision that the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS–16, 17, and 18 for provision that the Attorney General, without regard to this chapter (except section 5114), may place 1 position in GS–16.

1975—Subsec. (c)(11). Pub. L. 94–183, § 2(14), increased to twenty-five the number of positions which the Law Enforcement Assistance Administration may place in GS–16, 17, and 18. The increase required no change in text in view of the 1974 amendment by Pub. L. 93–415, which called for an identical increase.

Subsec. (c)(13) to (16). Pub. L. 94–183, § 2(15), redesignated par. (12) relating to the Commodity Futures Trading Commission, par. (12) relating to the Secretary of Health, Education, and Welfare and the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration, par. (13) relating to the Chairman of the Equal Employment Opportunity Commission, and par. (14) relating to the Secretary of Health, Education, and Welfare and the National Institute on Alcohol Abuse and Alcoholism, as pars. (13) to (16), respectively.

1974—Subsec. (c)(11). Pub. L. 93–415 increased from twenty-two to twenty-five the number of positions which the Law Enforcement Assistance Administration may place in GS–16, 17, and 18. Amendment has been executed to subsec. (c)(11) as the probable intent of Congress notwithstanding direction in section 210 (g) of Pub. L. 93–415 that the amendment be executed to subsec. (c) (10).

Subsec. (c)(11) to (14). Pub. L. 93–282 redesignated par. (10) relating to Law Enforcement Assistance Administration, par. (10) relating to Chief Judge of the United States Tax Court, par. (11) relating to Chairman of the Equal Employment Opportunity Commission, as pars. (11) to (13), respectively, and added par. (14) relating to GS–16, 17, and 18 positions in the National Institute on Alcohol Abuse and Alcoholism.

Subsec. (c)(12). Pub. L. 93–651 and Pub. L. 93–516 amended section identically, adding par. (12) relating to Secretary of Health, Education, and Welfare and the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration.

Subsec. (c)(12). Pub. L. 93–463 added par. (12) relating to Commodity Futures Trading Commission.

Subsec. (e). Pub. L. 93–406, § 1051(b)(2), added subsec. (e).

Subsec. (f). Pub. L. 93–406, § 507(b), added subsec. (f).

Subsec. (g). Pub. L. 93–406, § 4002(c), added subsec. (g).

1973—Subsec. (c)(10). Pub. L. 93–83 substituted in par. (10) as added by Pub. L. 91–644 ''twenty-two'' for ''twenty''.

1972—Subsec. (c). Pub. L. 92–261 added par. (11).

1971—Subsec. (a). Pub. L. 91–656, § 9(b), substituted ''2,754'' for ''2,734''.

Subsec. (c)(10). Pub. L. 91–656, § 9(a), added par. (10) relating to Chief Judge of the United States Tax Court.

Pub. L. 91–644 added par. (10) relating to Law Enforcement Assistance Administration.

1970—Subsec. (a). Pub. L. 91–206 substituted ''2,734'' for ''2,727''.

Subsec. (c)(10). Pub. L. 91–596 added par. (10) relating to positions in the Department of Labor.

1969—Subsec. (a). Pub. L. 91–187, § 1(a), substituted ''2,727'' for ''2,577''.

Subsec. (b)(2). Pub. L. 91–187, § 1(b), increased number of positions in Library of Congress from 28 to 44.

Subsec. (c)(1). Pub. L. 91–187, § 1(c), increased number of positions in GAO from 64 to 90.

Subsec. (c)(2). Pub. L. 91–187, § 1(d), increased number of positions in FBI from 110 to 140.

1966—Subsec. (a). Pub. L. 89–632, § 1(a), increased number of positions authorized to be established from 2,400 to 2,577, struck out cl. (1) designation preceding the provision limiting number of positions to be placed in GS–17 and GS–18, and struck out cls. (2) to (5), which made positions available only for allocation as follows: 50, with Presidential approval, for an agency or function created after Oct. 4, 1961, 14 to the United States Arms Control and Disarmament Agency, 6 to the Immigration and Naturalization Service, and 4 to the Federal Home Loan Bank Board, respectively.

Subsec. (b). Pub. L. 89–632, § 1(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Public L. 89–632, § 1(c), increased number of positions in GAO from 39 to 64.

Subsec. (c)(2). Pub. L. 89–632, § 1(d), increased number of positions in FBI from 75 to 110.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–372 effective on the first day of the first pay period beginning on or after the 180th day following Oct. 8, 2008, see section 2(d) of Pub. L. 110–372, set out as a note under section 5376 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–702, title I, § 109, Nov. 19, 1988, 102 Stat. 4645, provided that: ''This title [amending this section] shall become effective on January 1, 1989.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96–191.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–630 effective on expiration of 120 days after Nov. 10, 1978, see section 509 of Pub. L. 95–630, set out as a note under section 1752 of Title 12, Banks and Banking.

Amendment by Pub. L. 95–612 effective Oct. 1, 1978, or some later date related to availability of funds under appropriation acts authorized by appropriations authorization, see section 7 of Pub. L. 95–612, set out as a note under section 276c–2 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 95–563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95–563, Nov. 1, 1978, 92 Stat. 2391.

Amendment by Pub. L. 95–454 effective 180 days after Oct. 13, 1978, see section 415(a)(3) of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–233 effective on sixtieth day following Mar. 15, 1976, see section 16(b) of Pub. L. 94–233, set out as an Effective Date note under section 4201 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93–415 effective Sept. 7, 1974, see section 263(a) of Pub. L. 93–415, set out as an Effective Date note under section 5601 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93–406, § 1051(b)(2), effective on 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L. 93–406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 93–406, § 4002(c), effective Sept. 2, 1974, see section 4082(a) of Pub. L. 93–406, which is classified to section 1461(a) of Title 29, Labor.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment by Pub. L. 93–83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90–83, set out as a note under section 5102 of this title.

REPEALS

Pub. L. 95–612, § 3(b), Nov. 8, 1978, 92 Stat. 3091, cited as a credit to this section, was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

ADDITIONAL GS–16, GS–17, AND GS–18 POSITIONS; SOURCE FOR APPOINTMENTS; ELIGIBILITY OF APPOINTEES; TERMINATION OF AUTHORITY ON LEAVING POSITIONS; DETERMINATION OF AGGREGATE NUMBER OF POSITIONS AUTHORIZED FOR PLACEMENT IN SUCH GRADES

Pub. L. 95–612, § 3(a), (c), Nov. 8, 1978, 92 Stat. 3091, 3092, relating to the appointment of GS–16, GS–17, and GS–18 positions, was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

TERMINATION OF AUTHORITY TO PLACE POSITIONS IN GS–16, 17, OR 18 OF THE GENERAL SCHEDULE

Section 414(a)(1)(B) of Pub. L. 95–454 provided that: ''Notwithstanding any other provision of law (other than section 5108 of such title 5), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5 under any such provision to place one or more positions in GS–16, 17, or 18 of the General Schedule, is hereby terminated.''

LIMITATIONS ON EXECUTIVE POSITIONS NOT TO APPLY TO INDIVIDUALS OCCUPYING THOSE POSITIONS ON OCTOBER 12, 1978

Section 414(a)(3) of Pub. L. 95–454 provided that:

''(A) The provisions of paragraphs (1) and (2) of this subsection [amending sections 3104 and 5108 of this title] shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act [Oct. 13, 1978] continues to occupy such position.

''(B) The Director—

''(i) in establishing under section 5108 of title 5, United States Code, the maximum number of positions which may be placed in GS–16, 17, and 18 of the General Schedule, and

''(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established,

shall take into account positions to which subparagraph (A) of this paragraph applies.''

[References in laws to rates of pay for GS–16, 17, or 18, or to maximum rates of pay under General Schedule, to be considered references to rates payable under specified sections of this title, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of this title.]

ADDITIONAL POSITIONS IN OFFICE OF MANAGEMENT AND BUDGET

Pub. L. 95–26, title I, May 4, 1977, 91 Stat. 94, authorizing the Director of the Office of Management and Budget to place a total of five positions on GS–16, 17, and 18 in addition to the positions authorized by section 5108 of this title, was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

PREFERENCE TO BLIND IN SELECTION OF PERSONNEL

Preference to be given to blind individuals in selection of additional personnel under subsec. (c)(12) of this section, see section 208(c) of Pub. L. 93–516, set out as a note under section 702 of Title 29, Labor.

§ 5109. Positions classified by statute

(a) The position held by an employee of the Department of Agriculture while he, under section 450d of title 7, is designated and vested with a delegated regulatory function or part thereof shall be classified in accordance with this chapter, but not lower than GS–14.

(b)(1) The position held by a fully experienced and qualified railroad safety inspector of the Department of Transportation shall be classified in accordance with this chapter, but not lower than GS–12.

(2) The position held by a railroad safety specialist of the Department shall be classified in accordance with this chapter, but not lower than GS–13.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 455; Pub. L. 91–34, § 2(b), June 30, 1969, 83 Stat. 41; Pub. L. 93–406, title II, § 1051(b)(1), Sept. 2, 1974, 88 Stat. 951; Pub. L. 95–454, title IX, § 906(b), Oct. 13, 1978, 92 Stat. 1226; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(9)(G)], Nov. 5, 1990, 104 Stat. 1427, 1441; Pub. L. 103–272, § 4(b)(1), July 5, 1994, 108 Stat. 1361; Pub. L. 105–206, title I, § 1102(e)(2), July 22, 1998, 112 Stat. 704.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 516b (3d sentence).	Apr. 4, 1940, ch. 75, § 2 (3d sentence), 54 Stat. 81.
(b)	5 U.S.C. 3013(a) (10th through 24th words of 1st sentence, and 2d sentence).	Sept. 28, 1959, Pub. L. 86–382, § 14(a) (10th through 24th words of 1st sentence, and 2d sentence), 73 Stat. 716.
(c)	40 U.S.C. 193w.	Sept. 23, 1959, Pub. L. 86–379, § 1, 73 Stat. 702.

In subsection (a), the words ''section 450d of title 7'' are substituted for ''this section'' to reflect the scheduled transfer of former section 516b to title 7.

In subsection (c), the words ''Notwithstanding any other law'' were omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–206 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1986 shall be considered a position classified above GS–15 pursuant to section 5108.''

1994—Subsec. (c). Pub. L. 103–272 added subsec. (c).

1990—Subsec. (b). Pub. L. 101–509 substituted ''shall be considered a position classified above GS–15 pursuant to section 5108'' for ''is classified at GS–18, and is in addition to the number of positions authorized by section 5108(a) of this title''.

1986—Subsec. (b). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1978—Subsecs. (b), (c). Pub. L. 95–454, § 906(b), redesignated subsec. (c) as (b). Former subsec. (b), which related to classification of position held by an employee appointed under section 1104(a)(2) of this title, was struck out.

1974—Subsec. (c). Pub. L. 93–406 added subsec. (c). A prior subsec. (c) was repealed by Pub. L. 91–34.

1969—Subsec. (c). Pub. L. 91–34 repealed subsec. (c) provisions classifying positions on National Zoological Park police force authorized pursuant to section 193n of title 40.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective on 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L. 93–406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–34 effective at beginning of first pay period which commences on or after June 30, 1969, see section 3(a) of Pub. L. 91–34, set out as an Effective Date note under section 5375 of this title.

REDUCTION OF BASIC PAY RATE

Rate of basic pay not to be reduced by reason of enactment of Pub. L. 91–34, which amended this section, see section 3(b) of Pub. L. 91–34, set out as a note under section 5365 of this title.

§ 5110. Review of classification of positions

(a) The Office of Personnel Management, from time to time, shall review such number of positions in each agency as will enable the Office to determine whether the agency is placing positions in classes and grades in conformance with or consistently with published standards.

(b) When the Office finds under subsection (a) of this section that a position is not placed in its proper class and grade in conformance with published standards or that a position for which there is no published standard is not placed in the class and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate class and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 455; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1102(b).	Oct. 28, 1949, ch. 782, § 502(b), 63 Stat. 958.
(b)	5 U.S.C. 1103.	Oct. 28, 1949, ch. 782, § 503, 63 Stat. 958.

In subsection (b), the words ''to which this chapter applies'' are omitted as unnecessary in view of section 5102. The words ''appropriate officials'' and ''administrative, certifying, payroll, disbursing, and accounting officials'' are substituted for ''appropriate officers and employees'' and ''administrative, certifying, payroll, disbursing, and accounting officers'', respectively, to preserve the application to members of the uniformed services who are excluded from the definition of ''officer'' and ''employee''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5111. Revocation and restoration of authority to classify positions

(a) When the Office of Personnel Management finds that an agency is not placing positions in classes and grades in conformance with or consistently with published standards, it may revoke or suspend the authority granted to the agency by section 5107 of this title and require that prior approval of the Office be secured before an action placing a position in a class and grade becomes effective for payroll and other personnel purposes. The Office may limit the revocation or suspension to—

(1) the departmental or field service, or any part thereof;

(2) a geographic area;

(3) an organization unit or group of organization units;

(4) certain types of classification actions;

(5) classes in particular occupational groups or grades; or

(6) classes for which standards have not been published.

(b) After revocation or suspension, the Office may restore the authority to the extent that it is satisfied that later actions placing positions in classes and grades will be in conformance with or consistent with published standards.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 455; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1104.	Oct. 28, 1949, ch. 782, § 504, 63 Stat. 959.

In subsection (a), the words ''in whole or in part'' are omitted as unnecessary in view of the specific authority to limit the revocation or suspension. The words ''The Commission may limit the revocation or suspension to'' are substituted for ''Such revocations or suspensions may be limited, in the discretion of the Commission, to'' to eliminate redundancy.

In subsection (b), the words ''After revocation or suspension'' are substituted for ''After all or part of the authority of the department has been revoked or suspended''. The words ''may restore'' are substituted for ''may at any time restore'' to eliminate redundancy.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively, wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5112. General authority of the Office of Personnel Management

(a) Notwithstanding section 5107 of this title, the Office of Personnel Management may—

(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of a position;

(2) place in an appropriate class and grade a newly created position or a position coming initially under this chapter;

(3) decide whether a position is in its appropriate class and grade; and

(4) change a position from one class or grade to another class or grade when the facts warrant.

The Office shall certify to the agency concerned its action under paragraph (2) or (4) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(b) An employee affected or an agency may request at any time that the Office exercise the authority granted to it by subsection (a) of this section and the Office shall act on the request.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 456; Pub. L. 95–454, title IX, § 906(a)(2), (3), (17), Oct. 13, 1978, 92 Stat. 1224, 1226.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1101.	Oct. 28, 1949, ch. 782, § 501, 63 Stat. 958.

In subsection (a), the words ''which may be exercised at any time in its discretion'' are omitted as redundant. The words ''is binding on all administrative, certifying, payroll, disbursing, and accounting officials'' are substituted for ''shall be binding on all administrative, certifying, payroll, disbursing, and accounting officers of the Government'' to preserve the application to members of the uniformed services.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95–454, § 906(a)(17), substituted ''Office of Personnel Management'' for ''Civil Service Commission'' in section catchline.

Subsecs. (a), (b). Pub. L. 95–454, § 906(a)(2), (3), substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively, wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5113. Classification records

The Office of Personnel Management may—

(1) prescribe the form in which each agency shall record the duties and responsibilities of positions and the places where these records shall be maintained;

(2) examine these or other pertinent records of the agency; and

(3) interview employees of the agency who have knowledge of the duties and responsibilities of positions and information as to the reasons for placing a position in a class or grade.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 456; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1106.	Oct. 28, 1949, ch. 782, § 506, 63 Stat. 959.

In paragraph (1), the words ''to which this chapter applies'' are omitted as unnecessary in view of section 5102.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

[§ 5114. Repealed. Pub. L. 99–386, title I, § 110(a), Aug. 22, 1986, 100 Stat. 822]

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 456; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224, related to reports to Congress on positions in GS–16, 17, and 18.

§ 5115. Regulations

The Office of Personnel Management may prescribe regulations necessary for the administration of this chapter, except sections 5109 and 5114.[1]

[1] See References in Text note below.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 457; Pub. L. 95–454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1072.	Oct. 28, 1949, ch. 782, §1101, 63 Stat. 971.
.....	5 U.S.C. 1072a.	Sept. 1, 1954, ch. 1208, §113, 68 Stat. 1108.

Former sections 1072 and 1072a are combined and restated for clarity. The remainder of the authority is carried into sections 3324, 5338, and 7154.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 5114, referred to in text, was repealed by Pub. L. 99–386, title I, §110(a), Aug. 22, 1986, 100 Stat. 822.

AMENDMENTS

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

CHAPTER 53—PAY RATES AND SYSTEMS

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5381. Definitions.
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5391. Definitions.
5392. Establishment of special occupational pay systems.

AMENDMENTS

2000—Pub. L. 106–554, §1(a)(3) [title VI, §645(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–170, added item 5372b.

1992—Pub. L. 102–378, §8(a), Oct. 2, 1992, 106 Stat. 1359, repealed Pub. L. 100–510, §1206(i)(2). See 1990 Amendment note below.

Pub. L. 102–378, §2(24), Oct. 2, 1992, 106 Stat. 1348, substituted ''repayments'' for ''repayment'' in item 5379 and struck out ''Sec.'' before item 5391.

1990—Pub. L. 101–510, div. A, title XII, §1206(i)(2), Nov. 5, 1990, 104 Stat. 1663, which added item 5380 ''Pay authority for critical positions'', was repealed by Pub. L. 102–378, §8(a), Oct. 2, 1992, 106 Stat. 1359, which provided that this title shall read as if such section 1206(i)(2) had not been enacted.

Pub. L. 101–510, div. A, title XII, §1206(b)(2), Nov. 5, 1990, 104 Stat. 1661, added item 5379.

[1] Section catchline amended by Pub. L. 108–136 without corresponding amendment of chapter analysis.

Pub. L. 101–509, title V, § 529 [title I, §§ 101(a)(2), 102(a)(2), 103(b), 104(b), 105(a)(2), 109(a)(1)(B), title II, §§ 205(b), 211(b)(2)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1443, 1445, 1446, 1448, 1451, 1457, 1461, struck out items 5301 ''Policy'', 5303 ''Higher minimum rates; Presidential authority'', 5304 ''Presidential policies and regulations'', 5305 ''Annual pay reports and adjustments'', 5306 ''Advisory Committee on Federal Pay'', 5307 ''Pay fixed by administrative action'', and 5308 ''Pay limitation'', and added items 5301 to 5307, struck out ''; higher rates for supervisors of prevailing rate employees'' after ''appointments'' in item 5333, substituted ''Health care positions'' for ''Scientific and professional positions'' in item 5371, and added items 5372a, 5376 to 5378, item for subchapter IX, and items 5391 and 5392.

Pub. L. 101–263, § 1(b), Apr. 4, 1990, 104 Stat. 125, inserted ''the'' before ''National'' in item 5375.

1979—Pub. L. 96–54, § 2(a)(26)(B), Aug. 14, 1979, 93 Stat. 382, substituted ''prevailing rate'' for ''wage-board'' in item 5333.

1978—Pub. L. 95–454, title IV, § 407(b), title VIII, § 801(a)(3)(B)(i), (ii), Oct. 13, 1978, 92 Stat. 1172, 1221, struck out items 5337 ''Pay saving'' and 5345 ''Retained rate of pay on reduction in grade or reassignment'', added item for subchapter VI and items 5361 to 5366, redesignated former item for subchapter VI and items 5361 to 5365 as subchapter VII and items 5371 to 5375, respectively, and added item for subchapter VIII and items 5381 to 5385.

Pub. L. 95–251, § 2(c)(4), Mar. 27, 1978, 92 Stat. 184, substituted ''Administrative law judges'' for ''Hearing examiners'' in item 5362.

1975—Pub. L. 94–82, title II, § 202(b)(6), Aug. 9, 1975, 89 Stat. 420, added item 5318.

1972—Pub. L. 92–392, § 1(b), Aug. 19, 1972, 86 Stat. 572, substituted items 5341, 5343, 5344, and 5345 relating to ''Policy'', ''Prevailing rate determinations; wage schedules; night differentials'', ''Effective date of wage increase; retroactive pay'' and ''Retained rate of pay on reduction in grade or reassignment'', for such former items relating to ''Trades and crafts'', ''Effective date of pay increase'', ''Retroactive pay'' and ''Position classification appeals'', added items 5342, 5346, 5347, and 5349, and renumbered former item 5342 as 5348.

1971—Pub. L. 91–656, §§ 2(b)(2), 3(b), Jan. 8, 1971, 84 Stat. 1946, 1951, struck out item 5302 ''Annual reports on pay comparability'' and added items 5305–5308.

1969—Pub. L. 91–34, § 1(b), June 30, 1969, 83 Stat. 41, added item 5365.

1967—Pub. L. 90–206, title II, § 223(b), Dec. 16, 1967, 81 Stat. 642, added item 5345.

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

§ 5301. Policy

It is the policy of Congress that Federal pay fixing for employees under the General Schedule be based on the principles that—

(1) there be equal pay for substantially equal work within each local pay area;

(2) within each local pay area, pay distinctions be maintained in keeping with work and performance distinctions;

(3) Federal pay rates be comparable with non-Federal pay rates for the same levels of work within the same local pay area; and

(4) any existing pay disparities between Federal and non-Federal employees should be completely eliminated.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 458; Pub. L. 91–656, § 2(a), Jan. 8, 1971, 84 Stat. 1946; Pub. L. 96–465, title II, § 2314(c)(1), Oct. 17, 1980, 94 Stat. 2167; Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1429.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1171.	Oct. 11, 1962, Pub. L. 87–793, § 502, 76 Stat. 841.

The words ''It is the policy of Congress'' are substituted for ''The Congress hereby declares''. The words ''whereas the functions of a Federal salary system are to fix salary rates for the services rendered by Federal employees so as to make possible the employment of persons well qualified to conduct the Government's programs and to control expenditures of public funds for personal services with equity to the employee and to the taxpayer, and whereas fulfillment of these functions is essential to the development and maintenance of maximum proficiency in the civilian services of Government, then, accordingly'' are omitted as unnecessary.

In the last sentence, the words ''and henceforth'' are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1990—Pub. L. 101–509 amended section generally. Prior to amendment, section read as follows:

''(a) It is the policy of Congress that Federal pay fixing for employees under statutory pay systems be based on the principles that—

''(1) there be equal pay for substantially equal work;

''(2) pay distinctions be maintained in keeping with work and performance distinctions;

''(3) Federal pay rates be comparable with private enterprise pay rates for the same levels of work; and

''(4) pay levels for the statutory pay systems be interrelated.

''(b) The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title.

''(c) For the purpose of this subchapter, 'statutory pay system' means a pay system under—

''(1) subchapter III of this chapter, relating to the General Schedule;

''(2) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; or

''(3) chapter 73 of title 38, relating to the Department of Medicine and Surgery, Veterans' Administration.''

1980—Subsec. (c)(2). Pub. L. 96–465 substituted ''section 403 of the Foreign Service Act of 1980'' for ''subchapter IV of chapter 14 of title 22''.

1971—Pub. L. 91–656 designated provisions of first sentence as subsec. (a), incorporating former cl. (1) in cls. (1) and (2), and former cl. (2) in cl. (3), and inserted ''for employees under statutory pay systems'' after ''Federal pay fixing''; substituted subsec. (b) reading ''The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title'' for former second sentence providing ''Pay levels for the several Federal statutory pay systems shall be interrelated, and pay levels shall be set and adjusted in accordance with these principles''; and added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 529 [title III, § 305] of Pub. L. 101–509 provided that:

''(a) GENERALLY.—Except as otherwise provided in this Act, this Act and the amendments made by this Act [this Act means section 529 [titles I–III, §§ 1–306] of Pub. L. 101–509, but does not include section 529 [title IV, §§ 401–412] of Pub. L. 101–509, see Short Title of 1990

Amendment; Rules of Construction note below, and see Tables for classification] shall take effect on such date as the President shall determine [see Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, set out below], but not earlier than 90 days, and not later than 180 days, after the date of enactment of this Act [Nov. 5, 1990].

''(b) SPECIAL RULE.—The first calendar year in which comparability payments under section 5304 of title 5, United States Code (as amended by this Act), are paid shall be the calendar year beginning on January 1, 1994.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(4) [div. B, title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–303, provided that: ''This title [enacting provisions set out as notes under sections 5304 and 5305 of this title and section 204 of Title 3, The President, and amending provisions set out as a note under section 5305 of this title] may be cited as the 'Law Enforcement Pay Equity Act of 2000'.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–89, § 1, Sept. 30, 1993, 107 Stat. 981, provided that: ''This Act [amending sections 3372, 4501, 4502, 5302, 5332, 5334 to 5336, 5361 to 5363, 5410, 5948, and 8473 of this title, sections 1602, 1732, and 1733 of Title 10, Armed Forces, and section 731 of Title 31, Money and Finance, repealing sections 4302a and 5401 to 5410 of this title, enacting provisions set out as notes under sections 3372, 5335, 5401, and 5410 of this title, and amending provisions set out as a note under section 5304 of this title] may be cited as the 'Performance Management and Recognition System Termination Act'.''

SHORT TITLE OF 1990 AMENDMENT; RULES OF CONSTRUCTION

Section 529 [§ 1] of Pub. L. 101–509 provided that:

''(a) SHORT TITLE.—This section, and the sections immediately following this section through section 412, inclusive [section 529 [§§ 1–412] of Pub. L. 101–509, see Tables for classification], may be cited as the 'Federal Employees Pay Comparability Act of 1990' (hereinafter in this section referred to as 'FEPCA').

''(b) RULES OF CONSTRUCTION.—(1) Except as otherwise expressly provided, any reference (actual or implicit) in FEPCA (outside of this section) to 'this Act' (or to any title, section, or other designated provision of 'this Act') shall be construed to be a reference to FEPCA (or the corresponding provision within FEPCA).

''(2) Except as otherwise expressly provided, any reference (actual or implicit) in any provision of this Act outside of FEPCA to 'this Act' (or to any title, section, or other designated provision of 'this Act'), and any reference made in any provision of law outside of this Act to the 'Treasury, Postal Service and General Government Appropriations Act, 1991' [Pub. L. 101–509] (or to any title, section, or other designated provision of such Act), shall be construed disregarding the provisions of FEPCA.''

Section 529 [title III, § 306] of Pub. L. 101–509 provided that: ''Notwithstanding section 1(b) [section 529 [§ 1(b)] of Pub. L. 101–509, set out above], a reference in any of the preceding provisions of this title [section 529 [title III, §§ 301–305] of Pub. L. 101–509, enacting section 237 of Title 42, The Public Health and Welfare, amending section 212 of Title 42, and enacting provisions set out as notes under this section, section 5304 of this title, and section 212 of Title 42] to 'this Act' [section 529 of Pub. L. 101–509] (other than a reference in section 301) [section 529 [title III, § 301] of Pub. L. 101–509, set out below] shall not be considered to include any provision of title IV [section 529 [title IV, §§ 401–412] of Pub. L. 101–509, enacting sections 4521 to 4523 of this title, amending sections 5541, 5542, 5547, 8335, and 8425 of this title, enacting provisions set out as notes under sections 4521, 5305, 5541, and 8335 of this title, and amending provisions set out as a note under section 5541 of this title].''

SHORT TITLE

Section 1 of Pub. L. 91–656 provided that: ''This Act [enacting sections 5305 to 5308 and 5947 of this title, amending this section, sections 5108 and 5942 of this title, and section 410 of Title 39, Postal Service, repealing section 5302 of this title, and enacting provisions set out as notes under sections 5303 and 5942 of this title, section 60a of Title 2, The Congress, and section 410 of Title 39] may be cited as the 'Federal Pay Comparability Act of 1970'.''

PAY-FOR-PERFORMANCE LABOR-MANAGEMENT COMMITTEE

Section 529 [title I, § 111] of Pub. L. 101–509 provided that:

''(a) POLICY.—It is the policy of Congress that—

''(1) the Federal Government should institute systems for determining pay for its General Schedule employees under which the linkage between their performance and their pay will be strengthened;

''(2) the design of such systems should be developed by the Office of Personnel Management, in conjunction with the Pay-for-Performance Labor-Management Committee;

''(3) the systems should provide flexibility to adapt to the different needs of different agencies and organizational components in the Federal Government; and

''(4) any legislation needed to implement the systems should be enacted in a timely fashion so as to permit implementation of the system by October 1, 1993.

''(b) ESTABLISHMENT.—The Office of Personnel Management shall establish a Pay-for-Performance Labor-Management Committee to advise the Office on the design and establishment of systems for strengthening the linkage between the performance of General Schedule employees and their pay.

''(c) MEMBERSHIP.—The members of the Committee shall be—

''(1) a Chairman, who shall be appointed by the Director of the Office of Personnel Management on the basis of the appointee's education, training, and experience as an expert in compensation practices, and after consultation with the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Post Office and Civil Service of the House of Representatives, respectively;

''(2) an employee of the Office of Personnel Management, designated by the Director of such Office;

''(3) an employee of the Department of Defense, designated by the Secretary of Defense;

''(4) 3 individuals, each of whom shall be an employee designated by the head of each of 3 other departments or agencies selected by the Director of the Office of Personnel Management from among departments and agencies having substantial numbers of General Schedule employees; and

''(5) 6 individuals appointed by the Director of the Office of Personnel Management to serve as representatives of employee organizations which represent substantial numbers of General Schedule employees, and who shall be selected with due consideration to such factors as the relative numbers of General Schedule employees represented by the various organizations, except that not more than 3 members of the Committee at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

''(d) PAY FOR MEMBERS.—The Chairman shall be paid at a rate of basic pay for the Senior Executive Service, to be determined by the Director of the Office of Per-

sonnel Management. The members of the Committee who are otherwise employees of the Federal Government shall not receive any additional pay by reason of their service on the Committee. The members of the Committee who are not otherwise employees of the Federal Government shall not be paid for their service on the Committee and shall not be considered employees of the Federal Government for any purpose by reason of their service on the Committee.

''(e) ADMINISTRATIVE SUPPORT.—The Office of Personnel Management may provide staff and administrative support for the Committee.

''(f) FUNCTIONS.—The Committee shall review available reports and studies on performance evaluation and performance-based pay systems (including a report to be prepared by the National Academy of Sciences) and any other pertinent information.

''(g) REPORT TO THE OFFICE OF PERSONNEL MANAGEMENT.—No later than 1 year after the date of enactment of this Act [Nov. 5, 1990], the Committee shall submit a report to the Director of the Office of Personnel Management, which shall include recommendations as to—

''(1) the types of pay raises to be covered;

''(2) guidelines for pay-for-performance systems, including the criteria to be used in determining eligibility for and the amount of increases in basic pay above the midpoint of the pay range;

''(3) the role organization performance should play in pay-for-performance systems;

''(4) any differences in pay-for-performance systems for different categories of employees;

''(5) the role for employee organizations in the implementation and operation of pay-for-performance systems; and

''(6) whether demonstration projects on pay-for-performance are desirable.''

BUDGET ACT COMPLIANCE

Section 529 [title III, § 301] of Pub. L. 101–509 provided that: ''For purposes of the Congressional Budget Act of 1974 [titles I through IX, of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, see Tables for classification], any authority to make payments under this Act or any amendment made by this Act [see Short Title of 1990 Amendment note above] shall be effective only to the extent provided for in advance in appropriation Acts.''

PAY RATES FOR CURRENT EMPLOYEES

Section 529 [title III, § 303] of Pub. L. 101–509 provided that: ''Nothing in this Act or in any amendment made by this Act [see Short Title of 1990 Amendment note above] shall have the effect of diminishing the rate of basic pay payable to any individual employed by the United States on the date of the enactment of this Act [Nov. 5, 1990] to a rate below the rate payable to such individual on such date, so long as that individual continues in such position without a break in service.''

EX. ORD. NO. 12748. PROVIDING FOR FEDERAL PAY ADMINISTRATION

Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, as amended by Ex. Ord. No. 12883, Nov. 29, 1993, 58 F.R. 63281; Ex. Ord. No. 13106, § 8, Dec. 7, 1998, 63 F.R. 68152; Ex. Ord. No. 13415, § 2(a), Dec. 1, 2006, 71 F.R. 70641, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Employees Pay Comparability Act of 1990 (hereinafter ''FEPCA''), as incorporated in section 529 of Public Law 101–509 [see Short Title of 1990 Amendment note above], and sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Annual Adjustments to Pay Schedules*. The following agencies are designated under section 5303(g) of title 5, United States Code, as amended by FEPCA, to prescribe conversion rules for the initial adjustment of rates of pay to be applied during each annual adjustment of pay schedules under section 5303 of title 5, United Stated Code:

(a) the Office of Personnel Management, for the General Schedule;

(b) the Department of State, for the Foreign Service Schedule; and

(c) the Department of Veterans Affairs, for the Veterans Health Services and Research Administration Schedules.

SEC. 2. *Locality-based Comparability Payments*. (a) The Secretary of Labor, the Director of the Office of Management and Budget, and the Director of the Office of Personnel Management are hereby designated under section 5304(d)(1) of title 5, United States Code, as amended by FEPCA, to serve jointly as the President's agent under section 5304 of title 5, United States Code, and shall be known in this capacity as the President's Pay Agent.

(b) The head of each executive agency employing personnel under a statutory pay system, as defined in section 5302(1) of title 5, United States Code, as amended by FEPCA, shall provide such information and assistance as may be requested by the President's Pay Agent in carrying out the provisions of section 5304 of title 5, United States Code.

(c) The President's Pay Agent, as designated in subsection (a), is hereby authorized and designated to exercise the authorities of the President under section 5304(g)–(h) [5 U.S.C. 5304(g), (h)] concerning the extension of locality-based comparability payments to certain categories of positions not otherwise covered.

SEC. 3. *Previous Order Revoked*. Executive Order No. 11721, as amended, is revoked.

SEC. 4. *Advance Payments for New Appointees*. Section 2(b) of Executive Order No. 10982, as amended [5 U.S.C. 5527 note], is further amended to read as follows:

''(b) The Office of Personnel Management is hereby designated and empowered to perform the functions conferred upon the President by the provisions of section 5527 of title 5, United States Code, with respect to allotments and assignments authorized by section 5525 of title 5, United States Code, and advance payments to new appointees authorized by section 5524a of title 5, United States Code, as added by section 107(a) of the Federal Employees Pay Comparability Act of 1990, as incorporated in section 529 of Public Law 101–509.''

SEC. 5. *Staffing Differentials*. The Office of Personnel Management is hereby designated and empowered to exercise the authority of the President under section 209 of FEPCA [5 U.S.C. 5305 note] to establish staffing differentials.

SEC. 6. *Executive Assignment System*. (a) Civil Service Rule 9 (5 CFR Part 9), as established by Executive Order No. 11315, as amended, is revoked.

(b) The Office of Personnel Management shall take such actions as the Office may determine to be necessary to provide for the orderly termination of the Executive Assignment System.

SEC. 7. *Effective Dates*. (a) Except as otherwise provided by Public Law 101–509, the provisions of subchapter I of chapter 53 of title 5, United States Code, as amended by section 101 of FEPCA [this subchapter], and the provisions of sections 1 through 4 of this order shall take effect on February 3, 1991.

(b) Except as otherwise provided by Public Law 101–509, the remaining provisions of FEPCA and of this order shall take effect on May 4, 1991, except that the Office of Personnel Management may establish an earlier effective date, but not earlier than February 3, 1991, for any such provisions with respect to which the Office determines an earlier effective date is appropriate. [For effective dates of certain provisions of FEPCA as established by the Office of Personnel Management, see notices and rules issued by the Office of Personnel Management and published in the Federal Register at 56 F.R. 6212, 11059, 12833, 20339, and 20343.]

§ 5302. Definitions

For the purpose of this subchapter—

(1) the term ''statutory pay system'' means a pay system under—

(A) subchapter III, relating to the General Schedule;

(B) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; or

(C) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);

(2) the term ''ECI'' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics;

(3) the ''base quarter'' for any year is the 3-month period ending on September 30 of such year;

(4) the term ''pay agent'' means the agent designated by the President under section 5304(d)(1);

(5) the term ''locality'' or ''pay locality'' means any locality, as established or modified under section 5304;

(6) the term ''pay disparity'', as used with respect to a locality, means the extent to which rates of pay payable under the General Schedule are generally lower than the rates paid for the same levels of work by non-Federal workers in the same locality; except as otherwise required in this subchapter, a pay disparity shall be expressed as a single percentage which, if uniformly applied to employees within the locality who are receiving rates of pay under the General Schedule, would cause the rates payable to such employees to become substantially equal (when considered in the aggregate) to the rates paid to non-Federal workers for the same levels of work in the same locality;

(7) the term ''comparability payment'' means a payment payable under section 5304;

(8) the term ''rates of pay under the General Schedule'', ''rates of pay for the General Schedule'', or ''scheduled rates of basic pay'' means the rates of basic pay under the General Schedule as established by section 5332, excluding pay under section 5304 and any other additional pay of any kind; and

(9) the term ''General Schedule position'' means any position to which subchapter III applies.

(Added Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1429; amended Pub. L. 102–378, § 2(25), Oct. 2, 1992, 106 Stat. 1348; Pub. L. 103–89, § 3(b)(1)(E), Sept. 30, 1993, 107 Stat. 981; Pub. L. 108–411, title III, § 301(a)(1), Oct. 30, 2004, 118 Stat. 2313.)

REFERENCES IN TEXT

Section 403 of the Foreign Service Act of 1980, referred to in par. (1)(B), is classified to section 3963 of Title 22, Foreign Relations and Intercourse.

PRIOR PROVISIONS

A prior section 5302, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 458, provided for annual reports on pay comparability, prior to repeal by Pub. L. 91–656, § 2(b)(1), Jan. 8, 1971, 84 Stat. 1946.

AMENDMENTS

2004—Par. (8). Pub. L. 108–411 added par. (8) and struck out former par. (8) which read as follows: ''the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means—

''(A) the rates of basic pay set forth in the General Schedule; and

''(B) in the case of an employee receiving a retained rate of basic pay under section 5363, the rate of basic pay payable under such section; and''.

1993—Par. (8). Pub. L. 103–89, § 3(b)(1)(E)(i), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''in the case of an employee covered by the performance management and recognition system, the rates of basic pay under chapter 54; and''.

Par. (9). Pub. L. 103–89, § 3(b)(1)(E)(ii), substituted ''applies'' for ''applies (including any position under the performance management and recognition system)''.

1992—Par. (1)(C). Pub. L. 102–378, § 2(25)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''chapter 73 of title 38, relating to the Veterans Health Services and Research Administration;''.

Par. (8)(C). Pub. L. 102–378, § 2(25)(B), added subpar. (C).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108–411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective Feb. 3, 1991, see section 9(b)(5) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5303. Annual adjustments to pay schedules

(a) Effective as of the first day of the first applicable pay period beginning on or after January 1 of each calendar year, the rates of basic pay for each statutory pay system shall be increased by the percentage (rounded to the nearest one-tenth of 1 percent) equal to one-half of 1 percentage point less than the percentage by which the ECI for the base quarter of the year before the preceding calendar year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

(b)(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the pay adjustment which would otherwise be required by subsection (a) in any year to be inappropriate, the President shall—

(A) prepare and transmit to Congress before September 1 of the preceding calendar year a plan for such alternative pay adjustments as he considers appropriate, together with the reasons therefor; and

(B) adjust the rates of pay of each statutory pay system, in accordance with such plan, ef-

fective on the same day as the increase under subsection (a) would otherwise take effect.

(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including, but not limited to, the Indexes of Leading Economic Indicators, the Gross National Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

(3) The President shall include in the report to Congress under paragraph (1)(A) his assessment of the impact that the alternative pay adjustments under this subsection will have on the Government's ability to recruit and retain well-qualified employees.

(c) The rates of basic pay that take effect under this section—

(1) shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith, any prior rates of basic pay under the statutory pay system involved (as last adjusted under this section or prior provisions of law); and

(2) shall be printed in the Federal Register and the Code of Federal Regulations.

(d) An increase in rates of basic pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335.

(e) This section does not impair any authority pursuant to which rates of basic pay may be fixed by administrative action.

(f) Pay may not be paid, by reason of any provision of this section (disregarding any comparability payment payable), at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule.

(g) Any rate of pay under this section shall be initially adjusted, effective on the effective date of the rate of pay, under conversion rules prescribed by the President or by such agency or agencies as the President may designate.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 458; Pub. L. 90–206, title II, § 207, Dec. 16, 1967, 81 Stat. 631; Pub. L. 91–375, § 6(c)(10), Aug. 12, 1970, 84 Stat. 776; Pub. L. 94–183, § 2(16), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–465, title II, § 2314(c)(2), Oct. 17, 1980, 94 Stat. 2167; Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1430.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1173.	Oct. 11, 1962, Pub. L. 87–793, § 504, 76 Stat. 842. Aug. 14, 1964, Pub. L. 88–426, § 123, 78 Stat. 412.

In subsection (a), the words "the provisions of this title governing appointment in the competitive service" are substituted for "the civil service laws and regulations".

In subsections (a), (b), and (d), the word "agency" is substituted for "agency or agencies" because the singular imports the plural, see 1 U.S.C. 1.

In subsection (d), the word "officer" is omitted as included in "employee", "agency" is substituted for "department", and "rules" is omitted as included in "regulations".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (f), is set out in section 5316 of this title.

AMENDMENTS

1990—Pub. L. 101–509 amended section generally, substituting provisions relating to annual adjustments to pay schedules for provisions relating to President's authority to set higher minimum rates of basic pay.

1980—Subsec. (a)(4). Pub. L. 96–465 substituted "section 403 of the Foreign Service Act of 1980" for "sections 867 and 870 of title 22".

1978—Subsec. (a). Pub. L. 95–454 substituted "Office of Personnel Management" for "Civil Service Commission".

1975—Subsec. (c). Pub. L. 94–183 struck out "and section 3552 of title 39" after "of section 5335(a) of this title".

1970—Subsec. (a)(2). Pub. L. 91–375 repealed cl. (2) making positions paid under provisions of part III of title 39 relating to employees in the postal field service subject to higher minimum rates established by the President.

1967—Subsec. (a). Pub. L. 90–206, § 207(a), substituted "maximum pay rate" for "seventh pay rate".

Subsec. (d). Pub. L. 90–206, § 207(b), inserted provisions that permitted an initial adjustment to be made to statutory increases which become effective prior to, on, or after the date of enactment of the statute.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90–206, set out as an Effective Date note under section 3110 of this title.

DELEGATION OF FUNCTIONS

For designation of agencies to perform functions of President under subsec. (g) of this section, see Ex. Ord. No. 12748, § 1, Feb. 1, 1991, 56 F.R. 4521, eff. Feb. 3, 1991, set out as a note under section 5301 of this title.

PAY RAISES FOR PROGRAMS FUNDED BY ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACTS TO BE ABSORBED WITHIN SUCH ACTS

Pub. L. 102–377, title V, § 506, Oct. 2, 1992, 106 Stat. 1343, provided that: "Such sums as may be necessary

for Federal employee pay raises for programs funded by this Act or subsequent Energy and Water Development Appropriations Acts hereafter shall be absorbed within the levels appropriated in such Acts.''

SENSE OF CONGRESS

Section 529 [title I, § 101(e)] of Pub. L. 101–509 provided that: ''It is the sense of the Congress that the total funds dedicated to adjustments under sections 5303 and 5304 [of this title] for any year be no less than the total funds that would have been dedicated to adjustments under such section 5303 for such year had the full change in the ECI been applied to pay rates for such year.''

FEDERAL EMPLOYEE PAY ADJUSTMENTS

2010—Pub. L. 111–242, § 147, as added by Pub. L. 111–322, title I, § 1(a)(2), Dec. 22, 2010, 124 Stat. 3518, provided that:

''(a) For the purposes of this section—

''(1) the term 'employee'—

''(A) means an employee as defined in section 2105 of title 5, United States Code; and

''(B) includes an individual to whom subsection (b), (c), or (f) of such section 2105 pertains (whether or not such individual satisfies subparagraph (A));

''(2) the term 'senior executive' means—

''(A) a member of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code;

''(B) a member of the FBI–DEA Senior Executive Service under subchapter III of chapter 31 of title 5, United States Code;

''(C) a member of the Senior Foreign Service under chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following); and

''(D) a member of any similar senior executive service in an Executive agency;

''(3) the term 'senior-level employee' means an employee who holds a position in an Executive agency and who is covered by section 5376 of title 5, United States Code, or any similar authority; and

''(4) the term 'Executive agency' has the meaning given such term by section 105 of title 5, United States Code.

''(b)(1) Notwithstanding any other provision of law, except as provided in subsection (e), no statutory pay adjustment which (but for this subsection) would otherwise take effect during the period beginning on January 1, 2011, and ending on December 31, 2012, shall be made.

''(2) For purposes of this subsection, the term 'statutory pay adjustment' means—

''(A) an adjustment required under section 5303, 5304, 5304a, 5318, or 5343(a) of title 5, United States Code; and

''(B) any similar adjustment, required by statute, with respect to employees in an Executive agency.

''(c) Notwithstanding any other provision of law, except as provided in subsection (e), during the period beginning on January 1, 2011, and ending on December 31, 2012, no senior executive or senior-level employee may receive an increase in his or her rate of basic pay absent a change of position that results in a substantial increase in responsibility, or a promotion.

''(d) The President may issue guidance that Executive agencies shall apply in the implementation of this section.

''(e) The Non-Foreign Area Retirement Equity Assurance Act of 2009 [Pub. L. 111–84, div. A, title XIX, subtitle B] (5 U.S.C. 5304 note) shall be applied using the appropriate locality-based comparability payments established by the President as the applicable comparability payments in section 1914(2) and (3) of such Act.''

2009—Pub. L. 111–117, div. C, title VII, § 744, Dec. 16, 2009, 123 Stat. 3219, provided that:

''(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2010 under section 5303 of title 5, United States Code, shall be an increase of 1.5 percent, and the overall average percentage of the adjustments taking effect in such fiscal year under sections 5304–5304a of such title 5 shall be an increase of 0.5 percent (with comparability payments to be determined and allocated among pay localities by the President). Adjustments under the preceding sentence shall also apply to civilian employees in the Department of Homeland Security and in the Department of Defense. All adjustments under this subsection shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2010.

''(b) Notwithstanding section 710 [Pub. L. 111–117, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2010 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentages in subsection (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304–5304a of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304–5304a of such title 5 and prevailing rate employees described in section 5343(a)(5) of such title 5 shall be considered to be located in the pay locality designated as 'Rest of U.S.' pursuant to section 5304 of such title 5 for purposes of this subsection.

''(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2010.''

2008—Pub. L. 110–329, div. A, § 142, Sept. 30, 2008, 122 Stat. 3580, as amended by Pub. L. 111–8, div. D, title VII, § 738(a), Mar. 11, 2009, 123 Stat. 691, provided that:

''(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2009 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.9 percent, and this adjustment shall apply to civilian employees in the Department of Homeland Security and shall apply to civilian employees in the Department of Defense who are represented by a labor organization as defined in section 7103(a)(4) of title 5, United States Code. Such adjustment shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2009.

''(b) The adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2009 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in subsection (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of such title 5. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of such title 5 and prevailing rate employees described in section 5343(a)(5) of such title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of such title 5 for purposes of this subsection.

''(c) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2009.

''(d) The provisions of this section shall apply notwithstanding any other provision of this joint resolution [div. A of Pub. L. 110–329, amending section 17013 of Title 42, The Public Health and Welfare, and provisions set out in a note under section 1701 of Title 50, War and National Defense].''

[Pub. L. 111–8, div. D, title VII, § 738(b), Mar. 11, 2009, 123 Stat. 691, provided that: ''The amendment made by subsection (a) [amending section 142 of Pub. L. 110–329, set out above] shall take effect as if included in the enactment of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 [Pub. L. 110–329].'']

2007—Pub. L. 110–161, div. D, title VII, § 740, Dec. 26, 2007, 121 Stat. 2031, provided that:

''(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2008 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.5 percent, and this adjustment shall apply to civilian employees in the Department of Homeland Security and shall apply to civilian employees in the Department of Defense who are represented by a labor organization as defined in 5 U.S.C. 7103(a)(4), and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2008. Civilian employees in the Department of Defense who are eligible to be represented by a labor organization as defined in 5 U.S.C. 7103(a)(4), but are not so represented, will receive the adjustment provided for in this section unless the positions are entitled to a pay adjustment under 5 U.S.C. 9902.

''(b) Notwithstanding section 712 of this Act [div. D of Pub. L. 110–161, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2008 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

''(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2008.''

2005—Pub. L. 109–115, div. A, title VIII, § 843, Nov. 30, 2005, 119 Stat. 2506, provided that:

''(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2006 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.1 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2006.

''(b) Notwithstanding section 813 of this Act [div. A of Pub. L. 109–115, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2006 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

''(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2006.''

2004—Pub. L. 108–447, div. H, title VI, § 640, Dec. 8, 2004, 118 Stat. 3282, provided that:

''(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2005 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.5 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2005.

''(b) Notwithstanding section 613 of this Act [div. H of Pub. L. 108–447, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2005 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

''(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2005.''

Pub. L. 108–199, div. F, title VI, § 640, Jan. 23, 2004, 118 Stat. 359, provided that:

''(a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2004 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.1 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2004.

''(b) Notwithstanding section 613 of this Act [div. F of Pub. L. 108–199, 5 U.S.C. 5343 note], the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2004 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as 'Rest of US' pursuant to section 5304 of title 5 for purposes of this paragraph.

''(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2004.''

2003—Pub. L. 108–7, div. J, title VI, § 637, Feb. 20, 2003, 117 Stat. 472, provided that:

''(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2003 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.1 percent and shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2003.

''(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2003.''

2001—Pub. L. 107–67, title VI, § 646, Nov. 12, 2001, 115 Stat. 556, provided that:

''(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2002 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.6 percent.

''(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2002.''

2000—Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 140], Dec. 21, 2000, 114 Stat. 2763, 2763A–235, provided that:

''(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2001 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.7 percent.

''(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2001.''

1999—Pub. L. 106–58, title VI, § 646, Sept. 29, 1999, 113 Stat. 478, provided that:

''(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2000 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.8 percent.

''(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2000.''

1998—Pub. L. 105–277, div. A, § 101(h) [title VI, § 621], Oct. 21, 1998, 112 Stat. 2681–480, 2681–518, provided that: ''For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101–194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1999 in the rates of basic pay for the statutory pay systems.''

Pub. L. 105–277, div. A, § 101(h) [title VI, § 647], Oct. 21, 1998, 112 Stat. 2681–480, 2681–527, provided that:

''(a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 1999 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.6 percent.

''(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 1999.''

1996—Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 637], Sept. 30, 1996, 110 Stat. 3009–314, 3009–364, provided that: ''For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101–194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1997 in the rates of basic pay for the statutory pay systems.''

1995—Pub. L. 104–52, title VI, § 633, Nov. 19, 1995, 109 Stat. 507, provided that: ''For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101–194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1996 in the rates of basic pay for the statutory pay systems.''

1994—Pub. L. 103–329, title VI, § 630(a), Sept. 30, 1994, 108 Stat. 2424, provided that:

''(1) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 1995 under section 5303 of title 5, United States Code, shall be an increase of 2 percent.

''(2) For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101–194] (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1995 in the rates of basic pay for the statutory pay systems.

''(3) For purposes of this subsection, the term 'statutory pay system' shall have the meaning given such term by section 5302(1) of title 5, United States Code.''

1993—Pub. L. 103–123, title V, § 517B, Oct. 28, 1993, 107 Stat. 1253, provided that:

''(a) Any adjustment required by section 5303 of title 5, United States Code, to become effective in fiscal year 1994 in the rates of basic pay for the statutory pay systems shall not be made.

''(b) For the purpose of this section, the term 'statutory pay system' has the meaning given such term by section 5302(1) of title 5, United States Code.''

1990—Pub. L. 101–509, title VI, § 618, Nov. 5, 1990, 104 Stat. 1475, provided that:

''(a) Notwithstanding any other provision of law, in the case of fiscal year 1991, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

''(b) Any increase in a pay rate or schedule which takes effect under such section 5305 in fiscal year 1991 (in accordance with subsection (a)) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1991.''

Pub. L. 101–509, title VI, § 633, Nov. 5, 1990, 104 Stat. 633, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 [see Short Title of 1990 Amendment note set out under section 5301 of this title] and any provision of law amended by such Act), for purposes of any adjustment scheduled to take effect under section 5303 of title 5, United States Code (as amended by section 101 [section 529 [title I, § 101] of Pub. L. 101–509]) during the period beginning on October 1, 1991, and ending on September 30, 1994, the provisions of section 5303 of such title (as so amended) shall be applied in accordance with the following:

''(1) For purposes of the adjustment taking effect in each of fiscal years 1992 and 1993, respectively, deem subsection (a) to be amended by striking 'one-half of 1 percentage point less than'.

''(2) Deem subsection (b) to be amended as follows:

''(A) In paragraph (1), strike 'if' and all that follows thereafter through 'welfare,' and insert 'Subject to paragraph (2), if'.

''(B) Redesignate paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

''(C) Insert after paragraph (1) the following:

'''(2) Authority to provide alternative pay adjustments under this subsection in any year may not be exercised except in accordance with the following:

'''(A) If the adjustment which (but for this subsection) would otherwise take effect under this section in a fiscal year would be 5 percent or less, no reduction may be made unless necessary because a state of war or severe economic conditions exist.

'''(B) If the adjustment which (but for this subsection) would otherwise take effect under this section in a fiscal year would be greater than 5 percent, no reduction may be made—

'''(i) to a level of 5 percent or greater, unless necessary because of national emergency or serious economic conditions affecting the general welfare; or

'''(ii) to a level of less than 5 percent, unless necessary because of either of the reasons set forth in subparagraph (A).'

''(D) Add after paragraph (4) (as so redesignated by subparagraph (B) the following:

'''(5) For the purpose of this subsection, ''severe economic conditions'' shall be considered to exist relative to an adjustment scheduled to take effect on a given date if, during the 12-month period ending 2 calendar quarters before such date, there occurred 2 consecutive quarters of negative growth in the GNP.'

''(b) REFERENCES.—Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 [see Short Title of 1990 Amendment note set out under section 5301 of this title] and any provision of law amended made by such Act), effective for purposes of any pay adjustment scheduled to take effect during the period described in subsection (a), any reference in a provision of law to section 5303 of title 5, United States Code, as amended by section 101 [section 529 [title I, § 101] of Pub. L. 101–509] (or to the effective date of a pay adjustment, the size of an adjustment, a rate payable after an adjustment, or other related matter under such section 5303) shall be considered a reference to such section as applied in accordance with this section (or to the corresponding matter, as determined under such section 5303, as applied in accordance with this section).''

1989—Pub. L. 101–194, title VII, § 702, Nov. 30, 1989, 103 Stat. 1767, provided that:

''(a) RESTORATION.—

''(1) IN GENERAL.—Effective for pay periods beginning on or after the date of enactment of this Act [Nov. 30, 1989], the rate of basic pay for any office or position in the executive, legislative, or judicial

branch of the Government or in the government of the District of Columbia shall be determined as if the provisions of law cited in paragraph (2) had never been enacted.

''(2) CITATIONS.—The provisions of law referred to in paragraph (1) are as follows:

''(A) Section 620(b) of the Treasury, Postal Service and General Government Appropriations Act, 1989 (2 U.S.C. 5305 note) [Pub. L. 100–440, set out below].

''(B) Section 619(b) of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101–136) [set out below].

''(b) EXCEPTIONS.—Notwithstanding any other provision of this section, the rate of basic pay for a Senator, the President pro tempore of the Senate, and the majority leader and the minority leader of the Senate shall be determined as if subsection (a) had not been enacted.

''(c) SPECIFIC AUTHORITY.—For purposes of section 140 of Public Law 97–92 (28 U.S.C. 461 note), appropriate salary increases are hereby authorized for Federal judges and Justices of the Supreme Court pursuant to subsection (a).

''(d) SPECIAL RULE.—Notwithstanding any other provision of this section, no adjustment in any rate of pay shall become effective, as a result of the enactment of this section, before the first applicable pay period beginning on or after the date as of which the order issued by the President on October 16, 1989, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902] is rescinded.''

Pub. L. 101–194, title XI, §1101(a), Nov. 30, 1989, 103 Stat. 1781, provided that:

''(1) ADJUSTMENTS IN RATES OF PAY.—Notwithstanding any other provision of law (including any provision of this Act or amendment made by this Act), effective as provided in paragraph (2), the rate of pay of each office and position of United States Senator, the President pro tempore of the Senate, and the majority and minority leaders of the Senate shall be increased by—

''(A) the percentage increase that would have taken effect in fiscal year 1988 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1988 without regard to section 108 of the resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 [Pub. L. 100–202]; (101 Stat. 1329–434; 5 U.S.C. 5305 note [set out below]);

''(B) the percentage increase that would have taken effect in fiscal year 1989 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1989 (as adjusted under subparagraph (A) of this paragraph) without regard to subsection (b) of section 620 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100–440; 102 Stat. 1756; 5 U.S.C. 5305 note [set out below]); and

''(C) the percentage increase that would take effect in fiscal year 1990 by the application of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) (as adjusted under subparagraphs (A) and (B) of this paragraph) without regard to subsection (b) of section 619 of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101–136) [set out below].

''(2) The increase in the rates of pay for each office and position described under paragraph (1) shall be effective on the first day of the first pay period beginning on or after January 1, 1990.''

Pub. L. 101–136, title VI, §619, Nov. 3, 1989, 103 Stat. 820, provided that:

''(a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1990, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 3.6 percent.

''(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1990.

''(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1989, and before October 1, 1990, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

''(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1989, was equal to or greater than the rate of basic pay described in paragraph (3); or

''(B) to a rate exceeding the rate of basic pay described in paragraph (3) if, as of September 30, 1989, the rate of salary or basic pay payable for that office or position was less than the rate described in such paragraph.

''(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1989, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

''(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

''(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

''(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

''(3) The rate of basic pay described in this paragraph is the rate equal to the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, as of September 30, 1989, increased by 3.6 percent.''

1988—Pub. L. 100–440, title VI, §620, Sept. 22, 1988, 102 Stat. 1756, provided that:

''(a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

''(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

''(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

''(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

''(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary or basic pay payable for

that office or position was less than the rate of basic pay then payable for such level III.

''(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1988, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

''(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

''(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

''(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.''

1987—Pub. L. 100–202, § 108, Dec. 22, 1987, 101 Stat. 1329–434, provided that:

''(a) Notwithstanding any other provision of this resolution or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

''(1) if the rate of salary or basic pay payable for that office or position as of September 30, 1987, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; or

''(2) to a rate exceeding the rate of basic pay payable for level V of the Executive Schedule under such section 5316 as of September 30, 1987, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level V.

''(b) For purposes of subsection (a), the rate of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

''(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

''(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

''(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.''

Pub. L. 100–202, § 110(a), Dec. 22, 1987, 101 Stat. 1329–436, provided that:

''(1) TWO-PERCENT INCREASE.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 2 percent.

''(2) UNIFORM ADJUSTMENTS; DELAYED EFFECTIVE DATE.—Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1, 1988.''

1986—Pub. L. 99–500, § 144(a), Oct. 18, 1986, 100 Stat. 1783–350, and Pub. L. 99–591, § 144(a), Oct. 30, 1986, 100 Stat. 3341–353, provided that:

''(1) Notwithstanding any other provision of law, in the case of fiscal year 1987, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 3 percent.

''(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1987.

''(3)(A) Notwithstanding any other provision of law, determinations relating to amounts to be appropriated in order to provide for the adjustment described in paragraph (1) shall be made based on the assumption that the various departments and agencies of the Government will, in the aggregate, absorb 50 percent of the increase in total pay for fiscal year 1987.

''(B) Subparagraph (A) does not apply with respect to the Department of Defense or pay for employees of the Department of Defense.

''(4) For purposes of this subsection—

''(A) the term 'total pay' means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by statutory pay systems for service performed during such fiscal year;

''(B) the term 'increase in total pay' means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

''(C) the term 'statutory pay system' has the meaning given such term by section 5301(c) of title 5, United States Code.''

Pub. L. 99–272, title XV, § 15201(a), Apr. 7, 1986, 100 Stat. 332, provided that:

''(1) The rates of pay under the General Schedule and the rates of pay under the other statutory pay systems referred to in section 5301(c) of title 5, United States Code, shall not be adjusted under section 5305 of such title during fiscal year 1986.

''(2)(A)(i) For fiscal years 1987 and 1988, the President shall provide for the adjustment of rates of pay under section 5305 of title 5, United States Code, as appropriate to reduce outlays, relating to pay of officers and employees of the Federal Government, by at least $746,000,000 in fiscal year 1987 and $1,264,000,000 in fiscal year 1988 (without regard to reductions in outlays which result by reason of subparagraph (B)(ii) of this paragraph, paragraph (1) of this subsection, subsection (b) of this section, and the application of section 1009 of title 37, United States Code), computed using the baseline used for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress), agreed to on August 1, 1985.

''(ii) Clause (i) of this subparagraph shall not be construed to suspend the requirements of section 5305 of title 5, United States Code, with respect to fiscal years 1987 and 1988.

''(B) Each adjustment in a pay rate or schedule which takes effect pursuant to subparagraph (A) of this paragraph—

''(i) shall, to the maximum extent practicable, be of the same percentage; and

''(ii) shall be effective with respect to pay periods beginning on or after January 1 of the fiscal year involved.''

1984—Pub. L. 98–270, title II, § 202(a), Apr. 18, 1984, 98 Stat. 158, provided that:

''(1) Notwithstanding any other provision of law, in the case of fiscal year 1984, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 4 percent.

''(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1 of such fiscal year.''

1982—Pub. L. 97–253, title III, § 310(a), Sept. 8, 1982, 96 Stat. 799, provided that:

''(1) Notwithstanding any other provision of law, if—

''(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305(c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

''(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of such section 5305 by 4 percent in the case of fiscal year 1983.

''(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.''

1981—Pub. L. 97–35, title XVII, § 1701(a), Aug. 13, 1981, 95 Stat. 753, provided that: ''Notwithstanding any other provision of law, the overall percentage of the adjustment of the rates of pay under the General Schedule or any other statutory pay system under section 5305 of title 5, United States Code, which is to become effective with the first applicable pay period commencing on or after October 1, 1981, shall not exceed 4.8 percent.''

1978—Pub. L. 95–429, title VI, § 614, Oct. 10, 1978, 92 Stat. 1018, provided that:

''(a) No part of any of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1978, by more than 5.5 percent, as a result of any adjustments which take effect during such fiscal year under—

''(1) section 5305 of title 5, United States Code;

''(2) any other provision of law if such adjustment is determined by reference to such section 5305; or

''(3) section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(2)(A) of that title).

''(b) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.''

1971—Pub. L. 92–210, § 3, Dec. 22, 1971, 85 Stat. 753, provided that: ''Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91–656), or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91–656, and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—

''(1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law 91–379; 84 Stat. 799), as amended [formerly set out as a note under section 1904 of Title 12, Banks and Banking], and that may be in effect on December 31, 1971; and

''(2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972.

Nothing in this section shall be construed to provide any adjustments in rates of pay of any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey.''

Section 3(c) of Pub. L. 91–656 provided that: ''The President may make the initial adjustment required by subchapter I of chapter 53 of title 5, United States Code, as amended by this Act, without regard to the provisions of such subchapter relating to the Advisory Committee on Federal Pay and the Federal Employees Pay Council. Notwithstanding any provision of such subchapter I prescribing an effective date of October 1 for any pay adjustment made by the President, the initial adjustment based on the 1970 Bureau of Labor Statistics survey and the adjustment based on the 1971 Bureau of Labor Statistics survey shall become effective on the first day of the first applicable pay period that begins on or after January 1, 1971, and January 1, 1972, respectively. Notwithstanding the provisions of such subchapter I, the President's agent for purposes of the 1971 and 1972 adjustments shall be the Director, Office of Management and Budget and the Chairman, United States Civil Service Commission. Adjustments under the provisions of such subchapter I shall not apply to employees of the Post Office Department whose basic pay is fixed under the General Schedule.''

1967—Pub. L. 90–206, title II, § 212, Dec. 16, 1967, 81 Stat. 634, provided that: ''In order to complete the implementation of the policy of the Congress set forth in paragraph (2) of section 5301 of title 5, United States Code, the President, after seeking the views of such employee organizations as he considers appropriate and in such manner as he may provide, shall—

''(1) effective on the first day of the first pay period beginning on or after July 1, 1968, adjust the rates of basic pay, basic compensation, and salary, as in effect by reason of the enactment of the provisions of this title [see Short Title note under section 5332 of this title] other than this section and sections 205, 210, 213, 214, 215, and 219—

''(A) by amounts equal, as nearly as may be practicable, to one-half of the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1967 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code, or

''(B) by 3 per centum,

whichever is greater; and

''(2) effective on the first day of the first pay period beginning on or after July 1, 1969, adjust the rates he has established under subparagraph (1) of this section, and the rates established by Postal Field Service Schedule II, and Rural Carrier Schedule II (contained in the amendments made by subsections (a) and (b) of section 205 [amending sections 3542 and 3543 of Title 39, Postal Service], by amounts equal, as nearly as may be practicable, to the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1968 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code.

Adjustments made by the President under this section shall have the force and effect of statute. The rates of pay of personnel subject to sections 210, 213 (except subsections (d) and (e)), and 214 of this title [see Short Title note under section 5332 of this title], and any minimum or maximum rate, limitation, or allowance applicable to any such personnel, shall be adjusted, by amounts which are equal, insofar as practicable and with such exceptions as may be necessary to provide for appropriate relationships between positions, to the amounts of the adjustments made by the President under subparagraphs (1) and (2) of this section, by the following authorities—

''(i) the President pro tempore of the Senate, with respect to the United States Senate;

''(ii) the Speaker of the House of Representatives with respect to the United States House of Representatives;

''(iii) the Architect of the Capitol, with respect to the Office of the Architect of the Capitol;

''(iv) the Director of the Administrative Office of the United States Courts, with respect to the judicial branch of the Government; and

''(v) the Secretary of Agriculture, with respect to persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

Such adjustments shall be made in such manner as the appropriate authority concerned deems advisable and shall have the force and effect of statute. Nothing in this section shall impair any authority pursuant to which rates of pay may be fixed by administrative action.'' [Section 212 of Pub. L. 90–206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90–206, set out as a note under section 3110 of this title.]

§ 5304. Locality-based comparability payments

(a) Pay disparities shall be identified and reduced as follows:

(1) Comparability payments shall be payable within each locality determined to have a pay disparity greater than 5 percent.

(2)(A) The localities having pay disparities, and the size of those disparities, shall, for purposes of any comparability payment scheduled to take effect in any calendar year, be determined in accordance with the appropriate report, as prepared and submitted to the President under subsection (d)(1) for purposes of such calendar year.

(B) Any computation necessary to determine the size of the comparability payment to become payable for any locality in a year (as well as any determination as to the size of any pay disparity remaining after that comparability payment is made) shall likewise be made using data contained in the appropriate report (described in subparagraph (A)) so prepared and submitted for purposes of such calendar year.

(3) Subject to paragraph (4), the amount of the comparability payments payable under this subsection in a calendar year within any locality in which a comparability payment is payable shall be computed using such percentage as the President determines for such locality under subsection (d)(2), except that—

(A) the percentage for the first calendar year in which any amounts are payable under this section may not be less than 1/5 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(B) the percentage for the second calendar year in which any amounts are payable under this section may not be less than 3/10 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(C) the percentage for the third calendar year in which any amounts are payable under this section may not be less than 2/5 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(D) the percentage for the fourth calendar year in which any amounts are payable under this section may not be less than 1/2 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(E) the percentage for the fifth calendar year in which any amounts are payable under this section may not be less than 3/5 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(F) the percentage for the sixth calendar year in which any amounts are payable under this section may not be less than 7/10 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(G) the percentage for the seventh calendar year in which any amounts are payable under this section may not be less than 4/5 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

(H) the percentage for the eighth calendar year in which any amounts are payable under this section may not be less than 9/10 of the amount needed to reduce the pay disparity of the locality involved to 5 percent; and

(I) the percentage for the ninth calendar year in which any amounts are payable under this section, and any year thereafter, may not be less than the full amount necessary to reduce the pay disparity of the locality involved to 5 percent.

(4) Nothing in this section shall be considered to preclude the President, in his discretion, from adjusting comparability payments to a level higher than the minimum level otherwise required in a calendar year, including to the level necessary to eliminate a locality's pay disparity completely.

(b) After the ninth calendar year (referred to in subsection (a)(3)(I)), the level of comparability payments payable within such locality may be reduced for any subsequent calendar year, but only if, or to the extent that, the reduction would not immediately create another pay disparity in excess of 5 percent within the locality (taking into consideration any comparability payments remaining payable).

(c)(1) The amount of the comparability payment payable within any particular locality during a calendar year—

(A) shall be stated as a single percentage, which shall be uniformly applicable to General Schedule positions within the locality; and

(B) shall, for any employee entitled to receive a comparability payment, be computed by applying that percentage to such employee's scheduled rate of basic pay (or, if lower due to a limitation on the rate payable, the rate actually payable), subject to subsection (g).

(2) A comparability payment—

(A) shall be considered to be part of basic pay for purposes of retirement under chapter 83 or 84, as applicable, life insurance under chapter 87, and premium pay under subchapter V of chapter 55, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe; and

(B) shall be paid in the same manner and at the same time as the basic pay payable to such employee pursuant to any provision of law outside of this section.

(3) Nothing in this subchapter shall be considered to permit or require that any portion of a comparability payment be taken into account for purposes of any adjustment under section 5303.

(4)(A) Only employees receiving scheduled rates of basic pay (subject to any pay limitation which may apply) shall be eligible for comparability payments under this section.

(B) Comparability payments shall not be payable for service performed in any position which may not, under subsection (f)(1)(A), be included within a pay locality.

(d) In order to carry out this section, the President shall—

(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submitted under subsection (e) (but not later than 13 months before the start of the calendar year for purposes of which it is prepared), a report that—

(A) compares the rates of pay under the General Schedule (disregarding any described in section 5302(8)(C))[1] with the rates of pay generally paid to non-Federal workers for the same levels of work within each pay locality, as determined on the basis of appropriate surveys that shall be conducted by the Bureau of Labor Statistics;

(B) based on data from such surveys, identifies each locality in which a pay disparity exists and specifies the size of each such pay disparity (before and after taking into consideration any comparability payments payable);

(C) makes recommendations for appropriate comparability payments, in conformance with applicable requirements of this section; and

(D) includes the views and recommendations submitted under subsection (e);

(2) after considering the report of his agent (including the views and recommendations referred to in subsection (e)(2)(C), provide for or adjust comparability payments in conformance with applicable requirements of this section, effective as of the beginning of the first applicable pay period commencing on or after January 1 of the applicable year; and

(3) transmit to Congress a report of the actions taken under paragraph (2) (together with a copy of the report submitted to him by his agent, including the views and recommendations referred to in subsection (e)(2)(C)) which shall—

(A) identify each pay locality;

(B) specify which localities have pay disparities in excess of 5 percent, and the size of the disparity existing in each of those localities, according to the pay agent's most recent report under paragraph (1) (before and after taking into consideration any comparability payments payable); and

(C) indicate the size of the respective comparability payments (expressed as percentages) which will be in effect under paragraph (2) for the various pay localities specified under subparagraph (B) for the applicable calendar year.

(e)(1) The President shall establish a Federal Salary Council of 9 members, of whom—

(A) 3 shall be chosen from among persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy; and

(B) 6 shall be representatives of employee organizations which represent substantial numbers of employees holding General Schedule positions, and who shall be selected giving due consideration to such factors as the relative numbers of employees represented by the various organizations, except that not more than 3 members of the Council at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

Members of the Council shall not receive pay by reason of their service on the Council, nor shall members who are not otherwise employees of the United States be considered employees by reason of any such service. However, members under subparagraph (A) may be paid expenses in accordance with section 5703. The President shall designate one of the members to serve as Chairman of the Federal Salary Council. One of the 3 members under subparagraph (A) may be the Chairman of the Federal Prevailing Rate Advisory Committee, notwithstanding the restriction under section 5347(a)(1), and such individual may also be designated to serve as Chairman of the Federal Salary Council.

(2) The pay agent shall—

(A) provide for meetings with the Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any, of the members of the Council regarding—

(i) the establishment or modification of pay localities;

(ii) the coverage of the surveys of pay localities conducted by the Bureau of Labor Statistics under subsection (d)(1)(A) (including, but not limited to, the occupations, establishment sizes, and industries to be surveyed, and how pay localities are to be surveyed);

(iii) the process of comparing the rates of pay payable under the General Schedule with rates of pay for the same levels of work performed by non-Federal workers; and

(iv) the level of comparability payments that should be paid in order to eliminate or reduce pay disparities in accordance with the requirements of this section;

(B) give thorough consideration to the views and recommendations of employee organizations not represented on the Council regarding the subjects in subparagraph (A)(i)–(iv); and

(C) include in its report to the President the views and recommendations submitted as provided in this subsection by the Council, by any member of the Council, and by employee organizations not represented on the Council.

(f)(1) The pay agent may provide for such pay localities as the pay agent considers appropriate, except that—

(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality; and

[1] See References in Text note below.

(B) the boundaries of pay localities shall be determined based on appropriate factors which may include local labor market patterns, commuting patterns, and practices of other employers.

(2)(A) The establishment or modification of any such boundaries shall be effected by regulations which, notwithstanding subsection (a)(2) of section 553, shall be promulgated in accordance with the notice and comment requirements of such section.

(B) Judicial review of any regulation under this subsection shall be limited to whether or not it was promulgated in accordance with the requirements referred to in subparagraph (A).

(g)(1) Except as provided in paragraph (2), comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the employee involved, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

(A) positions under subparagraphs (A) and (B) of subsection (h)(1);

(B) positions under subsection (h)(1)(C) not covered by appraisal systems certified under subsection 5307(d); and

(C) any positions under subsection (h)(1)(D) as the President may determine.

(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).

(h)(1) For the purpose of this subsection, the term ''position'' means—

(A) a position to which section 5372 applies (relating to administrative law judges appointed under section 3105);

(B) a position to which section 5372a applies (relating to contract appeals board members);

(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the effective date of section 1912 of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941 and who thereafter has served continuously in an area in which such an allowance was payable; and

(D) a position within an Executive agency not covered under the General Schedule or any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) no more than the rate payable for level IV of the Executive Schedule;

but does not include—

(i) a position to which subchapter IV applies (relating to prevailing rate systems);

(ii) a position as to which a rate of pay is authorized under section 5377 (relating to critical positions);

(iii) a position to which subchapter II applies (relating to the Executive Schedule);

(iv) a Senior Executive Service position under section 3132, except for a position covered by subparagraph (C);

(v) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151, except for a position covered by subparagraph (C);

(vi) a position in a system equivalent to the system in clause (iv), as determined by the President's Pay Agent designated under subsection (d); or

(vii) a position to which section 5376 applies (relating to certain senior-level and scientific and professional positions), except for a position covered by subparagraph (C).

(2)(A) Notwithstanding subsection (c)(4) or any other provision of this section, but subject to subparagraph (B) and paragraph (3), upon the request of the head of an Executive agency with respect to 1 or more categories of positions, the President may provide that each employee of such agency who holds a position within such category, and within the particular locality involved, shall be entitled to receive comparability payments.

(B) A request by an agency head or exercise of authority by the President under subparagraph (A) shall cover—

(i) with respect to the positions under subparagraphs (A) through (C) of paragraph (1), all positions described in the subparagraph or subparagraphs involved (excluding any under clause (i), (ii), (iii), (iv), (v), (vi), or (vii) of such paragraph); and

(ii) with respect to positions under paragraph (1)(D), such positions as may be considered appropriate (excluding any under clause (i), (ii), (iii), (iv), (v), (vi), or (vii) of paragraph (1)).

(C) Notwithstanding subsection (c)(4) or any other provision of law, but subject to paragraph (3), in the case of a category with positions that are in more than 1 Executive agency, the President may, on his own initiative, provide that each employee who holds a position within such category, and in the locality involved, shall be entitled to receive comparability payments. No later than 30 days before an employee receives comparability payments under this subparagraph, the President or the President's designee shall submit a detailed report to the Congress justifying the reasons for the extension, including consideration of recruitment and retention rates and the expense of extending locality pay.

(3) Comparability payments under this subsection—

(A) may be paid only in any calendar year in which comparability payments under the preceding provisions of this section are payable with respect to General Schedule positions within the same locality;

(B) shall take effect, within the locality involved, on the first day of the first applicable pay period commencing on or after such date as the President designates (except that no date may be designated which would require any retroactive payments), and shall remain in effect through the last day of the last applicable pay period commencing during that calendar year;

(C) shall be computed using the same percentage as is applicable, for the calendar year involved, with respect to General Schedule positions within the same locality; and

(D) shall be subject to the applicable limitation under subsection (g).

(i) The Office of Personnel Management may prescribe regulations, consistent with the provisions of this section, governing the payment of comparability payments to employees.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 459; Pub. L. 91–375, § 6(c)(11), Aug. 12, 1970, 84 Stat. 776; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–465, title II, § 2314(c)(3), Oct. 17, 1980, 94 Stat. 2168; Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1431; Pub. L. 102–378, § 2(26), Oct. 2, 1992, 106 Stat. 1348; Pub. L. 108–136, div. A, title XI, § 1125(a)(1), Nov. 24, 2003, 117 Stat. 1638; Pub. L. 108–411, title III, § 302(a)(1), Oct. 30, 2004, 118 Stat. 2318; Pub. L. 110–372, § 2(a), Oct. 8, 2008, 122 Stat. 4043; Pub. L. 111–84, div. A, title XIX, § 1912(a), Oct. 28, 2009, 123 Stat. 2619.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1174.	Oct. 11, 1962, Pub. L. 87–793, § 505, 76 Stat. 842.

The words ''agencies'' and ''regulations'' are substituted for ''departments'' and ''rules'', respectively.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The General Schedule, referred to in text, is set out under section 5332 of this title.

Section 5302(8)(C), referred to in subsec. (d)(1)(A), was redesignated 5302(8)(B) of this title by Pub. L. 103–89, § 3(b)(1)(E)(i)(II), Sept. 30, 1993, 107 Stat. 981.

Levels II, III, and IV of the Executive Schedule, referred to in subsecs. (g) and (h)(1)(D), are set out in sections 5313, 5314, and 5315, respectively, of this title.

For the effective date of section 1912 of the Non-Foreign Area Retirement Equity Assurance Act of 2009 [Pub. L. 111–84], referred to in subsec. (h)(1)(C), see section 1919(b) of Pub. L. 111–84, set out in a note below.

AMENDMENTS

2009—Subsec. (f)(1)(A). Pub. L. 111–84, § 1912(a)(1), added subpar. (A) and struck out former subpar. (A), which read as follows: ''each General Schedule position (excluding any outside the continental United States, as defined in section 5701(6)) shall be included with a pay locality; and''.

Subsec. (g)(2)(B), (C). Pub. L. 111–84, § 1912(a)(2)(A), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: ''any positions under subsection (h)(1)(C) as the President may determine.''

Subsec. (g)(3). Pub. L. 111–84, § 1912(a)(2)(B), added par. (3).

Subsec. (h)(1)(C), (D). Pub. L. 111–84, § 1912(a)(3)(A)–(C), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (h)(1)(iv), (v). Pub. L. 111–84, § 1912(a)(3)(D), (E), inserted '', except for a position covered by subparagraph (C)'' before the semicolon.

Subsec. (h)(1)(vii). Pub. L. 111–84, § 1912(a)(3)(F), inserted '', except for a position covered by subparagraph (C)'' before the period.

Subsec. (h)(2)(B)(i). Pub. L. 111–84, § 1912(a)(4)(A), substituted ''through (C)'' for ''and (B)''.

Subsec. (h)(2)(B)(ii). Pub. L. 111–84, § 1912(a)(4)(B), substituted ''(1)(D)'' for ''(1)(C)''.

2008—Subsec. (g)(2). Pub. L. 110–372, § 2(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

''(A) positions under subparagraphs (A)–(C) of subsection (h)(1); and

''(B) any positions under subsection (h)(1)(D) which the President may determine.''

Subsec. (h)(1). Pub. L. 110–372, § 2(a)(2)(A)(ii), which directed amendment of subsec. (h)(1)(D) by striking ''or'' at end of cl. (v), substituting ''; or'' for period at end of cl. (vi), and adding at end a new cl. (vii), was executed by making the strike out and substitution in the cls. (v) and (vi) which follow subpar. (D) and by adding cl. (vii) after cl. (vi), to reflect the probable intent of Congress.

Subsec. (h)(1)(A) to (D). Pub. L. 110–372, § 2(a)(2)(A)(i), (iii), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: ''a position to which section 5376 applies (relating to certain senior-level positions);''.

Subsec. (h)(2)(B)(i). Pub. L. 110–372, § 2(a)(2)(B)(i), substituted ''subparagraphs (A) and (B)'' for ''subparagraphs (A) through (C)'' and ''(vi), or (vii)'' for ''or (vi)''.

Subsec. (h)(2)(B)(ii). Pub. L. 110–372, § 2(a)(2)(B)(ii), substituted ''paragraph (1)(C)'' for ''paragraph (1)(D)'' and ''(vi), or (vii)'' for ''or (vi)''.

2004—Subsec. (g)(2)(A). Pub. L. 108–411, § 302(a)(1)(A), substituted ''(A)–(C)'' for ''(A)–(D)''.

Subsec. (h)(2)(B)(i). Pub. L. 108–411, § 302(a)(1)(B), substituted ''or (vi)'' for ''or (vii)''.

2003—Subsec. (g)(2)(A). Pub. L. 108–136, § 1125(a)(1)(A)(i), substituted ''subparagraphs (A)–(D)'' for ''subparagraphs (A)–(E)''.

Subsec. (g)(2)(B). Pub. L. 108–136, § 1125(a)(1)(A)(ii), substituted ''subsection (h)(1)(D)'' for ''subsection (h)(1)(F)''.

Subsec. (h)(1)(B) to (F). Pub. L. 108–136, § 1125(a)(1)(B)(i), (ii), redesignated subpars. (D), (E), and (F) as (B), (C), and (D), respectively, and struck out former subpars. (B) and (C) which read as follows:

''(B) a Senior Executive Service position under section 3132;

''(C) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151;''.

Subsec. (h)(1)(iv) to (vi). Pub. L. 108–136, § 1125(a)(1)(B)(iii)–(v), added cls. (iv) to (vi).

Subsec. (h)(2)(B)(i). Pub. L. 108–136, § 1125(a)(1)(C)(i), substituted ''subparagraphs (A) through (C)'' for ''subparagraphs (A) through (E)'' and ''clause (i), (ii), (iii), (iv), (v), or (vii)'' for ''clause (i) or (ii)''.

Subsec. (h)(2)(B)(ii). Pub. L. 108–136, § 1125(a)(1)(C)(ii), substituted ''paragraph (1)(D)'' for ''paragraph (1)(F)'' and ''clause (i), (ii), (iii), (iv), (v), or (vi)'' for ''clause (i) or (ii)''.

1992—Subsec. (a)(3). Pub. L. 102–378, § 2(26)(A)(i), substituted ''Subject to paragraph (4),'' for ''Subject to paragraphs (4) and (5),'' and ''a comparability payment'' for ''a comparative payment''.

Subsec. (a)(3)(H). Pub. L. 102–378, § 2(26)(A)(ii), inserted ''and'' after semicolon at end.

Subsec. (a)(3)(I). Pub. L. 102–378, § 2(26)(A)(iii), substituted a period for semicolon at end.

Subsec. (d)(1)(A). Pub. L. 102–378, § 2(26)(B), inserted ''(disregarding any described in section 5302(8)(C))'' after ''General Schedule'' and struck out ''annual'' before ''surveys''.

Subsec. (e)(1). Pub. L. 102–378, § 2(26)(C)(i), inserted after second sentence ''However, members under subparagraph (A) may be paid expenses in accordance with section 5703.''

Subsec. (e)(2)(A)(ii). Pub. L. 102–378, § 2(26)(C)(ii), substituted ''surveys of pay localities'' for ''annual survey'' and ''industries'' for ''industries,''.

Subsec. (g)(2). Pub. L. 102–378, § 2(26)(D), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For positions under subparagraphs (A)–(E) of

subsection (h)(1), the applicable maximum under this subsection shall be level III of the Executive Schedule.''

Subsec. (h)(1)(F). Pub. L. 102–378, §2(26)(E)(i)(I), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''a position within an Executive agency not covered under any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) less than the rate payable for level V of the Executive Schedule;''.

Subsec. (h)(1)(iii). Pub. L. 102–378, §2(26)(E)(i)(II)–(IV), added cl. (iii).

Subsec. (h)(2)(C). Pub. L. 102–378, §2(26)(E)(ii), added subpar. (C).

Subsec. (h)(3)(B). Pub. L. 102–378, §2(26)(E)(iii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''shall be payable, within the locality involved, for the entirety of each calendar year for which authority is granted by the President;''.

1990—Pub. L. 101–509 amended section generally, substituting provisions relating to locality-based comparability payments for provisions making functions, duties, and regulations of agencies and Office of Personnel Management with respect to this subchapter subject to Presidential policies and regulations.

1980—Pub. L. 96–465 substituted ''the Foreign Service Act of 1980'' for ''chapter 14 of title 22'' in provisions preceding par. (1).

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1970—Pub. L. 91–375 struck out provisions making functions, duties and regulations of the agencies and the Civil Service Commission with respect to the provisions of part III of title 39 relating to employees in the postal field service subject to Presidential policies and regulations.

EFFECTIVE DATE OF 2009 AMENDMENT

For effective date of amendment by Pub. L. 111–84, see section 1919 of Pub. L. 111–84, set out in a Non-Foreign Area Retirement Equity Assurance note below.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–372 effective on the first day of the first pay period beginning on or after the 180th day following Oct. 8, 2008, see section 2(d) of Pub. L. 110–372, set out as a note under section 5376 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–411, title III, §302(a)(2), Oct. 30, 2004, 118 Stat. 2318, provided that: ''The amendments made by this subsection [amending this section] shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).''

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title XI, §1125(c), Nov. 24, 2003, 117 Stat. 1640, provided that:

''(1) The amendments made by this section [enacting section 7302 of this title and amending this section, sections 5382 and 5383 of this title, and section 207 of Title 18, Crimes and Criminal Procedure] shall take effect on the first day of the first pay period beginning on or after the first January 1 following the date of the enactment of this section [Nov. 24, 2003].

''(2) The amendments made by subsection (a) [amending this section and sections 5382 and 5383 of this title] may not result in a reduction in the rate of basic pay for any senior executive during the first year after the effective date of those amendments.

''(3) For the purposes of paragraph (2), the rate of basic pay for a senior executive shall be deemed to be the rate of basic pay set for the senior executive under section 5383 of title 5, United States Code, plus applicable locality pay paid to that senior executive, as of the date of the enactment of this Act [Nov. 24, 2003].

''(4) Until otherwise provided by law, or except as otherwise provided by this section, any reference in a provision of law to a rate of basic pay that is above the minimum payable and below the maximum payable to a member of the Senior Executive Service shall be considered a reference to the rate of basic pay payable for level IV of the Executive Schedule.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, with provision that first calendar year in which comparability payments under this section are paid shall be calendar year beginning Jan. 1, 1994, see section 529 [title III, §305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

DELEGATION OF FUNCTIONS

For designation of agents of President under subsecs. (d)(1) and (h) of this section, see Ex. Ord. No. 12748, §2(a), Feb. 1, 1991, 56 F.R. 4521, eff. Feb. 3, 1991, set out as a note under section 5301 of this title.

NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE

Pub. L. 111–84, div. A, title XIX, subtitle B, Oct. 28, 2009, 123 Stat. 2619, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(22), Jan. 7, 2011, 124 Stat. 4374, provided that:

''SEC. 1911. SHORT TITLE.

''This subtitle may be cited as the 'Non-Foreign Area Retirement Equity Assurance Act of 2009' or the 'Non-Foreign AREA Act of 2009'.

''SEC. 1912. EXTENSION OF LOCALITY PAY.

''(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—[Amended this section.]

''(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—[Amended section 5941 of this title.]

''SEC. 1913. ADJUSTMENT OF SPECIAL RATES.

''(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 1914, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 1918.

''(b) AGENCIES WITH STATUTORY AUTHORITY.—

''(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

''(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), [sic] is any statutory authority that—

''(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

''(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

''(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

''(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 1914 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

''SEC. 1914. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

''Notwithstanding any other provision of this subtitle or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this subtitle, for each non-foreign area determined under section 5941(b) of such title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of such title shall be adjusted, effective on the first day of the first pay period beginning on or after January 1—

''(1) in calendar year 2010, by using 1/3 of the locality pay percentage for the rest of United States locality pay area;

''(2) in calendar year 2011, by using 2/3 of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

''(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

''SEC. 1915. SAVINGS PROVISION.

''(a) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) the application of this subtitle to any employee should not result in a decrease in the take home pay of that employee;

''(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

''(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act [Oct. 28, 2009], the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

''(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the 'Rest of the United States', the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

''(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

''(b) SAVINGS PROVISIONS.—

''(1) IN GENERAL.—During the transition period described in section 1914 ending on the first day of the first pay period beginning on or after January 1, 2012, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act [Oct. 28, 2009] was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 1914 of this subtitle, and corresponding increases shall be provided for all step rates of the given pay range.

''(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this subtitle, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

''(A) the employee leaves the allowance area or pay system; or

''(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

''(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 1914 of this subtitle which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

''SEC. 1916. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

''(a) IN GENERAL.—

''(1) DEFINITION.—In this subsection, the term 'covered employee' means—

''(A) any employee who—

''(i) on the day before the date of enactment of this Act [Oct. 28, 2009]—

''(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

''(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

''(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

''(B) any employee who—

''(i) on the day before the date of enactment of this Act—

''(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

''(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

''(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

''(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

''(ii) on or after the date of enactment of this Act [Oct. 28, 2009]—

''(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

''(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

''(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

''(IV) becomes eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

''(2) APPLICATION TO COVERED EMPLOYEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this subtitle (including the amendments made by this subtitle) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 1912 of this subtitle), and section 1914 of this subtitle apply.

''(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this subtitle shall be considered to be fixed by statute.

''(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this subtitle including section 5941 of title 5, United States Code (as amended by section 1912 of this subtitle), may be reduced on the basis of the performance of that employee.

''(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

''(1) IN GENERAL.—[Amended section 1005 of Title 39, Postal Service.]

''(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, any employee of the Postal Service (other than an employee covered by section 1003(b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this subtitle (including the amendments made by this subtitle) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

''(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

''(ii) shall be the greater of—

''(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

''(II) the applicable locality-based comparability pay percentage under section 1914.

''(B) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to—

''(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

''(ii) authorize an employee described under subparagraph (A) to file an election under section 1917 of this subtitle.

''SEC. 1917. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

''(a) DEFINITION.—In this section the term 'covered employee' means any employee—

''(1) to whom section 1914 applies;

''(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

''(3) who files an election with the Office of Personnel Management under subsection (b).

''(b) ELECTION.—

''(1) IN GENERAL.—An employee described under subsection (a)(1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

''(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

''(c) COMPUTATION OF ANNUITY.—

''(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

''(2) LIMITATION.—An employee's cost-of-living allowance may be considered basic pay under paragraph (1) only to the extent that, when added to the employee's locality-based comparability payments, the resulting sum does not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 1914 did not apply.

''(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

''(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

''(A) an amount equal to the difference between—

''(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

''(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

''(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

''(2) AGENCY CONTRIBUTIONS.—

''(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

''(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

''(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

''SEC. 1918. REGULATIONS.

''(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this subtitle, including—

''(1) rules for special rate employees described under section 1913;

''(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 1914 ending on the first day of the first pay period beginning on or after January 1, 2012; and

''(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

''(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this subtitle with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act [Oct. 28, 2009].

''SEC. 1919. EFFECTIVE DATES.

''(a) IN GENERAL.—Except as provided by subsection (b), this subtitle (including the amendments made by this subtitle) shall take effect on the date of enactment of this Act [Oct. 28, 2009].

''(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 1912 and the provisions of section 1914 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.''

COMPARABILITY PAYMENTS BETWEEN 2002 AND 2007; COMPARISONS AND RECOMMENDATIONS; REVISION OF METHODOLOGY

Pub. L. 106–554, §1(a)(3) [title VI, §637], Dec. 21, 2000, 114 Stat. 2763, 2763A–165, provided that:

''(a) For purposes of this section—

''(1) the term 'comparability payment' refers to a locality-based comparability payment under section 5304 of title 5, United States Code;

''(2) the term 'President's pay agent' refers to the pay agent described in section 5302(4) of such title; and

''(3) the term 'pay locality' has the meaning given such term by section 5302(5) of such title.

''(b) Notwithstanding any provision of section 5304 of title 5, United States Code, for purposes of determining appropriate pay localities and making comparability payment recommendations, the President's pay agent may, in accordance with succeeding provisions of this section, make comparisons of General Schedule pay and non-Federal pay within any of the metropolitan statistical areas described in subsection (d)(3), using—

''(1) data from surveys of the Bureau of Labor Statistics;

''(2) salary data sets obtained under subsection (c); or

''(3) any combination thereof.

''(c) To the extent necessary in order to carry out this section, the President's pay agent may obtain any salary data sets (referred to in subsection (b)) from any organization or entity that regularly compiles similar data for businesses in the private sector.

''(d)(1)(A) This paragraph applies with respect to the five metropolitan statistical areas described in paragraph (3) which—

''(i) have the highest levels of nonfarm employment (as determined based on data made available by the Bureau of Labor Statistics); and

''(ii) as of the date of the enactment of this Act [Dec. 21, 2000], have not previously been surveyed by the Bureau of Labor Statistics (as discrete pay localities) for purposes of section 5304 of title 5, United States Code.

''(B) The President's pay agent, based on such comparisons under subsection (b) as the pay agent considers appropriate, shall: (i) determine whether any of the five areas under subparagraph (A) warrants designation as a discrete pay locality; and (ii) if so, make recommendations as to what level of comparability payments would be appropriate during 2002 for each area so determined.

''(C)(i) Any recommendations under subparagraph (B)(ii) shall be included—

''(I) in the pay agent's report under section 5304(d)(1) of title 5, United States Code, submitted for purposes of comparability payments scheduled to become payable in 2002; or

''(II) if compliance with subclause (I) is impracticable, in a supplementary report which the pay agent shall submit to the President and the Congress no later than March 1, 2001.

''(ii) In the event that the recommendations are completed in time to be included in the report described in clause (i)(I), a copy of those recommendations shall be transmitted by the pay agent to the Congress contemporaneous with their submission to the President.

''(D) Each of the five areas under subparagraph (A) that so warrants, as determined by the President's pay agent, shall be designated as a discrete pay locality under section 5304 of title 5, United States Code, in time for it to be treated as such for purposes of comparability payments becoming payable in 2002.

''(2) The President's pay agent may, at any time after the 180th day following the submission of the report under subsection (f), make any initial or further determinations or recommendations under this section, based on any pay comparisons under subsection (b), with respect to any area described in paragraph (3).

''(3) An area described in this paragraph is any metropolitan statistical area within the continental United States that (as determined based on data made available by the Bureau of Labor Statistics and the Office of Personnel Management, respectively) has a high level of nonfarm employment and at least 2,500 General Schedule employees whose post of duty is within such area.

''(e)(1) The authority under this section to make pay comparisons and to make any determinations or recommendations based on such comparisons shall be available to the President's pay agent only for purposes of comparability payments becoming payable on or after January 1, 2002, and before January 1, 2007, and only with respect to areas described in subsection (d)(3).

''(2) Any comparisons and recommendations so made shall, if included in the pay agent's report under section 5304(d)(1) of title 5, United States Code, for any year (or the pay agent's supplementary report, in accordance with subsection (d)(1)(C)(i)(II)), be considered and acted on as the pay agent's comparisons and recommendations under such section 5304(d)(1) for the area and the year involved.

''(f)(1) No later than March 1, 2001, the President's pay agent shall submit to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, a report on the use of pay comparison data, as described in subsection (b)(2) or (3) (as appropriate), for purposes of comparability payments.

''(2) The report shall include the cost of obtaining such data, the rationale underlying the decisions reached based on such data, and the relative advantages and disadvantages of using such data (including whether the effort involved in analyzing and integrating such data is commensurate with the benefits derived from their use). The report may include specific

recommendations regarding the continued use of such data.

''(g)(1) No later than May 1, 2001, the President's pay agent shall prepare and submit to the committees specified in subsection (f)(1) a report relating to the ongoing efforts of the Office of Personnel Management, the Office of Management and Budget, and the Bureau of Labor Statistics to revise the methodology currently being used by the Bureau of Labor Statistics in performing its surveys under section 5304 of title 5, United States Code.

''(2) The report shall include a detailed accounting of any concerns the pay agent may have regarding the current methodology, the specific projects the pay agent has directed any of those agencies to undertake in order to address those concerns, and a time line for the anticipated completion of those projects and for implementation of the revised methodology.

''(3) The report shall also include recommendations as to how those ongoing efforts might be expedited, including any additional resources which, in the opinion of the pay agent, are needed in order to expedite completion of the activities described in the preceding provisions of this subsection, and the reasons why those additional resources are needed.''

FREEZE OF CURRENT RATE FOR LOCALITY-BASED COMPARABILITY ADJUSTMENTS

Pub. L. 106–554, § 1(a)(4) [div. B, title IX, § 902(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–304, which provided that notwithstanding any other law, no officer or member of the United States Secret Service Uniformed Division or Park Police was to be paid locality pay under section 5304 or 5304a of this title, at a percentage rate for the applicable locality in excess of the rate in effect for pay periods during calendar year 2000, ceased to be effective on the first day of the first pay period on or after Jan. 1, 2003, pursuant to Pub. L. 108–7, div. J, title VI, § 643, Feb. 20, 2003, 117 Stat. 473.

COMPARABILITY PAYMENTS IN 1994 AND 1995

Pub. L. 103–329, title VI, § 630(b), (c), Sept. 30, 1994, 108 Stat. 2424, provided that:

''(b) For purposes of any locality-based comparability payments taking effect in fiscal year 1995 under subchapter I of chapter 53 of title 5, United States Code (whether by adjustment or otherwise), section 5304(a) of such title shall be deemed to be without force or effect.

''(c) Notwithstanding section 5304(a)(3)(B) of title 5, United States Code, the annualized cost of pay adjustments made under section 5304 of such title in calendar year 1995 shall be equal to 0.6 percent of the estimated aggregate fiscal year 1995 executive branch civilian payroll—

''(1) as determined by the pay agent (within the meaning of section 5302 of such title); and

''(2) determined as if the rates of pay and comparability payments payable on September 30, 1994, had remained in effect.''

Section 8(b) of Pub. L. 102–378 provided that: ''Notwithstanding section 5304 of title 5, United States Code, for purposes of any comparability payments scheduled to take effect under such section during calendar years 1994 and 1995, respectively—

''(1) the report required by subsection (d)(1) of such section may be submitted not later than 1 month before the start of the calendar year for purposes of which it is prepared; and

''(2) the surveys conducted by the Bureau of Labor Statistics for use in preparing any such report may be other than annual surveys, and shall, to the greatest extent practicable, be completed not later than 4 months before the start of the calendar year for purposes of which the surveys are conducted.''

INTERIM GEOGRAPHIC ADJUSTMENTS

Section 529 [title III, § 302] of Pub. L. 101–509, as amended by Pub. L. 102–378, § 3(4), Oct. 2, 1992, 106 Stat. 1356; Pub. L. 103–89, § 3(b)(2), Sept. 30, 1993, 107 Stat. 982, provided that:

''(a) DEFINITIONS.—For the purpose of this section—

''(1) the term 'area' means any consolidated metropolitan statistical area, primary metropolitan statistical area, or metropolitan statistical area, with at least 5,000 General Schedule employees; and

''(2) the term 'pay relative' shall have the meaning given such term under regulations prescribed by the Bureau of Labor Statistics.

''(b) AUTHORITY.—(1) The President may establish geographic adjustments of up to 8 percent of basic pay which may be paid to each General Schedule employee whose duty station is within any area where such adjustment is needed (as determined under paragraph (2)).

''(2) In determining areas where an interim geographic adjustment is needed, the President shall consider available evidence of significant pay disparities, including BLS information on pay relatives and relevant commercial surveys, and recruitment or retention problems.

''(c) ADMINISTRATION.—(1) An adjustment under this section shall be administered, to the extent practicable, in the same manner as locality-based comparability payments under subchapter I of chapter 53 of title 5, United States Code (as amended by this Act), including in terms of—

''(A) the basic pay to which a percentage is applied in computing an amount payable under this section;

''(B) the purposes for which any amount under this section is to be considered part of basic pay;

''(C) the time and manner in which amounts under this section are to be paid (including any maximum rate limitation); and

''(D) the authority of the President, upon request of an agency head, to extend this section to employees who would not otherwise be covered.

''(2) No amount payable under this section shall be taken into account in any survey or computation under, or for any other purpose in the administration of, section 5304 of title 5, United States Code (as so amended).

''(d) COMMENCEMENT AND TERMINATION RULES.—(1) The effective date of an adjustment under this section shall be as determined by the President, but not later than January 1, 1994.

''(2)(A) The size of any payments under this section may be reduced or terminated after the amendments made by section 101 of this Act [section 529 [title I, § 101] of Pub. L. 101–509, see Tables for classification] take effect [see Effective Date of 1990 Amendment note set out under section 5301 of this title], except that the reduction or termination of a payment under this section may not have the effect of reducing, for the individual involved, the total rate at which additional forms of basic pay (as defined in subparagraph (B)) are payable to such individual.

''(B) The total rate to which subparagraph (A) applies is the sum of—

''(i) the rate at which comparability payments (under section 5304 of title 5, United States Code, as amended by such Act), are payable; and

''(ii) the rate at which payments under this section are payable.

''(e) EMPLOYEES RECEIVING SPECIAL PAY RATES.—The President (or his designated agent) shall determine what, if any, geographic adjustment shall be payable under this section in the case of an employee whose rate of pay is fixed under section 5303 of title 5, United States Code (as in effect before the date of enactment of this Act [Nov. 5, 1990]), section 5305 of title 5, United States Code (as amended by section 101 of this Act), or any similar provision of law.

''(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act [Nov. 5, 1990].''

[Amendment by Pub. L. 103–89 to section 529 [title III, § 302] of Pub. L. 101–509, set out above, effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as an Effective Date of 1993 Amendment note under section 3372 of this title.]

[Amendment by Pub. L. 102–378 to section 529 [title III, § 302] of Pub. L. 101–509, set out above, effective Nov.

5, 1990, see section 9(b)(6) of Pub. L. 102–378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.]

Interim geographic adjustments pursuant to section 529 [title III, § 302] of Pub. L. 101–509, set out above, were provided by the following executive orders, formerly set out as notes under section 5332 of this title, effective on the first day of first pay period beginning on or after the effective date shown:

Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, effective Jan. 1, 1995.

Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, effective Jan. 1, 1993.

Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, effective Jan. 1, 1992.

Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, effective Jan. 1, 1991.

EXECUTIVE ORDER NO. 11073

Ex. Ord. No. 11073, Jan. 7, 1963, 28 F.R. 203, as amended by Ex. Ord. No. 11173, Aug. 20, 1964, 29 F.R. 11999, which provided for Federal salary administration, was superseded by Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, formerly set out below.

EXECUTIVE ORDER NO. 11721

Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, as amended by Ex. Ord. No. 12004, July 20, 1977, 42 F.R. 37527; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which provided for administration of the Federal pay system, was revoked by Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, eff. Feb. 3, 1991, set out under section 5301 of this title.

EX. ORD. NO. 12764. FEDERAL SALARY COUNCIL

Ex. Ord. No. 12764, June 5, 1991, 56 F.R. 26587, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5304(e) of title 5, United States Code, as amended, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), an advisory committee on locality-based comparability payments for General Schedule employees, it is hereby ordered as follows:

SECTION 1. *Establishment*. There is established a Federal Salary Council (the ''Council''). The Council shall be composed of nine members appointed by the President in accordance with section 5304(e)(1) of title 5, United States Code. The President shall designate one of the members to serve as Chairman of the Council and shall designate another member to serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

SEC. 2. *Function*. The Council shall meet with the President's Pay Agent, as designated under section 2(a) of Executive Order No. 12748 of February 1, 1991 [5 U.S.C. 5301 note], to provide views and recommendations regarding:

(a) the establishment or modification of pay localities;

(b) the coverage of annual surveys conducted by the Bureau of Labor Statistics under subsection 5304(d)(1)(A) of title 5, United States Code (including, but not limited to, the occupations, establishment sizes, and industries to be surveyed, and how pay localities are to be surveyed);

(c) the process of comparing the rates of pay payable under the General Schedule with rates of pay for the same levels of work performed by non-Federal workers; and

(d) the level of comparability payments that should be paid in order to eliminate or reduce pay disparities in accordance with the requirements of section 5304 of title 5, United States Coce [sic].

SEC. 3. *Administration*. (a) Members of the Council shall receive no pay by reason of their service on the Council.

(b) To the extent permitted by law and subject to the availability of appropriations, the Office of Personnel Management (the ''Office'') shall provide such facilities and administrative support to the Council as the Director of the Office determines appropriate.

(c) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended [5 U.S.C. App.], except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Director of the Office, in accordance with the guidelines and procedures established by the Administrator of General Services.

GEORGE BUSH.

LOCALITY-BASED COMPARABILITY PAYMENTS

For adjustment of locality-based comparability payments under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

Approvals of locality-based comparability payments recommended by the Director of the Office of Personnel Management were contained in the following:

Memorandum of President of the United States, Nov. 30, 1994, 59 F.R. 62549.

Memorandum of President of the United States, Dec. 1, 1993, 58 F.R. 64097.

§ 5304a. Authority to fix an alternative level of comparability payments

(a) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the level of comparability payments which would otherwise be payable under section 5304 in any year to be inappropriate, the President shall—

(1) prepare and transmit to Congress, at least 1 month before those comparability payments (disregarding this section) would otherwise become payable, a report describing the alternative level of payments which the President instead intends to provide, including the reasons why such alternative level is considered necessary; and

(2) implement the alternative level of payments beginning on the same date as would otherwise apply, for the year involved, under section 5304.

(b) The requirements set forth in paragraphs (2) and (3), respectively, of section 5303(b) shall apply with respect to any decision to exercise any authority to fix an alternative level of comparability payments under this section.

(Added Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1436.)

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

SPECIAL RULE RELATING TO COMPARABILITY PAYMENTS IN 1994

Section 634 of Pub. L. 101–509 provided that:

''Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 [see Short Title of 1990 Amendment note set out under section 5301 of this title] and any provision of law amended by such Act), for purposes of any comparability payments scheduled to take effect under section 5304 of title 5, United States Code (as amended by such Act) during calendar year 1994—

''(1) deem section 5304a of such title (as so amended) to be amended as follows:

''(A) in subsection (a), strike 'If' and all that follows thereafter through 'welfare,' and insert 'Subject to subsection (c), if'; and

''(B) add after subsection (b) the following:

'''(c)(1) For the purpose of this section—

'''(A) the ''threshold amount'' is $1,800,000,000; and

'''(B) ''severe economic conditions'' shall be considered to exist relative to comparability payments scheduled to take effect on a given date if, during the 12-month period ending 2 calendar quarters before such date, there occurred 2 consecutive quarters of negative growth in the GNP.

'''(2) Authority under this section to provide an alternative level of comparability payments in any year may not be exercised except in accordance with the following:

'''(A) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be equal to the threshold amount or less, no alternative level may be fixed under this section unless necessary because a state of war or severe economic conditions exist.

'''(B) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be greater than the threshold amount, no alternative level may be fixed—

'''(i) at a level which would result in an estimated cost equal to or greater than the threshold amount, unless necessary because of national emergency or serious economic conditions affecting the general welfare; or

'''(ii) at a level which would result in an estimated cost less than the threshold amount, unless necessary because of either of the reasons set forth in subparagraph (A).

'''(d)(1) The President's agent (as referred to in section 5304(d)) shall develop and include in the appropriate report under section 5304(d)(1) the methodology for estimating any costs under this section, and any estimate under this section shall be in accordance with such methodology.

'''(2) In making any estimate under this section, costs attributable to any authority under section 5304(h) may not be taken into account.'; and

''(2) the President's pay agent (referred to in section 5304(d) of such title, as so amended) may use appropriate estimates in lieu of BLS survey data if such data is not available for use in preparing the agent's report with respect to comparability payments payable during calendar year 1994.''

§ 5305. Special pay authority

(a)(1) Whenever the Office of Personnel Management finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates under the last sentence of paragraph (1)) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.

(b) The circumstances referred to in subsection (a) are—

(1) rates of pay offered by non-Federal employers being significantly higher than those payable by the Government within the area, location, occupational group, or other class of positions under the pay system involved;

(2) the remoteness of the area or location involved;

(3) the undesirability of the working conditions or the nature of the work involved (including exposure to toxic substances or other occupational hazards); or

(4) any other circumstances which the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appropriate.

(c) Authority under subsection (a) may be exercised with respect to positions paid under—

(1) a statutory pay system; or

(2) any other pay system established by or under Federal statute for civilian positions within the executive branch.

(d) Within the limitations applicable under the preceding provisions of this section, rates of pay established under this section may be revised from time to time by the Office of Personnel Management (or by such other agency as the President may designate under the last sentence of subsection (a)(1)). The actions and revisions have the force and effect of statute.

(e) An increase in a rate of pay established under this section is not an equivalent increase in pay within the meaning of section 5335.

(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee's special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management (or by such other agency as the President may under the last sentence of subsection (a)(1) designate).

(g)(1) The benefit of any comparability payments under section 5304 shall be available to individuals receiving rates of pay established under this section to such extent as the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appro-

priate, subject to paragraph (2) and subsection (h).

(2) Payments under this subsection may not be made if, or to the extent that, when added to basic pay otherwise payable, such payments would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(h) An employee shall not for any purpose be considered to be entitled to a rate of pay established under this section with respect to any period for which such employee is entitled to a higher rate of basic pay under any other provision of law. For purposes of this subsection, the term ''basic pay'' includes any applicable locality-based comparability payment under section 5304 or similar provision of law.

(i) If an employee who is receiving a rate of pay under this section becomes subject, by virtue of moving to a new official duty station, to a different pay schedule, such employee's new rate of pay shall be initially established under conversion rules prescribed by the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) in conformance with the following:

(1) First, determine the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move.

(2) Then, if (in addition to the change in pay schedule) the move also involves any personnel action or other change requiring a rate adjustment under any other provision of law, rule, or regulation, apply the applicable rate adjustment provisions, treating the rate determined under paragraph (1) as if it were the rate last received by the employee before the rate adjustment.

(j) A rate determined under a schedule of special rates established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, and section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.

(Added Pub. L. 91–656, § 3(a), Jan. 8, 1971, 84 Stat. 1946; amended Pub. L. 94–82, title II, § 202(c), Aug. 9, 1975, 89 Stat. 420; Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1436; Pub. L. 108–411, title III, § 301(a)(2), Oct. 30, 2004, 118 Stat. 2313.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsecs. (a)(1) and (g)(2), is set out in section 5315 of this title.

The provisions of this title governing appointment in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–411, § 301(a)(2)(A), added subsec. (a) and struck out former subsec. (a) relating to the President's authority to establish higher minimum rates of basic pay for specified individuals where the Government's recruitment or retention efforts are, or are likely to become, significantly handicapped.

Subsec. (b)(4). Pub. L. 108–411, § 301(a)(2)(B), added par. (4) and struck out former par. (4) which read as follows: ''any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of subsection (a)) considers appropriate.''

Subsec. (d). Pub. L. 108–411, § 301(a)(2)(C), substituted ''Office of Personnel Management'' for ''President'' and ''(or by such other agency as the President may designate under the last sentence of subsection (a)(1))'' for ''or by such agency as he may designate''.

Subsec. (e). Pub. L. 108–411, § 301(a)(2)(D), substituted ''rate of pay'' for ''rate of basic pay''.

Subsec. (f). Pub. L. 108–411, § 301(a)(2)(E), added subsec. (f) and struck out former subsec. (f) which read as follows: ''The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system specified in subsection (c) of this section, shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate.''

Subsec. (g)(1). Pub. L. 108–411, § 301(a)(2)(F), substituted ''pay'' for ''basic pay'' and ''Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate)'' for ''President (or his designated agency)''.

Subsec. (h). Pub. L. 108–411, § 301(a)(2)(G), added subsec. (h) and struck out former subsec. (h) which read as follows ''The rate of basic pay payable to an individual under this section may not, at any time, be less than the rate which would then be payable to such individual (taking comparability payments under section 5304 into account) if this section had never been enacted.''

Subsecs. (i), (j). Pub. L. 108–411, § 301(a)(2)(H), added subsecs. (i) and (j).

1990—Pub. L. 101–509 amended section generally, substituting provisions authorizing President to make special pay increases whenever recruitment or retention efforts are handicapped for provisions requiring annual pay reports and adjustments, authorizing alternative plan in years of emergency or when economic conditions affect the general welfare, and setting forth procedure where Congressional committee disapproves such alternative plan.

1975—Subsec. (a)(3). Pub. L. 94–82, § 202(c)(1), inserted provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

Subsec. (c)(1). Pub. L. 94–82, § 202(c)(2), inserted provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provision relating to conversion rules, see section 301(d) of Pub. L. 108–411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section assigned to the Director of the Office of Personnel Management by section 1 of Ex. Ord. No. 13415, Dec. 1, 2006, 71 F.R. 70641, set out as a note under section 4505a of this title.

STAFFING DIFFERENTIALS

Section 529 [title II, § 209] of Pub. L. 101–509, as amended by Pub. L. 102–378, § 3(3), Oct. 2, 1992, 106 Stat. 1355, provided that:

''(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning on or after January 1, 1991, the President may establish staffing differentials equal to 5 percent of basic pay, which may be paid to each General Schedule employee whose position is in—

''(1) grade GS–5 or 7 of the General Schedule;

''(2) a 2-grade-interval occupational series, as determined by the Office of Personnel Management; or

''(3) any combination of classes of positions described in paragraph (1) or (2) for which the President determines a recruiting difficulty exists.

''(b) MANNER OF PAYMENT; REDUCTION OR ELIMINATION.—A staffing differential under this section—

''(1) shall be paid in the same manner and at the same time as the employee's basic pay is paid, but may not be considered to be part of basic pay for any purpose; and

''(2) may be reduced or eliminated by the Office of Personnel Management in its sole discretion as the amendments made by this Act take effect [see Effective Date of 1990 Amendment and Short Title of 1990 Amendment notes set out under section 5301 of this title], except that no such reduction or elimination shall have the effect of reducing the total amount of pay (determined by adding basic pay and staffing differential) which any employee is receiving.''

[Authority of President under section 529 [title II, § 209] of Pub. L. 101–509, set out above, delegated to Office of Personnel Management by Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, eff. May 4, 1991, set out as a note under section 5301 of this title.]

FEDERAL LAW ENFORCEMENT PAY REFORM

Pub. L. 106–554, § 1(a)(4) [div. B, title IX, § 907(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–309, provided that: ''Beginning on the effective date of this Act [see section 1(a)(4) [div. B, title IX, § 909] of Pub. L. 106–554, set out in a Conversion to New Salary Schedule note under section 3056A of Title 18, Crimes and Criminal Procedure]—

''(1) no existing special salary rates shall be authorized for members of the United States Park Police under section 5305 of title 5, United States Code (or any previous similar provision of law); and

''(2) no special rates of pay or special pay adjustments shall be applicable to members of the United States Park Police pursuant to section 405 of the Federal Law Enforcement Pay Reform Act of 1990 [section 529 [title IV, § 405] of Pub. L. 101–509, set out in a note below].''

Section 529 [title IV, §§ 401–407] of Pub. L. 101–509, as amended by Pub. L. 102–378, § 3(5)–(9), Oct. 2, 1992, 106 Stat. 1356; Pub. L. 103–123, title VI, § 628, Oct. 28, 1993, 107 Stat. 1266; Pub. L. 103–178, title III, § 303(a), Dec. 3, 1993, 107 Stat. 2034; Pub. L. 105–61, title I, § 118(e), Oct. 10, 1997, 111 Stat. 1288; Pub. L. 106–554, § 1(a)(4) [div. B, title IX, § 907(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–309; Pub. L. 108–411, title I, § 101(b), title III, § 301(b), Oct. 30, 2004, 118 Stat. 2309, 2317, provided that:

''SEC. 401. SHORT TITLE.

''This title [section 529 [title IV, §§ 401–412] of Pub. L. 101–509, enacting sections 4521 to 4523 of this title, amending sections 5541, 5542, 5547, 8335, and 8425 of this title, enacting provisions set out as notes under this section and sections 4521, 5541, and 8335 of this title, and amending provisions set out as a note under section 5541 of this title] may be cited as the 'Federal Law Enforcement Pay Reform Act of 1990'.

''SEC. 402. DEFINITION.

''For the purposes of this title, except as otherwise provided, the term 'law enforcement officer' means any law enforcement officer within the meaning of section 5541(3) of title 5, United States Code, with respect to whom the provisions of chapter 51 of such title apply.

''SEC. 403. SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.

''(a) Notwithstanding the procedures of section 5305 of title 5, United States Code, as amended by section 101 of this Act, or similar provision of law, higher minimum rates and corresponding increases in all step rates of each designated General Schedule grade shall be established for law enforcement officers in accordance with the provisions of this section.

''(b)(1) Effective on the first day of the first applicable pay period beginning on or after January 1, 1992, the higher minimum rates to be established are as follows:

''GS–3	Step 4
''GS–4	Step 4
''GS–5	Step 4
''GS–6	Step 3
''GS–7	Step 3
''GS–8	Step 3
''GS–9	Step 2
''GS–10	Step 2

''(2) Effective on the first day of the first applicable pay period beginning on or after January 1, 1993, the higher minimum rates to be established are as follows:

''GS–3	Step 7
''GS–4	Step 7
''GS–5	Step 8
''GS–6	Step 6
''GS–7	Step 5
''GS–8	Step 3
''GS–9	Step 2
''GS–10	Step 2

''(c) The higher minimum rates and corresponding higher rates for each step rate of each designated grade shall apply to every law enforcement officer in the designated grades (except in the case of any law enforcement officer for whom a higher rate is authorized under section 5305 of title 5, United States Code, as amended by section 101 of this Act, or similar provision of law) and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).

''(d) Any interim entry-level adjustment under section 209 of this Act [section 529 [title II, § 209] of Pub. L. 101–509, set out as a note above] which a law enforcement officer is receiving shall be eliminated on the day before the effective date of the higher minimum rates under subsection (b)(1).

''SEC. 404. SPECIAL PAY ADJUSTMENTS FOR LAW ENFORCEMENT OFFICERS IN SELECTED CITIES.

''(a) A law enforcement officer shall be paid any applicable special pay adjustment in accordance with the provisions of this section, but such special pay adjustment shall be reduced by the amount of any applicable interim geographic adjustment under section 302 of this Act [section 529 [title III, § 302] of Pub. L. 101–509, set out as a note under section 5304 of this title], any applicable locality-based comparability payment under section 5304 of title 5, United States Code, as amended by section 101 of this Act, and, to the extent determined appropriate by the Office of Personnel Management, any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law (other than section 403).

''(b)(1) Except as provided in subsection (a), effective on the first day of the first applicable pay period beginning on or after January 1, 1992, each law enforcement officer whose post of duty is in one of the following areas shall receive an adjustment, which shall be a percentage of the officer's rate of basic pay, as follows:

''Area	Differential
Boston-Lawrence-Salem, MA–NH Consolidated Metropolitan Statistical Area	16%
Chicago-Gary-Lake County, IL–IN–WI Consolidated Metropolitan Statistical Area	4%

''Area	Differential
Los Angeles-Anaheim-Riverside, CA Consolidated Metropolitan Statistical Area	16%
New York-Northern New Jersey-Long Island, NY–NJ–CT Consolidated Metropolitan Statistical Area	16%
Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD Consolidated Metropolitan Statistical Area	4%
San Francisco-Oakland-San Jose, CA Consolidated Metropolitan Statistical Area	16%
San Diego, CA Metropolitan Statistical Area	8%
Washington-Baltimore DC–MD–VA–WV Consolidated Metropolitan Statistical Area	4%

''(2) In the case of any area specified in paragraph (1) that includes a portion, but not all, of a county, the Office of Personnel Management may, at the request of the head of 1 or more law enforcement agencies, extend the area specified in paragraph (1) to include, for the purposes of this section, the entire county, if the Office determines that such extension would be in the interests of good personnel administration. Any such extension shall be applicable to each law enforcement officer whose post of duty is in the area of the extension.

''(c)(1) A special pay adjustment under this section shall be administered, to the extent practicable, in the same manner as a locality-based comparability payment under section 5304 of title 5, United States Code, as amended by section 101 of this Act, and shall be considered part of basic pay to the same degree as such a locality-based comparability payment.

''(2) The Office of Personnel Management may prescribe such regulations as it considers necessary concerning the payment of special pay adjustments to law enforcement officers under this section.

''SEC. 405. SAME BENEFITS FOR OTHER LAW ENFORCEMENT OFFICERS.

''(a) The appropriate agency head (as defined in subsection (c)) shall prescribe regulations under which the purposes of sections 403, 404, and 407 shall be carried out with respect to individuals holding positions described in subsection (b).

''(b) This subsection applies with respect to any—

''(1) special agent within the Diplomatic Security Service;

''(2) probation officer (referred to in section 3672 of title 18, United States Code); or

''(3) pretrial services officer (referred to in section 3153 of title 18, United States Code).

''(c) For purposes of this section, the term 'appropriate agency head' means—

''(1) with respect to any individual under subsection (b)(1), the Secretary of State; or

''(2) with respect to any individual under subsection (b)(2) or (b)(3), the Director of the Administrative Office of the United States Courts.

''SEC. 406. FBI NEW YORK FIELD DIVISION.

''(a) The total pay of an employee of the Federal Bureau of Investigation assigned to the New York Field Division before the date of September 29, 1993, in a position covered by the demonstration project conducted under section 601 of the Intelligence Authorization Act for Fiscal Year 1989 (Public Law 100–453) [102 Stat. 1911] shall not be reduced as a result of the termination of the demonstration project during the period that employee remains employed after that date in a position covered by the demonstration project.

''(b) Beginning on September 30, 1993, any periodic payment under section 601(a)(2) of the Intelligence Authorization Act for Fiscal Year 1989 [Pub. L. 100–453, 102 Stat. 1911] for any such employee shall be reduced by the amount of any increase in basic pay under title 5, United States Code, including the following provisions: an annual adjustment under section 5303, locality-based comparability payment under section 5304, initiation or increase in a special pay rate under section 5305, promotion under section 5334, periodic step increase under section 5335, merit increase under section 5404, or other increase to basic pay under any provision of law.''

[Section 303(b) of Pub. L. 103–178 provided that: ''The amendment made by subsection (a) [amending section 529 [title IV, § 406] of Pub. L. 101–509, set out above] shall take effect as of September 30, 1993, and shall apply to the pay of employees to whom the amendment applies that is earned on or after that date.'']

[For effective dates of amendments by section 3(5)–(9) of Pub. L. 102–378 to section 529 [title IV, §§ 402, 403(d), 404(a), (b), 405(a)] of Pub. L. 101–509, set out above, see section 9(a), (b)(6), (9) of Pub. L. 102–378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.]

REPORTING REQUIREMENT

Section 529 [title IV, § 412] of Pub. L. 101–509 provided that: ''Not later than January 1, 1993, the Office of Personnel Management, in consultation with Federal law enforcement agencies and law enforcement employee groups, shall submit to Congress, in writing, a plan to establish a separate pay and classification system for law enforcement officers and specifications for legislation to implement such plan.''

§ 5306. Pay fixed by administrative action

(a) Notwithstanding sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31—

(1) the rates of pay of—

(A) employees in the legislative, executive, and judicial branches of the Government of the United States (except employees whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives) and of the government of the District of Columbia, whose rates of pay are fixed by administrative action under law and are not otherwise adjusted under this subchapter;

(B) employees under the Architect of the Capitol, whose rates of pay are fixed under section 166b–3a[1] of title 40, and the Superintendent of Garages, House office buildings; and

(C) persons employed by the county committees established under section 590h(b) of title 16; and

(2) and minimum or maximum rate of pay (other than a maximum rate equal to or greater than the maximum rate then currently being paid under the General Schedule as a result of a pay adjustment under section 5303 (or prior corresponding provision of law)), and any monetary limitation on or monetary allowance for pay, applicable to employees described in subparagraphs (A), (B), and (C) of paragraph (1);

may be adjusted, by the appropriate authority concerned, effective at the beginning of the first applicable pay period commencing on or after the day on which a pay adjustment becomes effective under section 5303 (or prior provision of law), by whichever of the following methods the appropriate authority concerned considers appropriate—

(i) by an amount or amounts not in excess of the pay adjustment provided under section

[1] See References in Text note below.

5303 for corresponding rates of pay in the appropriate schedule or scale of pay;

(ii) if there are no corresponding rates of pay, by an amount or amounts equal or equivalent, insofar as practicable and with such exceptions and modifications as may be necessary to provide for appropriate pay relationships between positions, to the amount of the pay adjustment provided under section 5303; or

(iii) in the case of minimum or maximum rates of pay, or monetary limitations of allowances with respect to pay, by an amount rounded to the nearest $100 and computed on the basis of a percentage equal or equivalent, insofar as practicable and with such variations as may be appropriate, to the percentage of the pay adjustment provided under section 5303.

(b) An adjustment under subsection (a) in rates of pay, minimum or maximum rates of pay, the monetary limitations or allowances with respect to pay, shall be made in such manner as the appropriate authority concerned considers appropriate.

(c) This section does not authorize any adjustment in the rates of pay of employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

(d) This section does not impair any authority under which rates of pay may be fixed by administrative action.

(e) Pay may not be paid, by reason of any exercise of authority under this section, at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule.

(Added Pub. L. 91–656, § 3(a), Jan. 8, 1971, 84 Stat. 1949; amended Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1437; Pub. L. 102–378, § 2(27), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 104–186, title II, § 215(3), Aug. 20, 1996, 110 Stat. 1745.)

REFERENCES IN TEXT

Section 166b–3a of title 40, referred to in subsec. (a)(1)(B), means section 166b–3a of former Title 40, Public Buildings, Property, and Works, which was transferred to section 1848 of Title 2, The Congress.

The General Schedule, referred to in subsec. (a)(2), is set out under section 5332 of this title.

Level V of the Executive Schedule, referred to in subsec. (e), is set out in section 5316 of this title.

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–186 substituted ''Chief Administrative Officer'' for ''Clerk''.

1992—Subsec. (a)(1)(B). Pub. L. 102–378 substituted ''section 166b–3a'' for ''section 166b–3''.

1990—Pub. L. 101–509 amended section generally, substituting provisions authorizing adjustments in rates of pay, minimum or maximum rates of pay, and monetary limitations or allowances with respect to pay of certain Federal employees for provisions establishing Advisory Committee on Federal Pay and setting forth its duties.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

§ 5307. Limitation on certain payments

(a)(1) Except as otherwise permitted by or under law, or as otherwise provided under subsection (d), no allowance, differential, bonus, award, or other similar cash payment under this title may be paid to an employee in a calendar year if, or to the extent that, when added to the total basic pay paid or payable to such employee for service performed in such calendar year as an employee in the executive branch (or as an employee outside the executive branch to whom chapter 51 applies), such payment would cause the total to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year.

(2) This section shall not apply to any payment under—

(A) subchapter III or VII of chapter 55 or section 5596;

(B) chapter 57 (other than section 5753, 5754, 5755, or 5757);[1] or

(C) chapter 59 (other than section 5925, 5928, 5941(a)(2), or 5948).

(b)(1) Any amount which is not paid to an employee in a calendar year because of the limitation under subsection (a) shall be paid to such employee in a lump sum at the beginning of the following calendar year.

(2) Any amount paid under this subsection in a calendar year shall be taken into account for purposes of appying[2] the limitations under subsection (a) with respect to such calendar year.

(c) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this section (subject to subsection (d)), including regulations (consistent with section 5582) concerning how a lump-sum payment under subsection (b) shall be made with respect to any employee who dies before an amount payable to such employee under subsection (b) is made.

(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting ''the total annual compensation payable to the Vice President under section 104 of title 3'' for ''the annual rate of basic pay payable for level I of the Executive Schedule'' in the case of any employee who—

(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

(B) holds a position in or under an agency which is described in paragraph (2).

(2) An agency described in this paragraph is any agency which, for purposes of applying the limitation in the calendar year involved, has a performance appraisal system certified under this subsection as making, in its design and application, meaningful distinctions based on relative performance.

(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

(B) The certification of an agency performance appraisal system under this subsection shall be

[1] See References in Text note below.

[2] So in original. Probably should be ''applying''.

for a period not to exceed 24 months beginning on the date of certification, unless extended by the Director of the Office of Personnel Management for up to 6 additional months, except that such certification may be terminated at any time upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).

(Added Pub. L. 91–656, § 3(a), Jan. 8, 1971, 84 Stat. 1950; amended Pub. L. 97–258, § 3(a)(10), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1438; Pub. L. 102–77, § 2, July 26, 1991, 105 Stat. 369; Pub. L. 107–273, div. A, title II, § 207(b), Nov. 2, 2002, 116 Stat. 1780; Pub. L. 107–296, title XIII, § 1322, Nov. 25, 2002, 116 Stat. 2297; Pub. L. 110–372, § 3(a), Oct. 8, 2008, 122 Stat. 4045.)

REFERENCES IN TEXT

Level I of the Executive Schedule, referred to in subsecs. (a)(1) and (d)(1), is set out in section 5312 of this title.

Section 5757, referred to in subsec. (a)(2)(B), probably means the section 5757 of this title added by Pub. L. 107–273, relating to extended assignment incentive.

AMENDMENTS

2008—Subsec. (d)(2). Pub. L. 110–372, § 3(a)(1), substituted ''applying the limitation in the calendar year involved, has a performance appraisal system certified under this subsection as making, in its design and application, meaningful distinctions based on relative performance'' for ''the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance''.

Subsec. (d)(3)(B). Pub. L. 110–372, § 3(a)(2), substituted ''The certification of an agency performance appraisal system under this subsection shall be for a period not to exceed 24 months beginning on the date of certification, unless extended by the Director of the Office of Personnel Management for up to 6 additional months'' for ''An agency's certification under this subsection shall be for a period of 2 calendar years'' and struck out '', for purposes of either or both of those years,'' after ''time''.

2002—Subsec. (a)(1). Pub. L. 107–296, § 1322(b)(1), inserted ''or as otherwise provided under subsection (d),'' after ''under law,''.

Subsec. (a)(2)(B). Pub. L. 107–273 substituted ''5755, or 5757'' for ''or 5755''.

Subsec. (c). Pub. L. 107–296, § 1322(b)(2), substituted ''this section (subject to subsection (d)),'' for ''this section,''.

Subsec. (d). Pub. L. 107–296, § 1322(a), added subsec. (d).

1991—Subsec. (a). Pub. L. 102–77, § 2(1)–(3), designated existing provisions as par. (1), substituted ''cause the'' for ''cause to the'', and added par. (2).

Subsec. (b)(3). Pub. L. 102–77, § 2(4), struck out par. (3) which read as follows: ''Paragraph (1) shall not apply to an amount if, or to the extent that, it is attributable to a payment the authority for which would derive from section 4505a(d), 5753(e), or 5754(e).''

1990—Pub. L. 101–509 amended section generally, substituting provisions prohibiting cash payments to employees in excess of annual rate of basic pay payable for level I of Executive Schedule in a calendar year, for provisions authorizing adjustments in rates of pay, minimum or maximum rates of pay, and monetary limitations or allowances with respect to pay of certain Federal employees.

1982—Subsec. (a). Pub. L. 97–258 substituted ''sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15'' for ''section 665''.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–372, § 3(c), Oct. 8, 2008, 122 Stat. 4046, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Oct. 8, 2008].''

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107–273, div. A, title II, § 207(c), Nov. 2, 2002, 116 Stat. 1780, provided that: ''The amendments made by this section [enacting section 5757 of this title and amending this section] shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act [Nov. 2, 2002].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EXTENSION OF CERTIFICATION

Pub. L. 110–372, § 3(b), Oct. 8, 2008, 122 Stat. 4045, provided that:

''(1) EXTENSION TO 2009.—

''(A) IN GENERAL.—For any certification of a performance appraisal system under section 5307(d) of title 5, United States Code, in effect on the date of enactment of this Act [Oct. 8, 2008] and scheduled to expire at the end of calendar year 2008, the Director of the Office of Personnel Management may provide that such a certification shall be extended without requiring additional justification by the agency.

''(B) LIMITATION.—The expiration of any extension under this paragraph shall be not later than the later of—

''(i) June 30, 2009; or

''(ii) the first anniversary of the date of the certification.

''(2) EXTENSION TO 2010.—

''(A) IN GENERAL.—For any certification of a performance appraisal system under section 5307(d) of title 5, United States Code, in effect on the date of enactment and scheduled to expire at the end of calendar year 2009, the Director of the Office of Personnel Management may provide that such a certification shall be extended without requiring additional justification by the agency.

''(B) LIMITATION.—The expiration of any extension under this paragraph shall be not later than the later of—

''(i) June 30, 2010; or

''(ii) the second anniversary of the date of the certification.''

FREEZE ON DISCRETIONARY AWARDS, BONUSES, AND SIMILAR PAYMENTS FOR FEDERAL POLITICAL APPOINTEES

Memorandum of President of the United States, Aug. 3, 2010, 75 F.R. 47433, provided:

Memorandum for the Assistant to the President and Chief of Staff [and] The Heads of Executive Departments and Agencies

At a time when so many American families are struggling to make ends meet, I am committed to making sure the Federal Government is spending the taxpayers' money wisely and carefully, and cutting costs wherever possible. I am committed to ending programs that do not work, streamlining those that do, and bringing a new responsibility for stewardship of tax dollars. Like households and businesses across the country, the Federal Government is tightening its belt. This effort began during my first days in office, when I froze the salaries of the senior members of my White House Staff.

As a next step in this effort, I direct you to suspend cash awards, quality step increases, bonuses, and similar discretionary payments or salary adjustments to any politically appointed Federal employee, commencing immediately, and continuing through the end of Fiscal Year 2011. I also direct the Office of Personnel Management to issue guidance, in consultation with the Office of Management and Budget, to assist departments and agencies in implementing this policy.

In addition to these actions freezing discretionary payments, I have proposed in my Budget for Fiscal Year 2011 a salary freeze for senior political appointees throughout the Federal Government. Unlike the administrative action I have taken today in this memorandum, my proposed salary freeze requires legislation, so it cannot be implemented absent legislative action by the Congress.

I appreciate the hard work of our Federal workforce, and understand how important these payments can be to many workers and their families. Yet like households and businesses across the country, we need to make tough choices about how to spend our funds.

This memorandum shall be carried out to the extent permitted by law and consistent with executive departments' and agencies' legal authorities. Nothing in this memorandum shall be construed to affect payments or salary adjustments for Federal employees who are not political appointees. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[§ 5308. Omitted]

CODIFICATION

Section, added Pub. L. 91–656, § 3(a), Jan. 8, 1971, 84 Stat. 1951, relating to pay limitation, was omitted in the general revision of this subchapter by Pub. L. 101–509.

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

§ 5311. The Executive Schedule

The Executive Schedule, which is divided into five pay levels, is the basic pay schedule for positions, other than Senior Executive Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, to which this subchapter applies.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 459; Pub. L. 95–454, title IV, §§ 408(b)(1), 414(b)(1), Oct. 13, 1978, 92 Stat. 1173, 1178; Pub. L. 96–54, § 2(a)(24), Aug. 14, 1979, 93 Stat. 382; Pub. L. 100–325, § 2(h)(1), (2), May 30, 1988, 102 Stat. 582; Pub. L. 101–509, title V, § 529 [title I, § 104(c)], Nov. 5, 1990, 104 Stat. 1427, 1447.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2210.	Aug. 14, 1964, Pub. L. 88–426, § 302, 78 Stat. 415.

The words "There is hereby established" are omitted as executed. The word "offices" is omitted as included in "positions". The words "Executive Schedule" are substituted for "Federal Executive Salary Schedule".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1990—Pub. L. 101–509 struck out "(a)" before "The Executive Schedule, which" and struck out subsec. (b) which read as follows:

"(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director of the Office of Personnel Management shall determine the number and classification of executive level positions in existence in the executive branch on that date of enactment, and shall publish the determination in the Federal Register. Effective beginning on the date of the publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

but does not include any Senior Executive Service position (as defined in section 3132(a) of this title) or any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service."

1988—Subsec. (a). Pub. L. 100–325, § 2(h)(1), inserted reference to positions in Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

Subsec. (b)(2). Pub. L. 100–325, § 2(h)(2), substituted "(as defined in section 3132(a) of this title) or any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service" for ", as defined in section 3132(a) of this title" in concluding provision.

1979—Subsec. (b)(1). Pub. L. 96–54 inserted "of the Office of Personnel Management" after "Director".

1978—Pub. L. 95–454, § 408(b)(1), inserted reference to Senior Executive Service positions.

Pub. L. 95–454, § 414(b)(1), designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section

415 of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

PLAN FOR AUTHORIZING EXECUTIVE LEVEL POSITIONS IN EXECUTIVE BRANCH; PRESIDENTIAL SUBMISSION TO CONGRESS

Section 414(b)(2) of Pub. L. 95–454 required President to transmit by Jan. 1, 1980, a plan to Congress for authorizing executive level positions in executive branch.

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Secretary of State.
Secretary of the Treasury.
Secretary of Defense.
Attorney General.
Secretary of the Interior.
Secretary of Agriculture.
Secretary of Commerce.
Secretary of Labor.
Secretary of Health and Human Services.
Secretary of Housing and Urban Development.
Secretary of Transportation.
United States Trade Representative.
Secretary of Energy.
Secretary of Education.
Secretary of Veterans Affairs.
Secretary of Homeland Security.
Director of the Office of Management and Budget.
Commissioner of Social Security, Social Security Administration.
Director of National Drug Control Policy.
Chairman, Board of Governors of the Federal Reserve System.
Director of National Intelligence.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89–670, § 10(d)(1), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91–375, § 6(c)(12), Aug. 12, 1970, 84 Stat. 776; Pub. L. 93–618, title I, § 141(b)(3)(A), Jan. 3, 1975, 88 Stat. 1999; Pub. L. 94–82, title II, § 202(b)(1), Aug. 9, 1975, 89 Stat. 419; Pub. L. 95–91, title VII, § 710(c), Aug. 4, 1977, 91 Stat. 609; Pub. L. 96–54, § 2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–88, title V, § 508(c), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 97–456, § 3(d)(1), (5), Jan. 12, 1983, 96 Stat. 2505; Pub. L. 99–198, title XI, § 1113(d), Dec. 23, 1985, 99 Stat. 1480; Pub. L. 99–260, § 4(c), Mar. 20, 1986, 100 Stat. 49; Pub. L. 100–527, § 13(c), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100–679, § 11(a), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 100–690, title I, § 1003(a)(4)(A), Nov. 18, 1988, 102 Stat. 4182; Pub. L. 103–296, title I, § 108(e)(1), Aug. 15, 1994, 108 Stat. 1486; Pub. L. 105–277, div. C, title VII, § 713(a)(1), Oct. 21, 1998, 112 Stat. 2681–693; Pub. L. 106–569, title X, § 1002(a)(1), Dec. 27, 2000, 114 Stat. 3028; Pub. L. 107–296, title XVII, § 1702(a)(1), Nov. 25, 2002, 116 Stat. 2313; Pub. L. 108–458, title I, § 1015(a), Dec. 17, 2004, 118 Stat. 3664.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2211(a).	Aug. 14, 1964, Pub. L. 88–426, § 303(a), 78 Stat. 416.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Paragraph designation for the position added by Pub. L. 96–88 has been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96–54.

AMENDMENTS

2004—Pub. L. 108–458 inserted item relating to Director of National Intelligence.

2002—Pub. L. 107–296 inserted item relating to Secretary of Homeland Security.

2000—Pub. L. 106–569 inserted item relating to Chairman, Board of Governors of the Federal Reserve System.

1998—Pub. L. 105–277 inserted item relating to Director of National Drug Control Policy.

1994—Pub. L. 103–296 inserted item relating to Commissioner of Social Security, Social Security Administration.

1988—Pub. L. 100–690, §§ 1003(a)(4)(A), 1009, temporarily inserted item relating to Director of National Drug Control Policy. See Effective and Termination Dates of 1988 Amendments note below.

Pub. L. 100–679 inserted item relating to Director of Office of Management and Budget.

Pub. L. 100–527 inserted item relating to Secretary of Veterans Affairs.

1986—Pub. L. 99–260 struck out item relating to Special Assistant for Agricultural Trade and Food Aid.

1985—Pub. L. 99–198 inserted item relating to Special Assistant for Agricultural Trade and Food Aid.

1983—Pub. L. 97–456, § 3(d)(5), substituted ''United States Trade Representative'' for ''Special Representative for Trade Negotiations''.

1979—Pub. L. 96–88, § 508(g), substituted ''Health and Human Services'' for ''Health, Education, and Welfare'' in item relating to the Secretary of Health and Human Services.

Pars. (1) to (14). Pub. L. 96–54 struck out paragraph designations for positions listed herein.

Par. (15). Pub. L. 96–88, § 508(c), added par. (15) relating to Secretary of Education. See Codification note set out above.

1977—Par. (14). Pub. L. 95–91 added par. (14) relating to Secretary of Energy.

1975—Pub. L. 94–82 substituted provisions applying level I of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title for provisions applying such level I to positions for which annual rate of basic pay is $35,000.

Par. (13). Pub. L. 93–618 added par. (13) relating to Special Representative for Trade Negotiations.

1970—Par. (5). Pub. L. 91–375 struck out par. (5) relating to Postmaster General.

1966—Pub. L. 89–670 added par. (11) relating to Secretary of Housing and Urban Development, and par. (12) relating to Secretary of Transportation.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as

an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–569, title X, §1002(b), Dec. 27, 2000, 114 Stat. 3028, provided that: ''This section [amending this section and sections 5313 and 5314 of this title] and the amendments made by this section shall take effect on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve System beginning on or after the date of the enactment of this Act [Dec. 27, 2000].''

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by Pub. L. 100–690 effective Jan. 21, 1989, and repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100–690.

Section 11(e) of Pub. L. 100–679 provided that: ''The amendments made by this section [amending sections 5312 to 5315 of this title] shall be effective on January 20, 1989.''

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of Title 20, Education.

Section 2(a)(25)(B) of Pub. L. 96–54 provided that: The amendments made by subparagraph (A) [amending sections 5312 to 5316 of this title] shall take effect January 1, 1980''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective 90 days after Secretary of Transportation first takes office, or on any earlier date after Oct. 15, 1966, as President prescribes and publishes in Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89–670.

SHORT TITLE OF 1975 AMENDMENT

Section 201 of title II of Pub. L. 94–82 provided that: ''This title [enacting section 5318 of this title and section 461 of Title 28, Judiciary and Judicial Procedure, amending sections 5305, 5312, 5313, 5314, 5315 and 5316 of this title, sections 31, 60a note, 136a, 136a–1 and 356 of Title 2, The Congress, section 104 of Title 3, The President, section 68 of Title 11, Bankruptcy, sections 5, 44, 135, 173, 213, 252 and 792 of Title 28, sections 42a and 51a of former Title 31, Money and Finance, sections 162a and 166b of former Title 40, Public Buildings, Property, and Works, and section 303 of Title 44, Public Printing and Documents, and enacting provisions set out as a note under section 356 of Title 2] may be cited as the 'Executive Salary Cost-of-Living Adjustment Act'.''

COMPENSATION AND EMOLUMENTS OF SECRETARY OF THE INTERIOR; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 2005

Pub. L. 111–1, §1, Jan. 16, 2009, 123 Stat. 3, provided that:

''(a) IN GENERAL.—The compensation and other emoluments attached to the office of Secretary of the Interior shall be those in effect January 1, 2005, notwithstanding any increase in such compensation or emoluments after that date under any provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 2005, and ending at noon of January 3, 2011.

''(b) CIVIL ACTION AND APPEAL.—

''(1) JURISDICTION.—Any person aggrieved by an action of the Secretary of the Interior may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of the Interior on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

''(2) THREE JUDGE PANEL.—Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of the Interior on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

''(3) APPEAL.—

''(A) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of the Interior under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

''(B) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken under subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

''(c) EFFECTIVE DATE.—This joint resolution shall take effect at 12:00 p.m. on January 20, 2009.''

COMPENSATION AND EMOLUMENTS OF SECRETARY OF STATE; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 2007

Pub. L. 110–455, Dec. 19, 2008, 122 Stat. 5036, provided that:

''(a) IN GENERAL.—The compensation and other emoluments attached to the office of Secretary of State shall be those in effect January 1, 2007, notwithstanding any increase in such compensation or emoluments after that date under any provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 2007, and ending at noon of January 3, 2013.

''(b) CIVIL ACTION AND APPEAL.—

''(1) JURISDICTION.—Any person aggrieved by an action of the Secretary of State may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

''(2) THREE JUDGE PANEL.—Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in of-

fice is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

''(3) APPEAL.—

''(A) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of State under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

''(B) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken under subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

''(c) EFFECTIVE DATE.—This joint resolution shall take effect at 12:00 p.m. on January 20, 2009.''

COMPENSATION AND EMOLUMENTS OF SECRETARY OF THE TREASURY AT LEVEL IN EFFECT ON JANUARY 1, 1989

For provisions limiting compensation and emoluments of Secretary of the Treasury at levels in effect on Jan. 1, 1989, see section 1(a) of Pub. L. 103–2, set out as a note under section 301 of Title 31, Money and Finance.

COMPENSATION AND EMOLUMENTS OF SECRETARY OF STATE; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 1977

Pub. L. 96–241, § 1, May 3, 1980, 94 Stat. 343, limited the compensation and other emoluments attached to the office of Secretary of State to those in effect Jan. 1, 1977, during the period beginning May 3, 1980, and ending on the date on which the first individual appointed to that office after May 3, 1980, ceases to hold that office.

COMPENSATION AND EMOLUMENTS OF ATTORNEY GENERAL; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 1969

Provisions of Pub. L. 93–178, § 1, Dec. 10, 1973, 87 Stat. 697, which fixed the compensation and other emoluments attached to the Office of Attorney General at level in effect on Jan. 1, 1969, notwithstanding any other provision of law enacted or becoming effective during period from noon, Jan. 3, 1969, through noon, Jan. 2, 1975, were repealed by Pub. L. 94–2, Feb. 18, 1975, 89 Stat. 4, effective as of Feb. 4, 1975.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.

Deputy Secretary of State.

Deputy Secretary of State for Management and Resources.

Administrator, Agency for International Development.

Administrator of the National Aeronautics and Space Administration.

Deputy Secretary of Veterans Affairs.

Deputy Secretary of Homeland Security.

Under Secretary of Homeland Security for Management.

Deputy Secretary of the Treasury.

Deputy Secretary of Transportation.

Chairman, Nuclear Regulatory Commission.

Chairman, Council of Economic Advisers.

Director of the Office of Science and Technology.

Director of the Central Intelligence Agency.

Secretary of the Air Force.

Secretary of the Army.

Secretary of the Navy.

Administrator, Federal Aviation Administration.

Director of the National Science Foundation.

Deputy Attorney General.

Deputy Secretary of Energy.

Deputy Secretary of Agriculture.

Director of the Office of Personnel Management.

Administrator, Federal Highway Administration.

Administrator of the Environmental Protection Agency.

Under Secretary of Defense for Acquisition, Technology, and Logistics.

Deputy Secretary of Labor.

Deputy Director of the Office of Management and Budget.

Independent Members, Thrift Depositor Protection Oversight Board.

Deputy Secretary of Health and Human Services.

Deputy Secretary of the Interior.

Deputy Secretary of Education.

Deputy Secretary of Housing and Urban Development.

Deputy Director for Management, Office of Management and Budget.

Director of the Federal Housing Finance Agency.

Deputy Commissioner of Social Security, Social Security Administration.

Administrator of the Community Development Financial Institutions Fund.

Deputy Director of National Drug Control Policy.

Members, Board of Governors of the Federal Reserve System.

The[1] Under Secretary of Transportation for Security.

Under Secretary of Transportation for Policy.

Chief Executive Officer, Millennium Challenge Corporation.

Principal Deputy Director of National Intelligence.

Director of the National Counterterrorism Center.

[1] So in original. The word ''The'' probably should not appear.

Director of the National Counter Proliferation Center.

Administrator of the Federal Emergency Management Agency.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89–670, § 10(d)(2), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90–83, § 1(13), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90–407, § 15(a)(1), July 18, 1968, 82 Stat. 366; Pub. L. 91–644, title I, § 8(b), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 92–255, title II, § 212(a), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92–302, § 2(a), May 18, 1972, 86 Stat. 149; Pub. L. 92–352, title I, § 104(1), July 13, 1972, 86 Stat. 490; Pub. L. 92–596, § 6, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 93–438, title III, § 310(1), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93–496, § 16(c), Oct. 28, 1974, 88 Stat. 1533; Pub. L. 94–82, title II, § 202(b)(2), Aug. 9, 1975, 89 Stat. 419; Pub. L. 94–237, § 4(c)(6), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94–561, § 1(a), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 95–91, title VII, § 710(d), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95–140, § 3(d)(1), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 95–454, title II, § 201(b)(1), Oct. 13, 1978, 92 Stat. 1121; Pub. L. 96–54, § 2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–465, title II, § 2302, Oct. 17, 1980, 94 Stat. 2164; Pub. L. 97–449, §§ 3(1), 7(b), Jan. 12, 1983, 96 Stat. 2441, 2444; Pub. L. 98–80, § 2(a)(1), Aug. 23, 1983, 97 Stat. 485; Pub. L. 98–216, § 3(a)(1), Feb. 14, 1984, 98 Stat. 6; Pub. L. 99–348, title V, § 501(d)(1), July 1, 1986, 100 Stat. 708; Pub. L. 99–619, § 2(a)(2), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 100–204, title I, § 178(a)(1), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 100–527, § 13(d), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100–679, § 11(b), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 101–73, title V, § 501(c), Aug. 9, 1989, 103 Stat. 394; Pub. L. 101–509, title V, § 529 [title I, § 112(b)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 101–576, title II, § 207(a), Nov. 15, 1990, 104 Stat. 2846; Pub. L. 102–233, title III, § 315(b), Dec. 12, 1991, 105 Stat. 1772; Pub. L. 102–550, title XIII, § 1351(a), Oct. 28, 1992, 106 Stat. 3969; Pub. L. 103–160, div. A, title IX, § 904(e)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–296, title I, § 108(e)(2), Aug. 15, 1994, 108 Stat. 1486; Pub. L. 103–325, title I, § 104(i), Sept. 23, 1994, 108 Stat. 2169; Pub. L. 105–277, div. C, title VII, § 713(a)(2), div. G, subdiv. A, title XII, § 1224(1), title XIII, § 1332(1), Oct. 21, 1998, 112 Stat. 2681–693, 2681–772, 2681–785; Pub. L. 106–65, div. A, title IX, § 911(e), Oct. 5, 1999, 113 Stat. 719; Pub. L. 106–553, § 1(a)(2) [title IV, § 404(b)], Dec. 21, 2000, 114 Stat. 2762, 2762A–96; Pub. L. 106–569, title X, § 1002(a)(2), Dec. 27, 2000, 114 Stat. 3028; Pub. L. 107–71, title I, § 101(c)(1), Nov. 19, 2001, 115 Stat. 602; Pub. L. 107–295, title II, § 215(b), Nov. 25, 2002, 116 Stat. 2102; Pub. L. 107–296, title XVII, § 1702(a)(2), Nov. 25, 2002, 116 Stat. 2313; Pub. L. 108–199, div. D, title VI, § 604(b)(4)(B), Jan. 23, 2004, 118 Stat. 212; Pub. L. 108–458, title I, § 1015(b), Dec. 17, 2004, 118 Stat. 3664; Pub. L. 109–295, title VI, § 612(a)(1), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 110–53, title XXIV, § 2405(e), Aug. 3, 2007, 121 Stat. 550; Pub. L. 110–289, div. A, title I, § 1161(g)(1), July 30, 2008, 122 Stat. 2780; Pub. L. 111–259, title VIII, § 807(a), Oct. 7, 2010, 124 Stat. 2749.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2211(b) (less (15)).	Aug. 14, 1964, Pub. L. 88–426, § 303(b) (less (15)), 78 Stat. 416.

The proviso in paragraph (15) of former section 2211(b) is carried into section 5314. The remainder of paragraph (15) is omitted but not repealed, see table III. The part of paragraph (15) that is omitted but not repealed provides that the position of Director of the Federal Bureau of Investigation shall be in Level II of the Federal Executive Salary Schedule so long as the position is held by the incumbent of the position on August 14, 1964. The omission of this provision from title 5, without repealing the corresponding provision of the source statute, in effect leaves existing statute unchanged insofar as it relates to the present incumbent of the position of Director of the Federal Bureau of Investigation.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

The deletion of paragraph (6) of 5 U.S.C. 5313 reflects the abolition of the position of ''Administrator of the Housing and Home Finance Agency'' by the act of September 9, 1965, Public Law 89–174, sections 5(a), 9(c), 79 Stat. 669, 671.

AMENDMENTS

2010—Pub. L. 111–259 substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence''.

2008—Pub. L. 110–289 substituted ''Director of the Federal Housing Finance Agency'' for ''Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development''.

2007—Pub. L. 110–53 inserted item relating to Under Secretary of Homeland Security for Management.

2006—Pub. L. 109–295 inserted item relating to Administrator of the Federal Emergency Management Agency.

2004—Pub. L. 108–458 inserted items relating to Principal Deputy Director of National Intelligence, Director of the National Counterterrorism Center, and Director of the National Counter Proliferation Center.

Pub. L. 108–199 inserted item relating to Chief Executive Officer, Millennium Challenge Corporation.

2002—Pub. L. 107–296 inserted item relating to Deputy Secretary of Homeland Security.

Pub. L. 107–295 inserted item relating to Under Secretary of Transportation for Policy.

2001—Pub. L. 107–71 inserted item relating to Under Secretary of Transportation for Security.

2000—Pub. L. 106–569 struck out item relating to Chairman, Board of Governors of the Federal Reserve System and inserted item relating to Members, Board of Governors of the Federal Reserve System.

Pub. L. 106–553 inserted item relating to Deputy Secretary of State for Management and Resources.

1999—Pub. L. 106–65 substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

1998—Pub. L. 105–277, § 1332(1), struck out item relating to Director of the United States Information Agency.

Pub. L. 105–277, § 1224(1), struck out item relating to Director of the United States Arms Control and Disarmament Agency.

Pub. L. 105–277, § 713(a)(2), inserted item relating to Deputy Director of National Drug Control Policy.

1994—Pub. L. 103–325 inserted item relating to Administrator of the Community Development Financial Institutions Fund.

Pub. L. 103–296 inserted item relating to Deputy Commissioner of Social Security, Social Security Administration.

1993—Pub. L. 103–160 substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

1992—Pub. L. 102–550 inserted item relating to Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.

1991—Pub. L. 102–233 substituted ''Independent Members, Thrift Depositor Protection Oversight Board'' for ''Independent Members, Oversight Board, Resolution Trust Corporation''.

1990—Pub. L. 101–576 inserted item relating to Deputy Director for Management, Office of Management and Budget.

Pub. L. 101–509 inserted items relating to Deputy Secretary of Health and Human Services, Deputy Secretary of the Interior, Deputy Secretary of Education, and Deputy Secretary of Housing and Urban Development.

1989—Pub. L. 101–73 inserted item relating to Independent Members, Oversight Board, Resolution Trust Corporation.

1988—Pub. L. 100–679 inserted item relating to Deputy Director of Office of Management and Budget and struck out item relating to Director of Office of Management and Budget.

Pub. L. 100–527 substituted ''Deputy Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1987—Pub. L. 100–204 struck out item relating to Ambassadors at Large.

1986—Pub. L. 99–619 inserted item relating to Deputy Secretary of Labor.

Pub. L. 99–348 inserted item relating to Under Secretary of Defense for Acquisition.

1984—Pub. L. 98–216 substituted ''Director of the Office of Management and Budget'' for ''Director of the Bureau of the Budget''.

1983—Pub. L. 98–80 inserted item relating to Administrator of Environmental Protection Agency.

Pub. L. 97–449, § 3(1), inserted item relating to Administrator, Federal Highway Administration.

1980—Pub. L. 96–465 inserted item relating to Ambassadors at Large.

1979—Pars. (1)–(24). Pub. L. 96–54 struck out paragraph designations for positions listed herein.

1978—Par. (24). Pub. L. 95–454 added par. (24) relating to Director of Office of Personnel Management.

1977—Par. (1). Pub. L. 95–140 substituted ''Deputy Secretary of Defense'' for ''Deputy Secretaries of Defense (2)''.

Par. (22). Pub. L. 95–91 substituted ''Deputy Secretary of Energy'' for ''Administrator of Energy Research and Development Administration''.

1976—Par. (21). Pub. L. 94–237 struck out par. (21) relating to Director of Special Action Office for Drug Abuse Prevention.

Par. (23). Pub. L. 94–561 added par. (23) relating to Deputy Secretary of Agriculture.

1975—Pub. L. 94–82 substituted provisions applying level II of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level II to positions for which annual rate of basic pay is $30,000.

1974—Par. (7). Pub. L. 93–496 substituted ''Deputy Secretary of Transportation'' for ''Under Secretary for Transportation''.

Par. (8). Pub. L. 93–438 substituted ''Chairman, Nuclear Regulatory Commission'' for ''Chairman, Atomic Energy Commission''.

Par. (22). Pub. L. 93–438 added par. (22) relating to Deputy Secretary of Energy.

1972—Par. (1). Pub. L. 92–596 substituted ''Deputy Secretaries of Defense (2)'' for ''Deputy Secretary of Defense''.

Par. (2). Pub. L. 92–352 substituted ''Deputy Secretary of State'' for ''Under Secretary of State''.

Par. (6). Pub. L. 92–302 added par. (6) relating to Deputy Secretary of the Treasury. A prior par. (6), ''Administrator of the Housing and Home Finance Agency,'' was repealed by Pub. L. 90–83, § 1(13), Sept. 11, 1967, 81 Stat. 198.

Par. (21). Pub. L. 92–255 added par. (21) relating to Director of Special Action Office for Drug Abuse Prevention.

1971—Par. (20). Pub. L. 91–644 added par. (20) relating to position of Deputy Attorney General being formerly level III under former section 5314(1) of this title.

1968—Par. (19). Pub. L. 90–407 added par. (19) relating to Director of National Science Foundation.

1966—Pub. L. 89–670 substituted ''Under Secretary of Transportation'' for ''Administrator of the Federal Aviation Agency'' in item (7), and inserted item (19) relating to Administrator, Federal Aviation Administration.

CHANGE OF NAME

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve System beginning on or after Dec. 27, 2000, see section 1002(b) of Pub. L. 106–569, set out as a note under section 5312 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1224(1) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

Amendment by section 1332(1) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–233 effective Feb. 1, 1992, see section 318 of Pub. L. 102–233, set out as a note under section 1441 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Health and Human Services, Under Secretary of the Interior, Under Secretary of Education, and Under Secretary of Housing and Urban Development, see section 529 [title I, § 112(e)] of Pub. L. 101–509, set out as a note under section 3404 of Title 20, Education.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–679 effective Jan. 20, 1989, see section 11(e) of Pub. L. 100–679, set out as a note under section 5312 of this title.

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 178(b) of Pub. L. 100–204 provided that: ''The amendments made by subsection (a) [amending sections 5313 and 5315 of this title] shall take effect 30 days after the date of enactment of this Act [Dec. 22, 1987] and shall not affect the salary of any individual holding the rank of Ambassador at Large immediately before the date of enactment of this Act during the period such individual continues to serve in such position.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–619 applicable to incumbent Under Secretary of Labor on Nov. 6, 1986, serving after such date, see section 2(f)(1) of Pub. L. 99–619, set out as a Present Incumbent note under section 552 of Title 29, Labor.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96–54, set out as a note under section 5312 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 5 of Pub. L. 94–561 provided that:

''(a) Except as otherwise provided in this section, this Act [enacting section 2212b of Title 7, Agriculture, amending sections 5313 to 5316 of this title, sections 2210 and 2211 of Title 7, and section 714g of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 2210 of Title 7] shall take effect on its date of enactment [Oct. 19, 1976].

''(b) Subsection (b)(1) of section 3 of this Act [amending section 5316 of this title] shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act [section 2212b of Title 7].''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of Pub. L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811 to 5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–302 effective May 18, 1972, see section 3 of Pub. L. 92–302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 15(a)(4) of Pub. L. 90–407 provided that: ''The amendments made by this subsection [amending sections 5313, 5314, and 5316 of this title] (and the amendments made by sections 3 and 4 of this Act [amending section 1864 and enacting section 1864a of Title 42, The Public Health and Welfare] insofar as they relate to rates of basic pay) shall take effect on the first day of the first calendar month which begins on or after the date of the enactment of this Act [July 18, 1968].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective April 1, 1967, see section 16(a), formerly § 15(a), of Pub. L. 89–670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Office of Director of Office of Science and Technology abolished and functions vested by law in such office transferred to Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

BONUS ELIGIBILITY OF UNDER SECRETARY OF TRANSPORTATION FOR SECURITY

Pub. L. 107–71, title I, § 101(c)(2), Nov. 19, 2001, 115 Stat. 602, provided that: ''In addition to the annual rate of pay authorized by section 5313 of title 5, United States Code, the Under Secretary may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of pay, based on the Secretary's evaluation of the Under Secretary's performance.''

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92–302, not eligible to an increase on basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92–302, May 18, 1972, 86 Stat. 149.

DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE

Director of Federal Bureau of Investigation, Department of Justice to receive compensation at rate prescribed for level II of Federal Executive Salary Schedule [this section], effective as of day following date on which person holding such office on June 19, 1968, ceases to serve as Director, see section 1101(a) of Pub. L. 90–351, June 19, 1968, 82 Stat. 236, set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.
Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration, and Under Secretary of Commerce for Travel and Tourism.
Under Secretaries of State (6).
Under Secretaries of the Treasury (3).
Administrator of General Services.
Administrator of the Small Business Administration.
Deputy Administrator, Agency for International Development.
Chairman of the Merit Systems Protection Board.
Chairman, Federal Communications Commission.
Chairman, Board of Directors, Federal Deposit Insurance Corporation.
Chairman, Federal Energy Regulatory Commission.
Chairman, Federal Trade Commission.
Chairman, Surface Transportation Board.
Chairman, National Labor Relations Board.
Chairman, Securities and Exchange Commission.
Chairman, National Mediation Board.
Chairman, Railroad Retirement Board.
Chairman, Federal Maritime Commission.
Comptroller of the Currency.
Commissioner of Internal Revenue.
Under Secretary of Defense for Policy.
Under Secretary of Defense (Comptroller).
Under Secretary of Defense for Personnel and Readiness.
Under Secretary of Defense for Intelligence.
Deputy Chief Management Officer of the Department of Defense.
Under Secretary of the Air Force.
Under Secretary of the Army.
Under Secretary of the Navy.
Deputy Administrator of the National Aeronautics and Space Administration.
Deputy Director of the Central Intelligence Agency.
Director of the Office of Emergency Planning.
Director of the Peace Corps.
Deputy Director, National Science Foundation.
President of the Export-Import Bank of Washington.
Members, Nuclear Regulatory Commission.
Members, Defense Nuclear Facilities Safety Board.
Director of the Federal Bureau of Investigation, Department of Justice.
Administrator of the National Highway Traffic Safety Administration.
Administrator of the Federal Motor Carrier Safety Administration.
Administrator, Federal Railroad Administration.
Chairman, National Transportation Safety Board.
Chairman of the National Endowment for the Arts the incumbent of which also serves as Chairman of the National Council on the Arts.
Chairman of the National Endowment for the Humanities.
Director of the Federal Mediation and Conciliation Service.
Federal Transit Administrator.
President, Overseas Private Investment Corporation.
Chairman, Postal Regulatory Commission.
Chairman, Occupational Safety and Health Review Commission.
Governor of the Farm Credit Administration.
Chairman, Equal Employment Opportunity Commission.
Chairman, Consumer Product Safety Commission.
Under Secretaries of Energy (3).
Chairman, Commodity Futures Trading Commission.
Deputy United States Trade Representatives (3).
Chief Agricultural Negotiator.
Chairman, United States International Trade Commission.
Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.
Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.
Associate Attorney General.
Chairman, Federal Mine Safety and Health Review Commission.
Chairman, National Credit Union Administration Board.
Deputy Director of the Office of Personnel Management.
Under Secretary of Agriculture for Farm and Foreign Agricultural Services.
Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.
Under Secretary of Agriculture for Natural Resources and Environment.
Under Secretary of Agriculture for Research, Education, and Economics.
Under Secretary of Agriculture for Food Safety.
Under Secretary of Agriculture for Marketing and Regulatory Programs.
Director, Institute for Scientific and Technological Cooperation.
Under Secretary of Agriculture for Rural Development.
Administrator, Maritime Administration.
Executive Director Property Review Board.
Deputy Administrator of the Environmental Protection Agency.
Archivist of the United States.
Executive Director, Federal Retirement Thrift Investment Board.
Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.
Director, Trade and Development Agency.
Under Secretary for Health, Department of Veterans Affairs.
Under Secretary for Benefits, Department of Veterans Affairs.
Under Secretary for Memorial Affairs, Department of Veterans Affairs.
Under Secretaries, Department of Homeland Security.
Director of the Bureau of Citizenship and Immigration Services.

Director of the Office of Government Ethics.

Administrator for Federal Procurement Policy.

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Director of the Office of Thrift Supervision.

Chairperson of the Federal Housing Finance Board.

Executive Secretary, National Space Council.

Controller, Office of Federal Financial Management, Office of Management and Budget.

Administrator, Research and Innovative Technology Administration.

Deputy Director for Demand Reduction, Office of National Drug Control Policy.

Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Register of Copyrights.

Commissioner of Customs, Department of Homeland Security.

Under Secretary of Education[1]

Administrator of the Centers for Medicare & Medicaid Services.

Administrator of the Office of Electronic Government.

Administrator, Pipeline and Hazardous Materials Safety Administration.

Director, Pension Benefit Guaranty Corporation.

Deputy Administrators, Federal Emergency Management Agency.

Chief Executive Officer, International Clean Energy Foundation.

Independent Member of the Financial Stability Oversight Council (1).

Director of the Office of Financial Research.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89–670, § 10(d)(3), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90–83, § 1(14), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90–206, title II, § 215(a), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90–351, title I, § 505, June 19, 1968, 82 Stat. 205, as amended by Pub. L. 91–644, title I, § 7(1), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 90–407, § 15(a)(2), July 18, 1968, 82 Stat. 367; Pub. L. 90–623, § 1(26), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 91–175, pt. V, § 503(1), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91–375, § 6(c)(13), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91–596, § 12(c)(1), Dec. 29, 1970, 84 Stat. 1604; Pub. L. 91–644, title I, §§ 7(1), 8(a), Jan. 2, 1971, 84 Stat. 1887, 1888; Pub. L. 92–181, title V, § 5.41(a), formerly § 5.27(a), Dec. 10, 1971, 85 Stat. 625, as renumbered Pub. L. 99–205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 92–226, pt. IV, § 403, Feb. 7, 1972, 86 Stat. 34; Pub. L. 92–261, § 9(a), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92–302, § 2(b), May 18, 1972, 86 Stat. 149; Pub. L. 92–352, title I, § 104(2), July 13, 1972, 86 Stat. 490; Pub. L. 92–573, § 4(h)(1), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–438, title III, § 310(2), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93–463, title I, § 102(a), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93–618, title I, §§ 141(b)(3)(B), 172(c)(1), Jan. 3, 1975, 88 Stat. 1999, 2010; Pub. L. 94–82, title II, § 202(b)(3), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94–123, § 2(c)(1), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94–183, § 2(17), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 92–255, title II, § 209(a), as added Pub. L. 94–237, § 4(b), Mar. 19, 1976, 90 Stat. 243; Pub. L. 94–461, § 4(a), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 94–561, § 1(b), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 95–91, title VII, § 710(e), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95–139, § 3, Oct. 19, 1977, 91 Stat. 1171; Pub. L. 95–140, § 3(d)(2), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 95–164, title III, § 302(c)(1), Nov. 9, 1977, 91 Stat. 1320; Pub. L. 95–426, title I, § 114(b)(1), Oct. 7, 1978, 92 Stat. 969; Pub. L. 95–454, title II, §§ 201(b)(2), 202(c)(1), Oct. 13, 1978, 92 Stat. 1121, 1131; Pub. L. 95–501, title V, § 501(b), Oct. 21, 1978, 92 Stat. 1691; Pub. L. 95–630, title V, § 502(d), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 96–53, title IV, § 412(a), Aug. 14, 1979, 93 Stat. 377; Pub. L. 96–54, § 2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–88, title V, § 508(d), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 90–351, title I, § 808, as added Pub. L. 96–157, § 2, Dec. 27, 1979, 93 Stat. 1204; Pub. L. 96–355, § 3(b), Sept. 24, 1980, 94 Stat. 1173; Pub. L. 97–31, § 12(1)(A), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97–63, § 4(a)(4), Oct. 16, 1981, 95 Stat. 1014; Pub. L. 97–195, § 1(b)(1), June 16, 1982, 96 Stat. 115; Pub. L. 97–377, title I, § 123, Dec. 21, 1982, 96 Stat. 1913; Pub. L. 97–449, § 3(2), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 97–456, § 3(d)(1), (6), Jan. 12, 1983, 96 Stat. 2505, 2506; Pub. L. 98–80, § 2(b)(1), Aug. 23, 1983, 97 Stat. 485; Pub. L. 98–164, title I, § 125(b)(1), Nov. 22, 1983, 97 Stat. 1026; Pub. L. 98–216, § 3(a)(2), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98–443, § 9(e), Oct. 4, 1984, 98 Stat. 1707; Pub. L. 98–473, title II, § 609J(a), Oct. 12, 1984, 98 Stat. 2102; Pub. L. 98–497, title I, § 107(h), Oct. 19, 1984, 98 Stat. 2292; Pub. L. 99–64, title I, § 116(b), July 12, 1985, 99 Stat. 153; Pub. L. 99–93, title I, § 116(b), title VII, § 704(a)(1), Aug. 16, 1985, 99 Stat. 412, 445; Pub. L. 99–335, title II, § 203, June 6, 1986, 100 Stat. 591; Pub. L. 99–348, title V, § 501(d)(2), July 1, 1986, 100 Stat. 708; Pub. L. 99–500, § 101(c) [title X, §§ 902(b), 903(b)(2)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, and Pub. L. 99–591, § 101(c) [title X, §§ 902(b), 903(b)(2)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132; Pub. L. 99–619, § 2(a)(3), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 99–659, title IV, § 407(e)(1), Nov. 14, 1986, 100 Stat. 3740; Pub. L. 99–661, div. A, title IX, formerly title IV, §§ 902(b), 903(b)(2)(A), Nov. 14, 1986, 100 Stat. 3911, 3912, as renumbered Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–418, title II, § 2204(d)(1), Aug. 23, 1988, 102 Stat. 1331; Pub. L. 100–456, div. A, title XIV, § 1441(b), Sept. 29, 1988, 102 Stat. 2084; Pub. L. 100–519, title II, § 201(d)(4), Oct. 24, 1988, 102 Stat. 2594; Pub. L. 100–527, § 13(e), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100–598, § 8, Nov. 3, 1988, 102 Stat. 3035; Pub. L. 100–679, § 11(c), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 100–690, title I, §§ 1003(a)(4)(B), 1007(c)(3), Nov. 18, 1988, 102 Stat. 4182, 4188; Pub. L. 101–73, title VII, § 742(a)(1), Aug. 9, 1989, 103 Stat. 436; Pub. L. 101–328, § 3(b), July 8, 1990, 104 Stat. 308; Pub. L. 101–509, title V, § 529 [title I, § 112(d)], Nov. 5, 1990, 104 Stat. 1427, 1455; Pub. L. 101–576, title II, § 207(b), Nov. 15, 1990, 104 Stat. 2846; Pub. L. 102–103, title II, § 202, Aug. 17, 1991, 105 Stat. 498; Pub. L. 102–233, title III, § 315(c), Dec. 12, 1991, 105 Stat. 1772; Pub. L. 102–240, title III, § 3004(d)(1),

[1] So in original. Probably should be followed by a period.

Dec. 18, 1991, 105 Stat. 2088; Pub. L. 102–378, § 2(28), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 102–405, title III, § 302(d), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 102–508, title IV, § 401(c), Oct. 24, 1992, 106 Stat. 3310; Pub. L. 102–549, title II, § 202(d), Oct. 28, 1992, 106 Stat. 3658; Pub. L. 102–552, title II, § 201(b)(1), Oct. 28, 1992, 106 Stat. 4105; Pub. L. 103–160, div. A, title IX, §§ 901(b), 903(b), 904(e)(2), Nov. 30, 1993, 107 Stat. 1726, 1727, 1729; Pub. L. 103–204, § 5(b)(1), Dec. 17, 1993, 107 Stat. 2382; Pub. L. 103–211, title II, § 2003(b), Feb. 12, 1994, 108 Stat. 24; Pub. L. 103–236, title I, § 162(d)(1), Apr. 30, 1994, 108 Stat. 405; Pub. L. 103–337, div. A, title IX, § 903(c), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 103–354, title II, §§ 225(e)(2), 231(f)(2), 241(e), 245(e), 251(g), formerly 251(e), 261(c), 285(e), Oct. 13, 1994, 108 Stat. 3214, 3219, 3222, 3223, 3226, 3227, as amended Pub. L. 105–277, div. A, § 101(a) [title X, § 1001(3)], Oct. 21, 1998, 112 Stat. 2681, 2681–41, and renumbered Pub. L. 110–234, title VII, § 7511(a)(3), May 22, 2008, 122 Stat. 1259, and Pub. L. 110–246, § 4(a), title VII, § 7511(a)(3), June 18, 2008, 122 Stat. 1664, 2021; Pub. L. 104–88, title III, § 301(a), Dec. 29, 1995, 109 Stat. 943; Pub. L. 104–105, title II, § 219(b)(1), Feb. 10, 1996, 110 Stat. 184; Pub. L. 104–127, title VII, § 794(b), Apr. 4, 1996, 110 Stat. 1155; Pub. L. 104–293, title VIII, § 812(a), Oct. 11, 1996, 110 Stat. 3482; Pub. L. 105–277, div. C, title VII, § 713(a)(3), div. G, subdiv. A, title XII, § 1224(2), subdiv. B, title XXIII, § 2305(a)(2), Oct. 21, 1998, 112 Stat. 2681–693, 2681–772, 2681–825; Pub. L. 105–304, title IV, § 401(a)(3), Oct. 28, 1998, 112 Stat. 2887; Pub. L. 105–368, title IV, § 403(b)(1), Nov. 11, 1998, 112 Stat. 3338; Pub. L. 106–65, div. A, title IX, § 911(b)(2), div. C, title XXXII, § 3293(a), Oct. 5, 1999, 113 Stat. 718, 969; Pub. L. 106–113, div. B, §§ 1000(a)(5) [title II, § 238(a)(2)], 1000(a)(9) [title IV, § 4720(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–302, 1501A–581; Pub. L. 106–159, title I, § 101(d)(1), Dec. 9, 1999, 113 Stat. 1751; Pub. L. 106–476, title II, § 2002, Nov. 9, 2000, 114 Stat. 2175; Pub. L. 106–569, title X, § 1002(a)(3), Dec. 27, 2000, 114 Stat. 3028; Pub. L. 107–110, title X, § 1071(a), Jan. 8, 2002, 115 Stat. 2088; Pub. L. 107–296, title IV, § 411(b)(2), title XVII, § 1702(a)(3), Nov. 25, 2002, 116 Stat. 2179, 2313; Pub. L. 107–314, div. A, title IX, § 901(c), Dec. 2, 2002, 116 Stat. 2620; Pub. L. 108–173, title IX, § 900(d)(1), Dec. 8, 2003, 117 Stat. 2370; Pub. L. 108–411, title III, § 302(b), Oct. 30, 2004, 118 Stat. 2319; Pub. L. 108–426, §§ 2(d), 4(f), Nov. 30, 2004, 118 Stat. 2424, 2426; Pub. L. 108–447, div. C, title VI, § 603(c)(1), Dec. 8, 2004, 118 Stat. 2967; Pub. L. 109–58, title X, § 1006(c)(2), Aug. 8, 2005, 119 Stat. 932; Pub. L. 109–163, div. A, title IX, § 901(a), Jan. 6, 2006, 119 Stat. 3397; Pub. L. 109–280, title IV, § 411(b), Aug. 17, 2006, 120 Stat. 935; Pub. L. 109–295, title VI, § 612(a)(2), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 109–364, div. A, title IX, § 942(b), Oct. 17, 2006, 120 Stat. 2365; Pub. L. 109–435, title VI, § 604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 110–69, title III, § 3002(c)(1), Aug. 9, 2007, 121 Stat. 586; Pub. L. 110–140, title IX, § 922(b)(4)(B), Dec. 19, 2007, 121 Stat. 1733; Pub. L. 110–181, div. A, title IX, § 904(a)(3), Jan. 28, 2008, 122 Stat. 274; Pub. L. 111–84, div. A, title IX, § 906(d)(1), Oct. 28, 2009, 123 Stat. 2428; Pub. L. 111–203, title I, §§ 111(i)(2), 152(j), July 21, 2010, 124 Stat. 1394, 1414; Pub. L. 111–259, title IV, § 423(b)(1), Oct. 7, 2010, 124 Stat. 2728; Pub. L. 111–358, title IV, § 403(b)(1)(A), Jan. 4, 2011, 124 Stat. 4000.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)–(44)	5 U.S.C. 2211(c) (less (39) and (46)).	Aug. 14, 1964, Pub. L. 88–426, § 303(c) (less (39) and (46)), 78 Stat. 416.
(45)	5 U.S.C. 2211(b)(15) (proviso).	Aug. 14, 1964, Pub. L. 88–426, § 303(b)(15) (proviso), 78 Stat. 416.

The provisos in paragraphs (39) and (46) of former section 2211(c) are carried into section 5315. The remainders of paragraphs (39) and (46) are omitted but not repealed, see table III. The parts of paragraphs (39) and (46) that are omitted but not repealed provide that the positions of Director of Selective Service and Associate Director of the Federal Bureau of Investigation shall be in Level III so long as the positions are held by the incumbents of the positions on August 14, 1964. The omission of these provisions from title 5, without repealing the corresponding provisions of the source statute, in effect, leaves existing statute unchanged insofar as it relates to the present incumbents of the positions of Director of Selective Service and Associate Director of the Federal Bureau of Investigation.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5314(49)	20: 954(d) (2d sentence).	Sept. 29, 1965, Pub. L. 89–209, § 5(d)(1) (2d sentence), 79 Stat. 847.
5314(50)	20:956(b)(1) (2d sentence).	Sept. 29, 1965, Pub. L. 89–209, § 7(b)(1) (2d sentence), 79 Stat. 850.
5314(51)	5 App.: 2211(c)(47).	July 18, 1966, Pub. L. 89–504, § 408(a), 80 Stat. 299.
5314(52)	42:3533(a) (as applicable to compensation of Under Secretary).	Sept. 9, 1965, Pub. L. 89–174, § 4(a) (as applicable to compensation of Under Secretary), 79 Stat. 668.

The deletion of paragraph (41) of 5 U.S.C. 5314 reflects the abolition of the position of ''Deputy Administrator of the Housing and Home Finance Agency'' by the act of September 9, 1965, Public Law 89–174, sections 5(a), 9(c), 79 Stat. 669, 671.

In paragraph (49), the words ''In lieu of receiving compensation at the rate prescribed by section 785(c) of this title'' are omitted since the provisions of 20 U.S.C. 785(c) relating to compensation are repealed by this bill; also see table II. The wording further reflects the first sentence of 20 U.S.C. 954(d), and conforms to 5 U.S.C. 5314 which applies to positions rather than individuals.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 identically renumbered section 251(e) of Pub. L. 103–354, cited as a credit to this section, as section 251(g) of that Act. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Paragraph designation for the position added by Pub. L. 96–88 has been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96–54.

AMENDMENTS

2011—Pub. L. 111–358 inserted item relating to Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.

2010—Pub. L. 111–259 substituted ''Deputy Director of the Central Intelligence Agency'' for ''Deputy Directors of Central Intelligence (2)''.

Pub. L. 111–203, § 152(j), inserted item relating to Director of the Office of Financial Research.

Pub. L. 111–203, § 111(i)(2), inserted item relating to Independent Member of the Financial Stability Oversight Council.

2009—Pub. L. 111–84 substituted ''Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.'' for ''Deputy Under Secretary of Defense for Acquisition and Technology.''

2008—Pub. L. 110–181 inserted item relating to Deputy Chief Management Officer of the Department of Defense.

2007—Pub. L. 110–140 inserted item relating to Chief Executive Officer, International Clean Energy Foundation.

Pub. L. 110–69 struck out item relating to Under Secretary of Commerce for Technology.

2006—Pub. L. 109–435 substituted ''Chairman, Postal Regulatory Commission'' for ''Chairman, Postal Rate Commission''.

Pub. L. 109–364 struck out item relating to Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Pub. L. 109–295 inserted item relating to Deputy Administrators, Federal Emergency Management Agency.

Pub. L. 109–280 inserted item relating to Director, Pension Benefit Guaranty Corporation.

Pub. L. 109–163, which directed insertion of items relating to Under Secretary of the Air Force, Under Secretary of the Army, and Under Secretary of the Navy after ''Under Secretary of Defense for Intelligence'', was executed by inserting such items after ''Under Secretary of Defense for Intelligence.'', to reflect the probable intent of Congress.

2005—Pub. L. 109–58 substituted ''Under Secretaries of Energy (3)'' for ''Under Secretaries of Energy (2)''.

2004—Pub. L. 108–447 struck out item relating to Chairman, Board of Directors of the Tennessee Valley Authority.

Pub. L. 108–426, § 4(f), substituted ''Administrator, Research and Innovative Technology Administration'' for ''Administrator, Research and Special Programs Administration''.

Pub. L. 108–426, § 2(d), inserted item relating to Administrator, Pipeline and Hazardous Materials Safety Administration.

Pub. L. 108–411 inserted item relating to Administrator of the Office of Electronic Government.

2003—Pub. L. 108–173 inserted item relating to Administrator of Centers for Medicare & Medicaid Services.

2002—Pub. L. 107–314 inserted item relating to Under Secretary of Defense for Intelligence.

Pub. L. 107–296, § 1702(a)(3), inserted items relating to Under Secretaries, Department of Homeland Security and Director of the Bureau of Citizenship and Immigration Services.

Pub. L. 107–296, § 411(b)(2), substituted ''Commissioner of Customs, Department of Homeland Security.'' for ''Commissioner of Customs, Department of the Treasury''.

Pub. L. 107–110 inserted item relating to Under Secretary of Education.

2000—Pub. L. 106–569 struck out item relating to Members, Board of Governors of the Federal Reserve System.

Pub. L. 106–476 inserted item relating to Chief Agricultural Negotiator.

1999—Pub. L. 106–159 inserted item relating to Administrator of the Federal Motor Carrier Safety Administration.

Pub. L. 106–113, § 1000(a)(9) [title IV, § 4720(a)], substituted ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.'' for ''Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.''

Pub. L. 106–113, § 1000(a)(5) [title II, § 238(a)(2)], inserted item relating to Commissioner of Customs, Department of the Treasury.

Pub. L. 106–65, § 3293(a), substituted ''Under Secretaries of Energy (2)'' for ''Under Secretary, Department of Energy''.

Pub. L. 106–65, § 911(b)(2), inserted item relating to Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

1998—Pub. L. 105–368 inserted item relating to Under Secretary for Memorial Affairs, Department of Veterans Affairs.

Pub. L. 105–304 inserted items relating to Assistant Secretary of Commerce and Commissioner of Patents and Trademarks and Register of Copyrights.

Pub. L. 105–277, § 2305(a)(2), substituted ''Under Secretaries of State (6)'' for ''Under Secretaries of State (5)''.

Pub. L. 105–277, § 1224(2), struck out item relating to Deputy Director of the United States Arms Control and Disarmament Agency.

Pub. L. 105–277, § 713(a)(3), inserted items relating to Deputy Director for Demand Reduction, Office of National Drug Control Policy, Deputy Director for Supply Reduction, Office of National Drug Control Policy, and Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

Pub. L. 105–277, § 101(a) [title X, § 1001(3)], added Pub. L. 103–354, § 285(e). See 1994 Amendment note below.

1996—Pub. L. 104–293 substituted ''Deputy Directors of Central Intelligence (2)'' for ''Deputy Director of Central Intelligence''.

Pub. L. 104–127 substituted ''Under Secretary of Agriculture for Rural Development'' for ''Under Secretary of Agriculture for Rural Economic and Community Development''.

Pub. L. 104–105 struck out item relating to Chairperson, Board of Directors of the Farm Credit System Insurance Corporation.

1995—Pub. L. 104–88 substituted ''Chairman, Surface Transportation Board'' for ''Chairman, Interstate Commerce Commission''.

1994—Pub. L. 103–354, § 251(g), formerly § 251(e), as renumbered by Pub. L. 110–246, § 7511(a)(3), inserted item relating to Under Secretary of Agriculture for Research, Education, and Economics.

Pub. L. 103–354, § 285(e), as added by Pub. L. 105–277, § 101(a) [title X, § 1001(3)], inserted item relating to Under Secretary of Agriculture for Marketing and Regulatory Programs.

Pub. L. 103–354, §§ 225(e)(2), 231(f)(2), 241(e), 245(e), 261(c), substituted ''Under Secretary of Agriculture for Farm and Foreign Agricultural Services'' for ''Under Secretary of Agriculture for International Affairs and Commodity Programs'', inserted items relating to Under Secretaries of Agriculture for Food, Nutrition, and Consumer Services; for Natural Resources and Environment; and for Food Safety, and substituted ''Under Secretary of Agriculture for Rural Economic and Community Development'' for ''Under Secretary of Agriculture for Small Community and Rural Development''.

Pub. L. 103–337 substituted ''Under Secretary of Defense (Comptroller)'' for ''Comptroller of the Department of Defense''.

Pub. L. 103–236 inserted item relating to Under Secretaries of State (5) and struck out items relating to Under Secretary of State for Political Affairs and Under Secretary of State for Economic and Agricultural Affairs and an Under Secretary of State for Coordinating Security Assistance Programs and Under Secretary of State for Management and Counselor of the Department of State.

Pub. L. 103–211 inserted item relating to Under Secretary of the Treasury (3) and struck out items relating to Under Secretary of the Treasury (or Counselor) and Under Secretary of the Treasury for Monetary Affairs.

1993—Pub. L. 103–204, which directed striking out of ''chief executive officer of the Resolution Trust Corporation.'', was executed by striking ''chief executive officer, Resolution Trust Corporation.'' to reflect the probable intent of Congress.

Pub. L. 103–160 inserted items relating to Comptroller of the Department of Defense and Under Secretary of Defense for Personnel and Readiness and substituted ''Deputy Under Secretary of Defense for Acquisition

and Technology'' for ''Deputy Under Secretary of Defense for Acquisition''.

1992—Pub. L. 102–552 inserted item relating to Chairperson, Board of Directors of the Farm Credit System Insurance Corporation.

Pub. L. 102–549 substituted ''Director, Trade and Development Agency'' for ''Director, Trade and Development Program''.

Pub. L. 102–508 inserted item relating to Administrator, Research and Special Programs Administration.

Pub. L. 102–405 substituted ''Under Secretary for Health, Department of Veterans Affairs'' for ''Chief Medical Director, Department of Veterans Affairs'' and ''Under Secretary for Benefits, Department of Veterans Affairs'' for ''Chief Benefits Director, Department of Veterans Affairs''.

Pub. L. 102–378 struck out each of the items relating to Under Secretary of Education, Under Secretary of Health and Human Services, Under Secretary of the Interior, and Under Secretary of Housing and Urban Development.

1991—Pub. L. 102–240 substituted ''Federal Transit Administrator'' for ''Urban Mass Transportation Administrator''.

Pub. L. 102–233 inserted item relating to chief executive officer, Resolution Trust Corporation.

Pub. L. 102–103 inserted item relating to Under Secretary of Education.

1990—Pub. L. 101–576 inserted item relating to Controller, Office of Federal Financial Management, Office of Management and Budget.

Pub. L. 101–509 directed the amendment of this section by striking the following:

''Under Secretary of Health and Human Services.

''Under Secretary of the Interior.

''Under Secretary of Education.

''Under Secretary of Housing and Urban Development.''

Section did not contain the positions in the order referred to in Pub. L. 101–509. See 1992 Amendment note above for Pub. L. 102–378.

Pub. L. 101–328 inserted item relating to Executive Secretary, National Space Council.

1989—Pub. L. 101–73 inserted items relating to Director of the Office of Thrift Supervision and Chairperson of the Federal Housing Finance Board, and struck out item relating to Chairman of the Federal Home Loan Bank Board.

1988—Pub. L. 100–690, § 1007(c)(3), struck out item relating to Director of Office of Drug Abuse Policy.

Pub. L. 100–690, §§ 1003(a)(4)(B), 1009, temporarily inserted items relating to Deputy Director for Demand Reduction, Office of National Drug Control Policy, and Deputy Director for Supply Reduction, Office of National Drug Control Policy. See Effective and Termination Dates of 1988 Amendments note below.

Pub. L. 100–679 inserted items relating to Administrator for Federal Procurement Policy and to Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, and struck out item relating to Deputy Director of Office of Management and Budget.

Pub. L. 100–598 inserted item relating to Director of Office of Government Ethics.

Pub. L. 100–527 inserted items relating to Chief Medical Director, Department of Veterans Affairs, and Chief Benefits Director, Department of Veterans Affairs, and struck out item relating to Deputy Administrator of Veterans' Affairs.

Pub. L. 100–519 inserted item relating to Under Secretary of Commerce for Technology.

Pub. L. 100–456 inserted item relating to Members, Defense Nuclear Facilities Safety Board after item relating to Members, Nuclear Regulatory Commission.

Pub. L. 100–418 inserted item relating to Director, Trade and Development Program.

1986—Pub. L. 99–659 substituted ''Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration'' for ''Administrator, National Oceanic and Atmospheric Administration''.

Pub. L. 99–619 struck out item relating to Under Secretary of Labor.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended section identically, inserting item relating to Deputy Under Secretary of Defense for Acquisition and striking out item relating to Director of Defense Research and Engineering.

Pub. L. 99–348 substituted ''Under Secretary of Defense for Policy'' for ''Under Secretaries of Defense (2)'' and inserted item relating to Director of Defense Research and Engineering.

Pub. L. 99–335 inserted item relating to Executive Director, Federal Retirement Thrift Investment Board.

1985—Pub. L. 99–93, § 116(b), substituted ''Under Secretary of State for Economic and Agricultural Affairs'' for ''Under Secretary of State for Economic Affairs''.

Pub. L. 99–93, § 704(a)(1), inserted item relating to Deputy Director of United States Arms Control and Disarmament Agency.

Pub. L. 99–64 inserted item relating to Under Secretary of Commerce for Export Administration.

1984—Pub. L. 98–497 inserted item relating to Archivist of United States.

Pub. L. 98–473 struck out item relating to Director of Office of Justice Assistance, Research, and Statistics.

Pub. L. 98–443 struck out item relating to Chairman of Civil Aeronautics Board.

Pub. L. 98–216 substituted ''Deputy Director of the Office of Management and Budget'' for ''Deputy Director of the Bureau of the Budget''.

1983—Pub. L. 98–164 inserted item relating to Counselor of Department of State.

Pub. L. 98–80 inserted item relating to Deputy Administrator of Environmental Protection Agency.

Pub. L. 97–456, § 3(d)(6), substituted ''Deputy United States Trade Representatives (3)'' for ''Deputy Special Representatives for Trade Negotiations (2)''.

Pub. L. 97–449 substituted ''Administrator of the National Highway Traffic Safety Administration'' for ''Administrator, Federal Highway Administration''.

1982—Pub. L. 97–377 inserted item relating to Executive Director of Property Review Board.

Pub. L. 97–195 substituted ''Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, and Under Secretary of Commerce for Travel and Tourism'' for ''Under Secretary of Commerce and Under Secretary of Commerce for Travel and Tourism''.

1981—Pub. L. 97–63 substituted ''Under Secretary of Commerce and Under Secretary of Commerce for Travel and Tourism'' for ''Under Secretary of Commerce''.

Pub. L. 97–31 inserted item relating to Administrator, Maritime Administration.

1980—Pub. L. 96–355 inserted item relating to Under Secretary of Agriculture for Small Community and Rural Development.

1979—Pub. L. 96–157 inserted item relating to Director, Office of Justice Assistance, Research, and Statistics, and struck out item relating to Administrator of Law Enforcement Assistance.

Pub. L. 96–88, § 508(g), substituted ''Health and Human Services'' for ''Health, Education, and Welfare'' in item relating to Under Secretary of Health and Human Services.

Par. (5). Pub. L. 96–88, § 508(d), added par. (5) relating to Under Secretary of Education. See Codification note above.

Pars. (1) to (70). Pub. L. 96–54 struck out paragraph designations for positions listed herein.

Par. (70). Pub. L. 96–53 added par. (70) relating to Director, Institute for Scientific and Technological Cooperation.

1978—Par. (9). Pub. L. 95–426 inserted ''and Under Secretary of State for Management''.

Par. (17). Pub. L. 95–454, § 202(c)(1), substituted ''Merit Systems Protection Board'' for ''United States Civil Service Commission''.

Par. (66). Pub. L. 95–630 added par. (66) relating to Chairman, National Credit Union Administration Board.

Par. (68). Pub. L. 95–454, § 201(b)(2), added par. (68) relating to Deputy Director of Office of Personnel Management.

Par. (69). Pub. L. 95–501 added par. (69) relating to Under Secretary of Agriculture for International Affairs and Commodity Programs.

1977—Par. (21). Pub. L. 95–91 substituted ''Federal Energy Regulatory Commission'' for ''Federal Power Commission''.

Par. (32). Pub. L. 95–140 substituted ''Under Secretaries of Defense (2)'' for ''Director of Defense Research and Engineering, Department of Defense''.

Par. (60). Pub. L. 95–91 substituted ''Under Secretary, Department of Energy'' for ''Deputy Administrator, Energy Research and Development Administration''.

Par. (66). Pub. L. 95–164 added par. (66) relating to Chairman, Federal Mine Safety and Health Review Commission.

Pub. L. 95–139 added par. (66) relating to Associate Attorney General.

1976—Par. (3). Pub. L. 94–561 repealed par. (3) relating to Under Secretary of Agriculture.

Par. (64). Pub. L. 94–237 added par. (64) relating to Director of Office of Drug Abuse Policy.

Par. (65). Pub. L. 94–461 added par. (65) relating to Administrator, National Oceanic and Atmospheric Administration.

1975—Pub. L. 94–82 substituted provisions applying level III of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level III to positions for which annual rate of basic pay is $29,500.

Par. (38). Pub. L. 94–123 repealed par. (38) relating to Chief Medical Director in Department of Medicine and Surgery, Veterans' Administration.

Par. (54). Pub. L. 94–183 redesignated par. (55), relating to Chairman, Postal Rate Commission, as par. (54).

Pars. (56), (57). Pub. L. 94–183 redesignated par. (57) relating to Chairman, Occupational Safety and Health Review Commission, and par. (58) relating to Governor of the Farm Credit Administration, as pars. (56) and (57), respectively.

Par. (60). Pub. L. 93–618, § 141(b)(3)(B), added par. (60) relating to Deputy Special Representative for Trade Negotiations. For renumbering by Pub. L. 94–183, see item relating to par. (62) hereunder.

Par. (61). Pub. L. 94–183 redesignated par. (60), relating to Chairman, Commodity Futures Trading Commission, as par. (61).

Pub. L. 93–618, § 172(c)(1), added par. (61). For renumbering by Pub. L. 94–183, see item relating to par. (63) hereunder.

Pars. (62), (63). Pub. L. 94–183 redesignated par. (60) relating to Deputy Special Representatives for Trade Negotiations, and par. (61) relating to Chairman, United States International Trade Commission, as pars. (62) and (63), respectively.

1974—Par. (42). Pub. L. 93–438 substituted ''Members, Nuclear Regulatory Commission'' for ''Members, Atomic Energy Commission''.

Par. (60). Pub. L. 93–463 added par. (60) relating to Chairman, Commodity Futures Trading Commission.

Pub. L. 93–438 added par. (60) relating to Deputy Administrator, Energy Research and Development Administration.

1973—Par. (55). Pub. L. 93–83 reenacted par. (55) relating to Administrator of Law Enforcement Assistance.

1972—Par. (9). Pub. L. 92–352 substituted ''and'' for ''or'', after ''Political Affairs''.

Pub. L. 92–226 included position of an Under Secretary of State for Coordinating Security Assistance Programs.

Par. (10). Pub. L. 92–302 substituted ''Under Secretary of the Treasury (or Counselor)'' for ''Under Secretary of the Treasury''.

Par. (58). Pub. L. 92–261 added par. (58) relating to Chairman, Equal Employment Opportunity Commission.

Par. (59). Pub. L. 92–573 added par. (59) relating to Chairman, Consumer Product Safety Commission.

1971—Pars. (1) to (54). Pub. L. 91–644, § 8(a), struck out par. (1) relating to Deputy Attorney General, now a level II position under section 5313 of this title, renumbered pars. (2) through (54) as (1) through (53), respectively.

Par. (55). Pub. L. 91–644, § 7(1), in amending section 505 of Pub. L. 90–351, renumbered par. (90) ''Administrator of Law Enforcement Assistance'' of section 5315 of this title as par. (55) of this section.

Par. (58). Pub. L. 92–181 added par. (58) relating to Governor of Farm Credit Administration.

1970—Par. (3). Pub. L. 91–375, § 6(c)(13)(A), struck out par. (3) relating to Deputy Postmaster General.

Par. (55). Pub. L. 91–375, § 6(c)(13)(B), added par. (55) relating to Chairman, Postal Rate Commission.

Par. (57). Pub. L. 91–596 added par. (57) relating to Chairman, Occupational Safety and Health Review Commission.

1969—Par. (54). Pub. L. 91–175 added par. (54) relating to President, Overseas Private Investment Corporation.

1968—Par. (40). Pub. L. 90–407 substituted ''Deputy Director, National Science Foundation'' for ''Director of the National Science Foundation''.

Par. (53). Pub. L. 90–623 added par. (53) relating to Urban Mass Transportation Administrator.

1967—Pub. L. 90–206 increased annual rate of basic pay from $28,500 to $29,500.

1966—Pub. L. 89–670 added pars. (46) to (48), relating to Administrator of Federal Highway Administration, Administrator of the Federal Railroad Administration, and Chairman of National Transportation Safety Board, respectively, and repealed par. (6) which provided for Under Secretary of Commerce for Transportation, subject to the provisions of section 1657 of former Title 49, Transportation.

CHANGE OF NAME

''Export-Import Bank of Washington'', referred to in text, was changed to ''Export-Import Bank of the United States'' in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, as provided for in section 1(a) of Pub. L. 90–267, Mar. 13, 1968, 82 Stat. 47.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–259 applicable on the earlier of (1) the date of the appointment by the President of an individual to serve as Deputy Director of the Central Intelligence Agency (CIA) pursuant to section 403–4c of Title 50, War and National Defense, as added by section 423(a) of Pub. L. 111–259, with certain exceptions; or (2) the date of the cessation of the performance of the duties of the Deputy Director of the CIA by the individual administratively performing such duties as of Oct. 7, 2010, see section 423(c) of Pub. L. 111–259, set out as an Effective Date note under section 403–4c of Title 50.

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title IX, § 942(c), Oct. 17, 2006, 120 Stat. 2365, provided that: ''The amendments made by this section [amending this section and section 5315 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006], and shall apply with respect to individuals appointed as Deputy Under Secretary of Defense for Logistics and Materiel Readiness on or after that date.''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out as an Appointments; Effective Date; Transition note under section 831a of Title 16, Conservation.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–173, title IX, § 900(d)(3), Dec. 8, 2003, 117 Stat. 2370, provided that: ''The amendments made by this subsection [amending this section and section 5315 of this title] take effect on January 1, 2004.''

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107–110, title X, § 1071(b), Jan. 8, 2002, 115 Stat. 2088, provided that: ''This section [amending this section] shall take effect on the first day of the first pay period on or after the date of enactment of this Act [Jan. 8, 2002].''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve System beginning on or after Dec. 27, 2000, see section 1002(b) of Pub. L. 106–569, set out as a note under section 5312 of this title.

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by Pub. L. 106–159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106–159, set out as a note under section 104 of Title 49, Transportation.

Pub. L. 106–113, div. B, § 1000(a)(5) [title II, § 238(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–302, provided that: ''The amendment made by this subsection [probably means this section, amending this section and section 5315 of this title] shall take effect on January 1, 2000.''

Amendment by section 1000(a)(9) [title IV, § 4720(a)] of Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

Amendment by section 3293(a) of Pub. L. 106–65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1224(2) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–552 effective Jan. 1, 1996, see section 201(c)(1) of Pub. L. 102–552, set out as an Effective Date of 1992 Amendment; Transitional Provision note under section 2277a–2 of Title 12, Banks and Banking.

Amendment by Pub. L. 102–378 effective as of the first day of the first applicable pay period beginning on or after Nov. 5, 1990, see section 9(b)(10) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–233 effective Feb. 1, 1992, see section 318 of Pub. L. 102–233, set out as a note under section 1441 of Title 12, Banks and Banking.

Amendment by Pub. L. 102–103 effective on first day of first pay period beginning on or after Aug. 17, 1991, see section 203 of Pub. L. 102–103, set out as a note under section 3412 of Title 20, Education.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Health and Human Services, Under Secretary of the Interior, Under Secretary of Education, and Under Secretary of Housing and Urban Development, see section 529 [title I, § 112(e)] of Pub. L. 101–509, set out as a note under section 3404 of Title 20, Education.

Section 6 of Pub. L. 101–328 provided that: ''The provisions of this Act [amending this section and enacting provisions set out as notes under section 2471 of Title 42, The Public Health and Welfare] are effective as of October 1, 1989.''

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by Pub. L. 100–690 effective Jan. 21, 1989, and amendment by section 1003(a)(4)(B) of Pub. L. 100–690 repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100–690.

Amendment by Pub. L. 100–679 effective Jan. 20, 1989, see section 11(e) of Pub. L. 100–679, set out as a note under section 5312 of this title.

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 116(d) of Pub. L. 99–64, as amended by Pub. L. 99–441, § 5, Oct. 3, 1986, 100 Stat. 1118, provided that: ''The provisions of section 15(a) of the Export Administration Act of 1979 [50 U.S.C. App. 2414(a)], as amended by subsection (a) of this section, and the amendments made by subsections (b) and (c) of this section [amending sections 5314 and 5315 of this title] shall take effect on October 1, 1987.''

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–497 effective Apr. 1, 1985, see section 301 of Pub. L. 98–497, set out as a note under section 2102 of Title 44, Public Printing and Documents.

Amendment by section 609J of Pub. L. 98–473 effective Oct. 12, 1984, see section 609AA of Pub. L. 98–473, set out as an Effective Date note under section 3711 of Title 42, The Public Health and Welfare.

Section 9(v) of Pub. L. 98–443 provided that: ''The amendments made by this section [amending sections 5314 and 5315 of this title, sections 1622 and 2145 of Title 7, Agriculture, sections 4746 and 9746 of Title 10, Armed Forces, sections 18, 21, 1607, 1681s, 1691c, and 1692*l* of Title 15, Commerce and Trade, section 18b of Title 16, Conservation, sections 47 and 7701 of Title 26, Internal Revenue Code, section 3726 of Title 31, Money and Finance, sections 3401, 5005, 5401, and 5402 of Title 39, Postal Service, section 3502 of Title 44, Public Printing

and Documents, and sections 1159a, 1159b, 1301, 1305, 1377, 1382, 1388, 1389, and 1537 of former Title 49, Transportation] shall take effect on January 1, 1985.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–63 effective Oct. 1, 1981, see section 6 of Pub. L. 97–63, set out as a note under section 2121 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–355 effective Oct. 1, 1980, see section 10 of Pub. L. 96–355, set out as an Effective Date note under section 2204b of Title 7, Agriculture.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of Title 20, Education.

Amendment by Pub. L. 96–54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96–54, set out as a note under section 5312 of this title.

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–630 effective on expiration of 120 days after Nov. 10, 1978, see section 509 of Pub. L. 95–630, set out as a note under section 1752 of Title 12, Banks and Banking.

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

Section 114(c) of Pub. L. 95–426 provided that: ''The amendments made by this section [amending sections 5314 and 5315 of this title and section 2652 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as a note under section 2652 of Title 22] shall take effect on October 1, 1978.''

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95–164, set out as a note under section 801 of Title 30, Mineral Lands and Mining.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 6(a), formerly section 6(a)(1), of Pub. L. 94–123, as renumbered Pub. L. 96–330, title I, § 101, Aug. 26, 1980, 94 Stat. 1030, provided that: ''The amendments made by section 2 of this Act [enacting former section 4118 of Title 38, Veterans' Benefits, amending this section, section 5315 of this title, and former section 4107 of Title 38, and enacting provisions set out as notes under former section 4118 of Title 38] shall become effective on October 12, 1975.''

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811 to 5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment by Pub. L. 93–83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83, Aug. 6, 1973, 83 Stat. 218.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–302 effective May 18, 1972, see section 3 of Pub. L. 92–302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

Amendment by Pub. L. 90–407 effective on first day of first calendar month which begins on or after July 18, 1968, see section 15 (a)(4) of Pub. L. 90–407, set out as a note under section 5313 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90–206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective Apr. 1, 1967 as prescribed by President and published in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89–670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

TRANSFER OF FUNCTIONS

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92–302, not eligible to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92–302, May 18, 1972, 86 Stat. 149.

DIRECTOR OF FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE

Director of Federal Bureau of Investigation, Department of Justice to receive compensation at rate prescribed for level II of Federal Executive Salary Schedule (5 U.S.C. 5313), effective as of day following date on which person holding such office on June 19, 1968, ceases to serve as Director, see section 1101(a) of Pub. L. 90–351, set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure.

Position of Director of Federal Bureau of Investigation, referred to in text, placed temporarily in level II during incumbency of incumbent on Aug. 14, 1964, by Pub. L. 88–426, Aug. 14, 1964, § 303(b)(15), 78 Stat. 416.

Section 1101(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. 90–351, June 19, 1968, 82 Stat. 236), which is set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure, provided in part that when present incumbent of position of Director leaves office, his successors will be paid at rate prescribed for level II.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

Associate Administrator of the National Aeronautics and Space Administration.

Assistant Administrators, Agency for International Development (6).

Regional Assistant Administrators, Agency for International Development (4).

Assistant Secretaries of Agriculture (3).

Assistant Secretaries of Commerce (11).

Assistant Secretaries of Defense (16).

Assistant Secretaries of the Air Force (4).

Assistant Secretaries of the Army (5).

Assistant Secretaries of the Navy (4).

Assistant Secretaries of Health and Human Services (6).

Assistant Secretaries of the Interior (6).

Assistant Attorneys General (11).

Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training.

Assistant Secretaries of State (24) and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate.

Assistant Secretaries of the Treasury (10).

Members, United States International Trade Commission (5).

Assistant Secretaries of Education (10).

General Counsel, Department of Education.

Director of Civil Defense, Department of the Army.

Deputy Director of the Office of Emergency Planning.

Deputy Director of the Office of Science and Technology.

Deputy Director of the Peace Corps.

Assistant Directors of the Office of Management and Budget (3).

General Counsel of the Department of Agriculture.

General Counsel of the Department of Commerce.

General Counsel of the Department of Defense.

General Counsel of the Department of Health and Human Services.

Solicitor of the Department of the Interior.

Solicitor of the Department of Labor.

General Counsel of the National Labor Relations Board.

General Counsel of the Department of the Treasury.

First Vice President of the Export-Import Bank of Washington.

Members, Council of Economic Advisers.

Members, Board of Directors of the Export-Import Bank of Washington.

Members, Federal Communications Commission.

Member, Board of Directors of the Federal Deposit Insurance Corporation.

Directors, Federal Housing Finance Board.

Members, Federal Energy Regulatory Commission.

Members, Federal Trade Commission.

Members, Surface Transportation Board.

Members, National Labor Relations Board.

Members, Securities and Exchange Commission.

Members, Merit Systems Protection Board.

Members, Federal Maritime Commission.

Members, National Mediation Board.

Members, Railroad Retirement Board.

Director of Selective Service.

Associate Director of the Federal Bureau of Investigation, Department of Justice.

Members, Equal Employment Opportunity Commission (4).

Director, Community Relations Service.

Members, National Transportation Safety Board.

General Counsel, Department of Transportation.

Deputy Administrator, Federal Aviation Administration.

Assistant Secretaries of Transportation (4).

Deputy Federal Highway Administrator.

Administrator of the Saint Lawrence Seaway Development Corporation.

Assistant Secretary for Science, Smithsonian Institution.

Assistant Secretary for History and Art, Smithsonian Institution.

Deputy Administrator of the Small Business Administration.

Assistant Secretaries of Housing and Urban Development (8).

General Counsel of the Department of Housing and Urban Development.

Commissioner of Interama.

Federal Insurance Administrator, Federal Emergency Management Agency.

Executive Vice President, Overseas Private Investment Corporation.

Members, National Credit Union Administration Board (2).

Members, Postal Regulatory Commission (4).

Members, Occupational Safety and Health Review Commission.

Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

Members, Consumer Product Safety Commission (4).

Members, Commodity Futures Trading Commission.

Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

Executive Director for Operations, Nuclear Regulatory Commission.

President, Government National Mortgage Association, Department of Housing and Urban Development.

Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.

Director, Bureau of Prisons, Department of Justice.

Assistant Secretaries of Energy (8).

General Counsel of the Department of Energy.

Administrator, Economic Regulatory Administration, Department of Energy.

Administrator, Energy Information Administration, Department of Energy.

Director, Office of Indian Energy Policy and Programs, Department of Energy.

Director, Office of Science, Department of Energy.

Assistant Secretary of Labor for Mine Safety and Health.

Members, Federal Mine Safety and Health Review Commission.

President, National Consumer Cooperative Bank.

Special Counsel of the Merit Systems Protection Board.

Chairman, Federal Labor Relations Authority.

Assistant Secretaries, Department of Homeland Security.

General Counsel, Department of Homeland Security.

Officer for Civil Rights and Civil Liberties, Department of Homeland Security.

Chief Financial Officer, Department of Homeland Security.

Chief Information Officer, Department of Homeland Security.

Deputy Director, Institute for Scientific and Technological Cooperation.

Director of the National Institute of Justice.

Director of the Bureau of Justice Statistics.

Chief Counsel for Advocacy, Small Business Administration.

Assistant Administrator for Toxic Substances, Environmental Protection Agency.

Assistant Administrator, Office of Solid Waste, Environmental Protection Agency.

Assistant Administrators, Environmental Protection Agency (8).

Director of Operational Test and Evaluation, Department of Defense.

Director of Cost Assessment and Program Evaluation, Department of Defense.

Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State.

Ambassadors at Large.

Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Assistant Secretaries, Department of Veterans Affairs (7).

General Counsel, Department of Veterans Affairs.

Commissioner of Food and Drugs, Department of Health and Human Services[1]

Chairman, Board of Veterans' Appeals.

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Director, United States Marshals Service.

Chairman, United States Parole Commission.

Director, Bureau of the Census, Department of Commerce.

Director of the Institute of Museum and Library Services.

Chief Financial Officer, Department of Agriculture.

Chief Financial Officer, Department of Commerce.

Chief Financial Officer, Department of Education.

Chief Financial Officer, Department of Energy.

Chief Financial Officer, Department of Health and Human Services.

Chief Financial Officer, Department of Housing and Urban Development.

Chief Financial Officer, Department of the Interior.

Chief Financial Officer, Department of Justice.

Chief Financial Officer, Department of Labor.

Chief Financial Officer, Department of State.

Chief Financial Officer, Department of Transportation.

Chief Financial Officer, Department of the Treasury.

Chief Financial Officer, Department of Veterans Affairs.

Chief Financial Officer, Environmental Protection Agency.

Chief Financial Officer, National Aeronautics and Space Administration.

Commissioner, Office of Navajo and Hopi Indian Relocation.

Principal Deputy Under Secretary of Defense for Policy.

Principal Deputy Under Secretary of Defense for Personnel and Readiness.

Principal Deputy Under Secretary of Defense (Comptroller).

Principal Deputy Under Secretary of Defense for Intelligence.

General Counsel of the Department of the Army.

General Counsel of the Department of the Navy.

General Counsel of the Department of the Air Force.

Liaison for Community and Junior Colleges, Department of Education.

Director of the Office of Educational Technology.

Director of the International Broadcasting Bureau.

The[2] Commissioner of Labor Statistics, Department of Labor.

Administrator, Rural Utilities Service, Department of Agriculture.

Chief Information Officer, Department of Agriculture.

Chief Information Officer, Department of Commerce.

Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this title).

Chief Information Officer, Department of Education.

[1] So in original. Probably should be followed by a period.

[2] The word ''The'' probably should not appear.

Chief Information Officer, Department of Energy.

Chief Information Officer, Department of Health and Human Services.

Chief Information Officer, Department of Housing and Urban Development.

Chief Information Officer, Department of the Interior.

Chief Information Officer, Department of Justice.

Chief Information Officer, Department of Labor.

Chief Information Officer, Department of State.

Chief Information Officer, Department of Transportation.

Chief Information Officer, Department of the Treasury.

Chief Information Officer, Department of Veterans Affairs.

Chief Information Officer, Environmental Protection Agency.

Chief Information Officer, National Aeronautics and Space Administration.

Chief Information Officer, Agency for International Development.

Chief Information Officer, Federal Emergency Management Agency.

Chief Information Officer, General Services Administration.

Chief Information Officer, National Science Foundation.

Chief Information Officer, Nuclear Regulatory Agency.

Chief Information Officer, Office of Personnel Management.

Chief Information Officer, Small Business Administration.

General Counsel of the Central Intelligence Agency.

Principal Deputy Administrator, National Nuclear Security Administration.

Additional Deputy Administrators of the National Nuclear Security Administration (3), but if the Deputy Administrator for Naval Reactors is an officer of the Navy on active duty, (2).

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

General Counsel of the Office of the Director of National Intelligence.

Chief Medical Officer, Department of Homeland Security.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 461; Pub. L. 89–670, §10(d)(4), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 89–734, §1(1), Nov. 2, 1966, 80 Stat. 1163; Pub. L. 89–779, §8(c)(1), Nov. 6, 1966, 80 Stat. 1364; Pub. L. 90–83, §1(15), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90–206, title II, §215(b), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90–351, title I, §505, June 19, 1968, 82 Stat. 205; Pub. L. 90–448, title XI, §1105(b), title XVII, §1708(b), Aug. 1, 1968, 82 Stat. 567, 606; Pub. L. 90–623, §1(4), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91–121, title IV, §404(b), Nov. 19, 1969, 83 Stat. 207; Pub. L. 91–175, pt. V, §503(2), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91–206, §5(b), Mar. 10, 1970, 84 Stat. 51; Pub. L. 91–375, §6(c)(14), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91–469, §42(b), Oct. 21, 1970, 84 Stat. 1038; Pub. L. 91–477, §3(b), Oct. 21, 1970, 84 Stat. 1072; Pub. L. 91–596, §§12(c)(2), 29(b), Dec. 29, 1970, 84 Stat. 1604, 1619; Pub. L. 91–611, title II, §211(b), Dec. 31, 1970, 84 Stat. 1829; Pub. L. 91–644, title I, §7 (1), (2), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 92–22, §2, June 1, 1971, 85 Stat. 76; Pub. L. 92–181, title V, §5.41(a), formerly §5.27(a), Dec. 10, 1971, 85 Stat. 625, renumbered Pub. L. 99–205, title II, §205(a)(2), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 92–215, §2, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92–255, title II, §212(b), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92–261, §9(b), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92–302, §2(c), May 18, 1972, 86 Stat. 149; Pub. L. 92–352, title I, §104(3), July 13, 1972, 86 Stat. 490; Pub. L. 92–419, title VI, §604(b), Aug. 30, 1972, 86 Stat. 676; Pub. L. 92–573, §4(h)(2), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 92–603, title IV, §404(b), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 90–351, title I, §506(a), as added Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–126, §9(b), as added Pub. L. 93–312, §9, June 8, 1974, 88 Stat. 238; Pub. L. 93–383, title VIII, §818(c), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93–400, §13, Aug. 30, 1974, 88 Stat. 799; Pub. L. 93–438, title III, §310(3), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93–463, title I, §102(b), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93–618, title I, §172(c)(2), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94–82, title II, §202(b)(4), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94–123, §2(c)(2), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94–183, §2(18), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 92–255, title II, §209(b), as added Pub. L. 94–237, §4(b), Mar. 19, 1976, 90 Stat. 243; Pub. L. 94–375, §17(c), Aug. 3, 1976, 90 Stat. 1077; Pub. L. 94–461, §4(b), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 94–503, title II, §202(b), Oct. 15, 1976, 90 Stat. 2426; Pub. L. 94–561, §3(a), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 95–88, title I, §124(b), Aug. 3, 1977, 91 Stat. 542; Pub. L. 95–91, title VII, §710(f), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95–105, title I, §109(d), Aug. 17, 1977, 91 Stat. 847; Pub. L. 95–108, §2(b), Aug. 17, 1977, 91 Stat. 871; Pub. L. 95–164, title III, §302(b), Nov. 9, 1977, 91 Stat. 1319; Pub. L. 95–173, §9(b), Nov. 12, 1977, 91 Stat. 1360; Pub. L. 95–351, title III, §302, Aug. 20, 1978, 92 Stat. 514; Pub. L. 95–426, title I, §§114(b)(2), 115(b)(1), Oct. 7, 1978, 92 Stat. 969; Pub. L. 95–452, §10(a), Oct. 12, 1978, 92 Stat. 1108; Pub. L. 95–454, title II, §§202(c)(2), (3), title VII, §703(d), Oct. 13, 1978, 92 Stat. 1131, 1217; Pub. L. 95–630, title V, §502(e), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 96–39, title XI, §1106(c)(4), July 26, 1979, 93 Stat. 312; Pub. L. 96–53, title IV, §412(b), Aug. 14, 1979, 93 Stat. 377; Pub. L. 96–54, §2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–88, title V, §508(e), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 96–107, title VIII, §820(e)(1), Nov. 9, 1979, 93 Stat. 819; Pub. L. 96–132, §5, Nov. 30, 1979, 93 Stat. 1045; Pub. L. 96–153, title VI, §603(b), Dec. 21, 1979, 93 Stat. 1138; Pub. L. 90–351, title I, §809, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1204; Pub. L. 96–302, title IV, §403, July 2, 1980, 94 Stat. 850; Pub. L. 96–511, §4(d), Dec. 11, 1980, 94 Stat. 2826; Pub. L. 97–31, §12(1)(B), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97–35, title III, §396(h)(4), Aug. 13, 1981, 95 Stat. 441; Pub. L. 97–98, title XIV, §1414(b), Dec. 22, 1981, 95 Stat. 1303; Pub. L. 97–195, §1(b)(2), June 16, 1982, 96 Stat. 115; Pub. L. 97–252, title XI, §1117(d), Sept. 8, 1982, 96 Stat. 753; Pub. L. 97–325, §8(b), Oct. 15, 1982, 96 Stat. 1605; Pub. L. 97–449, §3(3), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 98–80, §2(c)(1), Aug. 23, 1983, 97 Stat. 485; Pub. L. 98–94, title XII, §§1211(b), 1212(d), Sept. 24, 1983, 97 Stat. 686, 687;

Pub. L. 98–164, title I, § 125(b)(2), Nov. 22, 1983, 97 Stat. 1026; Pub. L. 98–202, § 6(b), Dec. 2, 1983, 97 Stat. 1382; Pub. L. 98–216, § 3(a)(3), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98–369, title III, § 2332(b), July 18, 1984, 98 Stat. 1089; Pub. L. 98–443, § 9(e), Oct. 4, 1984, 98 Stat. 1707; Pub. L. 98–473, title II, §§ 609J(b), 1701(b), Oct. 12, 1984, 98 Stat. 2102, 2185; Pub. L. 98–594, § 1(b), Oct. 30, 1984, 98 Stat. 3129; Pub. L. 99–64, title I, § 116(c), July 12, 1985, 99 Stat. 153; Pub. L. 99–73, § 6(b)(1), July 29, 1985, 99 Stat. 173; Pub. L. 99–93, title I, § 115(b), title VII, § 704(a)(2), Aug. 16, 1985, 99 Stat. 411, 445; Pub. L. 99–399, title I, § 104(c), title IV, §§ 412(c), 413(e), formerly 413(a)(5), Aug. 27, 1986, 100 Stat. 856, 867, 868, as renumbered Pub. L. 100–204, title I, § 134(b), Dec. 22, 1987, 101 Stat. 1344; Pub. L. 99–500, § 101(c) [title X, § 903(b)(2)(B)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, and Pub. L. 99–591, § 101(c) [title X, § 903(b)(2)(B)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132; Pub. L. 99–619, § 2(b)(2), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 99–659, title IV, § 407(e)(2), Nov. 14, 1986, 100 Stat. 3740; Pub. L. 99–661, div. A, title IX, formerly title IV, § 903(b)(2)(B), Nov. 14, 1986, 100 Stat. 3912, as renumbered Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–204, title I, § 178(a)(2), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 100–297, title III, § 3001(b)(2), Apr. 28, 1988, 102 Stat. 331; Pub. L. 100–418, title II, § 2301(i), formerly § 2301(h), title V, § 5112(c)(2), Aug. 23, 1988, 102 Stat. 1341, 1431, as renumbered Pub. L. 102–429, title II, § 203(b)(1), Oct. 21, 1992, 106 Stat. 2201; Pub. L. 100–485, title VI, § 603(b), Oct. 13, 1988, 102 Stat. 2409; Pub. L. 100–504, title I, § 103(a), Oct. 18, 1988, 102 Stat. 2521; Pub. L. 100–527, § 13(f), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100–607, title V, § 503(b)(2), Nov. 4, 1988, 102 Stat. 3121; Pub. L. 100–679, § 11(d), Nov. 17, 1988, 102 Stat. 4070; Pub. L. 100–687, div. A, title II, § 201(b)(1), Nov. 18, 1988, 102 Stat. 4109; Pub. L. 100–690, title I, §§ 1003(a)(4)(C), 1007(c)(4), title VII, §§ 7252(b)(3), 7608(e), Nov. 18, 1988, 102 Stat. 4182, 4188, 4436, 4517; Pub. L. 101–73, title V, § 501(b)(2)(A), title VII, § 742(a)(2), Aug. 9, 1989, 103 Stat. 393, 436; Pub. L. 101–189, div. A, title XI, § 1112, Nov. 29, 1989, 103 Stat. 1554; Pub. L. 101–319, § 3(a), July 3, 1990, 104 Stat. 290; Pub. L. 101–509, title V, § 529 [title I, § 113(2)], Nov. 5, 1990, 104 Stat. 1427, 1455; Pub. L. 101–512, title III, § 318 [title II, § 202(a)(2)], Nov. 5, 1990, 104 Stat. 1960, 1975; Pub. L. 101–576, title II, § 207(c), Nov. 15, 1990, 104 Stat. 2846; Pub. L. 102–138, title I, § 122(d)(1), Oct. 28, 1991, 105 Stat. 659; Pub. L. 102–180, § 3(g), Dec. 2, 1991, 105 Stat. 1231; Pub. L. 102–183, title IV, § 404, Dec. 4, 1991, 105 Stat. 1267; Pub. L. 102–190, div. A, title IX, §§ 901(b), 903(a)(1), div. C, title XXXV, § 3504(a), Dec. 5, 1991, 105 Stat. 1450, 1451, 1586; Pub. L. 102–325, title XV, § 1553(b), July 23, 1992, 106 Stat. 839; Pub. L. 102–359, § 2(b)(1), Aug. 26, 1992, 106 Stat. 962; Pub. L. 102–552, title II, § 201(b)(2), Oct. 28, 1992, 106 Stat. 4105; Pub. L. 103–123, title I, § 108(a)(2), Oct. 28, 1993, 107 Stat. 1234; Pub. L. 103–160, div. A, title IX, §§ 902(a)(2), 903(c)(2), Nov. 30, 1993, 107 Stat. 1727, 1728; Pub. L. 103–171, § 3(b)(1), Dec. 2, 1993, 107 Stat. 1991; Pub. L. 103–204, § 23(b), Dec. 17, 1993, 107 Stat. 2408; Pub. L. 103–227, title II, § 233(b), Mar. 31, 1994, 108 Stat. 155; Pub. L. 103–236, title I, § 162(d)(2), title III, § 307(b)(2), title VII, § 708(b), Apr. 30, 1994, 108 Stat. 405, 436, 494; Pub. L. 103–272, § 4(b)(2), July 5, 1994, 108 Stat. 1361; Pub. L. 103–296, title I, §§ 106(a)(7)(B), 108(e)(3), Aug. 15, 1994, 108 Stat. 1476, 1486; Pub. L. 103–333, title I, § 106, Sept. 30, 1994, 108 Stat. 2548; Pub. L. 103–337, div. A, title IX, § 901(b), Oct. 5, 1994, 108 Stat. 2822; Pub. L. 103–354, title II, §§ 218(d), 232(b)(3), Oct. 13, 1994, 108 Stat. 3212, 3219; Pub. L. 104–88, title III, § 301(b), Dec. 29, 1995, 109 Stat. 943; Pub. L. 104–105, title II, § 219(b)(2), Feb. 10, 1996, 110 Stat. 184; Pub. L. 104–106, div. A, title IX, § 902(b), div. E, title LI, § 5125(e), Feb. 10, 1996, 110 Stat. 401, 686; Pub. L. 104–127, title VII, § 723(b), Apr. 4, 1996, 110 Stat. 1119; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(1)], (f) [title VI, § 662(c)(1)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, 3009–314, 3009–380; Pub. L. 104–293, title VIII, §§ 812(b), 813(c), Oct. 11, 1996, 110 Stat. 3482, 3483; Pub. L. 105–85, div. A, title X, § 1073(e)(1), div. C, title XXXV, § 3550(b), Nov. 18, 1997, 111 Stat. 1906, 2074; Pub. L. 105–245, title III, § 309(b)(2)(A), Oct. 7, 1998, 112 Stat. 1853; Pub. L. 105–261, div. A, title IX, § 901(b), Oct. 17, 1998, 112 Stat. 2091; Pub. L. 105–277, div. A, § 101(a) [title X, § 1003], div. G, subdiv. A, title XII, § 1224(3), title XIII, §§ 1314(c), 1332(2), subdiv. B, title XXIII, § 2305(b)(2), Oct. 21, 1998, 112 Stat. 2681, 2681–42, 2681–772, 2681–776, 2681–785, 2681–825; Pub. L. 105–368, title IV, § 403(b)(2), Nov. 11, 1998, 112 Stat. 3338; Pub. L. 106–65, div. C, title XXXII, §§ 3293(b), 3294(a)(1), Oct. 5, 1999, 113 Stat. 969, 970; Pub. L. 106–113, div. B, §§ 1000(a)(5) [title II, § 238(a)(1)], 1000(a)(9) [title IV, § 4720(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–302, 1501A–581; Pub. L. 106–422, § 1(c), Nov. 1, 2000, 114 Stat. 1872; Pub. L. 107–107, div. A, title IX, § 901(b), (c)(2), div. C, title XXXI, § 3141(b), Dec. 28, 2001, 115 Stat. 1194, 1370; Pub. L. 107–171, title VI, § 6201(d)(1), title X, § 10704(b), May 13, 2002, 116 Stat. 419, 518; Pub. L. 107–189, § 22(b), June 14, 2002, 116 Stat. 708; Pub. L. 107–279, title IV, § 404(b), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 107–287, § 5(d), Nov. 7, 2002, 116 Stat. 2030; Pub. L. 107–296, title XVII, § 1702(a)(4), (5), Nov. 25, 2002, 116 Stat. 2313; Pub. L. 107–314, div. A, title IX, § 902(d), Dec. 2, 2002, 116 Stat. 2621; Pub. L. 108–173, title IX, § 900(d)(2), Dec. 8, 2003, 117 Stat. 2370; Pub. L. 108–177, title I, § 105(d)(3), Dec. 13, 2003, 117 Stat. 2604; Pub. L. 108–447, div. C, title VI, § 603(c)(2), Dec. 8, 2004, 118 Stat. 2967; Pub. L. 108–458, title I, § 1015(c), Dec. 17, 2004, 118 Stat. 3664; Pub. L. 109–58, title V, § 502(b)(2), title X, § 1006(c)(3), Aug. 8, 2005, 119 Stat. 764, 932; Pub. L. 109–163, div. A, title IX, § 901(b), Jan. 6, 2006, 119 Stat. 3397; Pub. L. 109–177, title V, § 506(a)(3), Mar. 9, 2006, 120 Stat. 247; Pub. L. 109–295, title VI, § 612(a)(3), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 109–364, div. A, title IX, §§ 901(b), 942(a), Oct. 17, 2006, 120 Stat. 2350, 2365; Pub. L. 109–435, title VI, § 604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 110–49, § 11(b), July 26, 2007, 121 Stat. 260; Pub. L. 110–343, div. A, title I, § 101(a)(3)(B)(i), Oct. 3, 2008, 122 Stat. 3767; Pub. L. 110–409, § 4(a)(2), Oct. 14, 2008, 122 Stat. 4303; Pub. L. 111–11, title XIII, § 13004(b), Mar. 30, 2009, 123 Stat. 1449; Pub. L. 111–23, title I, § 101(a)(3), May 22, 2009, 123 Stat. 1706; Pub. L. 111–84, div. A, title IX, § 906(d)(2), Oct. 28, 2009, 123 Stat. 2428; Pub. L. 111–259, title VIII, § 807(b), Oct. 7, 2010, 124 Stat. 2749; Pub. L. 111–358, title IV, § 403(b)(1)(B), Jan. 4, 2011, 124 Stat. 4000; Pub. L. 111–383, div. A, title IX, § 901(n)(1), (2)(A), Jan. 7, 2011, 124 Stat. 4326, 4327.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)–(69)	5 U.S.C. 2211(d).	Aug. 14, 1964, Pub. L. 88–426, § 303(d), 78 Stat. 417.
(70), (71)	5 U.S.C. 2211(c)(39) (proviso), (46) (proviso).	Aug. 14, 1964, Pub. L. 88–426, § 303(c)(39) (proviso), (46) (proviso), 78 Stat. 417.
(72)–(77)	5 U.S.C. 2211(g).	Aug. 14, 1964, Pub. L. 88–426, § 303(g), 78 Stat. 422.

Paragraphs (72)–(77) are added on authority of former section 2211(g) which authorized the President to place, from Aug. 15, 1964, to Feb. 1, 1965, not more than 30 positions in Levels IV and V of the Federal Executive Salary Schedule. Pursuant to this authority, the President by Executive Order No. 11189, Nov. 23, 1964, as amended by Executive Order No. 11195, Jan. 30, 1965, placed the positions listed in paragraphs (72)–(77) in Level IV.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5315(12)	5 App.: 2211(d)(12).	Aug. 26, 1965, Pub. L. 89–136, § 601(b), 79 Stat. 569.
5315(17)	5 App.: 2211(d)(17).	Aug. 9, 1965, Pub. L. 89–115, § 4(c) (words before semicolon), 79 Stat. 449.
		Oct. 2, 1965, Pub. L. 89–234, § 1(b) (last sentence), 79 Stat. 903.
	[Uncodified].	1966 Reorg. Plan No. 2, § 5(a), eff. May 10, 1966, 80 Stat. 1609.
5315(18)	[Uncodified].	1966 Reorg. Plan No. 2, § 2 (last 20 words), eff. May 10, 1966, 80 Stat. 1609.
5315(21)	5 App.: 2211(d)(21).	July 5, 1966, Pub. L. 89–492, § 3, 80 Stat. 262.
5315(30)	5 App.: 2211(d)(30).	July 18, 1966, Pub. L. 89–504, § 408(b), 80 Stat. 299.
5315(87), (88).	42: 3533(a) (as applicable to compensation of four Assistant Secretaries and General Counsel).	Sept. 9, 1965, Pub. L. 89–174, § 4(a) (as applicable to compensation of four Assistant Secretaries and General Counsel), 79 Stat. 668.
5315(89)	22: 2083(a) (1st sentence, less 1st 20 words).	Feb. 19, 1966, Pub. L. 89–355, § 3(a) (1st sentence, less 1st 20 words), 80 Stat. 6.

The deletion of paragraphs (25)–(28) of 5 U.S.C. 5315 reflects the abolition of the positions of ''Commissioner, Community Facilities Administration'', ''Commissioner, Federal Housing Administration'', ''Commissioner, Public Housing Administration'', and ''Commissioner, Urban Renewal Administration'' by the act of September 9, 1965, Public Law 89–174, sections 5(a), 9(c), 79 Stat. 669, 671.

The redesignation of paragraphs (78) and (79), added by Public Law 89–734, and of paragraph (78), added by Public Law 89–779, as paragraphs ''(84)'', ''(85)'', and ''(86)'', respectively, reflects the addition of paragraphs (78)–(83) by section 10(d)(4) of Public Law 89–670.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

The paragraph designation for the positions added or amended by Pub. L. 96–88 and Pub. L. 96–302 has been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96–54.

Amendment by Pub. L. 94–237 to formerly designated par. (95) of this section has been editorially made to formerly designated par. (96) of this section relating to the Deputy Director, Office of Drug Abuse Policy, in view of redesignation of par. (95) as (96) by Pub. L. 94–183 as the probable intent of Congress.

AMENDMENTS

2011—Pub. L. 111–383, § 901(n)(2)(A), struck out item relating to Director of Defense Research and Engineering.

Pub. L. 111–383, § 901(n)(1), substituted ''(16)'' for ''(12)'' in item relating to Assistant Secretaries of Defense.

Pub. L. 111–358 struck out item relating to Director, National Institute of Standards and Technology, Department of Commerce.

2010—Pub. L. 111–259 substituted ''General Counsel of the Office of the Director of National Intelligence'' for ''General Counsel of the Central Intelligence Agency''.

2009—Pub. L. 111–84 substituted ''(12)'' for ''(10)'' in item relating to Assistant Secretaries of Defense, inserted items relating to Principal Deputy Under Secretaries of Defense for Policy, for Personnel and Readiness, and for Intelligence, and Principal Deputy Under Secretary of Defense (Comptroller), and struck out items relating to Deputy Under Secretaries of Defense for Policy, for Personnel and Readiness, and for Logistics and Materiel Readiness.

Pub. L. 111–23 inserted item relating to Director of Cost Assessment and Program Evaluation, Department of Defense.

Pub. L. 111–11 substituted ''(8)'' for ''(7)'' in item relating to Assistant Secretaries of Energy.

2008—Pub. L. 110–409 struck out items relating to Inspectors General of Departments of Education, Energy, Health and Human Services, Agriculture, Housing and Urban Development, Labor, Transportation, Veterans Affairs, Homeland Security, Defense, State, Commerce, the Interior, Justice, and the Treasury, Agency for International Development, Environmental Protection Agency, Export-Import Bank, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Tennessee Valley Authority, Federal Deposit Insurance Corporation, Resolution Trust Corporation, Central Intelligence Agency, Social Security Administration, and United States Postal Service.

Pub. L. 110–343 substituted ''(10)'' for ''(9)'' in item relating to Assistant Secretaries of the Treasury.

2007—Pub. L. 110–49 substituted ''(9)'' for ''(8)'' in item relating to Assistant Secretaries of the Treasury.

2006—Pub. L. 109–435 substituted ''Members, Postal Regulatory Commission (4)'' for ''Members, Postal Rate Commission (4)''.

Pub. L. 109–364, § 942(a), inserted item relating to Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Pub. L. 109–364, § 901(b), substituted ''(10)'' for ''(9)'' in item relating to Assistant Secretaries of Defense.

Pub. L. 109–295 inserted item relating to Chief Medical Officer, Department of Homeland Security.

Pub. L. 109–177, § 506(a)(3), substituted ''(11)'' for ''(10)'' in item relating to Assistant Attorneys General.

Pub. L. 109–163 struck out items relating to Under Secretary of the Air Force, Under Secretary of the Army, and Under Secretary of the Navy.

2005—Pub. L. 109–58, § 1006(c)(3), substituted ''(7)'' for ''(6)'' in item relating to Assistant Secretaries of Energy.

Pub. L. 109–58, § 502(b)(2), inserted item relating to Director, Office of Indian Energy Policy and Programs, Department of Energy.

2004—Pub. L. 108–458 inserted item relating to General Counsel of the Office of the National Intelligence Director and struck out item relating to Assistant Directors of Central Intelligence.

Pub. L. 108–447 struck out item relating to Members, Board of Directors of the Tennessee Valley Authority.

2003—Pub. L. 108–177 substituted ''(8)'' for ''(7)'' in item relating to Assistant Secretaries of the Treasury.

Pub. L. 108–173 struck out item relating to Administrator of the Health Care Financing Administration.

2002—Pub. L. 107–314, which directed the repeal of Pub. L. 107–107, § 901(c), was executed by substituting

''(9)'' for ''(8)'' in item relating to Assistant Secretaries of Defense to reflect the probable intent of Congress. See 2001 Amendment note below.

Pub. L. 107–296, § 1702(a)(5), struck out item relating to Commissioner of Immigration and Naturalization, Department of Justice.

Pub. L. 107–296, § 1702(a)(4), inserted items relating to Assistant Secretaries, Department of Homeland Security, General Counsel, Department of Homeland Security, Officer for Civil Rights and Civil Liberties, Department of Homeland Security, Chief Financial Officer, Department of Homeland Security, Chief Information Officer, Department of Homeland Security, and Inspector General, Department of Homeland Security.

Pub. L. 107–287 substituted ''(7)'' for ''(6)'' in item relating to Assistant Secretaries, Department of Veterans Affairs.

Pub. L. 107–279 struck out item relating to Commissioner, National Center for Education Statistics.

Pub. L. 107–189 inserted item relating to Inspector General, Export-Import Bank.

Pub. L. 107–171, § 10704(b), substituted ''(3)'' for ''(2)'' in item relating to Assistant Secretaries of Agriculture.

Pub. L. 107–171, § 6201(d)(1), struck out item relating to Executive Director of the Alternative Agricultural Research and Commercialization Corporation.

2001—Pub. L. 107–107, § 3141(b), inserted item relating to Principal Deputy Administrator, National Nuclear Security Administration and inserted ''Additional'' before ''Deputy Administrators of the National Nuclear Security Administration''.

Pub. L. 107–107, § 901(c)(2), which substituted ''(8)'' for ''(9)'' in item relating to Assistant Secretaries of Defense, was repealed by Pub. L. 107–314. See 2002 Amendment note above.

Pub. L. 107–107, § 901(b), inserted item relating to Deputy Under Secretary of Defense for Personnel and Readiness.

2000—Pub. L. 106–422 inserted item relating to Inspector General, Tennessee Valley Authority.

1999—Pub. L. 106–113, § 1000(a)(9) [title IV, § 4720(b)], inserted item relating to Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

Pub. L. 106–113, § 1000(a)(5) [title II, § 238(a)(1)], struck out ''Commissioner of Customs, Department of the Treasury''.

Pub. L. 106–65, § 3294(a)(1), substituted ''(6)'' for ''(8)'' in item relating to Assistant Secretaries of Energy.

Pub. L. 106–65, § 3293(b), inserted item relating to Deputy Administrators of the National Nuclear Security Administration.

1998—Pub. L. 105–368 struck out item relating to Director of the National Cemetery System.

Pub. L. 105–277, § 2305(b)(2), which directed the substitution of ''Assistant Secretaries of State (24)'' for ''Assistant Secretaries of State (20)'', was executed by making the substitution for ''20 Assistant Secretaries of State'' in item relating to Assistant Secretaries of State and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate, to reflect the probable intent of Congress.

Pub. L. 105–277, § 1332(2), struck out item relating to Deputy Director of the United States Information Agency and substituted ''Director of the International Broadcasting Bureau.'' for ''Director of the International Broadcasting Bureau, the United States Information Agency.''

Pub. L. 105–277, § 1314(c), struck out item relating to Inspector General, United States Information Agency.

Pub. L. 105–277, § 1224(3), struck out item relating to Assistant Directors, United States Arms Control and Disarmament Agency (4) and substituted ''Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State'' for ''Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency''.

Pub. L. 105–277, § 101(a) [title X, § 1003], substituted ''Assistant Secretaries of Agriculture (2)'' for ''Assistant Secretaries of Agriculture (3)''.

Pub. L. 105–261 substituted ''(9)'' for ''(10)'' in item relating to Assistant Secretaries of Defense.

Pub. L. 105–245 substituted ''Director, Office of Science, Department of Energy'' for ''Director, Office of Energy Research, Department of Energy''.

1997—Pub. L. 105–85, § 3550(b), struck out item relating to Administrator of the Panama Canal Commission.

Pub. L. 105–85, § 1073(e)(1), inserted ''the'' before ''Interior'' in item relating to Chief Information Officer of Department of the Interior and before ''Treasury'' in item relating to Chief Information Officer of Department of the Treasury.

1996—Pub. L. 104–293 inserted items relating to Assistant Directors of Central Intelligence and General Counsel of Central Intelligence Agency.

Pub. L. 104–208, § 101(f) [title VI, § 662(c)(1)], inserted item relating to Inspector General, United States Postal Service.

Pub. L. 104–208, § 101(e) [title VII, § 709(b)(1)], substituted ''Museum and Library Services'' for ''Museum Services'' after ''Director of the Institute of''.

Pub. L. 104–127 inserted item relating to Executive Director of the Alternative Agricultural Research and Commercialization Corporation.

Pub. L. 104–106, § 5125(e), inserted items relating to Chief Information Officer of Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, and Veterans Affairs and Chief Information Officer of Environmental Protection Agency, National Aeronautics and Space Administration, Agency for International Development, Federal Emergency Management Agency, General Services Administration, National Science Foundation, Nuclear Regulatory Agency, Office of Personnel Management, and Small Business Administration.

Pub. L. 104–106, § 902(b), substituted ''(10)'' for ''(11)'' in item relating to Assistant Secretaries of Defense.

Pub. L. 104–105 struck out item relating to Members, Board of Directors of the Farm Credit System Insurance Corporation.

1995—Pub. L. 104–88 substituted ''Members, Surface Transportation Board'' for ''Members, Interstate Commerce Commission''.

1994—Pub. L. 103–354 substituted ''(3)'' for ''(7)'' in item relating to Assistant Secretaries of Agriculture and inserted item relating to Administrator, Rural Utilities Service, Department of Agriculture.

Pub. L. 103–337 substituted ''(11)'' for ''(10)'' in item relating to Assistant Secretaries of Defense.

Pub. L. 103–333 inserted item relating to Commissioner of Labor Statistics, Department of Labor.

Pub. L. 103–296, § 108(e)(3), inserted item relating to Inspector General, Social Security Administration.

Pub. L. 103–296, § 106(a)(7)(B), struck out item relating to Commissioner of Social Security, Department of Health and Human Services.

Pub. L. 103–272 substituted ''Saint'' for ''St.'' in item relating to Administrator of Saint Lawrence Seaway Development Corporation.

Pub. L. 103–236, § 708(b), substituted ''Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency'' for ''Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency (2)''.

Pub. L. 103–236, § 307(b)(2), inserted item relating to Director of the International Broadcasting Bureau, United States Information Agency.

Pub. L. 103–236, § 162(d)(2), directed insertion of item relating to 20 Assistant Secretaries of State and 4 other State Department Officials to be appointed by the President, and struck out ''Assistant Secretaries of State (15).'', ''Legal Adviser of the Department of State.'', ''Chief of Protocol, Department of State.'',

''Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.'', ''Assistant Secretary for International Narcotics Matters, Department of State.'', and ''Assistant Secretary for South Asian Affairs, Department of State.'' New item was inserted in lieu of ''Assistant Secretaries of State (15).'' to reflect the probable intent of Congress.

Pub. L. 103–227 inserted item relating to Director of the Office of Educational Technology.

1993—Pub. L. 103–204 inserted item relating to Inspector General, Federal Deposit Insurance Corporation.

Pub. L. 103–171 substituted ''(6)'' for ''(5)'' in item relating to Assistant Secretaries of Health and Human Services.

Pub. L. 103–160 substituted ''(10)'' for ''(11)'' in item relating to Assistant Secretaries of Defense and struck out item relating to Chief Financial Officer, Department of Defense.

Pub. L. 103–123 inserted item relating to Commissioner of Customs, Department of the Treasury.

1992—Pub. L. 102–552 inserted item relating to Members, Board of Directors of the Farm Credit System Insurance Corporation.

Pub. L. 102–359 substituted ''(10)'' for ''(6)'' in item relating to Assistant Secretaries of Education.

Pub. L. 102–325 inserted item relating to Liaison for Community and Junior Colleges, Department of Education.

1991—Pub. L. 102–190, § 3504(a), inserted item relating to Administrator of the Panama Canal Commission.

Pub. L. 102–190, § 903(a)(1), inserted items relating to General Counsels of the Departments of the Army, Navy, and Air Force.

Pub. L. 102–190, § 901(b), inserted item relating to Deputy Under Secretary of Defense for Policy.

Pub. L. 102–183 inserted item relating to Inspector General of Central Intelligence Agency.

Pub. L. 102–180 inserted item relating to Commissioner, Office of Navajo and Hopi Indian Relocation.

Pub. L. 102–138 inserted item relating to Assistant Secretary for South Asian Affairs, Department of State.

1990—Pub. L. 101–576 inserted items relating to Chief Financial Officer of Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs and Chief Financial Officers of Environmental Protection Agency and National Aeronautics and Space Administration.

Pub. L. 101–512 inserted item relating to Director of the Institute of Museum Services.

Pub. L. 101–509 inserted item relating to Director, Bureau of the Census, Department of Commerce.

Pub. L. 101–319 inserted item relating to Chairman, United States Parole Commission.

1989—Pub. L. 101–189 substituted ''(4)'' for ''(3)'' in item relating to Assistant Secretaries of the Air Force.

Pub. L. 101–73, § 742(a)(2), substituted ''Directors, Federal Housing Finance Board'' for ''Members, Federal Home Loan Bank Board''.

Pub. L. 101–73, § 501(b)(2)(A), inserted item relating to Inspector General, Resolution Trust Corporation.

1988—Pub. L. 100–690, § 7608(e), inserted item relating to Director, United States Marshals Service.

Pub. L. 100–690, § 7252(b)(3), inserted item relating to Administrator, Office of Juvenile Justice and Delinquency Prevention.

Pub. L. 100–690, § 1007(c)(4), struck out item relating to Deputy Director of Office of Drug Abuse Policy.

Pub. L. 100–690, §§ 1003(a)(4)(C), 1009, temporarily inserted item relating to Associate Director for National Drug Control Policy, Office of National Drug Control Policy. See Effective and Termination Dates of 1988 Amendments note below.

Pub. L. 100–687 inserted item relating to Chairman, Board of Veterans' Appeals.

Pub. L. 100–679 struck out items relating to Administrator for Federal Procurement Policy and Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Pub. L. 100–607 inserted item relating to Commissioner of Food and Drugs, Department of Health and Human Services.

Pub. L. 100–527 substituted ''Inspector General, Department of Veterans Affairs'' for ''Inspector General, Veterans' Administration'' and inserted items relating to Assistant Secretaries, Department of Veterans Affairs (6), General Counsel, Department of Veterans Affairs, and Director of the National Cemetery System.

Pub. L. 100–504 inserted items relating to Inspector General for Departments of Commerce, Interior, Justice, and Treasury and for following agencies: Agency for International Development, Environmental Protection Agency, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, and Small Business Administration.

Pub. L. 100–485 substituted ''(5)'' for ''(4)'' in item relating to Assistant Secretaries of Health and Human Services.

Pub. L. 100–418, § 5112(c)(2), substituted ''Director, National Institute of Standards and Technology, Department of Commerce'' for ''Director, National Bureau of Standards, Department of Commerce''.

Pub. L. 100–418, § 2301(h), inserted item relating to Assistant Secretary of Commerce and Director General of United States and Foreign Commercial Service.

Pub. L. 100–297 inserted item relating to Commissioner, National Center for Education Statistics.

1987—Pub. L. 100–204 inserted item relating to Ambassadors at Large.

1986—Pub. L. 99–619 substituted ''Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training'' for ''Assistant Secretaries of Labor (5)''.

Pub. L. 99–659 substituted ''Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration'' for ''Deputy Administrator, National Oceanic and Atmospheric Administration'' and struck out item relating to Associate Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended section identically, inserting item relating to Director of Defense Research and Engineering.

Pub. L. 99–399, § 104(c), substituted ''(15)'' for ''(14)'' in item relating to Assistant Secretaries of State.

Pub. L. 99–399, §§ 412(c), 413(e), formerly § 413(a)(5), as renumbered by Pub. L. 100–204, § 134(b), inserted items relating to Inspector General, United States Information Agency, and Inspector General, Department of State.

1985—Pub. L. 99–93, § 704(a)(2)(A), struck out item relating to Deputy Director of United States Arms Control and Disarmament Agency.

Pub. L. 99–93, § 704(a)(2)(B), inserted item relating to Assistant Directors, United States Arms Control and Disarmament Agency (4).

Pub. L. 99–93, § 115(b)(1), struck out item relating to Director, Bureau of Intelligence and Research, Department of State.

Pub. L. 99–93, § 115(b)(2), substituted ''(14)'' for ''(13)'' in item relating to Assistant Secretaries of State.

Pub. L. 99–73 inserted item relating to Director, National Bureau of Standards, Department of Commerce.

Pub. L. 99–64 substituted ''(11)'' for ''(8)'' in item relating to Assistant Secretaries of Commerce.

1984—Pub. L. 98–594 substituted ''(7)'' for ''(5)'' in item relating to Assistant Secretaries of the Treasury.

Pub. L. 98–473, § 1701(b), struck out items relating to United States Attorney for Southern District of New York, United States Attorney for District of Columbia, United States Attorney for Northern District of Illinois, and United States Attorney for Central District of California.

Pub. L. 98–473, § 609J(b), struck out item relating to Administrator of Law Enforcement Assistance.

Pub. L. 98–443 struck out item relating to members of Civil Aeronautics Board.

Pub. L. 98–369 inserted item relating to Administrator of Health Care Financing Administration.

Pub. L. 98–216 substituted ''Assistant Directors of Office of Management and Budget (3)'' for ''Assistant Directors of the Bureau of the Budget (3)''.

1983—Pub. L. 98–202, § 6(b)(1), inserted item relating to two Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency.

Pub. L. 98–202, § 6(b)(2), struck out item relating to Special Representative for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency.

Pub. L. 98–164 struck out item relating to Counselor of Department of State.

Pub. L. 98–94, § 1212(d)(1), substituted ''(11)'' for ''(7)'' in item relating to Assistant Secretaries of Defense.

Pub. L. 98–94, § 1212(d)(2), substituted ''(5)'' for ''(4)'' in item relating to Assistant Secretaries of the Army.

Pub. L. 98–94, § 1212(d)(3), substituted ''(4)'' for ''(3)'' in item relating to Assistant Secretaries of the Navy.

Pub. L. 98–94, § 1211(b), inserted item relating to Director of Operational Test and Evaluation, Department of Defense.

Pub. L. 98–80 inserted items relating to Assistant Administrator for Toxic Substances, Environmental Protection Agency, Assistant Administrator, Office of Solid Waste, Environmental Protection Agency, and eight Assistant Administrators, Environmental Protection Agency.

Pub. L. 97–449 substituted ''Deputy Federal Highway Administrator'' for ''Director of Public Roads''.

1982—Pub. L. 97–325 substituted ''(7)'' for ''(6)'' in item relating to Assistant Secretaries of Agriculture.

Pub. L. 97–252 inserted item relating to Inspector General, Department of Defense.

Pub. L. 97–195 substituted ''(8)'' for ''(7)'' in item relating to Assistant Secretaries of Commerce.

1981—Pub. L. 97–98 substituted ''(6)'' for ''(5)'' in item relating to Assistant Secretaries of Agriculture.

Pub. L. 97–35 struck out item relating to Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

Pub. L. 97–31 substituted ''(7)'' for ''(8)'' in item relating to Assistant Secretaries of Commerce.

1980—Pub. L. 96–511 inserted item relating to Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Pub. L. 96–302 inserted item relating to Chief Counsel for Advocacy, Small Business Administration.

1979—Pub. L. 96–157 inserted items relating to Administrator of Law Enforcement Assistance, Director of National Institute of Justice, and Director of Bureau of Justice Statistics, and struck out items relating to Deputy Administrator for Policy Development and Deputy Administrator for Administration of Law Enforcement Assistance Administration.

Pub. L. 96–88, § 508(g), substituted ''Health and Human Services'' for ''Health, Education, and Welfare'' in items relating to General Counsel of Department of Health and Human Services, Commissioner of Social Security, Department of Health and Human Services, and Inspector General, Department of Health and Human Services.

Pars. (1) to (128). Pub. L. 96–54 struck out paragraph designations for positions listed herein.

Pars. (13) to (16). Pub. L. 96–107 in par. (13), relating to Assistant Secretaries of Defense, substituted ''(7)'' for ''(9)'', par. (14), relating to Assistant Secretaries of the Air Force, ''(3)'' for ''(4)'', par. (15), relating to Assistant Secretaries of the Army, ''(4)'' for ''(5)'', and par. (16), relating to Assistant Secretaries of the Navy, ''(3)'' for ''(4)''.

Par. (17). Pub. L. 96–88, § 508(e)(1), substituted ''(4)'' for ''(5)'' and ''Health and Human Services'' for ''Health, Education, and Welfare'' in par. (17) relating to Assistant Secretaries of Health and Human Services. See Codification note above.

Par. (19). Pub. L. 96–132 in par. (19), relating to Assistant Attorneys General, increased authorized number from nine to ten.

Par. (24). Pub. L. 96–39 inserted ''(5)'' at end of par. (24) relating to Members, United States International Trade Commission.

Pars. (25) to (27). Pub. L. 96–88, § 508(e)(2), added pars. (25) to (27) relating to Assistant Secretaries of Education (6), General Counsel, Department of Education, and Inspector General, Department of Education, respectively. See Codification note above.

Par. (91). Pub. L. 96–153 substituted ''Federal Emergency Management Agency'' for ''Department of Housing and Urban Development'' in par. (91), relating to Federal Insurance Administrator, Federal Emergency Management Agency.

Par. (128). Pub. L. 96–53 added par. (128) relating to Deputy Director, Institute for Scientific and Technological Cooperation.

1978—Par. (10). Pub. L. 95–426, § 114(b)(2), struck out par. (10) relating to Deputy Under Secretary of State.

Par. (66). Pub. L. 95–454, § 202(c)(2), substituted ''Merit Systems Protection Board'' for ''United States Civil Service Commission''.

Par. (93). Pub. L. 95–630 substituted ''Members, National Credit Union Administration Board (2)'' for ''Administrator of the National Credit Union Administration''.

Par. (122). Pub. L. 95–452 added par. (122) relating to Inspector General, Department of Health, Education, and Welfare.

Pub. L. 95–426, § 115(b)(1), added par. (122) relating to Assistant Secretary for International Narcotics Matters, Department of State.

Pub. L. 95–351 added par. (122) relating to President, National Consumer Cooperative Bank.

Par. (123). Pub. L. 95–454, § 202(c)(3), added par. (123) relating to Special Counsel of Merit Systems Protection Board.

Pub. L. 95–452 added par. (123) relating to Inspector General, Department of Agriculture.

Pub. L. 95–351 added par. (123) relating to Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

Par. (124). Pub. L. 95–454, § 703(d), added par. (124) relating to Chairman of Federal Labor Relations Authority.

Pub. L. 95–452 added par. (124) relating to Inspector General, Department of Housing and Urban Development.

Pars. (125) to (127). Pub. L. 95–452 added pars. (125) to (127) relating to Inspectors General for Department of Labor, Department of Transportation, and Veterans' Administration, respectively.

1977—Par. (1). Pub. L. 95–105, § 109(d)(1), struck out par. (1) relating to Administrator, Bureau of Security and Consular Affairs, Department of State.

Par. (12). Pub. L. 95–173 substituted ''(8)'' for ''(6)'' in par. (12) relating to Assistant Secretaries of Commerce.

Par. (22). Pub. L. 95–105, § 109(d)(2), substituted ''(13)'' for ''(11)'' in par. (22) relating to Assistant Secretaries of State.

Par. (50). Pub. L. 95–108 added par. (50) relating to Special Representative for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency. A prior par. (50), relating to General Manager of Atomic Energy Commission, was repealed by Pub. L. 93–438, title III, § 310(3), Oct. 11, 1974, 88 Stat. 1253.

Pars. (52), (53). Pub. L. 95–88 struck out par. (52) relating to Inspector General, Foreign Assistance, and par. (53) relating to Deputy Inspector General, Foreign Assistance.

Par. (60). Pub. L. 95–91 substituted ''Federal Energy Regulatory Commission'' for ''Federal Power Commission'' in par. (60) relating to Members, Federal Energy Regulatory Commission.

Par. (102). Pub. L. 95–91 struck out par. (102) relating to Assistant Administrators, Energy Research and Development Administration (6).

Pars. (114) to (119). Pub. L. 95–91 added pars. (114) to (119) relating to Assistant Secretaries of Energy (8), General Counsel of Department of Energy, Administrator, Economic Regulatory Administration, Department of Energy, Administrator, Energy Information Administration, Department of Energy, Inspector General, Department of Energy, and Director, Office of Energy Research, Department of Energy, respectively.

Pars. (120), (121). Pub. L. 95–164 added pars. (120) and (121) relating to Assistant Secretary of Labor for Mine Safety and Health and Members, Federal Mine Safety and Health Review Commission, respectively.

1976—Par. (11). Pub. L. 94–561 substituted ''(5)'' for ''(4)'' in par. (11) relating to Assistant Secretaries of Agriculture.

Par. (96). Pub. L. 94–237 substituted ''Deputy Director of the Office of Drug Abuse Policy'' for ''Deputy Director of the Special Action Office for Drug Abuse Prevention''.

Par. (108). Pub. L. 94–375 added par. (108) relating to President, Government National Mortgage Association, Department of Housing and Urban Development.

Par. (109). Pub. L. 94–461 added par. (109) relating to Deputy Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 94–503 added par. (109) relating to Commissioner of Immigration and Naturalization.

Par. (110). Pub. L. 94–461 added par. (110) relating to Associate Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 94–503 added par. (110) relating to United States Attorney for Northern District of Illinois.

Pars. (111) to (113). Pub. L. 94–503 added pars. (111) to (113) relating to United States Attorney for Central District of California, Director, Bureau of Prisons, Department of Justice, and Deputy Administrator for Administration of the Law Enforcement Assistance Administration, respectively.

1975—Pub. L. 94–82 substituted provisions applying level IV of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level IV to positions for which annual rate of basic pay is $28,750.

Par. (24). Pub. L. 93–618 substituted ''Members, United States International Trade Commission'' for ''Chairman of the United States Tariff Commission''.

Par. (31). Pub. L. 94–123 repealed par. (31) relating to Deputy Chief Medical Director in Department of Medicine and Surgery, Veterans' Administration.

Pars. (93) to (107). Pub. L. 94–183 redesignated par. (92) Administrator of the National Credit Union Administration, par. (93) Members, Postal Rate Commission, par. (94) Members, Occupational Safety and Health Review Commission, par. (95) Deputy Director of the Special Action Office for Drug Abuse Prevention, par. (96) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury), par. (97) Members, Consumer Product Safety Commission, par. (97) Commissioner of Social Security, Department of Health, Education, and Welfare, par. (99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State, par. (100) Administrator for Federal Procurement Policy, par. (100) Assistant Administrators, Energy Research and Development Administration, par. (100) Members, Commodity Futures Trading Commission, par. (101) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission, par. (102) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, par. (103) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission, par. (104) Executive Director for Operations, Nuclear Regulatory Commission, as pars. (93) to (107), respectively.

1974—Par. (50). Pub. L. 93–438 struck out par. (50) relating to General Manager of Atomic Energy Commission.

Par. (87). Pub. L. 93–383 increased number of Assistant Secretaries of Housing and Urban Development from 6 to 8.

Par. (99). Pub. L. 93–126, § 9(b), as added by Pub. L. 93–312, added par. (99) relating to Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

Par. (100). Pub. L. 93–463 added par. (100) relating to Members, Commodity Futures Trading Commission.

Pub. L. 93–438 added par. (100) relating to Assistant Administrators, Energy Research and Development Administration.

Pub. L. 93–400 added par. (100) relating to Administrator for Federal Procurement Policy.

Pars. (101) to (104). Pub. L. 93–438 added pars. (101) to (104) relating to Director of Nuclear Reactor Regulation, Director of Nuclear Material Safety and Safeguards, Director of Nuclear Regulatory Research, and Executive Director for Operations, respectively, of Nuclear Regulatory Commission.

1973—Par. (90). Pub. L. 93–83 substituted ''Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration'' for ''Associate Administrator of Law Enforcement Assistance (2)''.

1972—Par. (10). Pub. L. 92–352 substituted ''Secretary of State'' for ''Secretaries of State (2)''.

Par. (11). Pub. L. 92–419 substituted ''(4)'' for ''(3)'' in par. (11) relating to Assistant Secretaries of Agriculture.

Par. (23). Pub. L. 92–302, § 2(c)(1), substituted ''(5)'' for ''(4)'' in par. (23) relating to Assistant Secretaries of the Treasury.

Par. (72). Pub. L. 92–261 substituted ''Members, Equal Employment Opportunity Commission (4)'' for ''Chairman, Equal Employment Opportunity Commission''.

Par. (95). Pub. L. 92–255 added par. (95) relating to Deputy Director of Special Action Office for Drug Abuse Prevention.

Par. (96). Pub. L. 92–302, § 2(c)(2), added par. (96) relating to Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

Par. (97). Pub. L. 92–603 added par. (97) relating to Commissioner of Social Security, Department of Health, Education, and Welfare.

Pub. L. 92–573 added par. (97) relating to Members, Consumer Product Safety Commission (4).

1971—Par. (13). Pub. L. 92–215 substituted ''(9)'' for ''(8)'' in par. (13) relating to Assistant Secretaries of Defense.

Par. (18). Pub. L. 92–22 substituted ''(6)'' for ''(5)'' in par. (18) relating to Assistant Secretaries of the Interior.

Par. (51). Pub. L. 92–181 struck out par. (51) relating to Governor of Farm Credit Administration.

Par. (90). Pub. L. 91–644, § 7(1), (2), in amending section 505 of Pub. L. 90–351, struck out par. (90) ''Administrator of Law Enforcement Assistance'', renumbered as par. (55) of section 5314 of this title, and renumbered par. (126) ''Associate Administrator of Law Enforcement Assistance (2)'' of section 5316 of this title as par. (90) of this section, respectively.

1970—Par. (12). Pub. L. 91–477 substituted ''(6)'' for ''(5)'' in par. (12) relating to Assistant Secretaries of Commerce. Pub. L. 91–469 also substituted ''(6)'' for ''(5)'' in par. (12). Thus, the correct figure in par. (12) presumably should be seven. See amendment of par. (12) by Pub. L. 95–173 above.

Par. (15). Pub. L. 91–611 substituted ''(5)'' for ''(4)'' in par. (15) relating to Assistant Secretaries of the Army.

Par. (20). Pub. L. 91–596, § 29(b), substituted ''(5)'' for ''(4)'' in par. (20) relating to Assistant Secretaries of Labor.

Pars. (21), (45). Pub. L. 91–375, § 6(c)(14)(A), struck out pars. (21) and (45) relating to Assistant Postmasters General (6) and General Counsel of Post Office Department, respectively.

Par. (92). Pub. L. 91–206 added par. (92) relating to Administrator of National Credit Union Administration.

Par. (93). Pub. L. 91–375, § 6(c)(14)(B), added par. (93) relating to Members, Postal Rate Commission (4).

Par. (94). Pub. L. 91–596, § 12(c)(2), added par. (94) relating to Members, Occupational Safety and Health Review Commission.

1969—Par. (13). Pub. L. 91–121 substituted ''(8)'' for ''(7)'' in par. (13) relating to Assistant Secretaries of Defense.

Par. (92). Pub. L. 91–175 added par. (92) relating to Executive Vice President, Overseas Private Investment Corporation.

1968—Pars. (14) to (16). Pub. L. 90–623 substituted ''(4)'' for ''(3)'' in pars. (14) to (16) relating to Assistant Secretaries of Air Force, Army, and Navy respectively.

Par. (87). Pub. L. 90–448, § 1708(b), substituted ''(6)'' for ''(4)'' in par. (87) relating to Assistant Secretaries of Housing and Urban Development.

Par. (90). Pub. L. 90–351 added par. (90) relating to Administrator of Law Enforcement Assistance.

Par. (91). Pub. L. 90–448, § 1105(b), added par. (91) relating to Federal Insurance Administrator, Department of Housing and Urban Development.

1967—Pub. L. 90–206 increased annual rate of basic pay from $27,000 to $28,750.

1966—Pub. L. 89–779 added par. (78) relating to Deputy Administrator of Small Business Administration.

Pub. L. 89–734 added par. (78) relating to Assistant Secretary for Science, Smithsonian Institution, and par. (79) relating to Assistant Secretary for History and Art, Smithsonian Institution.

Pub. L. 89–670 added par. (78) relating to Members, National Transportation Safety Board, par. (79) relating to General Counsel, Department of Transportation, and pars. (80) to (83), and repealed par. (2) which provided for Deputy Administrator of Federal Aviation Agency, subject to the provisions of section 1657 of former Title 49, Transportation.

CHANGE OF NAME

''Export-Import Bank of Washington'', referred to in items relating to First Vice President and Members, was changed to ''Export-Import Bank of the United States'' in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, as provided for in section 1(a) of Pub. L. 90–267, Mar. 13, 1968, 82 Stat. 47.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901 of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–49, § 12, July 26, 2007, 121 Stat. 260, provided that: ''The amendments made by this Act [amending this section, section 301 of Title 31, Money and Finance, and section 2170 of the Appendix to Title 50, War and National Defense] shall apply after the end of the 90-day period beginning on the date of enactment of this Act [July 26, 2007].''

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 942(a) of Pub. L. 109–364 effective Oct. 17, 2006, and applicable with respect to individuals appointed as Deputy Under Secretary of Defense for Logistics and Materiel Readiness on or after that date, see section 942(c) of Pub. L. 109–364, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 2004 AMENDMENTS

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out as an Appointments; Effective Date; Transition note under section 831a of Title 16, Conservation.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–173 effective Jan. 1, 2004, see section 900(d)(3) of Pub. L. 108–173, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107–296, title XVII, § 1702(b), Nov. 25, 2002, 116 Stat. 2313, provided that: ''Notwithstanding section 4 [enacting provisions set out as a note under section 101 of Title 6, Domestic Security], the amendment made by subsection (a)(5) [amending this section] shall take effect on the date on which the transfer of functions specified under section 441 [enacting section 251 of Title 6] takes effect.''

Pub. L. 107–189, § 22(e), June 14, 2002, 116 Stat. 708, provided that: ''The amendments made by this section [amending this section and sections 9 and 11 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to this title] shall take effect on October 1, 2002.''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title IX, § 901(d), Dec. 28, 2001, 115 Stat. 1194, which provided that amendments made by Pub. L. 107–107, § 901(c) (amending this section and section 138 of Title 10, Armed Forces), were to take effect on the date on which a person was first appointed as Deputy Under Secretary of Defense for Personnel and Readiness, was repealed by Pub. L. 107–314, div. A, title IX, § 902(d), Dec. 2, 2002, 116 Stat. 2621.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–422 effective 30 days after Nov. 1, 2000, see section 1(d)(1) of Pub. L. 106–422, set out as a note under section 8G of Pub. L. 95–452 [Inspector General Act of 1978] in the Appendix to this title.

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by section 1000(a)(5) [title II, § 238(a)(1)] of Pub. L. 106–113 effective Jan. 1, 2000, see section 1000(a)(5) [title II, § 238(b)] of Pub. L. 106–113, set out as a note under section 5314 of this title.

Amendment by section 1000(a)(9) [title IV, § 4720(b)] of Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

Amendment by Pub. L. 106–65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1224(3) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

Amendment by sections 1314(c) and 1332(2) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 5125(e) of Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, div. E, title LVII, Feb. 10, 1996, 110 Stat. 702.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 162(d)(2) of Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of

Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 108(b) of Pub. L. 103–123 provided that: ''The amendments made by this section [amending this section and section 5316 of this title] shall take effect on the first applicable pay period after enactment [Oct. 28, 1993].''

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–552 effective Jan. 1, 1996, see section 201(c)(1) of Pub. L. 102–552, set out as an Effective Date of 1992 Amendment; Transitional Provision note under section 2277a–2 of Title 12, Banks and Banking.

Section 2(b)(3) of Pub. L. 102–359 provided that: ''The amendments made by paragraphs (1) and (2) [amending this section and section 5316 of this title] shall take effect on the first day of the first pay period that begins on or after the date of the enactment of this Act [Aug. 26, 1992].''

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 122(d)(2) of Pub. L. 102–138 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as a note under section 951 of Title 20, Education.

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by sections 1003(a)(4)(C) and 1007(c)(4) of Pub. L. 100–690 effective Jan. 21, 1989, and amendment by section 1003(a)(4)(C) of Pub. L. 100–690 repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100–690.

Amendment by section 7252(b)(3) of Pub. L. 100–690 effective Oct. 1, 1988, see section 7296(a) of Pub. L. 100–690, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

Section 201(b)(2) of Pub. L. 100–687 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect when the President first appoints an individual as Chairman of the Board of Veterans' Appeals under section 4001(b)(1) [now 7101(b)(1)] of title 38, United States Code (as amended by subsection (a)).''

Amendment by Pub. L. 100–679 effective Jan. 20, 1989, see section 11(e) of Pub. L. 100–679, set out as a note under section 5312 of this title.

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 100–504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100–504, set out as a note under section 5 of Pub. L. 95–452 [Inspector General Act of 1978] in the Appendix to this title.

Section 603(c) of Pub. L. 100–485 provided that: ''The amendments made by this section [amending this section and enacting section 617 of Title 42, The Public Health and Welfare] shall become effective on February 1, 1989.''

Amendment by Pub. L. 100–297 effective July 1, 1988, but with amendments authorizing appropriations for fiscal year 1988 effective Apr. 28, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of Title 20, Education.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–204 effective 30 days after Dec. 22, 1987, but not to affect salary of any individual holding rank of Ambassador at Large immediately before Dec. 22, 1987, during the period such individual continues to serve in such position, see section 178(b) of Pub. L. 100–204, set out as a note under section 5313 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–619 applicable to incumbent Assistant Secretary of Labor for Veterans' Employment on Nov. 6, 1986, serving after such date, see section 2(f)(2) of Pub. L. 99–619, set out as a Present Incumbent note under section 553 of Title 29, Labor.

EFFECTIVE DATE OF 1985 AMENDMENTS

Section 6(c) of Pub. L. 99–73 provided that: ''The amendments made by this section [amending this section and section 5316 of this title and section 274 of Title 15, Commerce and Trade] shall be effective October 1, 1985.''

Amendment by Pub. L. 99–64 effective Oct. 1, 1987, see section 116(d) of Pub. L. 99–64, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by section 609J of Pub. L. 98–473 effective Oct. 12, 1984, see section 609AA of Pub. L. 98–473, set out as an Effective Date note under section 3711 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of this title.

Amendment by Pub. L. 98–369 applicable to appointments made after July 18, 1984, see section 2332(c) of Pub. L. 98–369, set out as an Effective Date note under section 1317 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 1211(b) of Pub. L. 98–94 effective Nov. 1, 1983, see section 1211(c) of Pub. L. 98–94, set out as an Effective Date note under section 139 of Title 10, Armed Forces.

Amendment by section 1212(d) of Pub. L. 98–94 effective Oct. 1, 1983, see section 1212(e) of Pub. L. 98–94, set out as a note under section 138 of Title 10.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–325 effective Oct. 15, 1982, see section 8(e) of Pub. L. 97–325.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

Amendment by Pub. L. 97–35 effective on day after Final Government Equity Redemption Date, see section 396(i) of Pub. L. 97–35, set out as a note under section 3011 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–511 effective Apr. 1, 1981, see section 5 of Pub. L. 96–511, set out as a note under section 2904 of Title 44, Public Printing and Documents.

Amendment by Pub. L. 96–302 effective Oct. 1, 1980, see section 507 of Pub. L. 96–302, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L.

96–88, set out as an Effective Date note under section 3401 of Title 20, Education.

Amendment by Pub. L. 96–54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96–54, set out as a note under section 5312 of this title.

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96–39 effective July 26, 1979, see section 1114 of Pub. L. 96–39, set out as an Effective Date note under section 2581 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–630 effective on expiration of 120 days after Nov. 10, 1978, see section 509 of Pub. L. 95–630, set out as a note under section 1752 of Title 12, Banks and Banking.

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

Amendment by Pub. L. 95–452 effective Oct. 1, 1978, see section 12 of Pub. L. 95–452 set out in the Appendix to this title.

Amendment by section 114(b)(2) of Pub. L. 95–426 effective Oct. 1, 1978, see section 114(c) of Pub. L. 95–426, set out as a note under section 5314 of this title.

Section 115(b)(2) of Pub. L. 95–426 provided that: ''The amendment made by paragraph (1) of this subsection [amending this section] shall take effect on October 1, 1978.''

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95–164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95–164, set out as a note under section 801 of Title 30, Mineral Lands and Mining.

Amendment by Pub. L. 95–88 effective July 1, 1978, see section 124(c) of Pub. L. 95–88, set out as a note under section 2384 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–123 effective Oct. 12, 1975, see section 6(a) of Pub. L. 94–123, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811–5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment by Pub. L. 93–83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83, Aug. 6, 1973, 83 Stat. 218.

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 404(c) of Pub. L. 92–603 provided that: ''The amendments made by the preceding provisions of this section [amending this section and section 5316 of this title] shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted [Oct. 30, 1972].''

Amendment by Pub. L. 92–302 effective May 18, 1972, see section 3 of Pub. L. 92–302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90–206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89–670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

REPEALS

Pub. L. 93–496, § 16(c), Oct. 28, 1974, 88 Stat. 1533, cited as a credit to this section, was repealed by Pub. L. 97–449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of responsibilities of the Department of Homeland Security Chief Information Officer related to the implementation of the Integrated Wireless Network to the Director for Emergency Communications, see section 571(d)(2) of Title 6, Domestic Security.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions, vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

Office of Deputy Director of Office of Science and Technology abolished and functions vested by law in such office transferred to Director of National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

ABOLITION OF ONE POSITION OF ASSISTANT ADMINISTRATOR, AGENCY FOR INTERNATIONAL DEVELOPMENT

One of the 6 positions of Assistant Administrator, Agency for International Development, provided for in this section, was abolished by Reorg. Plan No. 2 of 1979, § 7, 44 F.R. 41165, 93 Stat. 1378, set out in the Appendix to this title.

INSPECTOR GENERAL, UNITED STATES POSTAL SERVICE

Section 101(f) [title VI, § 662(c)(1)] of Pub. L. 104–208 provided in part that: ''The amendment made by the

preceding sentence [amending this section] shall apply notwithstanding section 410 or any other provision of title 39, United States Code.''

COMPENSATION OF DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT ADMINISTRATION

Section 6153(c) of Pub. L. 100–690 provided that: ''The Deputy Administrator of the Drug Enforcement Administration shall receive compensation at the rate now or hereafter prescribed by law for positions of Level IV of the Executive Schedule Pay Rate (5 U.S.C. 5315).''

TEMPORARY INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Number of Assistant Secretaries of Defense authorized at level IV of Executive Schedule under this section to be increased by one (to a total of 12) until Jan. 20, 1989, see section 1311 of Pub. L. 100–180, set out as a note under section 138 of Title 10, Armed Forces.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92–302, not eligible to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92–302, May 18, 1972, 86 Stat. 149.

ASSOCIATE DIRECTOR OF FEDERAL BUREAU OF INVESTIGATION

Position of Associate Director of Federal Bureau of Investigation placed temporarily in level III during incumbency of incumbent on Aug. 14, 1964, by Pub. L. 88–426, Aug. 14, 1964, § 303(c)(46), 78 Stat. 417.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

Administrator of the National Capital Transportation Agency.

Associate Administrators of the Small Business Administration (4).

Associate Administrators, National Aeronautics and Space Administration (7).

Associate Deputy Administrator, National Aeronautics and Space Administration.

Deputy Associate Administrator, National Aeronautics and Space Administration.

Archivist of the United States.

Assistant Secretary of Health and Human Services for Administration.

Assistant Attorney General for Administration.

Assistant and Science Adviser to the Secretary of the Interior.

Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice.

Chairman of the Renegotiation Board.

Chairman of the Subversive Activities Control Board.

Chief Counsel for the Internal Revenue Service, Department of the Treasury.

Commissioner, Federal Acquisition Service, General Services Administration.

Director, United States Fish and Wildlife Service, Department of the Interior.

Commissioner of Indian Affairs, Department of the Interior.

Commissioners, Indian Claims Commission (5).

Commissioner, Public Buildings Service, General Services Administration.

Commissioner of Reclamation, Department of the Interior.

Commissioner of Vocational Rehabilitation, Department of Health and Human Services.

Commissioner of Welfare, Department of Health and Human Services.

Director, Bureau of Mines, Department of the Interior.

Director, Geological Survey, Department of the Interior.

Deputy Commissioner of Internal Revenue, Department of the Treasury.

Associate Director of the Federal Mediation and Conciliation Service.

Associate Director for Volunteers, Peace Corps.

Associate Director for Program Development and Operations, Peace Corps.

Assistants to the Director of the Federal Bureau of Investigation, Department of Justice (2).

Assistant Directors, Office of Emergency Planning (3).

Fiscal Assistant Secretary of the Treasury.

General Counsel of the Agency for International Development.

General Counsel of the Nuclear Regulatory Commission.

General Counsel of the National Aeronautics and Space Administration.

Manpower Administrator, Department of Labor.

Members, Renegotiation Board.

Members, Subversive Activities Control Board.

Assistant Administrator of General Services.

Director, United States Travel Service, Department of Commerce.

Administrator, Wage and Hour and Public Contracts Division, Department of Labor.

Assistant Director (Program Planning, Analysis and Research), Office of Economic Opportunity.

Deputy Director, National Security Agency.

Director, Bureau of Land Management, Department of the Interior.

Director, National Park Service, Department of the Interior.

National Export Expansion Coordinator, Department of Commerce.

Staff Director, Commission on Civil Rights.

Assistant Secretary for Administration, Department of Transportation.

Director, United States National Museum, Smithsonian Institution.

Director, Smithsonian Astrophysical Observatory, Smithsonian Institution.

Administrator of the Environmental Science Services Administration.

Associate Directors of the Office of Personnel Management (5).

Assistant Federal Highway Administrator.

Deputy Administrator of the National Highway Traffic Safety Administration.

Deputy Administrator of the Federal Motor Carrier Safety Administration.

Assistant Federal Motor Carrier Safety Administrator.

Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.

Vice Presidents, Overseas Private Investment Corporation (3).

Deputy Administrator, Federal Transit Administration, Department of Transportation.

General Counsel of the Equal Employment Opportunity Commission.

Executive Director, Advisory Council on Historic Preservation.

Additional Officers, Department of Energy (14).

Additional officers, Nuclear Regulatory Commission (5).

Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

Assistant Administrators (3), National Oceanic and Atmospheric Administration.

General Counsel, National Oceanic and Atmospheric Administration.

Members, Federal Labor Relations Authority (2) and its General Counsel.

Additional officers, Institute for Scientific and Technological Cooperation (2).

Additional officers, Office of Management and Budget (6).

Associate Deputy Secretary, Department of Transportation.

Chief Scientist, National Oceanic and Atmospheric Administration.

Director, Indian Health Service, Department of Health and Human Services.

Commissioners, United States Parole Commission (8).

Commissioner, Administration on Children, Youth, and Families.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 463; Pub. L. 89–670, §10(d)(5), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 89–734, §1(2), Nov. 2, 1966, 80 Stat. 1163; Pub. L. 89–779, §8(c)(2), Nov. 6, 1966, 80 Stat. 1364; Pub. L. 90–9, §6, Apr. 10, 1967, 81 Stat. 12; Pub. L. 90–83, §1(16), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90–206, title II, §215(c), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90–351, title I, §506, June 19, 1968, 82 Stat. 205; Pub. L. 90–407, §15(a)(3), July 18, 1968, 82 Stat. 367; Pub. L. 90–623, §1(4), (5), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91–175, pt. V, §503(3), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91–375, §6(c)(15), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91–453, §12, Oct. 15, 1970, 84 Stat. 968; Pub. L. 91–644, title I, §7(2), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 92–22, §3, June 1, 1971, 85 Stat. 76; Pub. L. 92–255, title II, §212(c), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92–261, §9(c), (d), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92–302, §2(d), May 18, 1972, 86 Stat. 149; Pub. L. 92–603, title IV, §404(a), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 93–43, §2(c), June 18, 1973, 87 Stat. 78; Pub. L. 93–74, §8, July 23, 1973, 87 Stat. 175; Pub. L. 90–351, title I, §506(b), as added Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–271, §2, Apr. 22, 1974, 88 Stat. 92; Pub. L. 93–126, §9(c), as added Pub. L. 93–312, §9, June 8, 1974, 88 Stat. 238; Pub. L. 93–383, title VIII, §818(b), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93–438, title III, §310(4), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93–463, title I, §102(c), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 93–618, title I, §172(c)(3), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94–82, title II, §202(b)(5), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94–183, §2(19), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 94–237, §4(c)(6), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94–307, §7, June 4, 1976, 90 Stat. 681; Pub. L. 94–370, §15(b), July 26, 1976, 90 Stat. 1032; Pub. L. 94–422, title II, §202, Sept. 28, 1976, 90 Stat. 1323; Pub. L. 94–503, title II, §202(c), Oct. 15, 1976, 90 Stat. 2427; Pub. L. 94–561, §3(b), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 94–582, §26, Oct. 21, 1976, 90 Stat. 2889; Pub. L. 95–89, title II, §209, Aug. 4, 1977, 91 Stat. 558; Pub. L. 95–91, title VII, §710(g), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95–115, §3(a)(6), Oct. 3, 1977, 91 Stat. 1049; Pub. L. 95–219, §3(b), Dec. 28, 1977, 91 Stat. 1614; Pub. L. 95–452, §10(b), Oct. 12, 1978, 92 Stat. 1108; Pub. L. 95–454, title II, §§201(b)(3), 202(c)(4), title VII, §703(e), Oct. 13, 1978, 92 Stat. 1121, 1131, 1217; Pub. L. 95–521, title IV, §406, Oct. 26, 1978, 92 Stat. 1864; Pub. L. 96–53, title IV, §412(c), Aug. 14, 1979, 93 Stat. 377; Pub. L. 96–54, §2(a)(25)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–70, title III, §3302(e)(11), Sept. 27, 1979, 93 Stat. 499; Pub. L. 96–88, title V, §508(f), (g), Oct. 17, 1979, 93 Stat. 692; Pub. L. 96–107, title VIII, §820(e)(2), Nov. 9, 1979, 93 Stat. 819; Pub. L. 96–209, title I, §109, Mar. 14, 1980, 94 Stat. 97; Pub. L. 96–466, title V, §504(d), Oct. 17, 1980, 94 Stat. 2203; Pub. L. 97–31, §12(1)(C), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97–113, title VII, §705(b)(3), Dec. 29, 1981, 95 Stat. 1545; Pub. L. 97–258, §2(a), Sept. 13, 1982, 96 Stat. 1052; Pub. L. 97–325, §8(c), Oct. 15, 1982, 96 Stat. 1605; Pub. L. 97–449, §3(4), (5), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 98–557, §26(b), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 99–73, §6(b)(2), July 29, 1985, 99 Stat. 173; Pub. L. 99–93, title VII, §704(a)(3), Aug. 16, 1985, 99 Stat. 446; Pub. L. 99–145, title XII, §1204(c), Nov. 8, 1985, 99 Stat. 721; Pub. L. 99–383, §7(b)(2), Aug. 21, 1986, 100 Stat. 814; Pub. L. 99–619, §2(c)(2), (d), Nov. 6, 1986, 100 Stat. 3491; Pub. L. 99–659, title IV, §407(e)(3), Nov. 14, 1986, 100 Stat. 3740; Pub. L. 100–180, div. A, title XII, §1245(c), Dec. 4, 1987, 101 Stat. 1165; Pub. L. 100–504, title I, §103(b), Oct. 18, 1988, 102 Stat. 2522; Pub. L. 100–527, §13(g), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 100–598, §8, Nov. 3, 1988, 102 Stat. 3035; Pub. L. 100–607, title V, §503(b)(1), Nov. 4, 1988, 102 Stat. 3121; Pub. L. 100–690, title VII, §7252(b)(4), Nov. 18, 1988, 102 Stat. 4436; Pub. L. 100–713, title VI, §601(d), Nov. 23, 1988, 102 Stat. 4826; Pub. L. 101–319, §§3(b), 4, July 3, 1990, 104 Stat. 290, 291; Pub. L. 101–501, title IX, §915(b)(1)(B), Nov. 3, 1990, 104 Stat. 1263; Pub. L. 101–509, title V, §529 [title I, §113(1)], Nov. 5, 1990, 104 Stat. 1427, 1455; Pub. L. 102–190, div. A, title IX, §903(a)(2), div. C, title XXXV, §3504(b), Dec. 5, 1991, 105 Stat. 1451, 1586; Pub. L. 102–240, title III, §3004(d)(2), title VI, §6006(d), Dec. 18, 1991, 105 Stat. 2088, 2174; Pub. L. 102–359, §2(b)(2), Aug. 26, 1992, 106 Stat. 962; Pub. L.

103–123, title I, § 108(a)(1), Oct. 28, 1993, 107 Stat. 1234; Pub. L. 103–333, title I, § 106, Sept. 30, 1994, 108 Stat. 2549; Pub. L. 103–354, title II, § 294, Oct. 13, 1994, 108 Stat. 3237; Pub. L. 104–106, div. A, title IX, § 904(b)(2), Feb. 10, 1996, 110 Stat. 403; Pub. L. 104–201, div. A, title X, § 1073(e)(1)(A), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 105–85, div. A, title X, § 1073(e)(2), Nov. 18, 1997, 111 Stat. 1906; Pub. L. 105–277, div. G, subdiv. A, title XII, § 1224(4), title XIII, § 1332(3), Oct. 21, 1998, 112 Stat. 2681–772, 2681–785; Pub. L. 105–393, title I, § 103, Nov. 13, 1998, 112 Stat. 3617; Pub. L. 106–44, § 2(b), Aug. 5, 1999, 113 Stat. 223; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(b)(4)], Nov. 29, 1999, 113 Stat. 1536, 1501A–583; Pub. L. 106–159, title I, § 101(d)(2), Dec. 9, 1999, 113 Stat. 1751; Pub. L. 107–171, title X, § 10702(c)(2), May 13, 2002, 116 Stat. 517; Pub. L. 108–426, § 3(c), Nov. 30, 2004, 118 Stat. 2425; Pub. L. 109–313, § 2(b), Oct. 6, 2006, 120 Stat. 1734; Pub. L. 111–383, div. A, title IX, § 901(n)(2)(B), (3), Jan. 7, 2011, 124 Stat. 4327.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)–(99)	5 U.S.C. 2211(e).	Aug. 14, 1964, Pub. L. 88–426, § 303(e), 78 Stat. 419.
(100)–(116) ..	5 U.S.C. 2211(g).	Aug. 14, 1964, Pub. L. 88–426, § 303(g), 78 Stat. 422.

Paragraphs (100)–(116) are added on authority of former section 2211(g) which authorized the President to place, from Aug. 15, 1964, to Feb. 1, 1965, not more than 30 positions in Levels IV and V of the Federal Executive Salary Schedule. Pursuant to this authority, the President by Executive Order No. 11189, Nov. 23, 1964, as amended by Executive Order No. 11195, Jan. 30, 1965, placed the positions listed in paragraphs (100)–(116) in Level V.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5316(60)	5 App.: 2211(e)(60).	July 5, 1966, Pub. L. 89–492, § 4(1), 80 Stat. 262.
5316(94)	5 App.: 2211(e)(94).	Sept. 9, 1965, Pub. L. 89–174, § 5(b)(as applicable to § 303(e)(94) of the Federal Executive Salary Act of 1964), 79 Stat. 669.
5316(95)	5 App.: 2211(e)(95).	Aug. 9, 1965, Pub. L. 89–115, § 4(c)(words after semicolon), 79 Stat. 449.
5316(120)	5 App.: 2211(e)(100).	Aug. 26, 1965, Pub. L. 89–136, § 601(c), 79 Stat. 570.
5316(121)	[Uncodified].	1965 Reorg. Plan No. 2, § 4(a)(2d sentence, less 1st 18 words), eff. July 13, 1965, 79 Stat. 1318.
5316(122)	42:3533(b) (last 29 words).	Sept. 9, 1965, Pub. L. 89–174, § 4(b)(last 29 words), 79 Stat. 668.
5316(123)	5 App.: 2211(e)(101).	July 5, 1966, Pub. L. 89–492, § 4(2), 80 Stat. 262.
5316(124)	49: 1652(f)(2) (last 15 words in 2d sentence).	Oct. 15, 1966, Pub. L. 89–670, § 3(f)(2)(last 15 words in 2d sentence), 80 Stat. 932.
5316(125)	49: 1652(f)(1) (last 15 words in 2d sentence).	Oct. 15, 1966, Pub. L. 89–670, § 3(f)(1)(last 15 words in 2d sentence), 80 Stat. 932.

The deletion of paragraphs (22), (38), and (83) of 5 U.S.C. 5316 reflects (1) the termination, effective June 30, 1965, of the position of ''Area Redevelopment Administrator, Department of Commerce'' pursuant to Public Law 87–27 (sec. 29, 75 Stat. 63; 42 U.S.C. 2525); (2) the abolition of the position of ''Chief, Weather Bureau, Department of Commerce'' by 1965 Reorganization Plan No. 2 (sec. 2(a), 79 Stat. 1318); and (3) the abolition of the position of ''General Counsel of the Housing and Home Finance Agency'' by Public Law 89–174 (sec. 5(a), 9(c), 79 Stat. 669, 671).

The redesignation of paragraphs (117) and (118) as paragraphs ''(118)'' and ''(119)'', respectively, eliminates duplicate paragraph numbering effected by section 10(d)(5) of Public Law 89–670 and section 1(2) of Public Law 89–734.

CODIFICATION

The paragraph designations for the positions added by Pub. L. 96–88 have been omitted in view of the deletion of all paragraph designations in this section by Pub. L. 96–54.

AMENDMENTS

2011—Pub. L. 111–383, § 901(n)(3), struck out items relating to Director, Defense Advanced Research Projects Agency, Department of Defense, Deputy General Counsel, Department of Defense, Deputy Under Secretaries of Defense for Research and Engineering, Department of Defense, and Special Assistant to the Secretary of Defense.

Pub. L. 111–383, § 901(n)(2)(B), struck out item relating to Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.

2006—Pub. L. 109–313 substituted ''Commissioner, Federal Acquisition Service, General Services Administration'' for ''Commissioner, Federal Supply Service, General Services Administration''.

2004—Pub. L. 108–426 struck out item relating to Director, Bureau of Transportation Statistics.

2002—Pub. L. 107–171 struck out items relating to General Counsel, Commodity Futures Trading Commission and Executive Director, Commodity Futures Trading Commission.

1999—Pub. L. 106–159 inserted items relating to Deputy Administrator of the Federal Motor Carrier Safety Administration and Assistant Federal Motor Carrier Safety Administrator.

Pub. L. 106–113 which directed amendment of this section by striking out items relating to Commissioner of Patents, Department of Commerce, Deputy Commissioner of Patents and Trademarks, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks, was executed by striking out items relating to Deputy Commissioner of Patents and Trademarks, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks to reflect the probable intent of Congress and the intervening amendment by Pub. L. 106–44, § 2(b), which struck out item relating to Commissioner of Patents, Department of Commerce. See below.

Pub. L. 106–44 struck out item relating to Commissioner of Patents, Department of Commerce.

1998—Pub. L. 105–393 struck out item relating to Administrator for Economic Development.

Pub. L. 105–277, § 1332(3), struck out items relating to Deputy Director, Policy and Plans, United States Information Agency, and Associate Director (Policy and Plans), United States Information Agency.

Pub. L. 105–277, § 1224(4), struck out item relating to General Counsel of the United States Arms Control and Disarmament Agency.

1997—Pub. L. 105–85 substituted ''Nuclear and Chemical and Biological Defense Programs'' for ''Atomic Energy''.

1996—Pub. L. 104–201 inserted ''Defense'' before ''Advanced Research Projects Agency''.

Pub. L. 104–106, which directed amendment of section by substituting ''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.'' for ''The Assistant to the Secretary of Defense for Atomic Energy, Depart-

ment of Defense.'', could not be executed because the words to be substituted for did not appear.

1994—Pub. L. 103–354 struck out following items relating to Department of Agriculture: Administrator, Agricultural Marketing Service, Administrator, Agricultural Research Service, Administrator, Agricultural Stabilization and Conservation Service, Administrator, Farmers Home Administration, Administrator, Foreign Agricultural Service, Administrator, Rural Electrification Administration, Administrator, Soil Conservation Service, Chief Forester of the Forest Service, Director of Science and Education, Administrator, Animal and Plant Health Inspection Service, and Administrator, Federal Grain Inspection Service.

Pub. L. 103–333 struck out item relating to Commissioner of Labor Statistics, Department of Labor.

1993—Pub. L. 103–123 struck out item relating to Commissioner of Customs, Department of the Treasury.

1992—Pub. L. 102–359 struck out item relating to Additional Officers, Department of Education.

1991—Pub. L. 102–240, § 6006(d), inserted item relating to Director, Bureau of Transportation Statistics.

Pub. L. 102–240, § 3004(d)(2), substituted ''Deputy Administrator, Federal Transit Administration'' for ''Deputy Administrator, Urban Mass Transportation Administration''.

Pub. L. 102–190, § 3504(b), struck out item relating to Administrator of the Panama Canal Commission.

Pub. L. 102–190, § 903(a)(2), struck out items relating to General Counsels of the Departments of the Air Force, Army, and Navy.

1990—Pub. L. 101–509 struck out item relating to Director, Bureau of the Census, Department of Commerce.

Pub. L. 101–501 inserted item relating to Commissioner, Administration on Children, Youth, and Families.

Pub. L. 101–319, § 4, inserted items relating to Deputy Commissioner of Patents and Trademarks, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks.

Pub. L. 101–319, § 3(b), inserted item relating to Commissioners, United States Parole Commission.

1988—Pub. L. 100–713 inserted item relating to Director, Indian Health Service, Department of Health and Human Services.

Pub. L. 100–690 struck out item relating to Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of Law Enforcement Assistance Administration.

Pub. L. 100–607 struck out item relating to Commissioner of Food and Drugs, Department of Health and Human Services.

Pub. L. 100–598 struck out item relating to Director of Office of Government Ethics.

Pub. L. 100–527 struck out items relating to Associate Deputy Administrator of Veterans' Affairs, Chief Benefits Director, Veterans' Administration, General Counsel of the Veterans' Administration, and Director, National Cemetery System, Veterans' Administration.

Pub. L. 100–504 struck out items relating to Inspectors General for Departments of Commerce and Interior and for Agency for International Development, Community Services Administration, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, and Small Business Administration and relating to Deputy Inspectors General for Departments of Energy and Health and Human Services.

1987—Pub. L. 100–180 substituted ''Assistant to the Secretary of Defense for Atomic Energy, Department of Defense'' for ''Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense''.

1986—Pub. L. 99–659 inserted item relating to Chief Scientist, National Oceanic and Atmospheric Administration.

Pub. L. 99–619, § 2(c)(2), struck out item relating to Assistant Secretary of Labor for Administration.

Pub. L. 99–619, § 2(d), struck out item relating to Assistant Secretary of Labor for Veterans' Employment.

Pub. L. 99–383 struck out item relating to Assistant Directors, National Science Foundation (4).

1985—Pub. L. 99–145 struck out item relating to Administrator of Education for Overseas Dependents, Department of Education.

Pub. L. 99–93 struck out item relating to Assistant Directors, United States Arms Control and Disarmament Agency (4).

Pub. L. 99–73 struck out item relating to Director, National Bureau of Standards, Department of Commerce.

1984—Pub. L. 98–557 inserted item relating to Associate Deputy Secretary, Department of Transportation.

1983—Pub. L. 97–449, § 3(4), substituted ''Assistant Federal Highway Administrator'' for ''Director, National Highway Safety Bureau''.

Pub. L. 97–449, § 3(5), substituted ''Deputy Administrator of the National Highway Traffic Safety Administration'' for ''Director, National Traffic Safety Bureau''.

1982—Pub. L. 97–325 struck out item relating to Assistant Secretary of Agriculture for Administration.

Pub. L. 97–258 inserted item relating to Additional officers, Office of Management and Budget (6).

1981—Pub. L. 97–113 substituted ''Inspector General, Agency for International Development'' for ''Auditor General of the Agency for International Development''.

Pub. L. 97–31 purported to strike out ''Maritime Administration, Department of Commerce'' which was executed by striking out ''Maritime Administrator, Department of Commerce.'' as the probable intent of Congress.

1980—Pub. L. 96–466 inserted item relating to Assistant Secretary of Labor for Veterans' Employment.

Pub. L. 96–209, § 109(1), which provided for striking out par. (31) and inserting in lieu thereof ''(31) Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice.'' was executed by striking out the item relating to the Chairman, Foreign Claims Settlement Commission of the United States which was designated par. (31) prior to amendment of this section by Pub. L. 96–54 and inserting the item relating to the Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice. See 1979 Amendment note below.

Pub. L. 96–209, § 109(2), which provided for striking out par. (90) was executed by striking out item relating to Members, Foreign Claims Settlement Commission of United States which was designated par. (90) prior to amendment of this section by Pub. L. 96–54. See 1979 Amendment note below.

1979—Pub. L. 96–88, § 508(f)(1), which provided for striking out par. (41) was executed by striking out item relating to Commissioner of Education, Department of Health, Education, and Welfare which was designated par. (41) prior to amendment of this section by Pub. L. 96–54. See 1979 Amendment note below.

Pub. L. 96–88, § 508(g), substituted ''Health and Human Services'' for ''Health, Education, and Welfare'' in items relating to the Assistant Secretary of Health and Human Services for Administration, the Commissioner of Food and Drugs, the Commissioner of Vocational Rehabilitation, the Commissioner of Welfare, and the Deputy Inspector General of the Department of Health and Human Services.

Pars. (1) to (152). Pub. L. 96–54 struck out paragraph designations for positions listed herein.

Pars. (37), (38). Pub. L. 96–88, § 508(f)(2), added pars. (37) and (38) relating to additional officers and Administrator of Education for Overseas Dependents in Department of Education, respectively. See Codification note set out above.

Par. (87). Pub. L. 96–70 substituted ''Administrator of the Panama Canal Commission'' for ''Governor of the Canal Zone''.

Par. (96). Pub. L. 96–107 substituted ''Deputy Under Secretaries of Defense for Research and Engineering, Department of Defense'' for ''Deputy Directors of Defense Research and Engineering, Department of Defense''.

Par. (152). Pub. L. 96–53 added par. (152) relating to two additional officers in Institute for Scientific and Technological Cooperation.

1978—Par. (99). Pub. L. 95–454, § 202(c)(4), struck out par. (99) relating to Executive Director of United States Civil Service Commission.

Par. (122). Pub. L. 95–454, § 201(b)(3), added par. (122) relating to five Associate Directors of Office of Personnel Management.

Par. (144). Pub. L. 95–452, § 10(b), added par. (144) relating to Deputy Inspector General, Department of Health, Education, and Welfare.

Par. (145). Pub. L. 95–454, § 703(e), added par. (145) relating to Members and General Counsel of Federal Labor Relations Authority.

Pub. L. 95–452 added par. (145) relating to Inspector General, Department of Commerce.

Par. (146). Pub. L. 95–521 added par. (146) relating to Director of Office of Government Ethics.

Pub. L. 95–452 added par. (146) relating to Inspector General, Department of the Interior.

Pars. (147) to (151). Pub. L. 95–452 added pars. (147) to (151) relating to Inspector General, Community Services Administration, Inspector General, Environmental Protection Agency, Inspector General, General Services Administration, Inspector General, National Aeronautics and Space Administration, and Inspector General, Small Business Administration, respectively.

1977—Par. (11). Pub. L. 95–89 substituted ''(4)'' for ''(3)'' in par. (11) relating to Associate Administrators of the Small Business Administration.

Par. (135). Pub. L. 95–91 substituted ''Deputy Inspector General, Department of Energy'' for ''General Counsel, Energy Research and Development Administration'', covered in section 5315 by item relating to General Counsel of the Department of Energy.

Par. (136). Pub. L. 95–91 substituted ''Department of Energy (14)'' for ''Energy Research and Development Administration (8)''.

Par. (140). Pub. L. 95–219 substituted ''Assistant'' for ''Associate'', relating to Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

Par. (141). Pub. L. 95–219 added par. (141) relating to Assistant Administrator for Fisheries.

Pub. L. 95–115 added par. (141) relating to Associate Administrator Office of Juvenile Justice and Delinquency Prevention.

Pars. (142), (143). Pub. L. 95–219 added pars. (142) and (143) relating to three Assistant Administrators, National Oceanic and Atmospheric Administration and General Counsel, National Oceanic and Atmospheric Administration, respectively.

1976—Par. (15). Pub. L. 94–307 substituted ''(7)'' for ''(6)'' in par. (15) relating to Associate Administrators, National Aeronautics and Space Administration.

Par. (44). Pub. L. 94–503 struck out par. (44) relating to Commissioner of Immigration and Naturalization, Department of Justice.

Par. (55). Pub. L. 94–561, § 3(b)(1), struck out par. (55) relating to Director of Agricultural Economics, Department of Agriculture.

Par. (58). Pub. L. 94–503 struck out par. (58) relating to Director, Bureau of Prisons, Department of Justice.

Pars. (115), (116). Pub. L. 94–503 struck out par. (115) relating to United States Attorney for Northern District of Illinois, and par. (116) relating to United States Attorney for Southern District of California.

Par. (131). Pub. L. 94–237 struck out par. (131) relating to Assistant Directors, Special Action Office for Drug Abuse Prevention (6).

Par. (134). Pub. L. 94–503 struck out par. (134) relating to Deputy Administrator for Administration of Law Enforcement Assistance Administration.

Par. (135). Pub. L. 94–422 added par. (135) relating to Executive Director, Advisory Council on Historic Preservation.

Par. (137). Pub. L. 94–582 added par. (137) relating to Administrator, Federal Grain Inspection Service, Department of Agriculture.

Pub. L. 94–561 added par. (137) relating to Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

Par. (140). Pub. L. 94–370 added par. (140) relating to Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

1975—Pub. L. 94–82 substituted provisions applying level V of Executive Schedule to positions for which annual rate of basic pay shall be rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level V to positions for which annual rate of basic pay is $28,000.

Par. (93). Pub. L. 93–613 struck out par. (93) relating to Members, United States Tariff Commission.

Pars. (134) to (139). Pub. L. 94–183 redesignated par. (133), Deputy Administrator for Administration of the Law Enforcement Assistance Administration, par. (134), General Counsel, Energy Research and Development Administration, par. (135), Additional officers, Energy Research and Development Administration (8), par. (135), General Counsel, Commodity Futures Trading Commission, par. (136), Additional officers, Nuclear Regulatory Commission (5), and par. (136), Executive Director, Commodity Futures Trading Commission, as pars. (134) to (139), respectively.

1974—Par. (29). Pub. L. 93–438 struck out par. (29) relating to Assistant General Manager, Atomic Energy Commission.

Par. (42). Pub. L. 93–271, § 2, substituted ''Director, United States Fish and Wildlife'' for ''Commissioner of Fish and Wildlife''.

Par. (62). Pub. L. 93–438 struck out par. (62) relating to Director of Regulation, Atomic Energy Commission. See section 5315 of this title.

Par. (69). Pub. L. 93–438 struck out par. (69) relating to Deputy General Manager, Atomic Energy Commission.

Par. (81). Pub. L. 93–438 substituted ''General Counsel of the Nuclear Regulatory Commission'' for ''General Counsel of the Atomic Energy Commission''.

Par. (102). Pub. L. 93–438 struck out par. (102) relating to Assistant General Managers, Atomic Energy Commission (2).

Par. (109). Pub. L. 93–126, § 9(c), as added by Pub. L. 93–312, repealed par. (109) relating to Director of International Scientific Affairs, Department of State.

Par. (122). Pub. L. 93–383 struck out par. (122) relating to Assistant Secretary of Housing and Urban Development for Administration.

Par. (134). Pub. L. 93–438 added par. (134) relating to General Counsel, Energy Research and Development Administration.

Pars. (135), (136), Pub. L. 93–463 added pars. (135) and (136) relating, respectively, to General Counsel, Commodity Futures Trading Commission, and Executive Director, Commodity Futures Trading Commission.

Pub. L. 93–438 added pars. (135) and (136) relating, respectively, to additional officers, Nuclear Regulatory Commission, and additional officers, Energy Research and Development Administration.

1973—Pars. (15) to (17). Pub. L. 93–74 added par. (15), Associate Administrators, National Aeronautics and Space Administration (6), and repealed provisions of former pars. (15) for an Associate Administrator for Advanced Research and Technology, (16) for Associate Administrator for Space Science and Applications, and (17) for Associate Administrator for Manned Space Flight, National Aeronautics and Space Administration.

Pars. (131) to (133). Pub. L. 93–43 redesignated par. (131) relating to General Counsel of the Equal Employment Opportunity Commission as par. (132), and added par. (133) relating to Director, National Cemetery System.

Par. (133). Pub. L. 93–83 added par. (133) relating to Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

1972—Pars. (28), (64). Pub. L. 92–302 struck out pars. (28) and (64) relating to an Assistant Secretary of the

Treasury for Administration and a Deputy Under Secretary for Monetary Affairs, Department of the Treasury, respectively.

Par. (51). Pub. L. 92–603 struck out par. (51) relating to Commissioner of Social Security, Department of Health, Education, and Welfare. See section 5315 of this title.

Par. (111). Pub. L. 92–261, § 9(c), struck out par. (111) relating to Members, Equal Employment Opportunity Commission (4). See section 5315 of this title.

Par. (131). Pub. L. 92–261, § 9(d), added par. (131) relating to General Counsel of the Equal Employment Opportunity Commission.

Pub. L. 92–255 added par. (131) relating to Assistant Directors, Special Action Office for Drug Abuse Prevention.

1971—Par. (25). Pub. L. 92–22 struck out position of Assistant Secretary of the Interior for Administration. See section 1453a of Title 43 and section 5315 of this title.

Par. (126). Pub. L. 91–644 struck out par. (126) relating to Associate Administrator of Law Enforcement Assistance (2). See section 5315 of this title.

1970—Pars. (37), (60), (123). Pub. L. 91–375 struck out pars. (37), (60), and (123) relating to Chief Postal Inspector; Director, Research and Development; and Director, Construction Engineering, respectively.

Par. (130). Pub. L. 91–453 added par. (130) relating to Deputy Administrator, Urban Mass Transportation Administration, Department of Transportation.

1969—Pars. (128), (129). Pub. L. 91–175 added pars. (128) and (129) relating to Auditor-General of the Agency for International Development, and Vice Presidents, Overseas Private Investment Corporation (3), respectively.

1968—Par. (66). Pub. L. 90–407 substituted ''Assistant Directors, National Science Foundation (4)'' for ''Deputy Director, National Science Foundation''.

Par. (126). Pub. L. 90–623, § 1(4), inserted ''(2)'' at end of par. (126) relating to Associate Administrator of Law Enforcement Assistance.

Pub. L. 90–351 added par. (126) relating to Associate Administrator of Law Enforcement Assistance.

Par. (127). Pub. L. 90–623, § 1(5), added par. (127) relating to Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.

1967—Pub. L. 90–206 increased annual rate of basic pay from $26,000 to $28,000.

Pars. (46), (47). Pub. L. 90–9 struck out par. (46) relating to Chief Commissioner, Indian Claims Commission, and substituted ''Commissioners, Indian Claims Commission (5)'' for ''Associate Commissioners, Indian Claims Commission (2)'' in par. (47).

1966—Pub. L. 89–779 substituted ''Associate Administrators of the Small Business Administration (3)'' for ''Deputy Administrators of the Small Business Administration (4)'' in par. (11).

Pub. L. 89–734 added par. (117) relating to Director, United States National Museum, Smithsonian Institution, and par. (118).

Pub. L. 89–670 added par. (117) relating to Assistant Secretary for Administration, Department of Transportation, and struck out pars. (10) Administrator of the Saint Lawrence Seaway Development Corporation, (12) Associate Administrator for Administration, Federal Aviation Agency, (13) Associate Administrator for Development, Federal Aviation Agency, (14) Associate Administrator for Programs, Federal Aviation Agency, (76) Federal Highway Administrator, Department of Commerce, and (82) General Counsel of the Federal Aviation Agency, subject to the provisions of section 1657 of former Title 49, Transportation.

CHANGE OF NAME

Bureau of Mines redesignated United States Bureau of Mines by section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining.

Geological Survey redesignated United States Geological Survey by provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901 of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–313, § 6, Oct. 6, 2006, 120 Stat. 1738, provided that: ''This Act [see Short Title of 2006 Amendment note set out under section 101 of Title 40, Public Buildings, Property, and Works] and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act [Oct. 6, 2006].''

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by Pub. L. 106–159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106–159, set out as a note under section 104 of Title 49, Transportation.

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–393 effective on date determined by Secretary of Commerce, but not later than 90 days after Nov. 13, 1998, see section 105 of Pub. L. 105–393, set out as an Effective Date note under section 3121 of Title 42, The Public Health and Welfare.

Amendment by section 1224(4) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22, Foreign Relations and Intercourse.

Amendment by section 1332(3) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–123 effective on first applicable pay period after Oct. 28, 1993, see section 108(b) of Pub. L. 103–123, set out as a note under section 5315 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–359 effective on first day of first pay period that begins on or after Aug. 26, 1992, see section 2(b)(3) of Pub. L. 102–359, set out as a note under section 5315 of this title.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

Amendment by Pub. L. 101–501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as a note under section 8621 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–690 effective Oct. 1, 1988, see section 7296(a) of Pub. L. 100–690, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 100–504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100–504, set out as a note under section 5 of Pub. L. 95–452 [Inspector General Act of 1978] in the Appendix to this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 2(e) of Pub. L. 99–619 provided that: ''Subsection (c) of this section [amending this section and

Reorg. Plan No. 6 of 1950, set out in the Appendix to this title] shall become effective on the day upon which the individual who is the incumbent of the position abolished by such subsection, as of the date of enactment [Nov. 6, 1986], ceases to hold the position.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–73 effective Oct. 1, 1985, see section 6(c) of Pub. L. 99–73, set out as a note under section 5315 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–325 to take effect on the appointment of a person to fill successor position created by section 2212c of Title 7, Agriculture, see section 8(e) of Pub. L. 97–325.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 96–209 effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as an Effective Date note under section 1622a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of Title 20, Education.

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96–54 effective Jan. 1, 1980, see section 2(a)(25)(B) of Pub. L. 96–54, set out as a note under section 5312 of this title.

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

Amendment by Pub. L. 95–452 effective Oct. 1, 1978, see section 12 of Pub. L. 95–452 set out in the Appendix to this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93–415, as added by Pub. L. 95–115, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94–582, as amended, set out as a note under section 74 of Title 7, Agriculture.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as President may prescribe and publish in Federal Register, except that officers provided for in sections 5811–5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of Title 42.

Amendment by Pub. L. 93–271 effective July 1, 1974, see section 3 of Pub. L. 93–271, set out as a note under section 742b of Title 16, Conservation.

EFFECTIVE DATE OF 1973 AMENDMENTS

Offices and salaries modified under amendment by Pub. L. 93–83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83, Aug. 6, 1973, 83 Stat. 218.

Amendment by Pub. L. 93–43 effective June 18, 1973, see section 10(a) of Pub. L. 93–43, set out as an Effective Date note under section 2400 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92–603 effective on first day of first pay period of Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after first day of month which follows month in which Pub. L. 92–603 was enacted, see section 404(c) of Pub. L. 92–603, set out as a note under section 5315 of this title.

Amendment by Pub. L. 92–302, abolishing offices of Assistant Secretary of the Treasury for Administration and Deputy Under Secretary for Monetary Affairs, Department of the Treasury, effective on confirmation by Senate of Presidential appointees to fill the successor positions created by Pub. L. 92–302, see, section 3(b) of Pub. L. 92–302, May 18, 1972, 86 Stat. 149.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–22 effective on Senate confirmation of Presidential appointment under section 1453a of Title 43 and section 5315(18) of this title, see note set out under section 1453a of Title 43, Public Lands.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

Amendment by Pub. L. 90–407 effective on first day of first calendar month which begins on or after July 18, 1968, see section 15(a)(4) of Pub. L. 90–407, set out as a note under section 5313 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–206 effective as of beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90–206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89–670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

TRANSFER OF FUNCTIONS

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, set out in the Appendix to this title.

Environmental Science Services Administration in Department of Commerce, including offices of Administrator and Deputy Administrator thereof, abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created National Oceanic and Atmospheric Ad-

ministration in Department of Commerce and transferred personnel, property, records, and unexpended balances of funds of Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. Components of Environmental Science Services Administration thus transferred included Weather Bureau [now National Weather Service], Coast and Geodetic Survey [now National Ocean Survey], Environmental Data Service, National Environmental Satellite Center, and ESSA Research Laboratories.

Bureau of Narcotics and Dangerous Drugs, including office of Director thereof, in Department of Justice abolished by 1973 Reorg. Plan No. 2, eff. July 1, 1973, 38 FR 15932, 87 Stat. 1091, set out in the Appendix to this title, 1973 Reorg. Plan No. 2 also created in Department of Justice an agency to be known as Drug Enforcement Administration, with an Administrator and Deputy Administrator appointed by President with advice and consent of Senate.

INDIAN CLAIMS COMMISSION

Indian Claims Commission terminated on Sept. 30, 1978, pursuant to Pub. L. 94–465, § 2, Oct. 8, 1976, 90 Stat. 1990.

COMMISSIONER OF PATENTS

Commissioner of Patents redesignated Commissioner of Patents and Trademarks by Pub. L. 93–596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

ADMINISTRATOR OF BONNEVILLE POWER ADMINISTRATION

Bonneville Power Administration transferred to Department of Energy by section 7152 of Title 42, The Public Health and Welfare.

GENERAL COUNSEL OF MILITARY DEPARTMENTS

Pub. L. 100–456, div. A, title VII, § 703(b), Sept. 29, 1988, 102 Stat. 1996, which provided that, notwithstanding this section, the General Counsel of each of the military departments was to be paid at the highest rate of basic pay payable under section 5382 of this title, to a member of the Senior Executive Service, was repealed by Pub. L. 102–190, div. A, title IX, § 903(b), Dec. 5, 1991, 105 Stat. 1451.

COMPENSATION OF DEPUTY ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION

Pub. L. 95–567, title I, § 106(c), Nov. 2, 1978, 92 Stat. 2409, provided that: ''The position of Deputy Assistant Secretary of Commerce for Communications and Information, established in Department of Commerce Organization Order Numbered 10–10 (effective March 26, 1978), shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.''

SUBVERSIVE ACTIVITIES CONTROL BOARD

Subversive Activities Control Board, Chairman and Members of which were compensated under this section, ceased operation on June 3, 1973, as unfunded by Congress.

SALARY INCREASES

For adjustment of salaries under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

§ 5317. Presidential authority to place positions at levels IV and V

In addition to the positions listed in sections 5315 and 5316 of this title, the President, from time to time, may place in levels IV and V of the Executive Schedule positions held by not to exceed 34 individuals when he considers that action necessary to reflect changes in organization, management responsibilities, or workload in an Executive agency. Such an action with respect to a position to which appointment is made by the President by and with the advice and consent of the Senate is effective only at the time of a new appointment to the position. Notice of each action taken under this section shall be published in the Federal Register, except when the President determines that the publication would be contrary to the interest of national security. The President may not take action under this section with respect to a position the pay for which is fixed at a specific rate by this subchapter or by statute enacted after August 14, 1964.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 89–670, § 10(d)(6), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90–83, § 1(17), Sept. 11, 1967, 81 Stat. 199.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2211(f).	Aug. 14, 1964, Pub. L. 88–426, § 303(f), 78 Stat. 421.

The word ''offices'' is omitted as included in ''positions''. The term ''Executive agency'' is substituted for ''Federal department or agency'' in view of the definition in section 105. The words ''after August 14, 1964'' are substituted for ''subsequent to the date of enactment of this Act''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

The amendment to 5 U.S.C. 5317 conforms to the style of title 5.

AMENDMENTS

1966—Pub. L. 89–670 increased from thirty to thirty-four the number of additional level IV and V positions authorized when necessary.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89–670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

EXECUTIVE ORDER NO. 11189

Ex. Ord. No. 11189, Nov. 23, 1964, 29 F.R. 15855, which placed certain positions in levels IV and V of the Executive Schedule, was revoked by Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315.

EXECUTIVE ORDER NO. 11195

Ex. Ord. No. 11195, Jan. 30, 1965, 30 F.R. 1169, which placed certain positions in levels IV and V of the Executive Schedule, was revoked by Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315.

EXECUTIVE ORDER NO. 11861

Ex. Ord. 11861, May 21, 1975, 40 F.R. 22531, as amended by Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579; Ex.

Ord. No. 11872, July 21, 1975, 40 F.R. 30619; Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797; Ex. Ord. No. 11885, Oct. 15, 1975, 40 F.R. 48491; Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040; Ex. Ord. No. 11898, Jan. 14, 1976, 41 F.R. 2365; Ex. Ord. No. 11908, Mar. 18, 1976, 41 F.R. 11805; Ex. Ord. No. 11927, July 22, 1976, 41 F.R. 30583; Ex. Ord. No. 11976, Mar. 11, 1977, 42 F.R. 14081; Ex. Ord. No. 11983, May 4, 1977, 42 F.R. 23127; Ex. Ord. No. 11986, May 20, 1977, 42 F.R. 26407; Ex. Ord. No. 11995, June 8, 1977, 42 F.R. 29841; Ex. Ord. No. 11999, June 27, 1977, 42 F.R. 33255; Ex. Ord. No. 12025, Dec. 1, 1977, 42 F.R. 61447; Ex. Ord. No. 12035, Jan. 20, 1978, 43 F.R. 3073; Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315; Ex. Ord. No. 12069, June 30, 1978, 43 F.R. 28973, which related to the placement of certain positions in levels IV and V, was revoked by Ex. Ord. No. 12076, Aug. 18, 1978, 43 F.R. 37161, formerly set out below.

EXECUTIVE ORDER NO. 11864

Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579, which placed the position of Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury, to terminate effective August 1, 1975, in level IV of the Executive Schedule was superseded by Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797.

EXECUTIVE ORDER NO. 11995

Ex. Ord. No. 11995, June 8, 1977, 42 F.R. 29841, which placed the position of Executive Director, Federal Personnel Management Systems Study, United States Civil Service Commission, in level V of the Executive Schedule, was revoked by Ex. Ord. No. 12060, May 15, 1978, 43 F.R. 21315.

EXECUTIVE ORDER NO. 12076

Ex. Ord. No. 12076, Aug. 18, 1978, 43 F.R. 37161, as amended by Ex. Ord. No. 12099, Nov. 17, 1978, 43 F.R. 54191; Ex. Ord. No. 12111, Jan. 2, 1979, 44 F.R. 1071; Ex. Ord. No. 12119, Feb. 14, 1979, 44 F.R. 10039, which related to the placement of positions in levels IV and V of the Federal Executive Salary Schedule, was revoked by Ex. Ord. No. 12154, Sept. 4, 1979, 44 F.R. 51965, set out below.

EX. ORD. NO. 12154. PLACEMENT OF POSITIONS IN LEVELS IV AND V

Ex. Ord. No. 12154, Sept. 4, 1979, 44 F.R. 51965, as amended by Ex. Ord. No. 12199, Mar. 12, 1980, 45 F.R. 16441; Ex. Ord. No. 12236, Sept. 3, 1980, 45 F.R. 58805; Ex. Ord. No. 12237, Sept. 3, 1980, 45 F.R. 58807; Ex. Ord. No. 12422, May 20, 1983, 48 F.R. 23157; Ex. Ord. No. 12431, July 8, 1983, 48 F.R. 31849; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12678, Apr. 28, 1989, 54 F.R. 18872; Ex. Ord. No. 12679, June 23, 1989, 54 F.R. 27149; Ex. Ord. No. 12749, Feb. 4, 1991, 56 F.R. 4711; Ex. Ord. No. 12758, Apr. 5, 1991, 56 F.R. 14631; Ex. Ord. No. 12814, Sept. 10, 1992, 57 F.R. 42483; Ex. Ord. No. 12833, Jan. 19, 1993, 58 F.R. 5907; Ex. Ord. No. 12841, Mar. 9, 1993, 58 F.R. 13529; Ex. Ord. No. 12942, Dec. 12, 1994, 59 F.R. 64551; Ex. Ord. No. 13063, Sept. 30, 1997, 62 F.R. 51757, provided:

By the authority vested in me as President by Section 5317 of Title 5 of the United States Code it is hereby ordered as follows:

1–1. EXECUTIVE SCHEDULE POSITIONS

1–101. The following positions are placed in level IV of the Executive Schedule:

(a) Counselor to the Secretary, Department of the Treasury.

(b) Deputy Under Secretary for International Labor Affairs, Department of Labor.

(c) Administrator, Alcohol, Drug Abuse and Mental Health Administration, Department of Health and Human Services.

(d) Executive Secretary of the National Security Council.

(e) Administrator, Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

(f) Comptroller of the Department of Defense [now Under Secretary of Defense (Comptroller)].

(g) Assistant Secretary of the Air Force (1).

(h) Director, Office for Victims of Crime, Department of Justice.

(i) Director, Bureau of Justice Assistance, Department of Justice.

(j) Director of the National Institutes of Health.

(k) Members, Chemical Safety and Hazard Investigation Board (5).

(k)[(l)] Commissioner on Aging [now Assistant Secretary for Aging], Department of Health and Human Services[.]

1–102. The following positions are placed in level V of the Executive Schedule:

(a) Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense.

(b) Executive Assistant and Counselor to the Secretary of Labor, Department of Labor.

(c) Deputy Under Secretary for Education, Department of Education.

(d) Deputy Under Secretary for Education, Department of Education.

(e) Commissioner, Administration for Native Americans[.]

1–2. GENERAL PROVISIONS

1–201. Nothing in this Order shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position listed in Section 1–1 of this Order who was the occupant of that position immediately prior to the issuance of this Order.

1–202. Executive Order No. 12076, as amended, is hereby revoked.

§ 5318. Adjustments in rates of pay

(a) Subject to subsection (b), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of this title in the rates of pay under the General Schedule, the annual rate of pay for positions at each level of the Executive Schedule shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate of pay which corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.

(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule.

(Added Pub. L. 94–82, title II, § 202(a), Aug. 9, 1975, 89 Stat. 419; amended Pub. L. 101–194, title VII, § 704(a)(2)(A), Nov. 30, 1989, 103 Stat. 1769; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(4)(A)], Nov. 5, 1990, 104 Stat. 1427, 1439; Pub. L. 103–356, title I, § 101(3), Oct. 13, 1994, 108 Stat. 3411.)

REFERENCES IN TEXT

The General Schedule, referred to in text, is set out under section 5332 of this title.

Section 704(a)(1) of the Ethics Reform Act of 1989, referred to in subsec. (a), is section 704(a)(1) of Pub. L. 101–194, which is set out below.

AMENDMENTS

1994—Pub. L. 103–356 designated existing provisions as subsec. (a), substituted ''Subject to subsection (b), effective'' for ''Effective'', and added subsec. (b).

1990—Pub. L. 101–509 substituted ''5303'' for ''5305''.

1989—Pub. L. 101–194 substituted ''corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect'' for ''corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 101 of Pub. L. 103–356 provided that the amendment made by that section is effective as of Dec. 31, 1994.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 704(b) of Pub. L. 101–194 provided that: ''This section and the amendments made by this section [amending this section, section 31 of Title 2, The Congress, section 104 of Title 3, The President, and section 461 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under this section] shall take effect on January 1, 1991.''

SALARY LEVELS OF SENIOR GOVERNMENT OFFICIALS

Pub. L. 102–90, title I, § 6(a), Aug. 14, 1991, 105 Stat. 450, provided that: ''The rate of pay for the offices referred to under section 703(a)(2)(B) of the Ethics Reform Act of 1989 [Pub. L. 101–194] (5 U.S.C. 5318 note) shall be the rate of pay that would be payable for each such office if the provisions of sections 703(a)(2)(B) and 1101(a)(1)(A) of such Act (5 U.S.C. 5318 note and 5305 note) had not been enacted.''

Section 703 of Pub. L. 101–194 provided that:

''(a) SALARY LEVELS.—

''(1) EXECUTIVE POSITIONS.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for positions in the Executive Schedule shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100).

''(2) LEGISLATIVE POSITIONS; OFFICE OF THE VICE PRESIDENT.—

''(A) GENERALLY.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the offices and positions under subparagraphs (A) and (B) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356(A) and (B)) shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100), except as provided in subparagraph (B).

''(B) EXCEPTIONS.—Nothing in subparagraph (A) shall affect the rate of basic pay for a Senator, the President pro tempore of the Senate, or the majority leader or the minority leader of the Senate.

''(3) JUDICIAL POSITIONS.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the Chief Justice of the United States, an associate justice of the Supreme Court of the United States, a judge of a United States circuit court, a judge of a district court of the United States, and a judge of the United States Court of International Trade shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100).

''(b) COORDINATION RULE.—If a pay adjustment under subsection (a) is to be made for an office or position as of the same date as any other pay adjustment affecting such office or position, the adjustment under subsection (a) shall be made first.''

REVISION IN METHOD BY WHICH ANNUAL PAY ADJUSTMENTS FOR CERTAIN EXECUTIVE, LEGISLATIVE, AND JUDICIAL POSITIONS ARE TO BE MADE

Section 704(a) of Pub. L. 101–194 provided that:

''(a) PERCENT CHANGE IN THE EMPLOYMENT COST INDEX.—

''(1) METHOD FOR COMPUTING PERCENT CHANGE IN THE ECI.—

''(A) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'Employment Cost Index' or 'ECI' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics; and

''(ii) the term 'base quarter' means the 3-month period ending on December 31 of a year.

''(B) METHOD.—For purposes of the provisions of law amended by paragraph (2), the 'most recent percentage change in the ECI', as of any date, shall be one-half of 1 percent less than the percentage (rounded to the nearest one-tenth of 1 percent) derived by—

''(i) reducing—

''(I) the ECI for the last base quarter prior to that date, by

''(II) the ECI for the second to last base quarter prior to that date,

''(ii) dividing the difference under clause (i) by the ECI for the base quarter referred to in clause (i)(II), and

''(iii) multiplying the quotient under clause (ii) by 100, except that no percentage change determined under this paragraph shall be—

''(I) less than zero; or

''(II) greater than 5 percent.

''(2) PROVISIONS THROUGH WHICH NEW METHOD IS TO BE IMPLEMENTED.—

''(A) AMENDMENT TO TITLES 3, 5, AND 28 OF THE UNITED STATES CODE.—Section 104 of title 3, United States Code, section 5318 of title 5, United States Code, and section 461(a) of title 28, United States Code, are amended by striking 'corresponds to' and all that follows thereafter through the period, and inserting the following:

'corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.'.

''(B) AMENDMENT TO THE LEGISLATIVE REORGANIZATION ACT OF 1946.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended by striking 'corresponds to' and all that follows thereafter through the period and inserting the following:

'corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such

adjustment in the rates of pay under the General Schedule takes effect.'.''

REDUCTION OF RATE OF SALARY OR BASIC PAY OF OFFICES OR POSITIONS IN THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES TO THE SALARY OR BASIC PAY RATE PAYABLE AS OF JULY 14, 1983

Pub. L. 98–51, title III, § 304, July 14, 1983, 97 Stat. 279, reduced the rate of salary or basic pay prescribed by law as of July 14, 1983, for any office or position at level I, II, or III of the Executive Schedule, any Member of Congress, and certain other offices and positions in the legislative, executive, or judicial branch, or in the government of the District of Columbia and also reduced the maximum rate of salary or basic pay prescribed by law as of July 14, 1983, for certain offices and positions in the legislative, executive, or judicial branch, or in the government of the District of Columbia.

LIMITATION ON MAXIMUM RATE OF SALARY INCREASES FOR SENIOR EXECUTIVE, JUDICIAL, AND LEGISLATIVE POSITIONS FOR SERVICES PERFORMED AFTER DECEMBER 17, 1982

Pub. L. 97–377, title I, § 129(b)–(d), Dec. 21, 1982, 96 Stat. 1914, reduced salary increases for senior executive, judicial, and legislative positions (including Members of Congress but excluding Senators) from up to 27.2 percent to 15 percent.

FISCAL YEAR 1983 LIMITATION ON USE OF FUNDS FOR PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Section 306(a), (b), and (d) of S. 2939, Ninety-seventh Congress, 2nd Session, as reported Sept. 22, 1982, made applicable by Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189, as amended by Pub. L. 97–377, title I, § 129(a), Dec. 21, 1982, 96 Stat. 1914, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1983, to pay the salary or pay of any individual in an office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1982, if that rate was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

FISCAL YEAR 1982 LIMITATION ON USE OF FUNDS FOR PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Section 305(a), (b), and (d) of H.R. 4120, as reported July 9, 1981, made applicable by Pub. L. 97–92, § 101(g), Dec. 15, 1981, 95 Stat. 1190, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1982, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1981, if that rate was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Similar provisions were contained in Pub. L. 97–51, § 101(c), Oct. 1, 1981, 95 Stat. 959, as amended by Pub. L. 97–85, Nov. 23, 1981, 95 Stat. 1098.

Pub. L. 97–92, § 141, Dec. 15, 1981, 95 Stat. 1200, provided that nothing in section 305 of H.R. 4120, made applicable by section 101(g) of Pub. L. 97–92, required that the rate of salary or basic pay, payable to any individual for or on account of services performed after Dec. 31, 1981, be limited to or reduced to an amount which was less than $59,500 for pay corresponding to the rate of basic pay for level III of the Executive Schedule under section 5314 of this title; $58,500 for pay corresponding to the rate of basic pay for level IV of the Executive Schedule under section 5315 of this title; or $57,500 for pay corresponding to the rate of basic pay for level V of the Executive Schedule under section 5316 of this title. Any adjustment to the pay of an employee paid by the Clerk of the House was to result in pay no less than that of an employee paid by the Secretary of the Senate holding an equivalent position.

FISCAL YEAR 1981 LIMITATION ON USE OF FUNDS FOR PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Section 306(a), (b), and (d) of H.R. 7593, as passed the House of Representatives on July 21, 1980, made applicable by Pub. L. 96–536, § 101(c), Dec. 16, 1980, 94 Stat. 3167, as amended by Pub. L. 97–12, title IV, § 401, June 5, 1981, 95 Stat. 95, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1981, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1980, if the rate of salary or basic pay for that office or position was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Similar provisions were contained in Pub. L. 96–369, § 101(c), Oct. 1, 1980, 94 Stat. 1352.

FISCAL YEAR 1980 LIMITATION ON USE OF FUNDS FOR PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Pub. L. 96–86, § 101(c), Oct. 12, 1979, 93 Stat. 657, for the fiscal year 1980, prohibited the use of funds available for payment to executive employees, including Members of Congress, entitled under existing law to approximately 12.9 percent increase in pay, to pay any such employee or official any sum in excess of 5.5 percent increase in existing pay, and such sum, if accepted, would be in lieu of the 12.9 percent due for such fiscal year.

FISCAL YEAR 1979 LIMITATION ON USE OF FUNDS FOR PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Pub. L. 95–429, title VI, § 613, Oct. 10, 1978, 92 Stat. 1017, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1979, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1978, if the rate of salary or basic pay for such office or position was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Identical provisions were enacted by Pub. L. 95–391, title III, § 304, Sept. 30, 1978, 92 Stat. 788.

1977 COMPARABILITY ADJUSTMENT NOT EFFECTIVE FOR CERTAIN POSITIONS

Pub. L. 95–66, July 11, 1977, 91 Stat. 270, nullified the first adjustment in pay which would have been made after July 11, 1977, under the following provisions of law: the second sentence of section 104 of Title 3, The President; par. (2) of section 31 of Title 2, The Congress; section 461 of Title 28, Judiciary and Judicial Procedure; and section 5318 of this title.

FISCAL YEAR 1977 LIMITATION ON USE OF FUNDS FOR PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Pub. L. 94–440, title II, § 100, Oct. 1, 1976, 90 Stat. 1446, prohibited the use of funds appropriated in any Act to

pay the salary of an individual in a position or office referred to in section 356 of Title 2, The Congress, at a rate exceeding the salary rate for such position or office in effect on Sept. 30, 1976, except increases submitted by the President pursuant to sections 351 to 364 of Title 2.

SUBCHAPTER III—GENERAL SCHEDULE PAY RATES

§ 5331. Definitions; application

(a) For the purpose of this subchapter, ''agency'', ''employee'', ''position'', ''class'', and ''grade'' have the meanings given them by section 5102 of this title.

(b) This subchapter applies to employees and positions to which chapter 51 applies, other than Senior Executive Service positions, positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and positions to which section 5376 applies.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 95–454, title IV, § 408(b)(2), Oct. 13, 1978, 92 Stat. 1173; Pub. L. 100–325, § 2(h)(3), May 30, 1988, 102 Stat. 582; Pub. L. 101–509, title V, § 529 [title I, § 102(c)], Nov. 5, 1990, 104 Stat. 1427, 1444.)

HISTORICAL AND REVISION NOTES

The section is added on authority of former sections 1081, 1082, 1084, and 1091, which are carried into section 5102.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–509 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''This subchapter applies to employees and positions, other than Senior Executive Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, to which chapter 51 of this title applies.''

1988—Subsec. (b). Pub. L. 100–325 inserted reference to positions in Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

1978—Subsec. (b). Pub. L. 95–454 inserted reference to Senior Executive Service positions.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

REFERENCES IN OTHER LAWS TO CHAPTER 51 AND SUBCHAPTER III OF CHAPTER 53

References in laws to fix pay in accordance with this subchapter and chapter 51 of this title considered to include authority under section 5376 of this title, if applicable, but not to include any authority under section 5304 of this title or section 529 [title III, § 302] of Pub. L. 101–509, set out as a note under section 5304 of this title, see section 529 [title I, § 101(c)(2)] of Pub. L. 101–509, set out in a References in Other Laws to GS–16, 17, or 18 Pay Rates; Regulations note under section 5376 of this title.

§ 5332. The General Schedule

(a)(1) The General Schedule, the symbol for which is ''GS'', is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies is entitled to basic pay in accordance with the General Schedule.

(2) The General Schedule is a schedule of annual rates of basic pay, consisting of 15 grades, designated ''GS–1'' through ''GS–15'', consecutively, with 10 rates of pay for each such grade. The rates of pay of the General Schedule are adjusted in accordance with section 5303.

(b) When payment is made on the basis of an hourly, daily, weekly, or biweekly rate, the rate is computed from the appropriate annual rate of basic pay named by subsection (a) of this section in accordance with the rules prescribed by section 5504(b) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 90–83, § 1(18), Sept. 11, 1967, 81 Stat. 199; Pub. L. 90–206, title II, § 202(a), Dec. 16, 1967, 81 Stat. 624; Pub. L. 95–454, title V, § 503(e), Oct. 13, 1978, 92 Stat. 1184; Pub. L. 98–615, title II, § 204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 102–378, § 2(29), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 103–89, § 3(b)(1)(F), Sept. 30, 1993, 107 Stat. 982.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1113 (less (c)).	Oct. 28, 1949, ch. 782, § 603 (less (d)), 63 Stat. 965. Oct. 24, 1951, ch. 554, § 1(a), 65 Stat. 612. Sept. 1, 1954, ch. 1208, § 109 (less (c)), 68 Stat. 1108. June 28, 1955, ch. 189, § 2(a), 69 Stat. 172. June 20, 1958, Pub. L. 85–462, § 2(a), 72 Stat. 203. July 1, 1960, Pub. L. 86–568, § 112(a), 74 Stat. 298. Oct. 11, 1962, Pub. L. 87–793, § 602(a), 76 Stat. 843. Aug. 14, 1964, Pub. L. 88–426, § 102(a), 78 Stat. 400.
(b)	5 U.S.C. 1113(c).	Oct. 28, 1949, ch. 782, § 603 (d), 63 Stat. 965. Sept. 1, 1954, ch. 1208, § 109(c), 68 Stat. 1108.

In subsection (a), the words ''the symbol for which is 'GS' '' are added on authority of former section 1111 which is carried into section 5104. So much as related to the Crafts, Protective, and Custodial Schedule is omitted as repealed effective not later than Sept. 11, 1955, by the Act of Sept. 1, 1954, §§ 109(b), 110(b), 68 Stat. 1108.

In subsection (b), reference to payment made on the basis of a ''monthly'' rate is omitted since section 5504(b), former section 944(c), no longer provides for converting a basic annual rate to a basic monthly rate.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5332(a)	5 App.: 1113(b).	Oct. 29, 1965, Pub. L. 89–301, § 2(a), 79 Stat. 1111. July 18, 1966, Pub. L. 89–504, § 102(a), 80 Stat. 288.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–89 struck out '', except an employee covered by the performance

management and recognition system established under chapter 54,'' after ''whom this subchapter applies''.

1992—Subsec. (a). Pub. L. 102–378 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The General Schedule, the symbol for which is 'GS', is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies, except an employee covered by the performance management and recognition system established under chapter 54 of this title, is entitled to basic pay in accordance with the General Schedule.''

1984—Subsec. (a). Pub. L. 98–615 substituted ''the performance management and recognition system established under chapter 54'' for ''the merit pay system established under section 5402''.

1978—Subsec. (a). Pub. L. 95–454 inserted in second sentence reference to an employee covered by the merit pay system established under section 5402 of this title.

1967—Subsec. (a). Pub. L. 90–206 increased the compensation in each step of each grade.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective May 4, 1991, see section 9(b)(4) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(a) of Pub. L. 95–454 provided that amendment by Pub. L. 95–454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 220(a)(2) of Pub. L. 90–206 provided, except as otherwise expressly provided, that: ''Sections 202 [amending this section and enacting provisions set out as a note under this section], 203 [amending section 3301 of Title 39, The Postal Service], 204 [enacting section 3512A of Title 39, amending sections 3512, and 3513–3531 of Title 39, and enacting provisions set out as a note under section 3512A of Title 39], 205 [amending sections 3542–3544 of Title 39, and enacting provisions set out as notes under sections 3542, 3544, 3552, and 3560 of Title 39], 206 [amending sections 3560, 3573, and 3575 of Title 39, and enacting provisions set out as a note under section 3542 of Title 39], 208 [amending former section 4107 of Title 38, Veterans' Benefits], 209 [amending sections 867 and 870 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as a note under section 867 of Title 22], 210 [enacting provisions set out as a note under section 590h of Title 16, Conservation], 211 [enacting provisions set out as a note under this section and section 548 of Title 28, Judiciary and Judicial Procedure], 213 (except subsections (d) and (e)) [enacting provisions set out as notes under sections 603, 604, and 753 of Title 28], 214 (except subsections (j), (k), (*l*), (n), and (*o*)) [enacting sections 60e–14, 61–2, 74a–2, and 293c of Title 2, The Congress, amending section 1847 of Title 2, and enacting provisions set out as a note under section 8339 of this title], and 216 [enacting provisions set out as a note under section 60e–14 of Title 2] shall become effective as of the beginning of the first pay period which began on or after October 1, 1967.''

SHORT TITLE

Section 1 of Pub. L. 90–206 provided: ''That this Act [see Tables for classification] may be cited as the 'Postal Revenue and Federal Salary Act of 1967'.''

Section 201 of title II of Pub. L. 90–206 provided that: ''This title [see Tables for classification] may be cited as the 'Federal Salary Act of 1967'.''

ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1972

Pub. L. 93–549, Dec. 26, 1974, 88 Stat. 1743, provided that no officer or employee of the United States shall have his or her pay reduced by reason of Ex. Ord. No. 11777, Apr. 12, 1974.

1970 INCREASE IN PAY RATES

Pub. L. 91–231, Apr. 15, 1970, 84 Stat. 195, known as the Federal Employees Salary Act of 1970, and effective on the first day of the first pay period beginning on or after Dec. 27, 1969, provided for an increase in the rates of basic pay, basic compensation, and salaries contained in the General Schedule, the Postal Field Service Schedule and Rural Carrier Schedule, the schedule relating to certain positions within the Department of Medicine and Surgery of the Veterans' Administration, and the Foreign Service schedules, and also for employees of Agricultural Stabilization and Conservation County Committees, for certain employees of the Legislative and Judicial Branches, for United States Attorneys, and for other employees of the United States Government and the government of the District of Columbia whose rates of pay were fixed by administrative action and not otherwise increased.

INITIAL ADJUSTMENT OF 1967 PAY INCREASES

Pub. L. 90–206, title II, §§ 202(b), 220(a)(2), Dec. 16, 1967, 81 Stat. 625, 639, effective as of the beginning of the first pay period which began on or after Oct. 1, 1967, made various initial adjustments to the rates of basic pay of officers and employees referred to in the General Schedule set forth in the amendment to this section made by section 202(a) of Pub. L. 90–206.

1967 SALARY INCREASE FOR PERSONS WHOSE COMPENSATION RATES ARE FIXED BY ADMINISTRATIVE ACTION

Pub. L. 90–206, title II, §§ 211(b)–(d), 220(a)(2), Dec. 16, 1967, 81 Stat. 633, 639, effective as of the beginning of the first pay period which began on or after Oct. 1, 1967, authorized the increase of the rates of pay of certain officers and employees of the Federal Government and of the municipal government of the District of Columbia by amounts not to exceed the increases provided by title II of Pub. L. 90–206 for corresponding rates of pay in the appropriate schedule or scale of pay.

RETROACTIVE COMPENSATION UNDER 1967 PAY INCREASES

Pub. L. 90–206, title II, § 218, Dec. 16, 1967, 81 Stat. 638, provided for retroactive pay under title II of Pub. L. 90–206 only in the case of an individual in the service of the United States, including service in the Armed Forces, or the municipal government of the District of Columbia on Dec. 16, 1967, subject to certain restrictions.

EX. ORD. NO. 13561. ADJUSTMENTS OF CERTAIN RATES OF PAY

Ex. Ord. No. 13561, Dec. 22, 2010, 75 F.R. 81817, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the laws cited herein, it is hereby ordered as follows:

SECTION 1. *Statutory Pay Systems*. Pursuant to the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (H.R. 3082) [Pub. L. 111–322], which I signed into law today (the ''Continuing Appropriations Act''), the rates of basic pay or salaries of the

statutory pay systems (as defined in 5 U.S.C. 5302(1)) are set forth on the schedules attached hereto and made a part hereof:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) The Foreign Service Schedule (22 U.S.C. 3963) at Schedule 2; and

(c) The schedules for the Veterans Health Administration of the Department of Veterans Affairs (38 U.S.C. 7306, 7404; section 301(a) of Public Law 102–40) at Schedule 3.

SEC. 2. *Senior Executive Service*. The ranges of rates of basic pay for senior executives in the Senior Executive Service, as established pursuant to 5 U.S.C. 5382, are set forth on Schedule 4 attached hereto and made a part hereof.

SEC. 3. *Certain Executive, Legislative, and Judicial Salaries*. The rates of basic pay or salaries for the following offices and positions are set forth on the schedules attached hereto and made a part hereof:

(a) The Executive Schedule (5 U.S.C. 5312–5318) at Schedule 5;

(b) The Vice President (3 U.S.C. 104) and the Congress (2 U.S.C. 31) at Schedule 6; and

(c) Justices and judges (28 U.S.C. 5, 44(d), 135, 252, and 461(a), and section 140 of Public Law 97–92) at Schedule 7.

SEC. 4. *Uniformed Services*. The rates of monthly basic pay (37 U.S.C. 203(a)) for members of the uniformed services, as adjusted under 37 U.S.C. 1009, and the rate of monthly cadet or midshipman pay (37 U.S.C. 203(c)) are set forth on Schedule 8 attached hereto and made a part hereof.

SEC. 5. *Locality-Based Comparability Payments*. (a) Pursuant to section 5304 of title 5, United States Code, the Non-Foreign Area Retirement Equity Assurance Act of 2009 (Public Law 111–84; 5 U.S.C. 5304 note), and the Continuing Appropriations Act, locality-based comparability payments shall be paid in accordance with Schedule 9 attached hereto and made a part hereof.

(b) The Director of the Office of Personnel Management shall take such actions as may be necessary to implement these payments and to publish appropriate notice of such payments in the Federal Register.

SEC. 6. *Administrative Law Judges*. Pursuant to section 5372 of title 5, United States Code, the rates of basic pay for administrative law judges are set forth on Schedule 10 attached hereto and made a part hereof.

SEC. 7. *Effective Dates*. Schedule 8 is effective January 1, 2011. The other schedules contained herein are effective on the first day of the first applicable pay period beginning on or after January 1, 2011.

SEC. 8. *Prior Order Superseded*. Executive Order 13525 of December 23, 2009, is superseded.

BARACK OBAMA.

SCHEDULE 1

General Schedule

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

	1	2	3	4	5	6	7	8	9	10
GS–1	$17,803	$18,398	$18,990	$19,579	$20,171	$20,519	$21,104	$21,694	$21,717	$22,269
GS–2	20,017	20,493	21,155	21,717	21,961	22,607	23,253	23,899	24,545	25,191
GS–3	21,840	22,568	23,296	24,024	24,752	25,480	26,208	26,936	27,664	28,392
GS–4	24,518	25,335	26,152	26,969	27,786	28,603	29,420	30,327	31,054	31,871
GS–5	27,431	28,345	29,259	30,173	31,087	32,001	32,915	33,829	34,743	35,657
GS–6	30,577	31,596	32,615	33,634	34,653	35,672	36,691	37,710	38,729	39,748
GS–7	33,979	35,112	36,245	37,378	38,511	39,644	40,777	41,910	43,043	44,176
GS–8	37,631	38,885	40,139	41,393	42,647	43,901	45,155	46,409	47,663	48,917
GS–9	41,563	42,948	44,333	45,718	47,103	48,488	49,873	51,258	52,643	54,028
GS–10	45,771	47,297	48,823	50,349	51,875	53,401	54,927	56,453	57,979	59,505
GS–11	50,287	51,963	53,639	55,315	56,991	58,667	60,343	62,019	63,695	65,371
GS–12	60,274	62,283	64,292	66,301	68,310	70,319	72,328	74,337	76,346	78,355
GS–13	71,674	74,063	76,452	78,841	81,230	83,619	86,008	88,397	90,786	93,175
GS–14	84,697	87,520	90,343	93,166	95,989	98,812	101,635	104,458	107,281	110,104
GS–15	99,628	102,949	106,270	109,591	112,912	116,233	119,554	122,875	126,196	129,517

SCHEDULE 2

Foreign Service Schedule

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

Step	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 8	Class 9
1	$99,628	$80,728	$65,413	$53,003	$42,948	$38,394	$34,324	$30,684	$27,431
2	102,617	83,150	67,375	54,593	44,236	39,546	35,354	31,605	28,254
3	105,695	85,644	69,397	56,231	45,564	40,732	36,414	32,553	29,102
4	108,866	88,214	71,479	57,918	46,930	41,954	37,507	33,529	29,975
5	112,132	90,860	73,623	59,655	48,338	43,213	38,632	34,535	30,874
6	115,496	93,586	75,832	61,445	49,789	44,509	39,791	35,571	31,800
7	118,961	96,393	78,107	63,288	51,282	45,844	40,985	36,638	32,754
8	122,530	99,285	80,450	65,187	52,821	47,220	42,214	37,737	33,737
9	126,206	102,264	82,863	67,143	54,405	48,636	43,481	38,870	34,749
10	129,517	105,332	85,349	69,157	56,037	50,095	44,785	40,036	35,791
11	129,517	108,492	87,910	71,232	57,719	51,598	46,129	41,237	36,865
12	129,517	111,746	90,547	73,369	59,450	53,146	47,512	42,474	37,971
13	129,517	115,099	93,263	75,570	61,234	54,741	48,938	43,748	39,110
14	129,517	118,552	96,061	77,837	63,071	56,383	50,406	45,060	40,283

SCHEDULE 3

Veterans Health Administration Schedules, Department of Veterans Affairs

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

	Minimum	Maximum
Schedule for the Office of the Under Secretary for Health (38 U.S.C. 7306)[1]		
Assistant Under Secretaries for Health	[2]$157,279	
(Only applies to incumbents who are not physicians or dentists)		
Service Directors	$116,844	$145,113
Director, National Center for Preventive Health	99,628	145,113
Physician and Dentist Base and Longevity Schedule[3]		
Physician Grade	$97,987	$143,725

SCHEDULE 3—Continued

Veterans Health Administration Schedules, Department of Veterans Affairs

Dentist Grade	97,987	143,725
Clinical Podiatrist, Chiropractor, and Optometrist Schedule		
Chief Grade	$99,628	$129,517
Senior Grade	84,697	110,104
Intermediate Grade	71,674	93,175
Full Grade	60,274	78,355
Associate Grade	50,287	65,371
Physician Assistant and Expanded-Function Dental Auxiliary Schedule[4]		
Director Grade	$99,628	$129,517
Assistant Director Grade	84,697	110,104
Chief Grade	71,674	93,175
Senior Grade	60,274	78,355

SCHEDULE 3—Continued

Veterans Health Administration Schedules, Department of Veterans Affairs

Intermediate Grade	50,287	65,371
Full Grade	41,563	54,028
Associate Grade	35,766	46,494
Junior Grade	30,577	39,748

[1] This schedule does not apply to the Deputy Under Secretary for Health, the Associate Deputy Under Secretary for Health, Assistant Under Secretaries for Health who are physicians or dentists, Medical Directors, the Assistant Under Secretary for Nursing Programs, or the Director of Nursing Services.

[2] Pursuant to 38 U.S.C. 7404(d), the rate of basic pay payable to these employees is limited to the rate for level V of the Executive Schedule, which is $145,700.

[3] Pursuant to section 3 of Public Law 108–445 [see Tables for classification] and 38 U.S.C. 7431, Veterans Health Administration physicians and dentists may also be paid market pay and performance pay.

[4] Pursuant to section 301(a) of Public Law 102–40 [38 U.S.C. 7451 note], these positions are paid according to the Nurse Schedule in 38 U.S.C. 4107(b), as in effect on August 14, 1990, with subsequent adjustments.

SCHEDULE 4

Senior Executive Service

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

	Minimum	Maximum
Agencies with a Certified SES Performance Appraisal System	$119,554	$179,700
Agencies without a Certified SES Performance Appraisal System	$119,554	$165,300

SCHEDULE 5

Executive Schedule

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

Level I	$199,700
Level II	179,700
Level III	165,300
Level IV	155,500
Level V	145,700

SCHEDULE 6

Vice President and Members of Congress

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

Vice President	$230,700
Senators	174,000
Members of the House of Representatives	174,000
Delegates to the House of Representatives	174,000
Resident Commissioner from Puerto Rico	174,000
President pro tempore of the Senate	193,400
Majority leader and minority leader of the Senate	193,400
Majority leader and minority leader of the House of Representatives	193,400
Speaker of the House of Representatives	223,500

SCHEDULE 7

Judicial Salaries

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

Chief Justice of the United States	$223,500
Associate Justices of the Supreme Court	213,900
Circuit Judges	184,500
District Judges	174,000
Judges of the Court of International Trade	174,000

SCHEDULE 8

Pay of the Uniformed Services

(Effective January 1, 2011)

PART I—MONTHLY BASIC PAY

Years of Service (computed under 37 U.S.C. 205)

Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–10[2]	.....	.....	.....	.....	.....
O–9	.....	.....	.....	.....	.....
O–8	$9,530.70	$9,842.70	$10,050.00	$10,107.90	$10,366.50
O–7	7,919.10	8,287.20	8,457.30	8,592.60	8,837.70
O–6	5,869.50	6,448.50	6,871.50	6,871.50	6,897.60
O–5	4,893.00	5,512.20	5,893.80	5,965.80	6,203.70

SCHEDULE 8—Continued

Pay of the Uniformed Services

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–4	4,221.90	4,887.30	5,213.40	5,286.00	5,588.70
O–3[3]	3,711.90	4,208.10	4,542.00	4,951.80	5,188.80
O–2[3]	3,207.30	3,652.80	4,207.20	4,349.10	4,438.50
O–1[3]	2,784.00	2,897.40	3,502.50	3,502.50	3,502.50
	Over 8	Over 10	Over 12	Over 14	Over 16
O–10[2]	.....	.....	.....	.....	.....
O–9	.....	.....	.....	.....	.....
O–8	$10,798.20	$10,899.00	$11,308.80	$11,426.40	$11,779.80
O–7	9,079.80	9,359.70	9,638.70	9,918.60	10,798.20
O–6	7,193.40	7,232.40	7,232.40	7,643.40	8,370.30
O–5	6,346.20	6,659.40	6,889.20	7,186.20	7,640.70
O–4	5,913.30	6,317.40	6,632.10	6,851.10	6,976.50
O–3[3]	5,449.20	5,617.80	5,894.70	6,039.00	6,039.00
O–2[3]	4,438.50	4,438.50	4,438.50	4,438.50	4,438.50
O–1[3]	3,502.50	3,502.50	3,502.50	3,502.50	3,502.50
	Over 18	Over 20	Over 22	Over 24	Over 26
O–10[2]	.....	[1] $15,400.80	[1] $15,475.80	[1] $15,797.70	[1] $16,358.40
O–9	.....	13,469.70	13,663.80	13,944.00	14,433.00
O–8	$12,291.00	12,762.30	13,077.30	13,077.30	13,077.30
O–7	11,540.70	11,540.70	11,540.70	11,540.70	11,599.50
O–6	8,796.90	9,222.90	9,465.60	9,711.30	10,187.70
O–5	7,856.70	8,070.30	8,313.30	8,313.30	8,313.30
O–4	7,049.10	7,049.10	7,049.10	7,049.10	7,049.10
O–3[3]	6,039.00	6,039.00	6,039.00	6,039.00	6,039.00
O–2[3]	4,438.50	4,438.50	4,438.50	4,438.50	4,438.50
O–1[3]	3,502.50	3,502.50	3,502.50	3,502.50	3,502.50
	Over 28	Over 30	Over 32	Over 34	Over 36
O–10[2]	[1] $16,358.40	[1] $17,176.20	[1] $17,176.20	[1] $18,034.80	[1] $18,034.80
O–9	14,433.00	[1] 15,155.10	[1] 15,155.10	[1] 15,912.90	[1] 15,912.90
O–8	13,077.30	13,404.30	13,404.30	13,739.40	13,739.40
O–7	11,599.50	11,831.70	11,831.70	11,831.70	11,831.70
O–6	10,187.70	10,391.10	10,391.10	10,391.10	10,391.10
O–5	8,313.30	8,313.30	8,313.30	8,313.30	8,313.30
O–4	7,049.10	7,049.10	7,049.10	7,049.10	7,049.10
O–3[3]	6,039.00	6,039.00	6,039.00	6,039.00	6,039.00
O–2[3]	4,438.50	4,438.50	4,438.50	4,438.50	4,438.50
O–1[3]	3,502.50	3,502.50	3,502.50	3,502.50	3,502.50
	Over 38	Over 40			
O–10[2]	[1] $18,936.90	[1] $18,936.90			
O–9	[1] 16,708.50	[1] 16,708.50			
O–8	13,739.40	13,739.40			
O–7	11,831.70	11,831.70			
O–6	10,391.10	10,391.10			
O–5	8,313.30	8,313.30			
O–4	7,049.10	7,049.10			
O–3[3]	6,039.00	6,039.00			
O–2[3]	4,438.50	4,438.50			
O–1[3]	3,502.50	3,502.50			

[1] Basic pay is limited to the rate of basic pay for level II of the Executive Schedule, which is $14,975.10 per month for officers at pay grades O–7 through O–10, and limited to the rate of basic pay for level V of the Executive Schedule, which is $12,141.60 per month, for officers at O–6 and below.

[2] For officers serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in 10 U.S.C. 161(c)), basic pay for this grade is calculated to be $20,263.50 per month, regardless of cumulative years of service computed under 37 U.S.C. 205. Nevertheless, actual basic pay for these officers is limited to the rate of basic pay for level II of the Executive Schedule, which is $14,975.10 per month.

[3] Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

Commissioned Officers With Over 4 Years Active Duty Service as an Enlisted Member or Warrant Officer[4]

Pay Grade	Over 4	Over 6	Over 8	Over 10
O–3E	$4,951.80	$5,188.80	$5,449.20	$5,617.80
O–2E	4,349.10	4,438.50	4,580.10	4,818.60
O–1E	3,502.50	3,740.40	3,878.70	4,020.30
	Over 12	Over 14	Over 16	Over 18
O–3E	$5,894.70	$6,128.10	$6,262.20	$6,444.90
O–2E	5,002.80	5,140.20	5,140.20	5,140.20
O–1E	4,158.90	4,349.10	4,349.10	4,349.10
	Over 20	Over 22	Over 24	Over 26
O–3E	$6,444.90	$6,444.90	$6,444.90	$6,444.90
O–2E	5,140.20	5,140.20	5,140.20	5,140.20
O–1E	4,349.10	4,349.10	4,349.10	4,349.10
	Over 28	Over 30	Over 32	Over 34

Commissioned Officers With Over 4 Years Active Duty Service as an Enlisted Member or Warrant Officer[4]—Continued

Pay Grade	Over 4	Over 6	Over 8	Over 10
O–3E	$6,444.90	$6,444.90	$6,444.90	$6,444.90
O–2E	5,140.20	5,140.20	5,140.20	5,140.20
O–1E	4,349.10	4,349.10	4,349.10	4,349.10
	Over 36	Over 38	Over 40	
O–3E	$6,444.90	$6,444.90	$6,444.90	
O–2E	5,140.20	5,140.20	5,140.20	
O–1E	4,349.10	4,349.10	4,349.10	

[4] Reservists with at least 1,460 points as an enlisted member and/or warrant officer which are creditable toward reserve retirement also qualify for these rates.

Warrant Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	.....	.....	.....	.....	.....
W–4	$3,836.10	$4,126.50	$4,245.00	$4,361.40	$4,562.10
W–3	3,502.80	3,648.90	3,798.60	3,847.80	4,004.70
W–2	3,099.90	3,393.00	3,483.30	3,545.40	3,746.40
W–1	2,721.00	3,013.50	3,092.40	3,258.90	3,456.00
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	.....	.....	.....	.....	.....
W–4	$4,760.70	$4,961.40	$5,264.40	$5,529.60	$5,781.90
W–3	4,313.70	4,635.00	4,786.20	4,961.10	5,142.00
W–2	4,059.00	4,213.50	4,366.20	4,552.50	4,698.00
W–1	3,745.80	3,881.40	4,070.40	4,256.70	4,403.10
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	.....	$6,820.80	$7,167.00	$7,424.70	$7,710.00
W–4	$5,988.30	6,189.60	6,485.40	6,728.40	7,005.60
W–3	5,466.00	5,685.30	5,816.40	5,955.60	6,144.90
W–2	4,830.00	4,987.80	5,091.60	5,174.10	5,174.10
W–1	4,538.10	4,701.60	4,701.60	4,701.60	4,701.60
	Over 28	Over 30	Over 32	Over 34	Over 36
W–5	$7,710.00	$8,095.80	$8,095.80	$8,500.50	$8,500.50
W–4	7,005.60	7,145.70	7,145.70	7,145.70	7,145.70
W–3	6,144.90	6,144.90	6,144.90	6,144.90	6,144.90
W–2	5,174.10	5,174.10	5,174.10	5,174.10	5,174.10
W–1	4,701.60	4,701.60	4,701.60	4,701.60	4,701.60
	Over 38	Over 40			
W–5	$8,925.90	$8,925.90			
W–4	7,145.70	7,145.70			
W–3	6,144.90	6,144.90			
W–2	5,174.10	5,174.10			
W–1	4,701.60	4,701.60			

Enlisted Members

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9[1]	.....	.....	.....	.....	.....
E–8	.....	.....	.....	.....	.....
E–7	$2,637.30	$2,878.50	$2,988.90	$3,135.00	$3,249.00
E–6	2,281.20	2,510.10	2,620.80	2,728.50	2,840.70
E–5	2,090.10	2,230.20	2,337.90	2,448.30	2,620.20
E–4	1,916.10	2,014.20	2,123.40	2,230.80	2,325.90
E–3	1,729.80	1,838.70	1,950.00	1,950.00	1,950.00
E–2	1,644.90	1,644.90	1,644.90	1,644.90	1,644.90
E–1[2]	1,467.60	1,467.60	1,467.60	1,467.60	1,467.60
E–1[3]	1,357.20	.....	.....	.....	.....
	Over 8	Over 10	Over 12	Over 14	Over 16
E–9[1]	.....	$4,634.70	$4,739.70	$4,872.00	$5,027.70
E–8	$3,794.10	3,961.80	4,065.60	4,190.40	4,325.10
E–7	3,444.60	3,554.70	3,750.90	3,913.50	4,024.50
E–6	3,093.60	3,192.30	3,382.80	3,441.00	3,483.60
E–5	2,800.50	2,947.50	2,965.50	2,965.50	2,965.50
E–4	2,325.90	2,325.90	2,325.90	2,325.90	2,325.90
E–3	1,950.00	1,950.00	1,950.00	1,950.00	1,950.00
E–2	1,644.90	1,644.90	1,644.90	1,644.90	1,644.90
E–1[2]	1,467.60	1,467.60	1,467.60	1,467.60	1,467.60
E–1[3]	.....	.....	.....	.....	.....
	Over 18	Over 20	Over 22	Over 24	Over 26
E–9[1]	$5,184.60	$5,436.60	$5,649.30	$5,873.40	$6,215.70
E–8	4,568.40	4,691.70	4,901.70	5,017.80	5,304.60
E–7	4,143.00	4,189.20	4,342.80	4,425.60	4,740.00
E–6	3,533.40	3,533.40	3,533.40	3,533.40	3,533.40
E–5	2,965.50	2,965.50	2,965.50	2,965.50	2,965.50
E–4	2,325.90	2,325.90	2,325.90	2,325.90	2,325.90
E–3	1,950.00	1,950.00	1,950.00	1,950.00	1,950.00
E–2	1,644.90	1,644.90	1,644.90	1,644.90	1,644.90
E–1[2]	1,467.60	1,467.60	1,467.60	1,467.60	1,467.60
E–1[3]	.....	.....	.....	.....	.....

Enlisted Members—Continued

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
	Over 28	Over 30	Over 32	Over 34	Over 36
E–9[1]	$6,215.70	$6,526.20	$6,526.20	$6,852.90	$6,852.90
E–8	5,304.60	5,411.10	5,411.10	5,411.10	5,411.10
E–7	4,740.00	4,740.00	4,740.00	4,740.00	4,740.00
E–6	3,533.40	3,533.40	3,533.40	3,533.40	3,533.40
E–5	2,965.50	2,965.50	2,965.50	2,965.50	2,965.50
E–4	2,325.90	2,325.90	2,325.90	2,325.90	2,325.90
E–3	1,950.00	1,950.00	1,950.00	1,950.00	1,950.00
E–2	1,644.90	1,644.90	1,644.90	1,644.90	1,644.90
E–1[2]	1,467.60	1,467.60	1,467.60	1,467.60	1,467.60
E–1[3]	.....	.....	.....	.....	.....
	Over 38	Over 40			
E–9[1]	$7,195.80	$7,195.80			
E–8	5,411.10	5,411.10			
E–7	4,740.00	4,740.00			
E–6	3,533.40	3,533.40			
E–5	2,965.50	2,965.50			
E–4	2,325.90	2,325.90			
E–3	1,950.00	1,950.00			
E–2	1,644.90	1,644.90			
E–1[2]	1,467.60	1,467.60			
E–1[3]	.....	.....			

[1] For noncommissioned officers serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, basic pay for this grade is $7,489.80 per month, regardless of cumulative years of service under 37 U.S.C. 205.

[2] Applies to personnel who have served 4 months or more on active duty.

[3] Applies to personnel who have served less than 4 months on active duty.

PART II—RATE OF MONTHLY CADET OR MIDSHIPMAN PAY

The rate of monthly cadet or midshipman pay authorized by 37 U.S.C. 203(c) is $974.40.

NOTE: As a result of the enactment of sections 602–604 of Public Law 105–85, the National Defense Authorization Act for Fiscal Year 1998 [see Tables for classification], the Secretary of Defense now has the authority to adjust the rates of basic allowances for subsistence and housing. Therefore, these allowances are no longer adjusted by the President in conjunction with the adjustment of basic pay for members of the uniformed services. Accordingly, the tables of allowances included in previous orders are not included here.

SCHEDULE 9

Locality-Based Comparability Payments

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

Locality Pay Area[1]	Rate
Alaska[2]	24.69%
Atlanta-Sandy Springs-Gainesville, GA–AL	19.29%
Boston-Worcester-Manchester, MA–NH–RI–ME	24.80%
Buffalo-Niagara-Cattaraugus, NY	16.98%
Chicago-Naperville-Michigan City, IL–IN–WI	25.10%
Cincinnati-Middletown-Wilmington, OH–KY–IN	18.55%
Cleveland-Akron-Elyria, OH	18.68%
Columbus-Marion-Chillicothe, OH	17.16%
Dallas-Fort Worth, TX	20.67%
Dayton-Springfield-Greenville, OH	16.24%
Denver-Aurora-Boulder, CO	22.52%
Detroit-Warren-Flint, MI	24.09%
Hartford-West Hartford-Willimantic, CT–MA	25.82%
Hawaii[2]	16.51%
Houston-Baytown-Huntsville, TX	28.71%
Huntsville-Decatur, AL	16.02%
Indianapolis-Anderson-Columbus, IN	14.68%
Los Angeles-Long Beach-Riverside, CA	27.16%
Miami-Fort Lauderdale-Pompano Beach, FL	20.79%
Milwaukee-Racine-Waukesha, WI	18.10%
Minneapolis-St. Paul-St. Cloud, MN–WI	20.96%
New York-Newark-Bridgeport, NY–NJ–CT–PA	28.72%
Philadelphia-Camden-Vineland, PA–NJ–DE–MD	21.79%
Phoenix-Mesa-Scottsdale, AZ	16.76%
Pittsburgh-New Castle, PA	16.37%
Portland-Vancouver-Beaverton, OR–WA	20.35%
Raleigh-Durham-Cary, NC	17.64%
Richmond, VA	16.47%
Sacramento–Arden-Arcade–Yuba City, CA–NV	22.20%
San Diego-Carlsbad-San Marcos, CA	24.19%
San Jose-San Francisco-Oakland, CA	35.15%
Seattle-Tacoma-Olympia, WA	21.81%

SCHEDULE 9—Continued

Locality-Based Comparability Payments

Locality Pay Area[1]	Rate
Washington-Baltimore-Northern Virginia, DC–MD–VA–WV–PA	24.22%
Rest of U.S.[2]	14.16%

[1] Locality Pay Areas are defined in 5 CFR 531.603.

[2] Under the Non-Foreign Area Retirement Equity Assurance Act of 2009 (sections 1911–1919, Public Law 111–84, October 28, 2009), two-thirds of the applicable locality pay rate will be payable in non-foreign areas effective with the first pay period in January 2011. Those two-thirds payable locality rates are 16.46% in Alaska, 11.01% in Hawaii, and 9.44% in other non-foreign areas (as identified in 5 CFR 591.205(b)(3)–(16)) that are part of the Rest of U.S. locality pay area.

SCHEDULE 10

Administrative Law Judges

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2011)

AL–3/A	$103,900
AL–3/B	111,800
AL–3/C	119,900
AL–3/D	127,800
AL–3/E	135,900
AL–3/F	143,700
AL–2	151,800
AL–1	155,500

PRIOR ADJUSTMENTS OF CERTAIN RATES OF PAY WERE CONTAINED IN THE FOLLOWING:

Ex. Ord. No. 13525, Dec. 23, 2009, 74 F.R. 69231, effective Jan. 1, 2010, superseded by Ex. Ord. No. 13561.

Ex. Ord. No. 13483, Dec. 18, 2008, 73 F.R. 78587, effective Jan. 1, 2009, superseded by Ex. Ord. No. 13525.

Ex. Ord. No. 13454, Jan. 4, 2008, 73 F.R. 1481, effective Jan. 1, 2008, superseded by Ex. Ord. No. 13483.

Ex. Ord. No. 13420, Dec. 21, 2006, 71 F.R. 77571, effective Jan. 1, 2007, superseded by Ex. Ord. No. 13454.

Ex. Ord. No. 13393, Dec. 22, 2005, 70 F.R. 76655, effective Jan. 1, 2006, superseded by Ex. Ord. No. 13420.

Ex. Ord. No. 13368, Dec. 30, 2004, 70 F.R. 1147, effective Jan. 1, 2005, superseded by Ex. Ord. No. 13393.

Ex. Ord. No. 13332, Mar. 3, 2004, 69 F.R. 10891, effective Jan. 1, 2004, superseded by Ex. Ord. No. 13368.

Ex. Ord. No. 13322, Dec. 30, 2003, 69 F.R. 231, effective Jan. 1, 2004, superseded by Ex. Ord. No. 13332.

Ex. Ord. No. 13282, Dec. 31, 2002, 68 F.R. 1133, as amended by Ex. Ord. No. 13291, Mar. 21, 2003, 68 F.R. 14525, effective Jan. 1, 2003, superseded by Ex. Ord. No. 13322.

Ex. Ord. No. 13249, Dec. 28, 2001, 67 F.R. 639, effective Jan. 1, 2002, superseded by Ex. Ord. No. 13282, as amended.

Ex. Ord. No. 13182, Dec. 23, 2000, 65 F.R. 82879, 66 F.R. 10057, effective Jan. 1, 2001, superseded by Ex. Ord. No. 13249.

Ex. Ord. No. 13144, Dec. 21, 1999, 64 F.R. 72237, effective Jan. 1, 2000, superseded by Ex. Ord. No. 13182.

Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, effective Jan. 1, 1999, substantially superseded by Ex. Ord. No. 13144.

Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, effective Jan. 1, 1998, superseded by Ex. Ord. No. 13106.

Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, effective Jan. 1, 1997, superseded by Ex. Ord. No. 13071.

Ex. Ord. No. 12990, Feb. 29, 1996, 61 F.R. 8467, effective Jan. 1, 1996, superseded by Ex. Ord. No. 13033.

Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, as amended by Ex. Ord. No. 12990, § 3, Feb. 29, 1996, 61 F.R. 8467, effective Jan. 1, 1996, superseded by Ex. Ord. No. 13033.

Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, effective Jan. 1, 1995, superseded by Ex. Ord. No. 12984, as amended.

Ex. Ord. No. 12886, Dec. 23, 1993, 58 F.R. 68709, effective Jan. 1, 1994, superseded by Ex. Ord. No. 12944.

Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, as amended by Ex. Ord. No. 12886, § 3, Dec. 23, 1993, 58 F.R. 68709, effective Jan. 1, 1993, superseded by Ex. Ord. No. 12944.

Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, effective Jan. 1, 1992, superseded by Ex. Ord. No. 12826, as amended.

Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, effective Jan. 1, 1991, superseded by Ex. Ord. No. 12786.

Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, effective Jan. 1 and 31, 1990, superseded by Ex. Ord. No. 12736.

Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, effective Jan. 1, 1989, superseded by Ex. Ord. No. 12698.

Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, effective Jan. 1, 1988, superseded by Ex. Ord. No. 12663.

Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, effective Jan. 1, 1987, superseded by Ex. Ord. No. 12622.

Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, effective Jan. 1, 1985, superseded by Ex. Ord. No. 12578.

Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended by Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, effective Jan. 1, 1984, superseded by Ex. Ord. No. 12496, as amended.

Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, effective Oct. 1, 1982, superseded by Ex. Ord. No. 12456, as amended.

Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, effective Oct. 1, 1981, superseded by Ex. Ord. No. 12387.

Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, effective Oct. 1, 1980, superseded by Ex. Ord. No. 12330.

Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 44 F.R. 16443, effective Oct. 1, 1979, superseded by Ex. Ord. No. 12248.

Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, effective Oct. 1, 1978, superseded by Ex. Ord. No. 12165, as amended.

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, effective Oct. 1, 1977, superseded by Ex. Ord. No. 12087.

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, effective Oct. 1, 1976, superseded by Ex. Ord. No. 12010.

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, effective Oct. 1, 1975, superseded by Ex. Ord. No. 11941, as amended.

Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, effective Oct. 1, 1974, superseded by Ex. Ord. No. 11883.

Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27581, effective Oct. 1, 1973, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607, as amended by Ex. Ord. No. 11777, Apr. 12, 1974, 39 F.R. 13519, effective Oct. 1, 1972, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911, effective Jan. 1, 1972, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347, effective Jan. 1, 1971, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6247, effective first pay period on or after Dec. 27, 1969, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605, effective July 1, 1969, superseded by Ex. Ord. No. 11811.

Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641, effective July 1, 1968, superseded by Ex. Ord. No. 11811.

FREEZING FEDERAL EMPLOYEE PAY SCHEDULES AND RATES THAT ARE SET BY ADMINISTRATIVE DISCRETION

Memorandum of President of the United States, Dec. 22, 2010, 75 F.R. 81829, provided:

Memorandum for the Heads of Executive Departments and Agencies

On November 29, 2010, I proposed a two-year freeze in the pay of civilian Federal employees as the first of a number of difficult actions required to put our Nation on a sound fiscal footing. As I said then, Federal workers are not just a line in a budget. They are public servants who, like their private sector counterparts, may be struggling in these difficult economic times.

Despite the sacrifices that I knew a pay freeze would entail for our dedicated civil servants, I concluded that a two-year freeze in the upward statutory adjustment of pay schedules is a necessary first step in our effort

to address the challenge of our fiscal reality. The Congress responded to my proposal by including such a freeze in the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (H.R. 3082) [Pub. L. 111–322], which I signed into law today (the ''Act''). The Act freezes statutory pay adjustments for all executive branch pay schedules for a two-year period. It also generally prohibits executive departments and agencies from providing any base salary increases at all to senior executives or senior level employees, including performance-based increases.

While this legislation will prevent adjustments in executive branch pay schedules that are made by statute, some laws allow such adjustments to be made by agency heads as an exercise of administrative discretion. In order to ensure consistent treatment of executive branch employees and to promote the fiscal purposes of my original proposal, agency heads who have such discretion should not provide any upward adjustments in Federal employees' pay schedules or rates during the two-year period covered by the statutory pay freeze.

Accordingly, you should suspend any increases to any pay systems or pay schedules covering executive branch employees that could otherwise take effect as a result of an exercise of administrative discretion during the period beginning on January 1, 2011, and ending on December 31, 2012. You also should forgo any general increases (including general increases for a geographic area, such as locality pay) in covered employees' rates of pay that could otherwise take effect as a result of the exercise of administrative discretion during the same period. To the extent that an agency pay system provides performance-based increases in lieu of general increases, funds allocated for those performance-based increases should be correspondingly reduced to reflect the freezing of the employees' base pay schedule.

This memorandum shall be carried out to the extent permitted by law and consistent with executive departments' and agencies' legal authorities. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Personnel Management shall issue guidance on implementing this memorandum, and is also hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 5333. Minimum rate for new appointments

New appointments shall be made at the minimum rate of the appropriate grade. However, under regulations prescribed by the Office of Personnel Management which provide for such considerations as the existing pay or unusually high or unique qualifications of the candidate, or a special need of the Government for his services, the head of an agency may appoint, with the approval of the Office in each specific case, an individual to a position at such a rate above the minimum rate of the appropriate grade as the Office may authorize for this purpose. The approval of the Office in each specific case is not required with respect to an appointment made by the Librarian of Congress.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 90–83, § 1(19), Sept. 11, 1967, 81 Stat. 199; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–54, § 2(a)(26)(A), Aug. 14, 1979, 93 Stat. 382; Pub. L. 101–509, title V, § 529 [title I, § 106, title II, § 211(b)(1)], Nov. 5, 1990, 104 Stat. 1427, 1449, 1461.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1131.	Oct. 28, 1949, ch. 782, § 801, 63 Stat. 969. Aug. 14, 1964, Pub. L. 88–426, § 103(a), 78 Stat. 401.
(b)	5 U.S.C. 1133.	Oct. 28, 1949, ch. 782, § 803, 63 Stat. 970. Sept. 1, 1954, ch. 1208, § 104, 68 Stat. 1106. Oct. 11, 1962, Pub. L. 87–793, § 604(c), 76 Stat. 848.

In subsection (b), the word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5333(a)	5 App.: 1131.	July 18, 1966, Pub. L. 89–504, § 103, 80 Stat. 289.

AMENDMENTS

1990—Pub. L. 101–509 struck out ''; higher rates for supervisors of prevailing rate employees'' after ''appointments'' in section catchline, struck out ''(a)'' before ''New appointments shall'', struck out ''in GS–11 or above'' after ''individual to a position'', and struck out subsec. (b) which read as follows: ''Under regulations prescribed by the Office of Personnel Management, an employee in a position to which this subchapter applies, who regularly has responsibility for supervision (including supervision over the technical aspects of the work concerned) over employees whose pay is fixed and adjusted from time to time by wage boards or similar administrative authority as nearly as is consistent with the public interest in accordance with prevailing rates, may be paid at one of the rates for his grade which is above the highest rate of basic pay being paid to any such prevailing-rate employee regularly supervised, or at the maximum rate for his grade, as provided by the regulations.''

1979—Pub. L. 96–54 substituted ''prevailing rate'' for ''wage-board'' in section catchline.

1978—Subsecs. (a), (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively, wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5334. Rate on change of position or type of appointment; regulations

(a) The rate of basic pay to which an employee is entitled is governed by regulations prescribed

by the Office of Personnel Management in conformity with this subchapter and chapter 51 of this title when—

(1) he is transferred from a position in the legislative, judicial, or executive branch to which this subchapter does not apply;

(2) he is transferred from a position in the legislative, judicial, or executive branch to which this subchapter applies to another such position;

(3) he is demoted to a position in a lower grade;

(4) he is reinstated, reappointed, or reemployed in a position to which this subchapter applies following service in any position in the legislative, judicial, or executive branch;

(5) his type of appointment is changed;

(6) his employment status is otherwise changed; or

(7) his position is changed from one grade to another grade.

For the purpose of this subsection, an individual employed by the Appalachian Regional Commission under section 14306(a)(2) of title 40, who was a Federal employee immediately prior to such employment by a commission and within 6 months after separation from such employment is employed in a position to which this subchapter applies, shall be treated as if transferred from a position in the executive branch to which this subchapter does not apply.

(b) An employee who is promoted or transferred to a position in a higher grade is entitled to basic pay at the lowest rate of the higher grade which exceeds his existing rate of basic pay by not less than two step-increases of the grade from which he is promoted or transferred. If, in the case of an employee so promoted or transferred who is receiving basic pay at a rate in excess of the maximum rate of his grade, there is no rate in the higher grade which is at least two step-increases above his existing rate of basic pay, he is entitled to—

(1) the maximum rate of the higher grade; or

(2) his existing rate of basic pay, if that rate is the higher.

If an employee so promoted or transferred is receiving basic pay at a rate saved to him under subchapter VI of this chapter on reduction in grade, he is entitled to—

(A) basic pay at a rate two steps above the rate which he would be receiving if subchapter VI of this chapter were not applicable to him; or

(B) his existing rate of basic pay, if that rate is the higher.

If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection.

(c) An employee in the legislative branch who is paid by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, and who has completed two or more years of service as such an employee, and a Member of the Senate or House of Representatives who has completed two or more years of service as such a Member, may, on appointment to a position to which this subchapter applies, have his initial rate of pay fixed—

(1) at the minimum rate of the appropriate grade; or

(2) at a step of the appropriate grade that does not exceed the highest previous rate of pay received by him during that service in the legislative branch.

(d) The rate of pay established for a teaching position as defined by section 901 of title 20 held by an individual who becomes subject to subsection (a) of this section is deemed increased by an amount determined under regulations which the Secretary of Defense shall prescribe for the determination of the yearly rate of pay of the position. The amount by which a rate of pay is increased under the regulations may not exceed the amount equal to 20 percent of that rate of pay.

(e) An employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may, on appointment to a position subject to this subchapter, have the initial rate of basic pay of the employee fixed at—

(1) the lowest rate of the higher grade that exceeds the rate of basic pay of the employee with the county committee by not less than 2 step-increases of the grade from which the employee was promoted, if the Federal Civil Service position under this subchapter is at a higher grade than the last grade the employee had while an employee of the county committee;

(2) the same step of the grade as the employee last held during service with the county committee, if the Federal Civil Service position under this subchapter is at the same grade as the last grade the employee had while an employee of the county committee; or

(3) the lowest step of the Federal grade for which the rate of basic pay is equal to or greater than the highest previous rate of pay of the employee, if the Federal Civil Service position under this subchapter is at a lower grade than the last grade the employee had while an employee of the county committee.

(f)(1) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such employee's initial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed—

(A) if the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c) is equal to a rate of the appropriate grade, such rate of the appropriate grade;

(B) if the employee's highest previous rate of basic pay (as described in subparagraph (A)) is between two rates of the appropriate grade, the higher of those two rates; or

(C) if the employee's highest previous rate of basic pay (as described in subparagraph (A)) exceeds the maximum rate of the appropriate grade, the maximum rate of the appropriate grade.

(2) In the case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.

(g) In the case of an employee who—

(1) moves to a new official duty station, and

(2) by virtue of such move, becomes subject to a different pay schedule,

any rate adjustment under the preceding provisions of this section, with respect to such employee in connection with such move, shall be made—

(A) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move, and

(B) then, by applying the provisions of this section that would otherwise apply (if any), treating the rate determined under subparagraph (A) as if it were the rate last received by the employee before the rate adjustment.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 468; Pub. L. 90–103, title I, § 105, Oct. 11, 1967, 81 Stat. 257; Pub. L. 90–367, § 1, June 29, 1968, 82 Stat. 277; Pub L. 90–623, § 1(6), (24), Oct. 22, 1968, 82 Stat. 1312, 1314; Pub. L. 95–454, title V, § 503(f), title VIII, § 801(a)(2), (3)(F), (G), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1184, 1221, 1222, 1224; Pub. L. 96–54, § 2(a)(27), Aug. 14, 1979, 93 Stat. 383; Pub. L. 98–615, title II, § 204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 99–251, title III, § 306(b), Feb. 27, 1986, 100 Stat. 27; Pub. L. 101–508, title VII, § 7202(d), Nov. 5, 1990, 104 Stat. 1388–335; Pub. L. 103–89, § 3(b)(1)(G), Sept. 30, 1993, 107 Stat. 982; Pub. L. 104–186, title II, § 215(4), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 105–85, div. A, title XI, § 1104(a), Nov. 18, 1997, 111 Stat. 1923; Pub. L. 105–393, title II, § 223, Nov. 13, 1998, 112 Stat. 3626; Pub. L. 107–171, title X, § 10701, May 13, 2002, 116 Stat. 515; Pub. L. 108–178, § 4(a), Dec. 15, 2003, 117 Stat. 2640; Pub. L. 108–411, title III, § 301(a)(3), Oct. 30, 2004, 118 Stat. 2315; Pub. L. 110–181, div. A, title XI, § 1114, Jan. 28, 2008, 122 Stat. 360.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)–(d)	5 U.S.C. 1132.	Oct. 28, 1949, ch. 782, § 802, 63 Stat. 969. Sept. 1, 1954, ch. 1208, § 112 (as applicable to § 802(b)), 68 Stat. 1108. May 29, 1958, Pub. L. 85–432, § 4(a), (b), 72 Stat. 151. July 31, 1959, Pub. L. 86–122, § 2(a), 73 Stat. 268.

HISTORICAL AND REVISION NOTES—CONTINUED

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(e)	5 U.S.C. 2357.	Oct. 11, 1962, Pub. L. 87–793, § 604(a), (b), 76 Stat. 847. July 17, 1959, Pub. L. 86–91. § 9, 73 Stat. 216.

In subsection (b), the words "under any provision of law" are omitted from the second sentence as unnecessary.

In subsection (e), the words "as defined by section 901 of title 20" are added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–181 designated first sentence as par. (1), substituted "does not exceed—" for "does not exceed the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c).", added subpars. (A) to (C), and designated second sentence as par. (2).

2004—Subsec. (b). Pub. L. 108–411, § 301(a)(3)(A), inserted concluding provisions.

Subsec. (g). Pub. L. 108–411, § 301(a)(3)(B), added subsec. (g).

2003—Subsec. (a). Pub. L. 108–178 substituted "section 14306(a)(2) of title 40" for "section 106(2) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)".

2002—Subsec. (e). Pub. L. 107–171 added subsec. (e) and struck out former subsec. (e) which read as follows: "An employee of a county committee established pursuant to section 590h(b) of title 16 may, upon appointment to a position subject to this subchapter, have his initial rate of basic pay fixed at the minimum rate of the appropriate grade, or at any step of such grade that does not exceed the highest previous rate of basic pay received by him during service with such county committee."

1998—Subsec. (a). Pub. L. 105–393 substituted "the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)" for "title 40, appendix, or by a regional commission established pursuant to section 3182 of title 42, under section 3186(a)(2) of that title".

1997—Subsec. (d). Pub. L. 105–85 substituted "an amount determined under regulations which the Secretary of Defense shall prescribe for the determination of the yearly rate of pay of the position. The amount by which a rate of pay is increased under the regulations may not exceed the amount equal to 20 percent of that rate of pay." for "20 percent to determine the yearly rate of pay of the position."

1996—Subsec. (c). Pub. L. 104–186 substituted "Chief Administrative Officer" for "Clerk".

1993—Subsec. (c)(2). Pub. L. 103–89, § 3(b)(1)(G)(i), substituted "step" for "step, or for an employee appointed to a position covered by the performance management and recognition system established under chapter 54 of this title, any dollar amount,".

Subsecs. (f), (g). Pub. L. 103–89, § 3(b)(1)(G)(ii), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: "In the case of an employee covered by the performance management and recognition system established under chapter 54 of this title, all references in this section to 'two steps' or 'two step-increases' shall be deemed to mean 6 percent."

1990—Subsec. (g). Pub. L. 101–508 added subsec. (g).

1986—Subsec. (e). Pub. L. 99–251 substituted "may, upon appointment to a position" for "may upon appointment to a position under the Department of Agriculture,".

1984—Subsecs. (c)(2), (f). Pub. L. 98–615 substituted "the performance management and recognition system established under chapter 54" for "the merit pay system established under section 5402".

1979—Subsec. (a). Pub. L. 96–54 substituted ''106(2)'' for ''106(a)'' and ''3186(a)(2)'' for ''3186(2)''.

1978—Subsec. (a). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Subsec. (b). Pub. L. 95–454, § 801(a)(3)(F), substituted ''subchapter VI of this chapter'' for ''section 5337 of this title'' wherever appearing.

Subsec. (c). Pub. L. 95–454, § 503(f)(1), in par. (2) inserted reference to an employee appointed to a position covered by the merit pay system established under section 5402 of this title.

Subsecs. (d) to (f). Pub. L. 95–454, § 801(a)(2), (3)(G), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d), which related to regulations governing the retention of the rate of basic pay of an employee and his position covered by this subchapter and chapter 51 of this title, was struck out.

Pub. L. 95–454, § 503(f)(2), added a new subsec. (f).

1968—Subsec. (a). Pub. L. 90–623, § 1(6), substituted ''title 40, appendix'' for ''the Appalachian Regional Development Act of 1965'', ''section 3182 of title 42, under section 3186(2) of that title'' for ''section 502 of the Public Works and Economic Development Act of 1965, under section 506(2) of such Act'', and ''6'' for ''six''.

Subsec. (f). Pub. L. 90–623, § 1(24), substituted ''section 590h(b) of title 16'' for ''section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))''.

Pub. L. 90–367 added subsec. (f).

1967—Subsec. (a). Pub. L. 90–103 provided for treatment as a transfer from a position in the executive branch to which this subchapter does not apply of certain regional commission employees who were Federal employees immediately prior to employment by a commission and were employed within six months after separation from the commission in a position subject to this subchapter.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108–411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–178, § 5, Dec. 15, 2003, 117 Stat. 2642, provided that: ''This Act [see Tables for classification] and amendments and repeals made by this Act are effective August 21, 2002.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1104(b) of Pub. L. 105–85 provided that:

''(1) The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Nov. 18, 1997].

''(2) In the case of a person who is employed in a teaching position referred to in section 5334(d) of title 5, United States Code, on the day before the effective date under paragraph (1), the rate of pay of that person determined under that section (as in effect on that day) may not be reduced by reason of the amendment made by subsection (a) for so long as the person continues to serve in that position or another such position without a break in service of more than three days on or after that day.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101–508, set out as a note under section 2105 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(a) of Pub. L. 95–454 provided that amendment by section 503(f) of Pub. L. 95–454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

Amendment by section 801(a)(2), (3)(F), (G) of Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of this title.

Amendment by section 906(a)(2) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of Pub. L. 90–623 provided that:

''(a) Sections 1–5 of this Act [amending this section, sections 559, 2108, 3102, 3502, 5314, 5315, 5316, 5352, 5353, 5516, 5521, 5527, 5537, 5546, 5724, 6104, 6305, 6312, 6323, 6324, 8143, 8191, 8331, and 8347 of this title, sections 101, 510 [now 12102], 815, 1124, 3534, 4342, 5149, 6483, 6954, and 9342 of Title 10, Armed Forces, sections 101, 212, 205, 305, 306, 307, 308, 311, 406, 417, 554, 703, 904, 1001, and 1006 of Title 37, Pay and Allowances of the Uniformed Services, and sections 2727 and 2994b of Title 42, The Public Health and Welfare, and repealing section 8339 note of this title] restate, without substantive change, the laws replaced by those sections on the effective date of this Act. Laws effective after June 30, 1968, that are inconsistent with this Act [Oct. 22, 1968] supersede it to the extent of the inconsistency.

''(b) References made by other laws, regulations, and orders to the laws restated by this Act are deemed to refer to the corresponding provisions of this Act.

''(c) Actions taken under the laws restated by this Act are deemed to have been taken under the corresponding provisions of this Act.

''(d) Sections 1(2) and 1(14) of this Act [amending sections 2108 and 5724 of this title] are effective as of September 11, 1967, for all purposes.

''(e) Sections 1(13)(B) and 1(17) of this Act [amending sections 5546 and 6323 of this title] are effective as of September 6, 1966, for all purposes.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5335. Periodic step-increases

(a) An employee paid on an annual basis, and occupying a permanent position within the scope of the General Schedule, who has not reached the maximum rate of pay for the grade in which his position is placed, shall be advanced in pay successively to the next higher rate within the grade at the beginning of the next pay period following the completion of—

(1) each 52 calendar weeks of service in pay rates 1, 2, and 3;

(2) each 104 calendar weeks of service in pay rates 4, 5, and 6; or

(3) each 156 calendar weeks of service in pay rates 7, 8, and 9;

subject to the following conditions:

(A) the employee did not receive an equivalent increase in pay from any cause during that period; and

(B) the work of the employee is of an acceptable level of competence as determined by the head of the agency.

(b) Under regulations prescribed by the Office of Personnel Management, the benefit of successive step-increases shall be preserved for employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

(c) When a determination is made under subsection (a) of this section that the work of an employee is not of an acceptable level of competence, the employee is entitled to prompt written notice of that determination and an opportunity for reconsideration of the determination within his agency under uniform procedures prescribed by the Office of Personnel Management. If the determination is affirmed on reconsideration, the employee is entitled to appeal to the Merit Systems Protection Board. If the reconsideration or appeal results in a reversal of the earlier determination, the new determination supersedes the earlier determination and is deemed to have been made as of the date of the earlier determination. The authority of the Office to prescribe procedures and the entitlement of the employee to appeal to the Board do not apply to a determination of acceptable level of competence made by the Librarian of Congress.

(d) An increase in pay granted by statute is not an equivalent increase in pay within the meaning of subsection (a) of this section.

(e) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate.

(f) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 469; Pub. L. 90–83, § 1(20), Sept. 11, 1967, 81 Stat. 199; Pub. L. 95–251, § 2(a)(1), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95–454, title V, § 503(g), title IX, § 906(a)(2), (8), Oct. 13, 1978, 92 Stat. 1184, 1224, 1225; Pub. L. 96–54, § 2(a)(28), Aug. 14, 1979, 93 Stat. 383; Pub. L. 98–615, title II, §§ 203, 204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 101–508, title VII, § 7202(e), Nov. 5, 1990, 104 Stat. 1388–336; Pub. L. 101–509, title V, § 529 [title I, § 104(d)(2)], Nov. 5, 1990, 104 Stat. 1427, 1447; Pub. L. 103–89, § 3(b)(1)(H), Sept. 30, 1993, 107 Stat. 982.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)–(c)	5 U.S.C. 1121.	Oct. 11, 1962, Pub. L. 87–793, § 603 ''Sec. 701'', 76 Stat. 847.
(d)	5 U.S.C. 1123 (as applicable to 5 U.S.C. 1121).	Oct. 11, 1962, Pub. L. 87–793, § 603 ''Sec. 703 (as applicable to § 701)'', 76 Stat. 847.

In subsection (a), the words ''General Schedule'' are substituted for ''compensation schedules fixed by this chapter'' since the General Schedule is now the only compensation schedule in that chapter. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity.

In subsection (a)(B), the words ''except a hearing examiner appointed under section 3105 of this title'' are added on authority of the third sentence of former section 1010 and the fifth sentence of former section 1011, which are carried into sections 5362 and 559, respectively, and of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Title VII (sections 701–705) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 967–969, as amended by the following Acts is omitted from the derivation and repealed (see Table II) as superseded by the Act of Oct. 11, 1962, Pub. L. 87–793, § 603, 76 Stat. 847, which is carried into this section and section 5336:

June 28, 1950, ch. 382, § 2, 64 Stat. 262.

Sept. 30, 1950, ch. 1123, §§ 9, 10, 64 Stat. 1100.

Oct. 24, 1951, ch. 554, § 1(e), 65 Stat. 613.

Sept. 1, 1954, ch. 1208, §§ 102(a), 103(a), 112 (less applicability to § 802(b)), 305(a), 68 Stat. 1105, 1108, 1113.

June 28, 1955, ch. 189, § 2(e), 69 Stat. 175.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5335(c)	5 App.: 1121(c).	Oct. 29, 1965, Pub. L. 89–301, § 3, 79 Stat. 1112.

The word ''officer'' is omitted as included in ''employee'', and the word ''agency'' is substituted for ''department'' to conform to the definition in 5 U.S.C. 5331.

AMENDMENTS

1993—Subsec. (e). Pub. L. 103–89, § 3(b)(1)(H)(i), struck out ''covered by the performance management and recognition system established under chapter 54 of this title, or,'' after ''individual''.

Subsecs. (f), (g). Pub. L. 103–89, § 3(b)(1)(H)(ii), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: ''Notwithstanding subsection (b) or (e) of this section, an increase in pay granted under section 5404 of this title is an equivalent increase in pay within the meaning of subsection (a) of this section and shall be taken into account in the case of any employee who, before becoming subject to this section, was granted such an increase while covered by the per-

formance management and recognition system established under chapter 54 of this title.''

1990—Subsec. (a)(B). Pub. L. 101–509 struck out '', except an administrative law judge appointed under section 3105 of this title,'' after ''work of the employee''.

Subsec. (g). Pub. L. 101–508 added subsec. (g).

1984—Subsec. (e). Pub. L. 98–615, § 204(a)(1), substituted ''the performance management and recognition system established under chapter 54'' for ''the merit pay system established under section 5402''.

Subsec. (f). Pub. L. 98–615, § 203, added subsec. (f).

1979—Subsec. (a)(3)(B). Pub. L. 96–54 substituted ''an administrative law judge'' for ''a administrative law judge''.

1978—Subsec. (a). Pub. L. 95–251 substituted ''administrative law judge'' for ''hearing examiner''.

Subsec. (b). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Subsec. (c). Pub. L. 95–454, § 906(a)(8), substituted references to Office of Personnel Management and Merit Systems Protection Board and Office and Board, respectively, for references to Civil Service Commission wherever appearing in text.

Subsec. (e). Pub. L. 95–454, § 503(g), inserted reference to merit pay system established under section 5402 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

Amendment by Pub. L. 101–508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101–508, set out as a note under section 2105 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(a) of Pub. L. 95–454 provided that amendment by section 503(g) of Pub. L. 95–454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

Amendment by section 906(a)(2), (8) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PAY INCREASES DEEMED EQUIVALENT INCREASES IN PAY

Section 5(a) of Pub. L. 103–89 provided that: ''Notwithstanding the amendment made by section 3(b)(1)(H)(ii) [amending this section], an increase in pay granted under section 5404 of title 5, United States Code, before November 1, 1993, shall be deemed to be an equivalent increase in pay within the meaning of section 5335(a) of such title.''

§ 5336. Additional step-increases

(a) Within the limit of available appropriations and under regulations prescribed by the Office of Personnel Management, the head of each agency may grant additional step-increases in recognition of high quality performance above that ordinarily found in the type of position concerned. However, an employee is eligible under this section for only one additional step-increase within any 52-week period.

(b) A step-increase under this section is in addition to those under section 5335 of this title and is not an equivalent increase in pay within the meaning of section 5335(a) of this title.

(c) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 469; Pub. L. 95–454, title V, § 503(h), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1184, 1224; Pub. L. 98–615, title II, § 204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 103–89, § 3(b)(1)(I), Sept. 30, 1993, 107 Stat. 982.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 1122.	Oct. 11, 1962, Pub. L. 87–793, § 603 ''Sec. 702'', 76 Stat. 847.
(c)	5 U.S.C. 1123 (less applicability to 5 U.S.C. 1121).	Oct. 11, 1962, Pub. L. 87–793, § 603 ''Sec. 703 (less applicability to § 701)'', 76 Stat. 847.

For repeal of Title VII (sections 701–705) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 967–969, as amended, see revision note for section 5335.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–89 struck out ''covered by the performance management and recognition system established under chapter 54 of this title, or,'' after ''individual''.

1984—Subsec. (c). Pub. L. 98–615 substituted ''the performance management and recognition system established under chapter 54'' for ''the merit pay system established under section 5402''.

1978—Subsec. (a). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Subsec. (c). Pub. L. 95–454, § 503(h), inserted reference to merit pay system established under section 5402 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(a) of Pub. L. 95–454 provided that amendment by section 503(h) of Pub. L. 95–454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

Amendment by section 906(a)(2) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

[§ 5337. Repealed. Pub. L. 95–454, title VIII, § 801(a)(2), Oct. 13, 1978, 92 Stat. 1221]

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 470; Pub. L. 92–392, § 3, Aug. 19, 1972, 86 Stat. 573, set forth provisions relating to pay saving for employees reduced in grade from a grade in the General Schedule. See section 5361 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, and an employee receiving pay on day before such effective date not to have such pay reduced or terminated and, unless section 5362 applies, employee is entitled to continuation of such pay, etc., see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of this title.

§ 5338. Regulations

The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 470; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

The section is added on authority of former sections 1072 and 1072a, which are carried into section 5115.

AMENDMENTS

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

SUBCHAPTER IV—PREVAILING RATE SYSTEMS

§ 5341. Policy

It is the policy of Congress that rates of pay of prevailing rate employees be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and be based on principles that—

(1) there will be equal pay for substantially equal work for all prevailing rate employees who are working under similar conditions of employment in all agencies within the same local wage area;

(2) there will be relative differences in pay within a local wage area when there are substantial or recognizable differences in duties, responsibilities, and qualification requirements among positions;

(3) the level of rates of pay will be maintained in line with prevailing levels for comparable work within a local wage area; and

(4) the level of rates of pay will be maintained so as to attract and retain qualified prevailing rate employees.

(Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 564.)

PRIOR PROVISIONS

A prior section 5341, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90–83, § 1(97), Sept. 11, 1967, 81 Stat. 220; Pub. L. 90–560, § 4, Oct. 12, 1968, 82 Stat. 997, provided prevailing rate system for trades and crafts and is covered by sections 5343(c), (d) and 5349(a) of this title.

EFFECTIVE DATE

Section 15(a) of Pub. L. 92–392 provided that: ''The provisions of this Act [enacting this subchapter and section 5550 of this title, amending sections 2105, 5337, 5541, 5544, 5548, 6101, 7154, and 8704 of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and sections 60a–1 and 60a–2 of Title 2, The Congress] are effective on the first day of the first applicable pay period which begins on or after the ninetieth day after the date of enactment of this Act [Aug. 19, 1972], except that, in the case of those employees referred to in section 5342(a)(2)(B) and (C) of title 5, United States Code (as amended by the first section of this Act), such provisions are effective on the first day of the first applicable pay period which begins on or after the one hundred and eightieth day after such date of enactment or on such earlier date (not earlier than the ninetieth day after such date of enactment) as the Civil Service Commission may prescribe. Notwithstanding the provisions of this subsection, section 5343(e)(1)(D) and (E) and (e)(2)(C), as enacted by the first section of this Act, shall not be effective until the first day of the first pay period commencing after (1) the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 [formerly set out as a note under section 1904 of Title 12, Banks and Banking] to stabilize wages and salaries, or (2) April 30, 1973, whichever occurs first.''

REPEALS

Section 13 of Pub. L. 92–392 provided that:

''(a) All laws or parts of laws inconsistent with this Act [see Effective Date note above] are hereby repealed to the extent of such inconsistency.

''(b) Subsection (a) of this section does not repeal or otherwise affect section 5102(d) of title 5, United States Code, section 305 of title 44 of such Code, or the provisions contained in section 180 of former title 31, United States Code.''

§ 5342. Definitions; application

(a) For the purpose of this subchapter—

(1) ''agency'' means an Executive agency; but does not include—

(A) a Government controlled corporation;

(B) the Tennessee Valley Authority;

(C) the Virgin Islands Corporation;

(D) the Atomic Energy Commission;

(E) the Central Intelligence Agency;

(F) the National Security Agency, Department of Defense;

(G) the Bureau of Engraving and Printing, except for the purposes of section 5349 of this title;

(H) the Government Accountability Office; or[1]

(J)[2] the Defense Intelligence Agency, Department of Defense; or

(K) the National Geospatial-Intelligence Agency, Department of Defense;

(2) ''prevailing rate employee'' means—

(A) an individual employed in or under an agency in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement;

(B) an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement; and

(C) an employee of the Veterans' Canteen Service, Department of Veterans Affairs, excepted from chapter 51 of this title by section 5102(c)(14) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or labor experience and knowledge as the paramount requirement; and

(3) ''position'' means the work, consisting of duties and responsibilities, assignable to a prevailing rate employee.

(b)(1) Except as provided by paragraphs (2) and (3) of this subsection, this subchapter applies to all prevailing rate employees and positions in or under an agency.

(2) This subchapter does not apply to employees and positions described by section 5102(c) of this title other than by—

(A) paragraph (7) of that section to the extent that such paragraph (7) applies to employees and positions other than employees and positions of the Bureau of Engraving and Printing; and

(B) paragraph (14) of that section.

(3) This subchapter, except section 5348, does not apply to officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title.

(c) Each prevailing rate employee employed within any of the several States or the District of Columbia shall be a United States citizen or a bona fide resident of one of the several States or the District of Columbia unless the Secretary of Labor certifies that no United States citizen or bona fide resident of one of the several States or the District of Columbia is available to fill the particular position.

(Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 564; amended Pub. L. 96–70, title III, § 3302(e)(1), Sept. 27, 1979, 93 Stat. 498; Pub. L. 96–191, § 8(d), Feb. 15, 1980, 94 Stat. 33; Pub. L. 97–468, title VI, § 615(b)(1)(D), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 98–618, title V, § 502(b), Nov. 8, 1984, 98 Stat. 3303; Pub. L. 102–54, § 13(b)(1), June 13, 1991, 105 Stat. 274; Pub. L. 103–359, title V, § 501(h), Oct. 14, 1994, 108 Stat. 3429; Pub. L. 104–201, div. A, title XI, § 1122(a)(1), div. C, title XXXV, § 3548(a)(3)(A), Sept. 23, 1996, 110 Stat. 2687, 2868; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–417, [div. A], title IX, § 931(a)(1), Oct. 14, 2008, 122 Stat. 4575.)

PRIOR PROVISIONS

A prior section 5342, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471, provided for crews of vessels.

Provisions similar to those comprising subsec. (b) of this section were contained in Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5342 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

AMENDMENTS

2008—Subsec. (a)(1)(K). Pub. L. 110–417 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

2004—Subsec. (a)(1)(H). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1996—Subsec. (a)(1). Pub. L. 104–201, § 3548(a)(3)(A), which directed amendment of subsec. (a)(1) by striking subpar. (G) and redesignating subpars. (H), (I), (J), (K), and (L) as (G), (H), (I), (J), and (K), respectively, was executed by striking subpar. (F), relating to the Panama Canal Commission, and redesignating subpars. (G), (H), (I), (K), and (L) as (F), (G), (H), (J), and (K), respectively, to reflect the probable intent of Congress, because subsec. (a)(1) does not contain a subpar. (J) and the amendments were included in a series of conforming amendments relating to the Panama Canal.

Subsec. (a)(1)(L). Pub. L. 104–201, § 1122(a)(1), substituted ''National Imagery and Mapping Agency'' for ''Central Imagery Office''.

1994—Subsec. (a)(1)(J) to (L). Pub. L. 103–359 directed the amendment of subpar. (J) by striking out ''or'' at end which could not be executed because par. (1) does not contain a subpar. (J), added ''or'' at end of subpar. (K), and added subpar. (L).

1991—Subsec. (a)(2)(C). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1984—Subsec. (a)(1)(I) to (K). Pub. L. 98–618 struck out ''or'' at end of subpar. (I), inserted ''or'' at end of subpar. (J), and added subpar. (K).

1983—Subsec. (a)(1)(C) to (J). Pub. L. 97–468, eff. Jan. 5, 1985, struck out subpar. (C) which excluded the Alaska Railroad and redesignated subpars. (D) to (J) as (C) to (I), respectively. See Effective Date of 1983 Amendment note below.

1980—Subsec. (a)(1)(J). Pub. L. 96–191 added subpar. (J).

1979—Subsec. (a)(1)(G). Pub. L. 96–70 substituted ''Commission'' for ''Company''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1122(a)(1) of Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of Title 10, Armed Forces.

[1] So in original. The word ''or'' probably should not appear.

[2] So in original. Subsec. (a)(1) does not contain a subpar. (I).

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–468 effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(b) of Pub. L. 97–468.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96–191.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, except that in the case of employees referred to in subsec. (a)(2)(B) and (C) section effective on first day of first applicable pay period beginning on or after 180th day after Aug. 19, 1972, or on such earlier date (not earlier than 90th day after Aug. 19, 1972) as Civil Service Commission may prescribe, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

ABOLITION OF ATOMIC ENERGY COMMISSION

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

DISSOLUTION OF VIRGIN ISLANDS CORPORATION

Virgin Islands Corporation established to have succession until June 30, 1969, unless sooner dissolved by Act of Congress, by act June 30, 1949, ch. 285, 63 Stat. 350, as amended (48 U.S.C. 1407 et seq.). Corporation terminated its program June 30, 1965, and dissolved July 1, 1966. Act June 30, 1949, was repealed by Pub. L. 97–357, title III, § 308(e), Oct. 19, 1982, 96 Stat. 1710.

§ 5343. Prevailing rate determinations; wage schedules; night differentials

(a) The pay of prevailing rate employees shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided by section 206(a)(1) of title 29. To carry out this subsection—

(1) the Office of Personnel Management shall define, as appropriate—

(A) with respect to prevailing rate employees other than prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees having regular wage schedules and rates; and

(ii) wage areas for prevailing rate employees having special wage schedules and rates;

(B) with respect to prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees under such paragraphs having regular wage schedules and rates (but such boundaries shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed); and

(ii) wage areas for prevailing rate employees under such paragraphs having special wage schedules and rates;

(2) the Office of Personnel Management shall designate a lead agency for each wage area;

(3) subject to paragraph (5) of this subsection, and subsections (c)(1)–(3) and (d) of this section, a lead agency shall conduct wage surveys, analyze wage survey data, and develop and establish appropriate wage schedules and rates for prevailing rate employees;

(4) the head of each agency having prevailing rate employees in a wage area shall apply, to the prevailing rate employees of that agency in that area, the wage schedules and rates established by the lead agency, or by the Office of Personnel Management, as appropriate, for prevailing rate employees in that area; and

(5) the Office of Personnel Management shall establish wage schedules and rates for prevailing rate employees who are United States citizens employed in any area which is outside the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(b) The Office of Personnel Management shall schedule full-scale wage surveys every 2 years and shall schedule interim surveys to be conducted between each 2 consecutive full-scale wage surveys. The Office may schedule more frequent surveys when conditions so suggest.

(c) The Office of Personnel Management, by regulation, shall prescribe practices and procedures for conducting wage surveys, analyzing wage survey data, developing and establishing wage schedules and rates, and administering the prevailing rate system. The regulations shall provide—

(1) that, subject to subsection (d) of this section, wages surveyed be those paid by private employers in the wage area for similar work performed by regular full-time employees, except that, for prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the wages surveyed shall be those paid by private employers to full-time employees in a representative number of retail, wholesale, service, and recreational establishments similar to those in which such prevailing rate employees are employed;

(2) for participation at all levels by representatives of organizations accorded recognition as the representatives of prevailing rate employees in every phase of providing an equitable system for fixing and adjusting the rates of pay for prevailing rate employees, including the planning of the surveys, the drafting of specifications, the selection of data collectors, the collection and the analysis of the data, and the submission of recommendations to the head of the lead agency for wage schedules and rates and for special wage schedules and rates where appropriate;

(3) for requirements for the accomplishment of wage surveys and for the development of wage schedules and rates for prevailing rate employees, including, but not limited to—

(A) nonsupervisory and supervisory prevailing rate employees paid under regular wage schedules and rates;

(B) nonsupervisory and supervisory prevailing rate employees paid under special wage schedules and rates; and

(C) nonsupervisory and supervisory prevailing rate employees described under paragraphs (B) and (C) of section 5342(a)(2) of this title;

(4) for proper differentials, as determined by the Office, for duty involving unusually severe working conditions or unusually severe hazards, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970;

(5) rules governing the administration of pay for individual employees on appointment, transfer, promotion, demotion, and other similar changes in employment status; and

(6) for a continuing program of maintenance and improvement designed to keep the prevailing rate system fully abreast of changing conditions, practices, and techniques both in and out of the Government of the United States.

(d)(1) A lead agency, in making a wage survey, shall determine whether there exists in the local wage area a number of comparable positions in private industry sufficient to establish wage schedules and rates for the principal types of positions for which the survey is made. The determination shall be in writing and shall take into consideration all relevant evidence, including evidence submitted by employee organizations recognized as representative of prevailing rate employees in that area.

(2) When the lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish the wage schedules and rates on the basis of—

(A) local private industry rates; and

(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.

(e)(1) Each grade of a regular wage schedule for nonsupervisor prevailing rate employees shall have 5 steps with—

(A) the first step at 96 percent of the prevailing rate;

(B) the second step at 100 percent of the prevailing rate;

(C) the third step at 104 percent of the prevailing rate;

(D) the fourth step at 108 percent of the prevailing rate; and

(E) the fifth step at 112 percent of the prevailing rate.

(2) A prevailing rate employee under a regular wage schedule who has a work performance rating of satisfactory or better, as determined by the head of the agency, shall advance automatically to the next higher step within the grade at the beginning of the first applicable pay period following his completion of—

(A) 26 calendar weeks of service in step 1;

(B) 78 calendar weeks of service in step 2; and

(C) 104 calendar weeks of service in each of steps 3 and 4.

(3) Under regulations prescribed by the Office of Personnel Management, the benefits of successive step increases shall be preserved for prevailing rate employees under a regular wage schedule whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

(4) Supervisory wage schedules and special wage schedules authorized under subsection (c)(3) of this section may have single or multiple rates or steps according to prevailing practices in the industry on which the schedule is based.

(f) A prevailing rate employee is entitled to pay at his scheduled rate plus a night differential—

(1) amounting to 7½ percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 3 p.m. and midnight; and

(2) amounting to 10 percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 11 p.m. and 8 a.m.

A night differential under this subsection is a part of basic pay.

(Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 566; amended Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–70, title III, § 3302(e)(10), Sept. 27, 1979, 93 Stat. 499; Pub. L. 99–145, title XII, § 1242(a), Nov. 8, 1985, 99 Stat. 735; Pub. L. 104–201, div. C, title XXXV, § 3548(a)(3)(B), Sept. 23, 1996, 110 Stat. 2868; Pub. L. 107–107, div. A, title XI, § 1113(a), Dec. 28, 2001, 115 Stat. 1239; Pub. L. 108–136, div. A, title XI, § 1122(a), Nov. 24, 2003, 117 Stat. 1636.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (c)(4), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 5343, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471, related to effective date of pay increases and is covered by section 5344(a) of this title.

Provisions similar to those comprising part of first sentence of subsec. (c) and subsec. (d) of this section were contained in Pub. L. 90–560, § 4, Oct. 12, 1968, 82 Stat. 997 (formerly classified to section 5341(c) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

AMENDMENTS

2003—Subsec. (c)(4). Pub. L. 108–136 inserted before semicolon at end ‘‘, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970’’.

2001—Subsec. (d)(2). Pub. L. 107–107 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''When the lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall—

''(A) establish the wage schedules and rates to be applicable to prevailing rate employees other than prevailing rate employees of the Department of Defense on the basis of—

''(i) local private industry rates; and

''(ii) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made; and

''(B) establish the wage schedules and rates to be applicable to prevailing rate employees of the Department of Defense only on the basis of local private industry rates.''

1996—Subsec. (a)(5). Pub. L. 104–201 struck out ''the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979),'' after ''Puerto Rico,''.

1985—Subsec. (d)(2). Pub. L. 99–145 amended par. (2) generally, designating existing provisions as subpar. (A), inserting ''to be applicable to prevailing rate employees other than prevailing rate employees of the Department of Defense'', redesignating as cls. (i) and (ii) provisions previously designated subpars. (A) and (B), and adding subpar. (B).

1979—Subsec. (a)(5). Pub. L. 96–70 substituted ''areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)'' for ''Canal Zone''.

1978—Subsecs. (a) to (c), (e)(3). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission'' wherever appearing.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title XI, § 1122(c), Nov. 24, 2003, 117 Stat. 1637, provided that: ''Subject to any vested constitutional property rights, any administrative or judicial determination after the date of the enactment of this Act [Nov. 24, 2003] concerning backpay for a differential established under sections 5343(c)(4) or 5545(d) of such title [this title] shall be based on occupational safety and health standards described in the amendments made by subsections (a) and (b) [amending this section and section 5545 of this title].''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title XI, § 1113(b), Dec. 28, 2001, 115 Stat. 1239, provided that: ''Wage adjustments made pursuant to the amendment made by this section [amending this section] shall take effect in each applicable wage area on the first normal effective date of the applicable wage survey adjustment that occurs after the date of the enactment of this Act [Dec. 28, 2001].''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1242(b) of Pub. L. 99–145 provided that: ''The rate of pay payable to a prevailing rate employee employed by the Department of Defense on the day before the date of enactment of this Act [Nov. 8, 1985] may not be reduced by reason of the amendment made by subsection (a) [amending this section].''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE

Section other than subsec. (e)(1)(D), (E), (2)(C) of this section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, and such subsec. (a)(1)(D), (E), (2)(C) not effective until first day of first pay period commencing after date on which President ceases to exercise his authority under Economic Stabilization Act of 1970 to stabilize wages and salaries, or Apr. 30, 1973, whichever occurs first, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

LIMITATION ON PAY ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES AND CREWS OF VESSELS

Pub. L. 111–117, div. C, title VII, § 710, Dec. 16, 2009, 123 Stat. 3206, provided that:

''(a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2010, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

''(1) during the period from the date of expiration of the limitation imposed by the comparable section for previous fiscal years until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2010, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section; and

''(2) during the period consisting of the remainder of fiscal year 2010, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

''(A) the percentage adjustment taking effect in fiscal year 2010 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

''(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2010 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

''(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

''(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2009, shall be determined under regulations prescribed by the Office of Personnel Management.

''(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2009, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

''(e) This section shall apply with respect to pay for service performed after September 30, 2009.

''(f) For the purpose of administering any provision of law (including any rule or regulation that provides pre-

mium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

''(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

''(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.''

Similar provisions were contained in the following prior acts:

Pub. L. 111–8, div. D, title VII, § 710, Mar. 11, 2009, 123 Stat. 682.

Pub. L. 110–161, div. D, title VII, § 712, Dec. 26, 2007, 121 Stat. 2021.

Pub. L. 109–115, div. A, title VIII, § 813, Nov. 30, 2005, 119 Stat. 2497.

Pub. L. 108–447, div. H, title VI, § 613, Dec. 8, 2004, 118 Stat. 3275.

Pub. L. 108–199, div. F, title VI, § 613, Jan. 23, 2004, 118 Stat. 352.

Pub. L. 108–7, div. J, title VI, § 613, Feb. 20, 2003, 117 Stat. 465.

Pub. L. 107–67, title VI, § 613, Nov. 12, 2001, 115 Stat. 547, as amended by Pub. L. 108–2, § 3, Jan. 10, 2003, 117 Stat. 5.

Pub. L. 106–554, § 1(a)(3) [title VI, § 613], Dec. 21, 2000, 114 Stat. 2763, 2763A–157.

Pub. L. 106–58, title VI, § 613, Sept. 29, 1999, 113 Stat. 468.

Pub. L. 105–277, div. A, § 101(h) [title VI, § 614], Oct. 21, 1998, 112 Stat. 2681–480, 2681–515.

Pub. L. 105–61, title VI, § 614, Oct. 10, 1997, 111 Stat. 1311.

Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 616], Sept. 30, 1996, 110 Stat. 3009–314, 3009–356.

Pub. L. 104–52, title VI, § 616, Nov. 19, 1995, 109 Stat. 500, as amended by Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 659 [title II, § 206(b)(3)]], Sept. 30, 1996, 110 Stat. 3009–314, 3009–372, 3009–378.

Pub. L. 103–329, title VI, § 617, Sept. 30, 1994, 108 Stat. 2419.

Pub. L. 103–123, title VI, § 615, Oct. 28, 1993, 107 Stat. 1261.

Pub. L. 102–393, title VI, § 616, Oct. 6, 1992, 106 Stat. 1768.

Pub. L. 102–141, title VI, § 616, Oct. 28, 1991, 105 Stat. 870.

Pub. L. 101–509, title VI, § 612, Nov. 5, 1990, 104 Stat. 1473.

Pub. L. 101–136, title VI, § 612, Nov. 3, 1989, 103 Stat. 818.

Pub. L. 100–440, title VI, § 612, Sept. 22, 1988, 102 Stat. 1753.

Pub. L. 100–202, § 101(m) [title VI, § 613], Dec. 22, 1987, 101 Stat. 1329–390, 1329–421.

Pub. L. 99–500, § 101(m) [title VI, § 613], Oct. 18, 1986, 100 Stat. 1783–308, 1783–330, and Pub. L. 99–591, § 101(m) [title VI, § 613], Oct. 30, 1986, 100 Stat. 3341–308, 3341–330.

Pub. L. 99–272, title XV, § 15201(b), Apr. 7, 1986, 100 Stat. 332.

Pub. L. 99–190, § 101(h) [H.R. 3036, title VI, § 613], Dec. 19, 1985, 99 Stat. 1291.

Pub. L. 98–473, § 101(j) [H.R. 5798, title VI, § 616], Oct. 12, 1984, 98 Stat. 1963.

Pub. L. 98–369, div. B, title II, § 2202, July 18, 1984, 98 Stat. 1058.

Pub. L. 98–270, title II, § 202(b), Apr. 18, 1984, 98 Stat. 158.

Pub. L. 98–151, § 101(f) [H.R. 4139, title VI, § 616], Nov. 14, 1983, 97 Stat. 973.

Pub. L. 98–107, § 110, Oct. 1, 1983, 97 Stat. 741.

Pub. L. 97–377, title I, § 107, Dec. 21, 1982, 96 Stat. 1909.

Pub. L. 97–276, § 109, Oct. 2, 1982, 96 Stat. 1191.

Pub. L. 97–35, title XVII, § 1701(b), Aug. 13, 1981, 95 Stat. 754.

Pub. L. 96–536, § 101(a) [incorporating Pub. L. 96–74, title VI, § 613], Dec. 16, 1980, 94 Stat. 3166.

Pub. L. 96–369, § 114, Oct. 1, 1980, 94 Stat. 1356.

Pub. L. 96–74, title VI, § 613, Sept. 29, 1979, 93 Stat. 576.

Pub. L. 95–429, title VI, § 614, Oct. 10, 1978, 92 Stat. 1018.

WAGE RATE FOR CERTAIN CORPS OF ENGINEERS EMPLOYEES

Pub. L. 99–661, div. A, title XIII, § 1358, Nov. 14, 1986, 100 Stat. 3999, provided that:

''(a) WAGE DETERMINATIONS.—Notwithstanding any other provision of law, in the administration of the last undesignated paragraph preceding chapter 6 of title I of Public Law 97–257 (96 Stat. 832) [set out below], the individuals described in subsection (b) shall be paid wages determined in the same manner as that established in such undesignated paragraph with respect to United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules.

''(b) COVERED INDIVIDUALS.—The individuals described in subsection (a) are electric powerplant controllers and powerplant shift operators (as defined under regulations prescribed by the Secretary of Defense) assigned to the Soo Locks Power Plant in the Detroit District in the North Central Region of the United States Army Corps of Engineers.

''(c) EFFECTIVE DATE.—Subsection (a) applies with respect to pay periods commencing on or after the date of the enactment of this Act [Nov. 14, 1986].''

EMPLOYEES OF UNITED STATES CORPS OF ENGINEERS PAID FROM CORPS OF ENGINEERS SPECIAL POWER RATE SCHEDULES; CONSISTENCY OF WAGES WITH WAGES OF ENERGY AND INTERIOR DEPARTMENT EMPLOYEES

Pub. L. 110–114, title V, § 5026, Nov. 8, 2007, 121 Stat. 1203, provided that: ''Employees of the Corps of Engineers who are paid wages determined under the last undesignated paragraph under the heading 'Administrative Provisions' of chapter V of the Supplemental Appropriations Act, 1982 (5 U.S.C. 5343 note; 96 Stat. 832) shall be allowed, through appropriate employee organization representatives, to participate in wage surveys under such paragraph to the same extent as are prevailing rate employees under subsection (c)(2) of section 5343 of title 5, United States Code. Nothing in such section 5343 shall be construed to affect which agencies are to be surveyed under such paragraph.''

Pub. L. 97–257, title I, § 100, Sept. 10, 1982, 96 Stat. 832, provided in part that: ''Without regard to any other provision of law limiting the amounts payable to prevailing wage rate employees, United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules shall be paid, beginning the effective date of each annual wage survey in the region after the date of enactment of this Act [Sept. 10, 1982], wages as determined by the Department of Defense Wage Fixing Authority to be consistent with wages of the Department of Energy and the Department of the Interior employees performing similar work in the corresponding area whose wage rates are established in accordance with section 9(b) of Public Law 92–392 or section 704 of Public Law 95–454 [set out as notes under this section].''

NEGOTIATING REQUIREMENTS FOR LABOR CONTRACTS, ETC., ON AND AFTER OCTOBER 13, 1978, AND NEGOTIATED UNDER PREVAILING RATES AND PRACTICES PRIOR TO AUGUST 19, 1972

Section 704 of Pub. L. 95–454 provided that:

''(a) Those terms and conditions of employment and other employment benefits with respect to Government prevailing rate employees to whom section 9(b) of Public Law 92–392 [set out as a note under this section] applies which were the subject of negotiation in accord-

ance with prevailing rates and practices prior to August 19, 1972, shall be negotiated on and after the date of the enactment of this Act [Oct. 13, 1978] in accordance with the provisions of section 9(b) of Public Law 92–392 without regard to any provision of chapter 71 of title 5, United States Code (as amended by this title [title VII of Pub. L. 95–454]), to the extent that any such provision is inconsistent with this paragraph.

''(b) The pay and pay practices relating to employees referred to in paragraph (1) of this subsection shall be negotiated in accordance with prevailing rates and pay practices without regard to any provision of—

''(A) chapter 71 of title 5, United States Code (as amended by this title), to the extent that any such provision is inconsistent with this paragraph;

''(B) subchapter IV of chapter 53 and subchapter V of chapter 55 of title 5, United States Code; or

''(C) any rule, regulation, decision, or order relating to rates of pay or pay practices under subchapter IV of chapter 53 or subchapter V of chapter 55 of title 5, United States Code.''

CONVERSION RULES FOR WAGE SCHEDULE; SERVICE FOR ONE STEP INCREASE; PROHIBITION OF DECREASE IN BASIC PAY RATE; RETAINED PAY CONTINUED

Section 9(a) of Pub. L. 92–392 provided that:

''(1) Except as provided by this subsection, an employee's initial rate of pay on conversion to a wage schedule established pursuant to the amendments made by this Act [see Effective Date note under section 5341 of this title] shall be determined under conversion rules prescribed by the Civil Service Commission. Service by an employee in a grade of a wage schedule performed before the effective date of the conversion of the employee to a wage schedule established pursuant to the amendments made by this Act shall be counted toward not to exceed one step increase under the time in step provisions of section 5343(e)(2) of title 5, United States Code, as amended by the first section of this Act [subsec. (e)(2) of this section].

''(2) In the case of any employee described in section 2105(c), 5102(c)(7), (8), or (14) of title 5, United States Code, who is in the service as such an employee immediately before the effective date, with respect to him, of the amendments made by this Act [see Effective Date note under section 5341 of this title], such amendments shall not be construed to decrease his rate of basic pay in effect immediately before the date [see Effective Date note under section 5341 of this title] on which such amendments become effective with respect to him. In addition, if an employee is receiving retained pay by virtue of law or agency policy immediately before the date on which the first wage schedule applicable to him under this Act is effective, he shall continue to retain that pay in accordance with the specific instructions under which the retained pay was granted until he leaves his position or until he becomes entitled to a higher rate.''

LABOR CONTRACTS PERTAINING TO WAGES, TERMS AND CONDITIONS OF EMPLOYMENT, AND OTHER EMPLOYMENT BENEFITS

Section 9(b) of Pub. L. 92–392 provided that: ''The amendments made by this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and section 60a of Title 2, The Congress] shall not be construed to—

''(1) abrogate, modify, or otherwise affect in any way the provisions of any contract in effect on the date of enactment of this Act [Aug. 19, 1972] pertaining to the wages, the terms and conditions of employment, and other employment benefits, or any of the foregoing matters, for Government prevailing rate employees and resulting from negotiations between Government agencies and organizations of Government employees;

''(2) nullify, curtail, or otherwise impair in any way the right of any party to such contract to enter into negotiations after the date of enactment of this Act [Aug. 19, 1972] for the renewal, extension, modification, or improvement of the provisions of such contract or for the replacement of such contract with a new contract; or

''(3) nullify, change, or otherwise affect in any way after such date of enactment [Aug. 19, 1972] any agreement, arrangement, or understanding in effect on such date [Aug. 19, 1972] with respect to the various items of subject matter of the negotiations on which any such contract in effect on such date [Aug. 19, 1972] is based or prevent the inclusion of such items of subject matter in connection with the renegotiation of any such contract, or the replacement of such contract with a new contract, after such date [Aug. 19, 1972].''

WAGE SURVEY

Section 15(b) of Pub. L. 92–392 provided that: ''A wage survey conducted by an agency before the effective date (with respect to employees covered by that wage survey) of this Act [see note under section 5341 of this title], for a wage schedule which becomes effective after that effective date [Aug. 19, 1972], is deemed to meet the requirement in this Act for a survey by a lead agency.''

EQUITABLE WAGE ADJUSTMENTS FOR CERTAIN PREVAILING RATE EMPLOYEES

Pub. L. 92–298, §§1, 2, May 17, 1972, 86 Stat. 146, provided: ''That this Act [enacting this note and amending sections 60a–1 and 60a–2 of Title 2, The Congress] may be cited as the 'Prevailing Rate Equalization Adjustment Act of 1972'.

''SEC. 2. (a) Notwithstanding any other provision of law or any provision of an Executive order or regulation, a wage schedule adjustment for employees of the Government of the United States whose pay is fixed and adjusted from time to time in accordance with prevailing rates—

''(1) if based on a wage survey ordered to be made on or after August 15, 1971, but not placed into effect before November 14, 1971, by reason of the provisions of Executive Order 11615 or Executive Order 11627 [formerly set out as notes under section 1904 of Title 12]; or

''(2) if based on a wage survey which had been scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, and which was ordered to be made on or after January 23, 1972;

shall be effective on the date on which such wage schedule adjustment would have been effective under section 5343 of title 5, United States (Code), had the fiscal year 1972 schedule for wage surveys for such employees been followed.

''(b) Retroactive pay made under the provisions of this section will be made in accordance with section 5344 of title 5, United States Code.''

§ 5344. Effective date of wage increase; retroactive pay

(a) Each increase in rates of basic pay granted, pursuant to a wage survey, to prevailing rate employees is effective not later than the first day of the first pay period which begins on or after the 45th day, excluding Saturdays and Sundays, following the date the wage survey is ordered to be made.

(b) Retroactive pay is payable by reason of an increase in rates of basic pay referred to in subsection (a) of this section only when—

(1) the individual is in the service of the Government of the United States, including service in the armed forces, or the government

of the District of Columbia on the date of the issuance of the order granting the increase; or

(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

For the purpose of this subsection, service in the armed forces includes the period provided by statute for the mandatory restoration of the individual to a position in or under the Government of the United States or the government of the District of Columbia after he is relieved from training and service in the armed forces or discharged from hospitalization following that training and service.

(Added Pub. L. 92–392, §1(a), Aug. 19, 1972, 86 Stat. 568.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5343 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

[§ 5345. Repealed. Pub. L. 95–454, title VIII, § 801(a)(2), Oct. 13, 1978, 92 Stat. 1221]

Section, added Pub. L. 92–392, §1(a), Aug. 19, 1972, 86 Stat. 569, related to retained rate of pay on reduction in grade or reassignment.

A prior section 5345, added Pub. L. 90–206, title II, §223(a), Dec. 16, 1967, 81 Stat. 641, which provided for position classification appeals, was omitted in the general amendment of this subchapter, and is covered by section 5346(c) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, and an employee receiving pay on day before such effective date not to have such pay reduced or terminated and, unless section 5362 applies, employee is entitled to continuation of such pay, etc., see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of this title.

§ 5346. Job grading system

(a) The Office of Personnel Management, after consulting with the agencies and with employee organizations, shall establish and maintain a job grading system for positions to which this subchapter applies. In carrying out this subsection, the Office shall—

(1) establish the basic occupational alinement and grade structure or structures for the job grading system;

(2) establish and define individual occupations and the boundaries of each occupation;

(3) establish job titles within occupations;

(4) develop and publish job grading standards; and

(5) provide a method to assure consistency in the application of job standards.

(b) The Office, from time to time, shall review such numbers of positions in each agency as will enable the Office to determine whether the agency is placing positions in occupations and grades in conformance with or consistently with published job standards. When the Office finds that a position is not placed in its proper occupation and grade in conformance with published standards or that a position for which there is no published standard is not placed in the occupation and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate occupation and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(c) On application, made in accordance with regulations prescribed by the Office, by a prevailing rate employee for the review of the action of an employing agency in placing his position in an occupation and grade for pay purposes, the Office shall—

(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the position;

(2) decide whether the position has been placed in the proper occupation and grade; and

(3) approve, disapprove, or modify, in accordance with its decision, the action of the employing agency in placing the position in an occupation and grade.

The Office shall certify to the agency concerned its action under paragraph (3) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Added Pub. L. 90–206, title II, §223(a), Dec. 16, 1967, 81 Stat. 641, §5345; renumbered §5346 and amended Pub. L. 92–392, §1(a), Aug. 19, 1972, 86 Stat. 570; Pub. L. 95–454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

AMENDMENTS

1978—Subsecs. (a) to (c). Pub. L. 95–454 substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively, wherever appearing.

1972—Subsecs. (a), (b). Pub. L. 92–392 added subsecs. (a) and (b).

Subsec. (c). Pub. L. 92–392 designated existing provisions as subsec. (c) and substituted in introductory text ''Commission'', ''a prevailing rate of employee'' and ''in placing his position in an occupation and grade'' for ''Civil Service Commission'', ''an employee subject to section 5341(a) of this title'' and ''in classifying his position'', respectively, in par. (2) ''placed in the proper occupation and grade'' for ''properly classified'', in par. (3) ''in placing the position in an occupation and grade'' for ''in classifying the position'' and in last sentence ''subsection'' for ''section''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

§ 5347. Federal Prevailing Rate Advisory Committee

(a) There is established a Federal Prevailing Rate Advisory Committee composed of—

(1) the Chairman, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia, and who shall be appointed by the Director of the Office of Personnel Management for a 4-year term;

(2) one member from the Office of the Secretary of Defense, designated by the Secretary of Defense;

(3) two members from the military departments, designated by the Director of the Office of Personnel Management;

(4) one member, designated by the Director of the Office of Personnel Management from time to time from an agency (other than the Department of Defense, a military department, and the Office of Personnel Management);

(5) an employee of the Office of Personnel Management, designated by the Director of the Office of Personnel Management; and

(6) five members, designated by the Director of the Office of Personnel Management, from among the employee organizations representing, under exclusive recognition of the Government of the United States, the largest numbers of prevailing rate employees.

(b) In designating members from among employee organizations under subsection (a)(6) of this section, the Director of the Office of Personnel Management shall designate, as nearly as practicable, a number of members from a particular employee organization in the same proportion to the total number of employee representatives appointed to the Committee under subsection (a)(6) of this section as the number of prevailing rate employees represented by such organization is to the total number of prevailing rate employees. However, there shall not be more than two members from any one employee organization nor more than four members from a single council, federation, alliance, association, or affiliation of employee organizations.

(c) Every 2 years the Director of the Office of Personnel Management shall review employee organization representation to determine adequate or proportional representation under the guidelines of subsection (b) of this section.

(d) The members from the employee organizations serve at the pleasure of the Director of the Office of Personnel Management.

(e) The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under this subchapter and, from time to time, advise the Office of Personnel Management thereon. Conclusions and recommendations of the Committee shall be formulated by majority vote. The Chairman of the Committee may vote only to break a tie vote of the Committee.

(f) The Committee shall meet at the call of the Chairman. However, a special meeting shall be called by the Chairman if 5 members make a written request to the Chairman to call a special meeting to consider matters within the purview of the Committee.

(g)(1) Except as provided in paragraph (2), members of the Committee described in paragraphs (2)–(5) of subsection (a) of this section serve without additional pay. Members who represent employee organizations are not entitled to pay from the Government of the United States for services rendered to the Committee.

(2) The position of Chairman shall be considered to be a Senior Executive Service position within the meaning of section 3132(a), and shall be subject to all provisions of this title relating to Senior Executive Service positions, including section 5383.

(h) The Office of Personnel Management shall provide such clerical and professional personnel as the Chairman of the Committee considers appropriate and necessary to carry out its functions under this subchapter. Such personnel shall be responsible to the Chairman of the Committee.

(Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 571; amended Pub. L. 95–454, title IX, § 906(a)(1), (2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–54, § 2(a)(15), Aug. 14, 1979, 93 Stat. 382; Pub. L. 102–378, § 2(30), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 104–66, title II, § 2181(d), Dec. 21, 1995, 109 Stat. 732.)

AMENDMENTS

1995—Subsec. (e). Pub. L. 104–66 struck out at end ''The Committee shall make an annual report to the Office and the President for transmittal to Congress, including recommendations and other matters considered appropriate. Any member of the Committee may include in the annual report recommendations and other matters he considers appropriate.''

1992—Subsec. (g). Pub. L. 102–378 designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), members'' for ''Members'', struck out second sentence which read as follows: ''The Chairman is entitled to a rate of pay equal to the maximum rate currently paid, from time to time, under the General Schedule.'', and added par. (2).

1979—Subsec. (e). Pub. L. 96–54 substituted ''Office'' for ''Commission''.

1978—Subsecs. (a) to (e), (h). Pub. L. 95–454 substituted ''Director of the Office of Personnel Management'' for ''Chairman of the Civil Service Commission'' and ''Office of Personnel Management'' for ''Civil Service Commission'', wherever appearing.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

§ 5348. Crews of vessels

(a) Except as provided by subsection (b) of this section, the pay of officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry.

(b) Vessel employees in an area where inadequate maritime industry practice exists and vessel employees of the Corps of Engineers shall

have their pay fixed and adjusted under the provisions of this subchapter other than this section, as appropriate.

(Pub. L. 89–544, Sept. 6, 1966, 80 Stat. 471, § 5348, formerly § 5342; renumbered and amended Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 572; Pub. L. 96–70, title III, § 3302(e)(1), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104–201, div. C, title XXXV, § 3548(a)(3)(C), Sept. 23, 1996, 110 Stat. 2868.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–201, § 3548(a)(3)(C)(iii), substituted ''subsection (b)'' for ''subsections (b) and (c)''.

Subsecs. (b), (c). Pub. L. 104–201, § 3548(a)(3)(C)(i), (ii), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''Vessel employees of the Panama Canal Commission may be paid in accordance with the wage practices of the maritime industry.''

1979—Subsec. (b). Pub. L. 96–70 substituted ''Commission'' for ''Company''.

1972—Subsec. (a). Pub. L. 92–392 inserted reference to subsection (c) of this section.

Subsec. (c). Pub. L. 92–392 added subsec. (c).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

LIMITATION ON PAY ADJUSTMENTS

For provisions limiting the adjustment of salary or basic pay of employees covered by this section, see provisions set out as notes under section 5343 of this title.

§ 5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia

(a) The pay of employees, described under section 5102(c)(7) of this title, in the Library of Congress, the Botanic Garden, the Government Printing Office, the Government Accountability Office, the Office of the Architect of the Capitol, the Bureau of Engraving and Printing, and the government of the District of Columbia, shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and in accordance with such provisions of this subchapter, including the provisions of section 5344, relating to retroactive pay, and subchapter VI of this chapter, relating to grade and pay retention, as the pay-fixing authority of each such agency may determine. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided for by section 206(a)(1) of title 29. If the pay-fixing authority concerned determines that the provisions of subchapter VI of this chapter should apply to any employee under his jurisdiction, then the employee concerned shall be deemed to have satisfied the requirements of section 5361(1) of this title if the tenure of his appointment is substantially equivalent to the tenure of any appointment referred to in such paragraph.

(b) Subsection (a) of this section does not modify or otherwise affect section 5102(d) of this title, section 305 of title 44, and section 5141 of title 31.

(Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 572; amended Pub. L. 95–454, title VIII, § 801(a)(3)(H), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 97–258, § 3(a)(11), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 100–426, title III, § 301, Sept. 9, 1988, 102 Stat. 1602; Pub. L. 101–474, § 5(j), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90–83, § 1(97), Sept. 11, 1967, 81 Stat. 220 (formerly classified to section 5341(a) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1990—Subsec. (a). Pub. L. 101–474 struck out ''the Administrative Office of the United States Courts,'' before ''the Library of Congress''.

1988—Subsec. (a). Pub. L. 100–426 inserted reference to General Accounting Office.

1982—Subsec. (b). Pub. L. 97–258 substituted ''section 5141'' for ''section 180''.

1978—Subsec. (a). Pub. L. 95–454 substituted ''subchapter VI of this chapter, relating to grade and pay retention,'' for ''section 5345, relating to retention of pay,'', ''subchapter VI of this chapter'' for ''section 5345 of this title'', and ''section 5361(1)'' for ''paragraph (2) of section 5345(a)''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of this title.

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SUBCHAPTER V—STUDENT-EMPLOYEES

§ 5351. Definitions

For the purpose of this subchapter—

(1) ''agency'' means an Executive agency, a military department, and the government of the District of Columbia; and

(2) ''student-employee'' means—

(A) a student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, and student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency; and

(B) any other student-employee, assigned or attached primarily for training purposes to a hospital, clinic, or medical or dental laboratory operated by an agency, who is designated by the head of the agency with the approval of the Office of Personnel Management.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1052.	Aug. 4, 1947, ch. 452, §2, 61 Stat. 727.

The section is restated in definition form. In paragraph (1), the words ''an Executive agency, a military department'' are coextensive with and substituted for ''department, agency, or instrumentality of the Federal Government'' in view of the definitions in sections 105 and 102.

The exception from the Classification Act of 1923, as amended, is omitted as obsolete and superseded by the Classification Act of 1949, as amended, which is carried into this title. The present exception from the Classification Act of 1949, as amended, is carried into section 5102(c)(16).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Par. (2)(B). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5352. Stipends

The head of each agency, and the District of Columbia Council with respect to the government of the District of Columbia, shall fix the stipends of its student-employees. The stipend may not exceed the applicable maximum prescribed by the Office of Personnel Management.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 90–623, §1(7), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 95–454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1051 (1st sentence).	Aug. 4, 1947, ch. 452, §3 (1st sentence), 61 Stat. 727.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1968—Pub. L. 90–623 inserted '', and the District of Columbia Council with respect to the government of the District of Columbia,'' after ''head of each agency'' and substituted ''its'' for ''his''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93–198.

§ 5353. Quarters, subsistence, and laundry

An agency may provide living quarters, subsistence, and laundering to student-employees while at the hospitals, clinics, or laboratories. The reasonable value of the accommodations, when furnished, shall be deducted from the stipend of the student-employee. The head of the agency concerned, and the District of Columbia Council with respect to the government of the District of Columbia, shall fix the reasonable value of the accommodations at an amount not less than the lowest deduction applicable to regular employees at the same hospital, clinic, or laboratory for similar accommodations.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 90–623, §1(8), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1051 (less 1st sentence).	Aug. 4, 1947, ch. 452, §3 (less 1st sentence), 61 Stat. 727.

The section is restated for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Pub. L. 90–623 inserted '', and the District of Columbia Council with respect to the government of the District of Columbia,'' after ''head of the agency concerned''.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93–198.

§ 5354. Effect of detail or affiliation; travel expenses

(a) Status as a student-employee is not terminated by a temporary detail to or affiliation with another Government or non-Government institution to procure necessary supplementary training or experience pursuant to an order of the head of the agency. A student-employee may receive his stipend and other perquisites provided under this subchapter from the hospital, clinic, or laboratory to which he is assigned or attached for not more than 60 days of a detail or affiliation for each training year, as defined by the head of the agency.

(b) When the detail or affiliation under subsection (a) of this section is to or with another Federal institution, the student-employee is entitled to necessary expenses of travel to and from the institution in accordance with subchapter I of chapter 57 of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 472.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1055.	Aug. 4, 1947, ch. 452, §6, 61 Stat. 728.

In subsection (b), the reference to ''subchapter I of chapter 57 of this title'' is substituted for the reference to ''the Standardized Government Travel Regulations and the provisions of the Subsistence Expense Act of 1926, as amended'' as the Subsistence Expense Act of 1926 was repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707 of subchapter I of chapter 57.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5355. Effect on other statutes

This subchapter does not limit the authority conferred on the Secretary of Veterans Affairs by chapter 73 of title 38.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 102–54, §13(b)(3), June 13, 1991, 105 Stat. 274.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1057.	Aug. 4, 1947, ch. 452, §8, 61 Stat. 728. June 17, 1957, Pub. L. 85–56, §2201(19), 71 Stat. 159. Sept. 2, 1958, Pub. L. 85–857, §13(m), 72 Stat. 1265.

The prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1991—Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

§ 5356. Appropriations

Funds appropriated to an agency for expenses of its hospitals, clinics, and laboratories to which student-employees are assigned or attached are available to carry out the provisions of this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 472.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1058.	Aug. 4, 1947, ch. 452, §9, 61 Stat. 728.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER VI—GRADE AND PAY RETENTION

PRIOR PROVISIONS

A prior subchapter VI was renumbered VII by Pub. L. 95–454, title VIII, §801(a)(3)(A)(i), Oct. 13, 1978, 92 Stat. 1221.

§ 5361. Definitions

For the purpose of this subchapter—

(1) ''employee'' means an employee to whom chapter 51 of this title applies, and a prevailing rate employee, as defined by section 5342(a)(2) of this title, whose employment is other than on a temporary or term basis;

(2) ''agency'' has the meaning given it by section 5102 of this title;

(3) ''retained grade'' means the grade used for determining benefits to which an employee to whom section 5362 of this title applies is entitled;

(4) ''rate of basic pay'' means—

(A) the rate of basic pay payable to an employee under law or regulations before any deductions or additions of any kind, but including—

(i) any applicable locality-based comparability payment under section 5304 or similar provision of law;

(ii) any applicable special pay under section 5305 or similar provision of law; and

(iii) subject to such regulations as the Office of Personnel Management may prescribe, any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;

(5) ''covered pay schedule'' means the General Schedule, any prevailing rate schedule established under subchapter IV of this chapter, or a special occupational pay system under subchapter IX;

(6) ''position subject to this subchapter'' means any position under a covered pay schedule;

(7) ''reduction-in-force procedures'' means procedures applied in carrying out any reduction in force due to a reorganization, due to lack of funds or curtailment of work, or due to any other factor; and

(8) ''retained rate'' means the rate of basic pay to which an employee is entitled under section 5363(b)(2).

(Added Pub. L. 95–454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1218; amended Pub. L. 98–615, title II, §204(a)(2), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 101–509, title V, §529 [title I, §105(b)(1)], Nov. 5, 1990, 104 Stat. 1427, 1448; Pub. L. 103–89, §3(b)(1)(J), Sept. 30, 1993, 107 Stat. 982; Pub. L. 108–411, title III, §301(a)(4), Oct. 30, 2004, 118 Stat. 2315.)

PRIOR PROVISIONS

A prior section 5361, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, which related to scientific and professional positions, was renumbered section 5371 of this title by Pub. L. 95–454, title VIII, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

2004—Par. (4). Pub. L. 108–411, §301(a)(4)(A), amended par. (4) generally. Prior to amendment, par. (4) read as follows: '' 'rate of basic pay' means, in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343 of this title;''.

Par. (8). Pub. L. 108–411, §301(a)(4)(B)–(D), added par. (8).

1993—Par. (5). Pub. L. 103–89 substituted ''or a special occupational pay system under subchapter IX'' for ''a

special occupational pay system under subchapter IX, or the performance management and recognition system under chapter 54 of this title''.

1990—Par. (5). Pub. L. 101–509 inserted ''a special occupational pay system under subchapter IX,'' before ''or the performance''.

1984—Par. (5). Pub. L. 98–615 substituted ''performance management and recognition system'' for ''merit pay system''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108–411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE

Section 801(a)(4) of Pub. L. 95–454 provided that:

''(A) The amendments made by this subsection [enacting sections 5361 to 5366 of this title and redesignating former sections 5361 to 5366 as sections 5371 to 5375 of this title, amending sections 559, 1305, 3104, 5102, 5107, 5334, 5349, and 8704 of this title, sections 4540, 7212, and 9540 of Title 10, Armed Forces, section 1715 of Title 15, Commerce and Trade, and section 3608 of Title 42, The Public Health and Welfare, and repealing sections 5337 and 5345 of this title] shall take effect on the first day of the first applicable pay period beginning on or after the 90th day after the date of the enactment of this Act [Oct. 13, 1978].

''(B) An employee who was receiving pay under the provisions of section 5334(d), 5337, or 5345 of title 5, United States Code, on the day before the effective date prescribed in subparagraph (A) of this paragraph shall not have such pay reduced or terminated by reason of the amendments made by this subsection and, unless section 5362 of such title 5 (as amended by subsection (a)(1) of this section) applies, such an employee is entitled to continue to receive pay as authorized by those provisions (as in effect on such date).''

§ 5362. Grade retention following a change of positions or reclassification

(a) Any employee—

(1) who is placed as a result of reduction-in-force procedures from a position subject to this subchapter to another position which is subject to this subchapter and which is in a lower grade than the previous position, and

(2) who has served for 52 consecutive weeks or more in one or more positions subject to this subchapter at a grade or grades higher than that of the new position,

is entitled, to the extent provided in subsection (c) of this section, to have the grade of the position held immediately before such placement be considered to be the retained grade of the employee in any position he holds for the 2-year period beginning on the date of such placement.

(b)(1) Any employee who is in a position subject to this subchapter and whose position has been reduced in grade is entitled, to the extent provided in subsection (c) of this section, to have the grade of such position before reduction be treated as the retained grade of such employee for the 2-year period beginning on the date of the reduction in grade.

(2) The provisions of paragraph (1) of this subsection shall not apply with respect to any reduction in the grade of a position which had not been classified at the higher grade for a continuous period of at least one year immediately before such reduction.

(c) For the 2-year period referred to in subsections (a) and (b) of this section, the retained grade of an employee under such subsection (a) or (b) shall be treated as the grade of the employee's position for all purposes (including pay and pay administration under this chapter and chapter 55 of this title, retirement and life insurance under chapters 83, 84, and 87 of this title, and eligibility for training and promotion under this title) except—

(1) for purposes of subsection (a) of this section,

(2) for purposes of applying any reduction-in-force procedures, or

(3) for such other purposes as the Office of Personnel Management may provide by regulation.

(d) The foregoing provisions of this section shall cease to apply to an employee who—

(1) has a break in service of one workday or more;

(2) is demoted (determined without regard to this section) for personal cause or at the employee's request;

(3) is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade; or

(4) elects in writing to have the benefits of this section terminate.

(Added Pub. L. 95–454, title VIII, § 801(a)(1), Oct. 13, 1978, 92 Stat. 1219; amended Pub. L. 98–615, title II, § 204(a)(1), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 103–89, § 3(b)(1)(K), Sept. 30, 1993, 107 Stat. 982.)

PRIOR PROVISIONS

A prior section 5362, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, Pub. L. 95–251, § 2(a)(1), (b)(1), Mar. 27, 1978, 92 Stat. 183, which related to hearing examiners, was renumbered section 5372 of this title by Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–89 substituted ''chapter 55 of this title, retirement and life insurance under chapters 83, 84, and 87'' for ''chapters 54 and 55 of this title, retirement and life insurance under chapters 83 and 87'' in introductory provisions, redesignated par. (4) as (3), and struck out former par. (3) which read as follows: ''for purposes of determining whether the employee is covered by the performance management and recognition system established under chapter 54 of this title, or''.

1984—Subsec. (c)(3). Pub. L. 98–615 substituted ''performance management and recognition system estab-

lished under chapter 54'' for ''merit pay system established under section 5402''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

ADDITIONAL PAY AND BENEFITS FOR EMPLOYEES REDUCED IN GRADE ON OR AFTER JANUARY 1, 1977, ETC.

Section 801(b) of Pub. L. 95–454 provided that:

''(1) Under regulations prescribed by the Office of Personnel Management, any employee—

''(A) whose grade was reduced on or after January 1, 1977, and before the effective date of the amendments made by subsection (a) of this section [see Effective Date note set out under section 5361 of this title] under circumstances which would have entitled the employee to coverage under the provisions of section 5362 of title 5, United States Code (as amended by subsection (a) of this section) if such amendments had been in effect at the time of the reduction; and

''(B) who has remained employed by the Federal Government from the date of the reduction in grade to the effective date of the amendments made by subsection (a) of this section without a break in service of one workday or more;

shall be entitled—

''(i) to receive the additional pay and benefits which such employee would have been entitled to receive if the amendments made by subsection (a) of this section had been in effect during the period beginning on the effective date of such reduction in grade and ending on the day before the effective date of such amendments, and

''(ii) to have the amendments made by subsection (a), of this section apply to such employee as if the reduction in grade had occurred on the effective date of such amendments.

''(2) No employee covered by this subsection whose reduction in grade resulted in an increase in pay shall have such pay reduced by reason of the amendments made by subsection (a) of this section.

''(3)(A) For purposes of this subsection, the requirements under paragraph (1)(B) of this subsection, relating to continuous employment following reduction in grade, shall be considered to be met in the case of any employee—

''(i) who separated from service with a right to an immediate annuity under chapter 83 of title 5, United States Code, or under another retirement system for Federal employees; or

''(ii) who died.

''(B) Amounts payable by reason of subparagraph (A) of this paragraph in the case of the death of an employee shall be paid in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts in the case of deceased employees.

''(4) The Office of Personnel Management shall have the same authority to prescribe regulations under this subsection as it has under section 5365 of title 5, United States Code, with respect to subchapter VI of chapter 53 of such title, as added by subsection (a) of this section.''

§ 5363. Pay retention

(a) Any employee—

(1) who ceases to be entitled to the benefits of section 5362 of this title by reason of the expiration of the 2-year period of coverage provided under such section;

(2) who is in a position subject to this subchapter and who is subject to a reduction or termination of a special rate of pay established under section 5305 of this title (or corresponding prior provision of this title);

(3) who is in a position subject to this subchapter and who (but for this section) would be subject to a reduction in pay under circumstances prescribed by the Office of Personnel Management by regulation to warrant the application of this section; or

(4) who is in a position subject to this subchapter and who is subject to a reduction or termination of a rate of pay established under subchapter IX of chapter 53;

is entitled to a rate of basic pay in accordance with regulations prescribed by the Office of Personnel Management in conformity with the provisions of this section.

(b)(1)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is less than or equal to the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at the lowest rate of basic pay payable for such grade that equals or exceeds such former rate of basic pay.

(B) This section shall cease to apply to an employee to whom subparagraph (A) applies once the appropriate rate of basic pay has been determined for such employee under this paragraph.

(2)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is greater than the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at a rate equal to the lesser of—

(i) the employee's former rate of basic pay; or

(ii) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved,

as adjusted by subparagraph (B).

(B) A rate to which an employee is entitled under this paragraph shall be increased at the time of any increase in the maximum rate of basic pay payable for the grade of the employee's position by 50 percent of the dollar amount of each such increase.

(3) For purposes of this subsection, the term ''former rate of basic pay'', as used with respect to an employee in connection with an event described in subsection (a), means the rate of basic pay last received by such employee before the occurrence of such event.

(c)(1) Notwithstanding any other provision of this section, in the case of an employee who—

(A) moves to a new official duty station, and

(B) in conjunction with such move, becomes subject to both a different pay schedule and (disregarding this subsection) the preceding provisions of this section,

this section shall be applied—

(i) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative

position in the pay range) before the move, and

(ii) then, by applying the provisions of this section that would apply (if any), treating the rate determined under clause (i) as if it were the rate last received by the employee before the application of this section.

(2) A reduction in an employee's rate of basic pay resulting from a determination under paragraph (1)(ii) is not a basis for an entitlement under this section.

(3) The rate of basic pay for an employee who is receiving a retained rate at the time of moving to a new official duty station at which different pay schedules apply shall be subject to regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

(d) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe. The Office shall, for any purpose other than any of the purposes referred to in the preceding sentence, prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

(e) This section shall not apply, or shall cease to apply, to an employee who—

(1) has a break in service of 1 workday or more;

(2) is entitled, by operation of this subchapter, chapter 51 or 53, or any other provision of law, to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the retained rate to which the employee would otherwise be entitled; or

(3) is demoted for personal cause or at the employee's request.

(Added Pub. L. 95–454, title VIII, § 801(a)(1), Oct. 13, 1978, 92 Stat. 1219; amended Pub. L. 101–509, title V, § 529 [title I, §§ 101(b)(3)(B), 105(b)(2)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1448; Pub. L. 103–89, § 3(b)(1)(L), Sept. 30, 1993, 107 Stat. 982; Pub. L. 108–411, title III, § 301(a)(5), Oct. 30, 2004, 118 Stat. 2316.)

PRIOR PROVISIONS

A prior section 5363, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, which related to limitation on pay fixed by administrative action, was renumbered section 5373 of this title by Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–411, § 301(a)(5)(A), inserted concluding provisions and struck out former concluding provisions which read as follows: ''is entitled to basic pay at a rate equal to (A) the employee's allowable former rate of basic pay, plus (B) 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay if such allowable former rate exceeds such maximum rate for such grade.''

Subsecs. (b) to (e). Pub. L. 108–411, § 301(a)(5)(B), added subsecs. (b) to (e) and struck out former subsecs. (b) and (c) which read as follows:

''(b) For the purpose of subsection (a) of this section, 'allowable former rate of basic pay' means the lower of—

''(1) the rate of basic pay payable to the employee immediately before the reduction in pay; or

''(2) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay.

''(c) The preceding provisions of this section shall cease to apply to an employee who—

''(1) has a break in service of one workday or more;

''(2) is entitled by operation of this subchapter or chapter 51 or 53 of this title to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

''(3) is demoted for personal cause or at the employee's request.''

1993—Subsec. (c)(2). Pub. L. 103–89 substituted ''chapter 51 or 53'' for ''chapter 51, 53, or 54''.

1990—Subsec. (a)(2) to (4). Pub. L. 101–509 substituted ''5305 of this title (or corresponding prior provision of this title);'' for ''5303 of this title; or'' in par. (2), inserted ''or'' at end of par. (3), and added par. (4).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–411, title III, § 301(d), Oct. 30, 2004, 118 Stat. 2317, provided that:

''(1) EFFECTIVE DATE.—This section [amending this section, sections 4505a, 5302, 5305, 5334, 5361, and 5365 of this title, and provisions set out as a note under section 5305 of this title] shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act [Oct. 30, 2004].

''(2) CONVERSION RULES.—

''(A) INDIVIDUALS RECEIVING A RETAINED RATE OR A RATE GREATER THAN THE MAXIMUM RATE FOR THE GRADE.—Subject to any regulations the Office of Personnel Management may prescribe, an employee under a covered pay schedule who, on the day before the effective date of this section, is receiving a retained rate under section 5363 of title 5, United States Code, or is receiving under similar authority a rate of basic pay that is greater than the maximum rate of basic pay payable for the grade of the employee's position shall have that rate converted as of the effective date of this section, and the employee shall be considered to be receiving a retained rate under section 5363 of such title (as amended by this section). The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law.

''(B) DEFINITION.—For purposes of this paragraph, the term 'covered pay schedule' has the meaning given such term by section 5361 of title 5, United States Code.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

§ 5364. Remedial actions

Under regulations prescribed by the Office of Personnel Management, the Office may require any agency—

(1) to report to the Office information with respect to vacancies (including impending vacancies);

(2) to take such steps as may be appropriate to assure employees receiving benefits under section 5362 or 5363 of this title have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for the application of such sections;

(3) to establish a program under which employees receiving benefits under section 5362 or 5363 of this title are given priority in the consideration for or placement in positions which are equal to their retained grade or pay; and

(4) to place certain employees, notwithstanding the fact their previous position was in a different agency, but only in circumstances in which the Office determines the exercise of such authority is necessary to carry out the purpose of this section.

(Added Pub. L. 95–454, title VIII, § 801(a)(1), Oct. 13, 1978, 92 Stat. 1220.)

PRIOR PROVISIONS

A prior section 5364, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, which related to miscellaneous positions in the executive branch, was renumbered section 5374 of this title by Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

§ 5365. Regulations

(a) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

(b) Under such regulations, the Office may provide for the application of all or portions of the provisions of this subchapter (subject to any conditions or limitations the Office may establish)—

(1) to any individual reduced to a grade of a covered pay schedule from a position not subject to this subchapter;

(2) to individuals to whom such provisions do not otherwise apply; and

(3) to situations the application to which is justified for purposes of carrying out the mission of the agency or agencies involved.

Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).

(Added Pub. L. 95–454, title VIII, § 801(a)(1), Oct. 13, 1978, 92 Stat. 1220; amended Pub. L. 101–508, title VII, § 7202(f), Nov. 5, 1990, 104 Stat. 1388–336; Pub. L. 108–411, title III, § 301(a)(6), Oct. 30, 2004, 118 Stat. 2317.)

PRIOR PROVISIONS

A prior section 5365, added Pub. L. 91–34, § 1(a), June 30, 1969, 83 Stat. 41; amended Pub. L. 94–183, § 2(20), Dec. 31, 1975, 89 Stat. 1058, which related to the police force of National Zoological Park, was renumbered section 5375 of this title by Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–411 inserted ''(subject to any conditions or limitations the Office may establish)'' after ''provisions of this subchapter'' in introductory provisions.

1990—Subsec. (b). Pub. L. 101–508 inserted at end ''Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108–411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101–508, set out as a note under section 2105 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5366. Appeals

(a)(1) In the case of the termination of any benefits available to an employee under this subchapter on the grounds such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than his retained grade or pay, such termination may be appealed to the Office of Personnel Management under procedures prescribed by the Office.

(2) Nothing in this subchapter shall be construed to affect the right of any employee to appeal—

(A) under section 5112(b) or 5346(c) of this title, or otherwise, any reclassification of a position; or

(B) under procedures prescribed by the Office of Personnel Management, any reduction-in-force action.

(b) For purposes of any appeal procedures (other than those described in subsection (a) of this section) or any grievance procedure negotiated under the provisions of chapter 71 of this title—

(1) any action which is the basis of an individual's entitlement to benefits under this subchapter, and

(2) any termination of any such benefits under this subchapter,

shall not be treated as appealable under such appeals procedures or grievable under such grievance procedure.

(Added Pub. L. 95–454, title VIII, § 801(a)(1), Oct. 13, 1978, 92 Stat. 1221.)

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

AMENDMENTS

1978—Pub. L. 95–454, title VIII, § 801(a)(3)(A)(i), Oct. 13, 1978, 92 Stat. 1221, redesignated former subchapter VI as VII.

§ 5371. Health care positions

(a) For the purposes of this section, ''health care'' means direct patient-care services or services incident to direct patient-care services.

(b) The Office of Personnel Management may, with respect to any employee described in subsection (c), provide that 1 or more provisions of chapter 74 of title 38 shall apply—

(1) in lieu of any provision of chapter 51 or 61, subchapter V of chapter 55, or any other provision of this chapter; or

(2) notwithstanding any lack of specific authority for a matter with respect to which chapter 51 or 61, subchapter V of chapter 55, or this chapter, relates.

(c) Authority under subsection (b) may be exercised with respect to any employee holding a position—

(1) to which chapter 51 applies, excluding any Senior Executive Service position and any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; and

(2) which involves health care responsibilities.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, § 5361; renumbered § 5371 and amended Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224; Pub. L. 101–509, title V, § 529 [title II, § 205(A)], Nov. 5, 1990, 104 Stat. 1427, 1456; Pub. L. 102–378, § 2(31), Oct. 2, 1992, 106 Stat. 1350.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1162(b).	Oct. 4, 1961, Pub. L. 87–367, § 202 ''Sec. 2(b)'', 75 Stat. 790. Oct. 11, 1962, Pub. L. 87–793, § 1001(a)(1), 76 Stat. 863.

The authority to fix rates of pay is added on authority of former section 1161, which is carried into section 3104.

For repeal of the Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended, see revision note for section 3104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–378 substituted ''chapter 74'' for ''chapter 73'' in introductory provisions and inserted ''subchapter V of chapter 55,'' after ''61,'' in pars. (1) and (2).

1990—Pub. L. 101–509 amended section generally, substituting designated provisions directing that Office of Personnel Management may provide that chapter 73 of title 38 provisions apply to certain health care professionals for undesignated text authorizing agency heads to fix pay rates for scientific and professional positions at between GS–16 and GS–18 rates.

1978—Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5372. Administrative law judges

(a) For the purposes of this section, the term ''administrative law judge'' means an administrative law judge appointed under section 3105.

(b)(1)(A) There shall be 3 levels of basic pay for administrative law judges (designated as AL–1, 2, and 3, respectively), and each such judge shall be paid at 1 of those levels, in accordance with the provisions of this section.

(B) Within level AL–3, there shall be 6 rates of basic pay, designated as AL–3, rates A through F, respectively. Level AL–2 and level AL–1 shall each have 1 rate of basic pay.

(C) The rate of basic pay for AL–3, rate A, may not be less than 65 percent of the rate of basic pay for level IV of the Executive Schedule, and the rate of basic pay for AL–1 may not exceed the rate for level IV of the Executive Schedule.

(2) The Office of Personnel Management shall determine, in accordance with procedures which the Office shall by regulation prescribe, the level in which each administrative-law-judge position shall be placed and the qualifications to be required for appointment to each level.

(3)(A) Upon appointment to a position in AL–3, an administrative law judge shall be paid at rate A of AL–3, and shall be advanced successively to rates B, C, and D of that level at the beginning of the next pay period following completion of 52 weeks of service in the next lower rate, and to rates E and F of that level at the beginning of the next pay period following completion of 104 weeks of service in the next lower rate.

(B) The Office of Personnel Management may provide for appointment of an administrative law judge in AL–3 at an advanced rate under such circumstances as the Office may determine appropriate.

(4) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for administrative law judges shall be adjusted by an amount determined by the President to be appropriate.

(c) The Office of Personnel Management shall prescribe regulations necessary to administer this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, § 5362; Pub. L. 95–251, § 2(a)(1), (b)(1), Mar. 27, 1978, 92

Stat. 183; renumbered § 5372 and amended Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224; Pub. L. 101–509, title V, § 529 [title I, § 104(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1445; Pub. L. 102–378, § 2(32), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 106–97, § 1, Nov. 12, 1999, 113 Stat. 1322.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 1010 (3d sentence).	June 11, 1946, ch. 324, § 11 (3d sentence), 60 Stat. 244.

The exception from the operation of the efficiency rating system is omitted as covered by sections 4301(2)(E) and 5335(a)(B). The reference to ''subchapter III of this chapter and chapter 51 of this title'' is substituted for ''the Classification Act of 1923, as amended'' on authority of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(1)(C), is set out in section 5315 of this title.

The General Schedule, referred to in subsec. (b)(4), is set out under section 5332 of this title.

AMENDMENTS

1999—Subsec. (b)(1). Pub. L. 106–97, § 1(1), designated first sentence as subpar. (A) and struck out after first sentence the following: ''The rates of basic pay for those levels shall be as follows:

AL–3, rate A	65 percent of the rate of basic pay for level IV of the Executive Schedule.
AL–3, rate B	70 percent of the rate of basic pay for level IV of the Executive Schedule.
AL–3, rate C	75 percent of the rate of basic pay for level IV of the Executive Schedule.
AL–3, rate D	80 percent of the rate of basic pay for level IV of the Executive Schedule.
AL–3, rate E	85 percent of the rate of basic pay for level IV of the Executive Schedule.
AL–3, rate F	90 percent of the rate of basic pay for level IV of the Executive Schedule.
AL–2	95 percent of the rate of basic pay for level IV of the Executive Schedule.
AL–1	The rate of basic pay for level IV of the Executive Schedule.''

Subsec. (b)(1)(B), (C). Pub. L. 106–97, § 1(1), added subpars. (B) and (C).

Subsec. (b)(3)(A). Pub. L. 106–97, § 1(2), substituted ''at the beginning of the next pay period following'' for ''upon'' in two places.

Subsec. (b)(4). Pub. L. 106–97, § 1(3), added par. (4).

1992—Subsec. (c). Pub. L. 102–378 substituted ''shall'' for ''shall,''.

1990—Pub. L. 101–509 amended section generally. Prior to amendment, section read as follows: ''Administrative law judges appointed under section 3105 of this title are entitled to pay prescribed by the Office of Personnel Management independently of agency recommendations or ratings and in accordance with subchapter III of this chapter and chapter 51 of this title.''

1978—Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Pub. L. 95–251 substituted ''Administrative law judges'' for ''Hearing examiners'' in section catchline and text.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

CONVERSION RULE FOR ADMINISTRATIVE LAW JUDGES

Section 529 [title I, § 104(e)] of Pub. L. 101–509 provided that: ''In making initial pay adjustments for administrative law judges after this section and the amendments made by this section [enacting section 5372a of this title, amending this section, sections 5102, 5311, and 5335 of this title, section 938 of Title 30, Mineral Lands and Mining, and section 607 of Title 41, Public Contracts] take effect [see Effective Date of 1990 Amendment note set out under section 5301 of this title], the rate of basic pay for any such judge shall, upon conversion to the new pay system, be at least equal to the rate which was payable to that individual immediately before such conversion.''

PAY INCREASES

For adjustment of rates of basic pay for administrative law judges under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

§ 5372a. Contract appeals board members

(a) For the purpose of this section—

(1) the term ''contract appeals board member'' means a member of an agency board of contract appeals appointed under section 7105(a)(2), (c)(2), or (d)(2) of title 41 or a member of the Civilian Board of Contract Appeals appointed under section 7105(b)(2) of title 41; and

(2) the term ''appeals board'' means an agency board of contract appeals established pursuant to section 7105(a)(1), (c)(1), or (d)(1) of title 41.

(b) Rates of basic pay for contract appeals board members shall be as follows:

(1) Chairman of an appeals board—the rate of basic pay payable for level IV of the Executive Schedule.

(2) Vice chairman of an appeals board—97 percent of the rate under paragraph (1).

(3) Other members of an appeals board—94 percent of the rate under paragraph (1).

(c) Rates of pay taking effect under this section shall be printed in the Federal Register and the Code of Federal Regulations.

(Added Pub. L. 101–509, title V, § 529 [title I, § 104(a)(2)], Nov. 5, 1990, 104 Stat. 1427, 1446; amended Pub. L. 109–163, div. A, title VIII, § 847(f)(1), Jan. 6, 2006, 119 Stat. 3395; Pub. L. 111–350, § 5(a)(9), Jan. 4, 2011, 124 Stat. 3841.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(1), is set out in section 5315 of this title.

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111–350, § 5(a)(9)(A), substituted ''section 7105(a)(2), (c)(2), or (d)(2) of title 41'' for ''section 8 of the Contract Disputes Act of 1978'' and ''section 7105(b)(2) of title 41'' for ''section 42 of the Office of Federal Procurement Policy Act''.

Subsec. (a)(2). Pub. L. 111–350, § 5(a)(9)(B), substituted ''section 7105(a)(1), (c)(1), or (d)(1) of title 41'' for ''section 8 of the Contract Disputes Act of 1978''.

2006—Subsec. (a)(1). Pub. L. 109–163 inserted ''or a member of the Civilian Board of Contract Appeals appointed under section 42 of the Office of Federal Procurement Policy Act'' after ''of 1978''.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VIII, § 847(g), Jan. 6, 2006, 119 Stat. 3395, provided that: ''Section 42 of the Office of Federal Procurement Policy Act, as added by this section, and the amendments and repeals made by this section [enacting section 438 of Title 41, Public Contracts, amending this section and sections 601 and 607 of Title 41, and enacting provisions set out as a note under section 607 of Title 41], shall take effect 1 year after the date of the enactment of this Act [Jan. 6, 2006].''

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5372b. Administrative appeals judges

(a) For the purpose of this section—

(1) the term ''administrative appeals judge position'' means a position the duties of which primarily involve reviewing decisions of administrative law judges appointed under section 3105; and

(2) the term ''agency'' means an Executive agency, as defined by section 105, but does not include the Government Accountability Office.

(b) Subject to such regulations as the Office of Personnel Management may prescribe, the head of the agency concerned shall fix the rate of basic pay for each administrative appeals judge position within such agency which is not classified above GS–15 pursuant to section 5108.

(c) A rate of basic pay fixed under this section shall be—

(1) not less than the minimum rate of basic pay for level AL–3 under section 5372; and

(2) not greater than the maximum rate of basic pay for level AL–3 under section 5372.

(Added Pub. L. 106–554, § 1(a)(3) [title VI, § 645(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

GS–15, referred to in subsec. (b), is contained in the General Schedule which is set out under section 5332 of this title.

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

EFFECTIVE DATE

Pub. L. 106–554, § 1(a)(3) [title VI, § 645(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–170, provided that: ''The amendment made by subsection (a)(1) [enacting this section] shall apply with respect to pay for service performed on or after the first day of the first applicable pay period beginning on or after—

''(1) the 120th day after the date of the enactment of this Act [Dec. 21, 2000]; or

''(2) if earlier, the effective date of regulations prescribed by the Office of Personnel Management to carry out such amendment.''

§ 5373. Limitation on pay fixed by administrative action

(a) Except as provided in subsection (b) and by the Government Employees Salary Reform Act of 1964 (78 Stat. 400) and notwithstanding the provisions of other statutes, the head of an Executive agency or military department who is authorized to fix by administrative action the annual rate of basic pay for a position or employee may not fix the rate at more than the rate for level IV of the Executive Schedule. This section does not impair the authorities provided by—

(1) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b)[1] and 21A(e)(4) of the Federal Home Loan Bank Act, section 2A(i)[1] of the Home Owners' Loan Act, and sections 5.11 and 5.58 of the Farm Credit Act of 1971;

(2) section 831b of title 16;

(3) sections 403a–403c, 403e–403h, and 403j of title 50; or

(4)[2] section 4802.

(4)[2] section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)).

(b) Subsection (a) shall not affect the authority of the Secretary of Defense or the Secretary of a military department to fix the pay of a civilian employee paid from nonappropriated funds, except that the annual rate of basic pay (including any portion of such pay attributable to comparability with private-sector pay in a locality) of such an employee may not be fixed at a rate greater than the rate for level III of the Executive Schedule.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, § 5363; renumbered § 5373, Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221; Pub. L. 96–70, title III, § 3302(e)(4), Sept. 27, 1979, 93 Stat. 498; Pub. L. 101–73, title VII, § 742(b), title XII, § 1209, Aug. 9, 1989, 103 Stat. 437, 523; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(9)(H)], Nov. 5, 1990, 104 Stat. 1427, 1441; Pub. L. 104–201, div. C, title XXXV, § 3548(a)(4), Sept. 23, 1996, 110 Stat. 2868; Pub. L. 106–65, div. A, title XI, § 1102, Oct. 5, 1999, 113 Stat. 776; Pub. L. 107–123, § 8(d)(1)(C), Jan. 16, 2002, 115 Stat. 2399; Pub. L. 107–171, title X, § 10702(c)(3), May 13, 2002, 116 Stat. 517.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2212.	Aug. 14, 1964, Pub. L. 88–426, § 308, 78 Stat. 432. Oct. 6, 1964, Pub. L. 88–631, § 3(e), 78 Stat. 1008.

The words ''head of an Executive agency or military department'' are coextensive with and substituted for ''head of any executive department, independent establishment, or agency in the executive branch'' because of the definitions in sections 102 and 105.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The Government Employees Salary Reform Act of 1964 (78 Stat. 400), referred to in subsec. (a), is Pub. L.

[1] See References in Text note below.

[2] So in original. Two pars. (4) have been enacted.

88–426, Aug. 14, 1964, 78 Stat. 400. For complete classification of this Act to the Code, see Tables.

Level IV of the Executive Schedule, referred to in subsec. (a), is set out in section 5315 of this title.

Section 206 of the Bank Conservation Act, referred to in subsec. (a)(1), is classified to section 206 of Title 12, Banks and Banking.

Sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, referred to in subsec. (a)(1), are classified to sections 1422b(b) and 1441a(e)(4), respectively, of Title 12, Banks and Banking. Section 1422b of Title 12 was repealed by Pub. L. 110–289, div. A, title II, § 1204(1), July 30, 2008, 122 Stat. 2786.

Section 2A(i) of the Home Owners' Loan Act, referred to in subsec. (a)(1), probably should be a reference to section 3(g) of the Home Owners' Loan Act, act June 13, 1933, ch. 64, as amended by Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 278, which was classified to section 1462a(g) of Title 12, Banks and Banking, prior to repeal by Pub. L. 111–203, title III, § 369(3)(B), July 21, 2010, 124 Stat. 1558.

Sections 5.11 and 5.58 of the Farm Credit Act of 1971, referred to in subsec. (a)(1), are classified to sections 2245 and 2277a–7, respectively, of Title 12, Banks and Banking.

Section 403e–1 of Title 50, War and National Defense, included within the reference to sections 403e–403h of Title 50 in subsec. (a)(3), was enacted by Pub. L. 98–215, title IV, § 402, Dec. 9, 1983, 97 Stat. 1477, after subsec. (a)(3) was enacted.

Level III of the Executive Schedule, referred to in subsec. (b), is set out in section 5314 of this title.

AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107–171, § 10702(c)(3)(A), which directed amendment of par. (2) by striking ''or'' at end, could not be executed because the word ''or'' did not appear at the end. See below.

Pub. L. 107–123, § 8(d)(1)(C)(i), struck out ''or'' at end.

Subsec. (a)(3). Pub. L. 107–171, § 10702(c)(3)(B), which directed substitution of ''; or'' for the period at the end, could not be executed because there was no period at the end. See below.

Pub. L. 107–123, § 8(d)(1)(C)(ii), substituted ''; or'' for the period at the end.

Subsec. (a)(4). Pub. L. 107–171, § 10702(c)(3)(C), added par. (4) relating to section 2(a)(7) of the Commodity Exchange Act.

Pub. L. 107–123, § 8(d)(1)(C)(iii), added par. (4) relating to section 4802.

1999—Pub. L. 106–65 designated existing provisions as subsec. (a), substituted ''(a) Except as provided in subsection (b) and'' for ''Except as provided'', and added subsec. (b).

1996—Pub. L. 104–201 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''section 1202 of the Panama Canal Act of 1979;''.

1990—Pub. L. 101–509 substituted ''rate for level IV of the Executive Schedule.'' for ''maximum rate for GS–18.''

1989—Par. (2). Pub. L. 101–73, § 1209, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''sections 248, 481, 1437, 1439, and 1819 of title 12;''.

Pub. L. 101–73, § 742(b), inserted references to sections 1437 and 1439 of title 12.

1979—Par. (1). Pub. L. 96–70 substituted ''section 1202 of the Panama Canal Act of 1979'' for ''section 121 of title 2, Canal Zone Code (76A Stat. 15)''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–123 effective Oct. 1, 2001, see section 11 of Pub. L. 107–123, set out as a note under section 78ee of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 5374. Miscellaneous positions in the executive branch

The head of the agency concerned shall fix the annual rate of basic pay for each position in the executive branch specifically referred to in, or covered by, a conforming change in statute made by section 305 of the Government Employees Salary Reform Act of 1964 (78 Stat. 422), or other position in the executive branch for which the annual pay is fixed at a rate of $18,500 or more under special provision of statute enacted before August 14, 1964, which is not placed in a level of the Executive Schedule set forth in subchapter II of this chapter, at a rate equal to the pay rate of a grade and step of the General Schedule set forth in section 5332 of this title. The head of the agency concerned shall report each action taken under this section to the Office of Personnel Management and publish a notice thereof in the Federal Register, except when the President determines that the report and publication would be contrary to the interest of national security.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, § 5364; renumbered § 5374 and amended Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2213.	Aug. 14, 1964, Pub. L. 88–426, § 309, 78 Stat. 433.

The word ''office'' is omitted as included in ''position''. The words ''before August 14, 1964'' are substituted for ''prior to the date of enactment of this Act''. The words ''pursuant to section 303 of this Act'' are omitted as surplusage.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 305 of the Government Employees Salary Reform Act of 1964, referred to in text, means section 305 of Pub. L. 88–426, Aug. 14, 1964. For complete classification of this section to the Code, see Tables.

AMENDMENTS

1978—Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 5375. Police force of the National Zoological Park

The Secretary of the Smithsonian Institution shall fix the annual rates of basic pay for posi-

tions on the police force of the National Zoological Park as follows:

(1) Private, not more than the maximum annual rate of basic pay payable for grade GS–7 of the General Schedule.

(2) Sergeant, not more than the maximum annual rate of basic pay payable for grade GS–8 of the General Schedule.

(3) Lieutenant, not more than the maximum annual rate of basic pay payable for grade GS–9 of the General Schedule.

(4) Captain, not more than the maximum annual rate of basic pay payable for grade GS–10 of the General Schedule.

(Added Pub. L. 91–34, § 1(a), June 30, 1969, 83 Stat. 41, § 5365; amended Pub. L. 94–183, § 2(20), Dec. 31, 1975, 89 Stat. 1058; renumbered § 5375, Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221; Pub. L. 101–263, § 1(a), Apr. 4, 1990, 104 Stat. 125; Pub. L. 102–378, § 2(33), Oct. 2, 1992, 106 Stat. 1350.)

REFERENCES IN TEXT

General Schedule, referred to in text, is set out under section 5332 of this title.

AMENDMENTS

1992—Par. (2). Pub. L. 102–378 substituted ''GS–8'' for ''GS–8,''.

1990—Pub. L. 101–263 inserted ''the'' before ''National'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

''(1) Private—not more than the rate for GS–7, Step 5;

''(2) Sergeant—not more than the rate for GS–8, Step 5;

''(3) Lieutenant—not more than the rate for GS–9, Step 5;

''(4) Captain—not more than the rate for GS–10, Step 5.''

1975—Pub. L. 94–183 struck out designation ''(a)'' at beginning.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2 of Pub. L. 101–263 provided that: ''The amendments made by section 1 [amending this section] shall apply with respect to pay periods beginning after the date of the enactment of this Act [Apr. 4, 1990].''

EFFECTIVE DATE

Section 3(a) of Pub. L. 91–34 provided that: ''The foregoing provisions of this Act [enacting this section and amending sections 5102 and 5109 of this title and section 193n of former Title 40, Public Buildings, Property, and Works] shall become effective at the beginning of the first pay period which commences on or after the date of enactment of this Act [June 30, 1969].''

REDUCTION OF BASIC PAY RATE

Section 3(b) of Pub. L. 91–34 provided that: ''No rate of basic pay shall be reduced by reason of the enactment of this Act [enacting this section and amending sections 5102 and 5109 of this title and section 193n of former Title 40, Public Buildings, Property, and Works].''

§ 5376. Pay for certain senior-level positions

(a) This section applies to—

(1) positions that are classified above GS–15 pursuant to section 5108; and

(2) scientific or professional positions established under section 3104;

but does not apply to—

(A) any Senior Executive Service position under section 3132; or

(B) any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151.

(b)(1) Subject to such regulations as the Office of Personnel Management prescribes, the head of the agency concerned shall fix the rate of basic pay for any position within such agency to which this section applies. A rate fixed under this section shall be—

(A) not less than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and

(B) subject to paragraph (3), not greater than the rate of basic pay payable for level III of the Executive Schedule.

The payment of a rate of basic pay under this section shall not be subject to the pay limitation of section 5306(e) or 5373.

(2) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section for positions within an agency shall be adjusted by such amount as the head of such agency considers appropriate.

(3) In the case of an agency which has a performance appraisal system which, as designed and applied, is certified under section 5307(d) as making meaningful distinctions based on relative performance, paragraph (1)(B) shall apply as if the reference to ''level III'' were a reference to ''level II''.

(4) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under paragraph (3) to an agency with an applicable maximum rate of pay prescribed under paragraph (1)(B).

(Added Pub. L. 101–509, title V, § 529 [title I, § 102(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1443; amended Pub. L. 110–372, § 2(b), Oct. 8, 2008, 122 Stat. 4044.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b), is set out under section 5332 of this title.

Levels II and III of the Executive Schedule, referred to in subsec. (b), are set out in sections 5313 and 5314 of this title, respectively.

AMENDMENTS

2008—Subsec. (b)(1)(B). Pub. L. 110–372, § 2(b)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: ''not greater than the rate of basic pay payable for level IV of the Executive Schedule.''.

Subsec. (b)(3), (4). Pub. L. 110–372, § 2(b)(2), added pars. (3) and (4).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–372, § 2(d), Oct. 8, 2008, 122 Stat. 4044, provided that:

''(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 3104, 3324,

3325, 5108 and 5304 of this title] shall take effect on the first day of the first pay period beginning on or after the 180th day following the date of enactment of this Act [Oct. 8, 2008].

''(2) NO REDUCTIONS IN RATES OF PAY.—

''(A) IN GENERAL.—The amendments made by this section may not result, at the time such amendments take effect, in a reduction in the rate of basic pay for an individual holding a position to which section 5376 of title 5, United States Code, applies.

''(B) DETERMINATION OF RATE OF PAY.—For the purposes of subparagraph (A), the rate of basic pay for an individual described in that subparagraph shall be deemed to be the rate of basic pay set for the individual under section 5376 of title 5, United States Code, plus any applicable locality pay paid to that individual on the day before the effective date under paragraph (1), subject to regulations that the Director of the Office of Personnel Management may prescribe.

''(3) REFERENCES TO MAXIMUM RATES.—Except as otherwise provided by law, any reference in a provision of law to the maximum rate under section 5376 of title 5, United States Code—

''(A) as provided before the effective date of the amendments made by this section, shall be considered a reference to the rate of basic pay for level IV of the Executive Schedule [5 U.S.C. 5315]; and

''(B) as provided on or after the effective date of the amendments made by this section, shall be considered a reference to—

''(i) the rate of basic pay for level III of the Executive Schedule [5 U.S.C. 5314]; or

''(ii) if the head of the agency responsible for administering the applicable pay system certifies that the employees are covered by a performance appraisal system meeting the certification criteria established by regulation under section 5307(d), level II of the Executive Schedule [5 U.S.C. 5313].''

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES; REGULATIONS

Section 529 [title I, § 101(c), (d)] of Pub. L. 101–509 provided that:

''(c) OTHER REFERENCES.—Until otherwise provided by law—

''(1) any reference in a provision of law (which is outside title 5, United States Code, and in effect immediately before this section takes effect [see Effective Date of 1990 Amendment note set out under section 5301 of this title], excluding any reference in a provision of law amended by this Act [see Short Title of 1990 Amendment note set out under section 5301 of this title])—

''(A)(i) to the rate of pay for grade GS–18 of the General Schedule, or to the maximum rate of pay under the General Schedule, shall be considered a reference to the maximum rate payable under section 5376 of such title (as amended by section 102(a));

''(ii) to the minimum rate of pay for grade GS–16 of the General Schedule shall be considered a reference to the minimum rate payable under section 5376 of such title (as amended by section 102(a)); and

''(iii) to a rate of pay for grade GS–16 or 17 of the General Schedule shall (except as provided in clause (ii)) be considered a reference to a rate of pay for a position classified above GS–15 pursuant to section 5108 of such title (as amended by section 102(b)(2)); and

''(B) to a rate of pay under the General Schedule shall not include any comparability payment payable under section 5304 of such title (as amended by this section) or any geographic adjustment payable under section 302 [section 529 [title III, § 302] of Pub. L. 101–509, set out as a note under section 5304 of this title]; and

''(2) any authority granted by a provision of law (which is outside such title, and in effect immediately before this section takes effect) to fix pay in accordance with chapter 51 and subchapter III of chapter 53 of such title—

''(A) shall not be considered to include any authority under section 5304 of such title (as amended by this section) or section 302; but

''(B) shall be considered to include authority under section 5376 of such title (as amended by section 102(a)), if applicable.

''(d) REGULATIONS.—The Office of Personnel Management may prescribe regulations, consistent with subsection (c)(1)(B) and section 303 [section 529 [title III, § 303] of Pub. L. 101–509, set out as a note under section 5301 of this title], governing the conversion or adjustment of rates of pay, where necessary because of the abolishment of grades GS–16, 17, and 18 of the General Schedule.''

[Except as otherwise provided, reference to maximum rate under section 5376 of this title before first day of first pay period beginning on or after 180th day after Oct. 8, 2008, considered reference to basic pay rate for level IV of Executive Schedule (5 U.S.C. 5315) and reference to maximum rate on or after first day of first pay period beginning on or after 180th day after Oct. 8, 2008, considered reference to basic pay rate for level III of Executive Schedule (5 U.S.C. 5314), or for level II of the Executive Schedule (5 U.S.C. 5313) for certain employees, see section 2(d)(3) of Pub. L. 110–372, set out as an Effective Date of 2008 Amendment note under this section.]

§ 5377. Pay authority for critical positions

(a) For the purpose of this section—

(1) the term ''agency'' has the meaning given it by section 5102; and

(2) the term ''position'' means—

(A) a position to which chapter 51 applies, including a position in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(B) a position under the Executive Schedule under sections 5312–5317;

(C) a position to which section 5372 applies (or would apply, but for this section);

(D) a position to which section 5372a applies (or would apply, but for this section);

(E) a position established under section 3104;

(F) a position in a category as to which a designation is in effect under subsection (i); and

(G) a position at the Federal Bureau of Investigation, the primary duties and responsibilities of which relate to intelligence functions (as determined by the Director of the Federal Bureau of Investigation).

(b) Authority under this section—

(1) may be granted or exercised only with respect to a position—

(A) which requires expertise of an extremely high level in a scientific, technical, professional, or administrative field; and

(B) which is critical to the agency's successful accomplishment of an important mission; and

(2) may be granted or exercised only to the extent necessary to recruit or retain an indi-

vidual exceptionally well qualified for the position.

(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.

(d)(1) The rate of basic pay fixed under this section by an agency head may not be less than the rate of basic pay (including any comparability payments) which would then otherwise be payable for the position involved if this section had never been enacted.

(2) Basic pay may not be fixed under this section at a rate greater than the rate payable for level I of the Executive Schedule, except upon written approval of the President.

(e) The authority to fix the rate of basic pay under this section for a position shall terminate—

(1) whenever the Office of Personnel Management determines (in accordance with such procedures and subject to such terms or conditions as such Office by regulation prescribes) that 1 or more of the requirements of subsection (b) are no longer met; or

(2) as of such date as such Office may otherwise specify, except that termination under this paragraph may not take effect before the authority has been available for such position for at least 1 calendar year.

(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.

(h) The Office of Personnel Management shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate each year, in writing, on the operation of this section. Each report under this subsection shall include—

(1) the number of positions, in the aggregate and by agency, for which higher rates of pay were authorized or paid under this section during any part of the period covered by such report; and

(2) the name of each employee to whom a higher rate of pay was paid under this section during any portion of the period covered by such report, the rate on rates paid under this section during such period, the dates between which each such higher rate was paid, and the rate or rates that would have been paid but for this section.

(i)(1) For the purpose of this subsection, the term ''position'' means the work, consisting of the duties and responsibilities, assignable to an employee, except that such term does not include any position under subsection (a)(2)(A)–(E).

(2) At the request of an agency head, the President may designate 1 or more categories of positions within such agency to be treated, for purposes of this section, as positions within the meaning of subsection (a)(2).

(Added Pub. L. 101–509, title V, § 529 [title I, § 103(a)], Nov. 5, 1990, 104 Stat. 1427, 1444; amended Pub. L. 102–378, § 2(34), Oct. 2, 1992, 106 Stat. 1350; Pub. L. 108–411, title I, § 102, Oct. 30, 2004, 118 Stat. 2311; Pub. L. 108–447, div. B, title I, § 115, Dec. 8, 2004, 118 Stat. 2870.)

REFERENCES IN TEXT

Level I of the Executive Schedule, referred to in subsec. (d)(2), is set out in section 5312 of this title.

AMENDMENTS

2004—Subsec. (a)(2)(G). Pub. L. 108–447 added subpar. (G).

Subsec. (c). Pub. L. 108–411, § 102(1), (2), substituted ''Office of Management and Budget'' for ''Office of Personnel Management'' and ''Office of Personnel Management'' for ''Office of Management and Budget''.

Subsec. (e)(1), (f). Pub. L. 108–411, § 102(2), substituted ''Office of Personnel Management'' for ''Office of Management and Budget''.

Subsec. (g). Pub. L. 108–411, § 102(1)–(3), substituted ''Office of Personnel Management'' for ''Office of Management and Budget'' and ''Office of Management and Budget'' for ''Office of Personnel Management'' and struck out ''prescribing regulations under this section or'' before ''making any decision''.

Subsec. (h). Pub. L. 108–411, § 102(2), (4), in introductory provisions, substituted ''Office of Personnel Management'' for ''Office of Management and Budget'' and ''Committee on Government Reform'' for ''Committee on Post Office and Civil Service''.

1992—Subsec. (a)(2)(E), (F). Pub. L. 102–378, § 2(34)(A), added subpars. (E) and (F).

Subsec. (i). Pub. L. 102–378, § 2(34)(B), added subsec. (i).

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section assigned to the Director of the Office of Personnel Management by section 1 of Ex. Ord. No. 13415, Dec. 1, 2006, 71 F.R. 70641, set out as a note under section 4505a of this title.

§ 5378. Police forces of the Bureau of Engraving and Printing and the United States Mint

(a) The Secretary of the Department of the Treasury, or his designee, in his sole discretion shall fix the rates of basic pay for positions within the police forces of the United States Mint and the Bureau of Engraving and Printing without regard to the pay provisions of title 5, United States Code, except that no entry-level police officer shall receive basic pay for a calendar year that is less than the basic rate of pay

for General Schedule GS–7 and no executive security official shall receive basic compensation for a calendar year that exceeds the basic rate of pay for General Schedule GS–15.

(b) For the purpose of this section, the term ''police forces of the Bureau of Engraving and Printing and the United States Mint'' means the employees of the Department of the Treasury who are appointed, under the authority of the Secretary of the Treasury, as police officers for the protection of the Bureau of Engraving and Printing and the United States Mint buildings and property.

(Added Pub. L. 101–509, title V, § 529 [title I, § 109(a)(1)(A)], Nov. 5, 1990, 104 Stat. 1427, 1451; amended Pub. L. 104–52, title V, § 521, Nov. 19, 1995, 109 Stat. 494; Pub. L. 105–61, title I, § 121, Oct. 10, 1997, 111 Stat. 1289.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of this title.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–61 amended subsec. (a) generally. Prior to amendment, subsec. (a) consisted of pars. (1) to (8) providing maximum levels of General Schedule at which Secretary of the Treasury was to set basic rates of pay for positions in police forces of Bureau of Engraving and Printing and United States Mint.

1995—Subsec. (a)(8). Pub. L. 104–52, which directed amendment of this section by adding par. (8), was executed by adding par. (8) at end of subsec. (a) to reflect the probable intent of Congress.

EFFECTIVE DATE; CONVERSION AND SAVINGS PROVISIONS

Section 529 [title I, § 109(c)] of Pub. L. 101–509 provided that:

''(1) This section and the amendments made by this section [enacting this section, amending section 5102 of this title, and enacting provisions set out as a note below] shall become effective on the first day of the first applicable pay period beginning on or after the 30th day following the date of enactment of this Act [Nov. 5, 1990].

''(2)(A) A special pay rate (as defined in subparagraph (B)) shall apply to an individual holding a position if—

''(i) as a result of the initial exercise of authority with respect to such position under the amendment made by subsection (a)(1)(A) [enacting this section], such individual would (but for this paragraph) be paid—

''(I) at the step of the grade for which such special pay rate is then in effect; or

''(II) at a level which is between steps for which special pay rates are then in effect; and

''(ii) such position is within the area or location with respect to which that special pay rate or those special pay rates, as applicable, are then in effect.

The Secretary of the Treasury shall prescribe regulations for determining which special pay rate shall apply in a situation described in clause (i)(II).

''(B) For the purpose of this paragraph, the term 'special pay rate' means a rate which—

''(i) is established under section 5303 of title 5, United States Code (or a succeeding provision of law);

''(ii) is applicable to positions within the police forces of the Bureau of Engraving and Printing and the United States Mint; and

''(iii) has been in effect (including any adjustments under section 5303(d) of such title) since on or before the effective date of this section.

''(3) No rate of basic pay in effect immediately before this section takes effect shall be reduced by reason of the enactment of this section.''

SPECIAL PAY RATES NOT AFFECTED

Section 529 [title I, § 109(b)] of Pub. L. 101–509, as amended by Pub. L. 102–378, § 3(1), Oct. 2, 1992, 106 Stat. 1355, provided that: ''Nothing in this section or in any amendment made by this section [enacting this section, amending section 5102 of this title, and enacting provisions set out as a note above] shall—

''(1) affect any special pay rate under section 5303 of title 5, United States Code, established before this section takes effect; or

''(2) impair any authority to fix or adjust special pay rates under such section 5303 (or a succeeding provision of law) for positions within the police forces of the Bureau of Engraving and Printing and the United States Mint.''

[Amendment by Pub. L. 102–378 to section 529 [title I, § 109(b)] of Pub. L. 101–509, set out above, effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102–378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.]

§ 5379. Student loan repayments

(a)(1) For the purpose of this section—

(A) the term ''agency'' means an agency under subparagraph (A), (B), (C), (D), or (E) of section 4101(1) of this title, the Architect of the Capitol, the Botanic Garden, and the Office of Congressional Accessibility Services; and

(B) the term ''student loan'' means—

(i) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(ii) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and

(iii) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

(2) An employee shall be ineligible for benefits under this section if the employee occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

(b)(1) The head of an agency may, in order to recruit or retain highly qualified personnel, establish a program under which the agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee.

(2) Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned, except that the amount paid by an agency under this section may not exceed—

(A) $10,000 for any employee in any calendar year; or

(B) a total of $60,000 in the case of any employee.

(3) Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

(c)(1) An employee selected to receive benefits under this section must agree in writing, before receiving any such benefit, that the employee will—

(A) remain in the service of the agency for a period specified in the agreement (not less than 3 years), unless involuntarily separated; and

(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

(2) The payment agreed to under paragraph (1)(B) of this subsection may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that payment will be required under this subsection.

(3) If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2) of this subsection) is voluntarily separated before completing the required period of service fails to repay the amount agreed to under paragraph (1)(B) of this subsection, a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(B) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

(4) Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation account from which the amount involved was originally paid. Any amount so credited shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

(d) An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

(1) separates from such agency; or

(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

(e) In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(f) Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

(g) The Director of the Office of Personnel Management, after consultation with heads of a representative number and variety of agencies and any other consultation which the Director considers appropriate, shall prescribe regulations containing such standards and requirements as the Director considers necessary to provide for reasonable uniformity among programs under this section.

(h)(1) Each head of an agency shall maintain, and annually submit to the Director of the Office of Personnel Management, information with respect to the agency on—

(A) the number of Federal employees selected to receive benefits under this section;

(B) the job classifications for the recipients; and

(C) the cost to the Federal Government of providing the benefits.

(2) The Director of the Office of Personnel Management shall prepare, and annually submit to Congress, a report containing the information submitted under paragraph (1), and information identifying the agencies that have provided benefits under this section.

(Added Pub. L. 101–510, div. A, title XII, § 1206(b)(1), Nov. 5, 1990, 104 Stat. 1659; amended Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a), (b), (d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–316; Pub. L. 108–123, § 2, Nov. 11, 2003, 117 Stat. 1345; Pub. L. 108–136, div. A, title XI, § 1123(a), Nov. 24, 2003, 117 Stat. 1637; Pub. L. 110–437, title V, § 502, Oct. 20, 2008, 122 Stat. 4997.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1)(B)(i), (ii), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Parts B, D, and E of title IV of the Act are classified to parts B (§ 1071 et seq.), C (§ 1087a et seq.), and D (§ 1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (a)(1)(B)(iii), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title VII of the Act is classified generally to part A (§ 292 et seq.) of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Part E of title VIII of the Act is classified generally to part E (§ 297a et seq.) of subchapter VI of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2008—Subsec. (a)(1)(A). Pub. L. 110–437 inserted ", the Architect of the Capitol, the Botanic Garden, and the Office of Congressional Accessibility Services" after "title".

2003—Subsec. (b)(2)(A). Pub. L. 108–123, § 2(1), and Pub. L. 108–136 amended subpar. (A) identically, substituting "$10,000" for "$6,000".

Subsec. (b)(2)(B). Pub. L. 108–123, § 2(2), substituted "$60,000" for "$40,000".

2000—Subsec. (a)(1)(B)(i). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a)(1)], inserted "(20 U.S.C. 1071 et seq.)" before semicolon.

Subsec. (a)(1)(B)(ii). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a)(2)], substituted "part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.)" for "part E of title IV of the Higher Education Act of 1965".

Subsec. (a)(1)(B)(iii). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a)(3)], substituted ''part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.)'' for ''part C of title VII of Public Health Service Act or under part B of title VIII of such Act''.

Subsec. (a)(2). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(b)(1)], amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''An employee shall be ineligible for benefits under this section if such employee occupies a position which—

''(A) is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

''(B) is not subject to subchapter III of this chapter.''

Subsec. (b)(1). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(b)(2)], struck out ''professional, technical, or administrative'' after ''highly qualified''.

Subsec. (h). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(d)], added subsec. (h).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title XI, § 1123(b), Nov. 24, 2003, 117 Stat. 1637, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2004.''

REGULATIONS

Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–316, provided that:

''(1) Not later than 60 days after the date of the enactment of this Act [Oct. 30, 2000], the Director of the Office of Personnel Management shall issue proposed regulations under section 5379(g) of title 5, United States Code. The Director shall provide for a period of not less than 60 days for public comment on the regulations.

''(2) Not later than 240 days after the date of the enactment of this Act [Oct. 30, 2000], the Director shall issue final regulations.''

INSTITUTIONAL LOAN FORGIVENESS PROGRAMS

Pub. L. 110–315, title IX, § 961, Aug. 14, 2008, 122 Stat. 3473, provided that: ''Notwithstanding any other provision of law—

''(1) a public or private institution of higher education may provide an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, who is a current or former student of such institution, financial assistance for the purpose of repaying a student loan or providing forbearance of student loan repayment if—

''(A) such repayment or forbearance is provided to such officer or employee in accordance with a written, published policy of the institution relating to repaying or providing forbearance, respectively, for students or former students who perform public service; and

''(B) in the case of a former student of the institution of higher education, the policy described in subparagraph (A) was in effect at the institution of higher education on the day before the date such officer or employee graduated from or otherwise ceased being a student at such institution; and

''(2) an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia may receive repayment or forbearance permitted under paragraph (1).''

[§ 5380. Repealed. Pub. L. 102–378, § 8(a), Oct. 2, 1992, 106 Stat. 1359]

Section, added Pub. L. 101–510, div. A, title XII, § 1206(i)(1), Nov. 5, 1990, 104 Stat. 1662, related to pay authority for critical positions. See section 5377 of this title. Pub. L. 102–378, § 8(a), repealed Pub. L. 101–510, § 1206(i)(1), and provided that this title shall read as if section 1206(i)(1) had not been enacted.

Pub. L. 101–510, § 1206(i)(3), provided that (A) unless section 5380 of this title did not take effect as provided in subpar. (B), such section would cease to be in effect on the earlier of Oct. 1, 1992, or the date of the enactment of the Federal Employees Pay Comparability Act of 1990 [Nov. 5, 1990], and (B) section 5380 of this title would not take effect if the Federal Employees Pay Comparability Act of 1990 [Pub. L. 101–509] was enacted before the date of the enactment of this Act [Nov. 5, 1990]. Pub. L. 102–378, § 8(a), repealed Pub. L. 101–510, § 1206(i)(3), and provided that this title shall read as if section 1206(i)(3) had not been enacted.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102–378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.

SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

§ 5381. Definitions

For the purpose of this subchapter, ''agency'', ''Senior Executive Service position'', ''career appointee'', and ''senior executive'' have the meanings set forth in section 3132(a) of this title.

(Added Pub. L. 95–454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 101–136, title VI, § 625(b), Nov. 3, 1989, 103 Stat. 823.)

AMENDMENTS

1989—Pub. L. 101–136 inserted '' 'career appointee', '' before ''and''.

EFFECTIVE DATE

Subchapter effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415(a)(1), (b) of Pub. L. 95–454, set out as a note under section 3131 of this title.

§ 5382. Establishment of rates of pay for the Senior Executive Service

(a) Subject to regulations prescribed by the Office of Personnel Management, there shall be established a range of rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates within the range, based on individual performance, contribution to the agency's performance, or both, as determined under a rigorous performance management system. The lowest rate of the range shall not be less than the minimum rate of basic pay payable under section 5376, and the highest rate, for any position under this system or an equivalent system as determined by the President's Pay Agent designated under section 5304(d), shall not exceed the rate for level III of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373.

(b) Notwithstanding the provisions of subsection (a), the applicable maximum shall be level II of the Executive Schedule for any agency that is certified under section 5307 as having a performance appraisal system which, as designed and applied, makes meaningful distinctions based on relative performance.

(c) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under subsection (b) to an agency with an applicable maximum rate of pay prescribed under subsection (a).

(Added Pub. L. 95–454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 101–509, title V, § 529 [title I, § 101(b)(4)(B), (6)(A), (9)(I)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1440, 1442; Pub. L. 108–136, div. A, title XI, § 1125(a)(2), Nov. 24, 2003, 117 Stat. 1638.)

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (a), is set out in section 5314 of this title.

Level II of the Executive Schedule, referred to in subsec. (b), is set out in section 5313 of this title.

AMENDMENTS

2003—Pub. L. 108–136 substituted ''Establishment of rates of pay for the Senior Executive Service'' for ''Establishment and adjustment of rates of pay for the Senior Executive Service'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates. The rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

''(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable under section 5376 and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373 of this title.

''(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount determined by the President to be appropriate.

''(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for the Senior Executive Service.''

1990—Subsec. (b). Pub. L. 101–509, § 529 [title I, § 101(b)(6)(A), (9)(I)], substituted ''under section 5376'' for ''for GS–16 of the General Schedule'' and ''5306(e)'' for ''5308''.

Subsec. (c). Pub. L. 101–509, § 529 [title I, § 101(b)(4)(B)], substituted ''5303'' for ''5305'' and struck out at end ''The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305(a)(3) or (c)(1) of this title.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective on first day of first pay period beginning on or after Jan. 1, 2004, but not to result in reduction in rate of basic pay for any senior executive during first year after effective date, see section 1125(c) of Pub. L. 108–136, set out as a note under section 5304 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

PAY INCREASES

For adjustment of rates of basic pay for the Senior Executive Service under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of this title.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of this title.

EXECUTIVE ORDER NO. 12592

Ex. Ord. No. 12592, Apr. 10, 1987, 52 F.R. 13417, as amended by Ex. Ord. No. 12609, Sept. 23, 1987, 52 F.R. 36211, which related to the establishment, functions, administration, and termination of the President's Commission on Compensation of Career Federal Executives, was revoked by Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to this title.

§ 5383. Setting individual senior executive pay

(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates within a range established under section 5382 shall be paid to each senior executive under such appointing authority.

(b) Members of the Senior Executive Service shall be subject to the limitation under section 5307.

(c) Except as provided in regulations prescribed by the Office under section 5385, the rate of basic pay for any senior executive may not be adjusted more than once during any 12-month period.

(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only if the career appointee receives a written notice of the reduction at least 15 days in advance of the reduction.

(e)(1) This subsection applies to—

(A) any individual who, after serving at least 5 years of current continuous service in 1 or more positions in the competitive service, is appointed, without any break in service, as a career appointee; and

(B) any individual who—

(i) holds a position which is converted from the competitive service to a career reserved position in the Senior Executive Service; and

(ii) as of the conversion date, has at least 5 years of current continuous service in 1 or more positions in the competitive service.

(2)(A) The initial rate of pay for a career appointee who is appointed under the circumstances described in paragraph (1)(A) may not be less than the rate of basic pay last payable to that individual immediately before being so appointed.

(B) The initial rate of pay for a career appointee following the position's conversion (as described in paragraph (1)(B)) may not be less than the rate of basic pay last payable to that individual immediately before such position's conversion.

(Added Pub. L. 95–454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 96–166, § 3, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 98–615, title III, § 305, Nov. 8, 1984, 98 Stat. 3219; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(7)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 102–175, § 2, Dec. 2, 1991, 105 Stat. 1222; Pub. L. 102–378, § 2(35), Oct. 2, 1992, 106 Stat. 1351; Pub. L. 108–136, div. A, title XI, § 1125(a)(3), Nov. 24, 2003, 117 Stat. 1639.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 1125(a)(3)(A), substituted ''which of the rates within a range established under section 5382'' for ''which of the rates established under section 5382 of this title''.

Subsec. (c). Pub. L. 108–136, § 1125(a)(3)(B), substituted ''as provided in regulations prescribed by the Office under section 5385'' for ''for any pay adjustment under section 5382 of this title''.

1992—Subsec. (b). Pub. L. 102–378 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) In no event may the aggregate amount paid to a senior executive during any fiscal year under sections 4507, 5382, 5384, and 5948 of this title exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

''(2)(A) Any amount which is not paid to a senior executive during a fiscal year because of the limitation under paragraph (1) of this subsection shall be paid to that individual in a lump sum at the beginning of the following fiscal year.

''(B) Any amount paid under this paragraph during a fiscal year shall be taken into account for purposes of applying the limitation under paragraph (1) of this subsection with respect to such fiscal year.

''(C) The Office of Personnel Management shall prescribe regulations, consistent with section 5582 of this title, under which payment under this paragraph shall be made in the case of any individual whose death precludes payment under subparagraph (A) of this paragraph.''

1991—Subsec. (e). Pub. L. 102–175 added subsec. (e).

1990—Subsec. (b)(1). Pub. L. 101–509, which directed that ''5304(j),'' be struck out after the reference to section 4507, could not be executed because ''5304(j),'' does not appear in text.

1984—Subsec. (b). Pub. L. 98–615 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (b). Pub. L. 96–166 inserted reference to section 5948.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective on first day of first pay period beginning on or after Jan. 1, 2004, but not to result in reduction in rate of basic pay for any senior executive during first year after effective date, see section 1125(c) of Pub. L. 108–136, set out as a note under section 5304 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–615 effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98–615, set out as a note under section 3393 of this title.

SENIOR EXECUTIVE SERVICE; MAXIMUM AGGREGATE AMOUNT PAYABLE, ETC.; REPORT

Pub. L. 98–168, title III, § 301(a), Nov. 29, 1983, 97 Stat. 1112, required Office of Personnel Management to study and, within 12 months after Nov. 29, 1983, submit to each House of Congress a report on effect which 5 U.S.C. 5383(b) (relating to maximum aggregate amount payable to a member of Senior Executive Service in a fiscal year) has had with respect to recruitment, retention, and morale of career appointees in Senior Executive Service.

§ 5384. Performance awards in the Senior Executive Service

(a)(1) To encourage excellence in performance by career appointees, performance awards shall be paid to career appointees in accordance with the provisions of this section.

(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

(b)(1) No performance award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful at the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

(2) The amount of a performance award under this section shall be determined by the agency head but may not be less than 5 percent nor more than 20 percent of the career appointee's rate of basic pay.

(3) The aggregate amount of performance awards paid under this section by an agency during any fiscal year may not exceed the greater of—

(A) an amount equal to 10 percent of the aggregate amount of basic pay paid to career appointees in such agency during the preceding fiscal year; or

(B) an amount equal to 20 percent of the average of the annual rates of basic pay paid to career appointees in such agency during the preceding fiscal year.

(c)(1) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

(2) not[1] less than a majority of the members of any review board referred to in paragraph (1) shall be career appointees whenever making recommendations under such paragraph with respect to a career appointee. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement.

(d) The Office of Personnel Management may issue guidance to agencies concerning the proportion of Senior Executive Service salary expenses that may be appropriately applied to payment of performance awards and the distribution of awards.

(Added Pub. L. 95–454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1172; amended Pub. L. 98–615, title III, § 302, Nov. 8, 1984, 98 Stat. 3217; Pub. L. 101–136, title VI, § 625(a), Nov. 3, 1989, 103 Stat. 822; Pub. L. 105–277, div. A, § 101(h) [title VI, § 632(a)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–523.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–277 substituted ''10 percent'' for ''3 percent'' in subpar. (A) and substituted ''20 percent'' for ''15 percent'' in subpar. (B).

1989—Subsec. (c). Pub. L. 101–136 designated existing provisions as par. (1) and added par. (2).

1984—Subsec. (b)(2). Pub. L. 98–615, § 302(1), substituted ''but may not be less than 5 percent nor more than 20 percent'' for ''but may not exceed 20 percent''.

Subsec. (b)(3). Pub. L. 98–615, § 302(2), substituted provisions limiting the aggregate amount of performance awards paid under this section by an agency during any fiscal year to the greater of 3 percent of the aggregate basic pay of career appointees in that agency during the preceding fiscal year or 15 percent of the average of the annual rates of basic pay of such appointees during such fiscal year for provisions limiting the number of career appointees paid performance awards under this section during any fiscal year to 50 percent of the num-

[1] So in original. Probably should be capitalized.

ber of Senior Executive Service positions in such agency, except for an agency having less than 4 such positions.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. A, § 101(h) [title VI, § 632(b)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–523, provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1998, or the date of enactment of this Act [Oct. 21, 1998], whichever is later.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–615 effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98–615, set out as a note under section 3393 of this title.

LIMITATION ON NUMBER OF PERFORMANCE AWARDS FOR CAREER APPOINTEES

Section 306(c) of S. 2939, Ninety-seventh Congress, 2nd Session, as reported Sept. 22, 1982, and incorporated by reference in Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189, to be effective as if enacted into law, provided that: ''None of the funds appropriated by this Act or any other Act shall be used by any agency to pay performance awards in fiscal year 1983 under section 5384 of title 5, United States Code, or any comparable personnel system established on or after October 13, 1978, to more than 20 per centum of the number of Senior Executive Service or comparable personnel system positions in such agency: *Provided*, That an agency with less than five Senior Executive Service employees or equivalent positions may grant one such performance award.''

Similar provisions were contained in the following acts:

Pub. L. 97–51, §§ 101(c), 124, Oct. 1, 1981, 95 Stat. 959, 965.

Pub. L. 96–536, § 101(c), Dec. 16, 1980, 94 Stat. 3167.

Pub. L. 96–369, § 101(c), Oct. 1, 1980, 94 Stat. 1352.

Pub. L. 96–304, title III, § 303, July 8, 1980, 94 Stat. 927.

§ 5385. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

(Added Pub. L. 95–454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1172.)

SUBCHAPTER IX—SPECIAL OCCUPATIONAL PAY SYSTEMS

AMENDMENTS

1992—Pub. L. 102–378, § 2(36), Oct. 2, 1992, 106 Stat. 1351, struck out subchapter analysis, consisting of item 5391 ''Definitions'' and item 5392 ''Establishment of special occupational pay systems''.

§ 5391. Definitions

For the purposes of this subchapter, ''agency'', ''employee'', and ''position'' have the meanings given them by section 5102.

(Added Pub. L. 101–509, title V, § 529 [title I, § 105(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1447.)

EFFECTIVE DATE

Subchapter effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5392. Establishment of special occupational pay systems

(a) Authority under this section may be exercised with respect to any occupation or group of occupations to which subchapter III applies (or would apply but for this section).

(b) Subject to subsection (a), the President's pay agent (as referred to in section 5304(d)) may establish one or more special occupational pay systems for any positions within occupations or groups of occupations that the pay agent determines, for reasons of good administration, should not be classified under chapter 51 or subject to subchapter III.

(c) In establishing special occupational pay systems, the pay agent shall—

(1) identify occupations or groups of occupations for which chapter 51 and subchapter III do not function adequately;

(2) consider alternative approaches for determining the pay for employees in positions in such occupations or groups of occupations;

(3) give thorough consideration to the views of agencies employing such employees and labor organizations representing such employees, as well as other interested parties;

(4) publish a proposed plan for determining the pay of such employees in the Federal Register;

(5) conduct one or more public hearings;

(6) provide each House of Congress with a report at least 90 days in advance of the date the system is to take effect setting forth the details of the proposed plan; and

(7) not later than 30 days before the date the system is to take effect, publish in the Federal Register the details of the final plan for the special occupational pay system.

(d) A special occupational pay system may not—

(1) provide for a waiver of any law, rule, or regulation that could not be waived under section 4703(c); or

(2) provide a rate of basic pay for any employee in excess of the rate payable for level V of the Executive Schedule.

(e) Subject to subsection (d)(2), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section shall be adjusted by such amount as the Office considers appropriate.

(Added Pub. L. 101–509, title V, § 529 [title I, § 105(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1448.)

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (d)(2), is set out in section 5316 of this title.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of this title.

CHAPTER 54—HUMAN CAPITAL PERFORMANCE FUND

Sec.
5401. Purpose.
5402. Definitions.
5403. Human Capital Performance Fund.
5404. Human capital performance payments.

Sec.
5405. Regulations.
5406. Agency plan.
5407. Nature of payment.
5408. Appropriations.

PRIOR PROVISIONS

A prior chapter 54, consisting of sections 5401 to 5410, related to performance management and recognition system, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

TREATMENT OF EMPLOYEES COVERED BY PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM AS OF TERMINATION DATE

Pub. L. 103–89, § 4, Sept. 30, 1993, 107 Stat. 983, provided that:

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'employee' means an individual employed by an agency (within the meaning of section 7103(a)(3) of title 5, United States Code);

''(2) the term 'performance management and recognition system' means the performance management and recognition system under [former] chapter 54 of title 5, United States Code;

''(3) the term 'basic pay' does not include any amount payable under section 302 [set out as a note under section 5304 of this title] or title IV [see Short Title set out in a note under section 5305 of this title] of FEPCA or section 5304 or 5304a of title 5, United States Code;

''(4) the term 'pay rate', as used in clauses (iii) through (v) of subsection (c)(2)(B), is used in the same way as such term is used under section 5335(a) of title 5, United States Code; and

''(5) the term 'FEPCA' means the Federal Employees Pay Comparability Act of 1990 [section 529 [§§ 1–412] of Pub. L. 101–509, see Short Title of 1990 Amendment; Rules of Construction note set out under section 5301 of this title] (contained in the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101–509; 104 Stat. 1427)).

''(b) APPLICABILITY.—Notwithstanding section 5332(a)(1) of title 5, United States Code (as amended by section 3(b)(1)(F)), or any other provision of law, the rate of basic pay for an employee covered by the performance management and recognition system on October 31, 1993, shall be determined in accordance with this section so long as such employee continues, without a break in service of more than 3 days, to occupy any position—

''(1) which is in the same grade of the General Schedule, and the same agency, as the position which such employee occupied on October 31, 1993; and

''(2) to which the provisions of [former] chapter 54 of title 5, United States Code (as in effect on October 31, 1993) would apply if such provisions had remained in effect.

''(c) SPECIAL RULES.—

''(1) IN GENERAL.—The rate of basic pay for an employee who is subject to this section shall be the rate payable to such employee on October 31, 1993, subject to paragraph (2).

''(2) ADJUSTMENTS.—Adjustments in the rate of basic pay for an employee who is subject to this section shall be made in accordance with the relevant provisions of title 5, United States Code, or otherwise applicable provisions of law, subject to the following:

''(A) DEEM RATES AND POSITIONS TO BE UNDER THE GENERAL SCHEDULE.—For purposes of applying subchapters I and III of chapter 53 of such title (and the provisions of section 302 [set out as a note under section 5304 of this title] and title IV [see Short Title set out in a note under section 5305 of this title] of FEPCA with respect to any payment under any of those provisions)—

''(i) the rate of basic pay determined under this section for an employee shall be treated as a rate of basic pay described in section 5302(8) of such title;

''(ii) the position then currently occupied by an employee who is subject to this section shall be deemed to be a 'General Schedule position' within the meaning of section 5302(9) of such title; and

''(iii) any employee who is subject to this section shall be considered to be a 'General Schedule employee' (as referred to in section 302(b) of FEPCA).

''(B) SPECIAL RULES RELATING TO PROVISIONS GOVERNING STEP-INCREASES.—For purposes of applying the provisions of sections 5335 and 5336 of title 5, United States Code, with respect to any employee who is subject to this section—

''(i) any reference in such provisions to a 'step-increase' shall be considered to mean an increase equal to one-ninth of the difference between the minimum and maximum rates of pay for the applicable grade of the General Schedule;

''(ii) any reference in such provisions to the 'next higher rate within the grade' shall be considered to mean the rate of basic pay which exceeds such employee's then current rate of basic pay by the amount of a step-increase;

''(iii) if the employee's rate of basic pay is less than the rate for pay rate 4 of the applicable grade, such employee's rate of basic pay shall be governed by paragraph (1) of section 5335(a) of such title;

''(iv) if the employee's rate of basic pay is equal to or greater than the rate for pay rate 4 but less than the rate for pay rate 7 of the applicable grade, such employee's rate of basic pay shall be governed by paragraph (2) of section 5335(a) of such title; and

''(v) if the employee's rate of basic pay is equal to or greater than the rate for pay rate 7 but less than the maximum rate of the applicable grade, such employee's rate of basic pay shall be governed by paragraph (3) of section 5335(a) of such title.

No rate of basic pay for an employee may be increased, as a result of this subparagraph (or any provision of law to which any clause of this subparagraph relates), if or to the extent that the resulting rate would exceed the maximum rate for the grade of the position occupied by such employee.

''(d) REGULATIONS.—The Office of Personnel Management shall prescribe any regulations which may be necessary for the administration of this section.''

§ 5401. Purpose

The purpose of this chapter is to promote, through the creation of a Human Capital Performance Fund, greater performance in the Federal Government. Monies from the Fund will be used to reward agencies' highest performing and most valuable employees. This Fund will offer Federal managers a new tool to recognize employee performance that is critical to the achievement of agency missions.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1642.)

PRIOR PROVISIONS

A prior section 5401, added Pub. L. 95–454, title V, § 501, Oct. 13, 1978, 92 Stat. 1180; amended Pub. L. 97–346, § 2, Oct. 15, 1982, 96 Stat. 1647; Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3208; Pub. L. 102–378, § 2(37), Oct. 2, 1992, 106 Stat. 1351, stated purpose of chapter to provide a performance management and recognition system, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5402. Definitions

For the purpose of this chapter—

(1) ''agency'' means an Executive agency under section 105, but does not include the Government Accountability Office;

(2) ''employee'' includes—

(A) an individual paid under a statutory pay system defined in section 5302(1);

(B) a prevailing rate employee, as defined in section 5342(a)(2); and

(C) a category of employees included by the Office of Personnel Management following the review of an agency plan under section 5403(b)(1);

but does not include—

(i) an individual paid at an annual rate of basic pay for a level of the Executive Schedule, under subchapter II of chapter 53, or at a rate provided for one of those levels under another provision of law;

(ii) a member of the Senior Executive Service paid under subchapter VIII of chapter 53, or an equivalent system;

(iii) an administrative law judge paid under section 5372;

(iv) a contract appeals board member paid under section 5372a;

(v) an administrative appeals judge paid under section 5372b; and

(vi) an individual in a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; and

(3) ''Office'' means the Office of Personnel Management.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1642; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 5402, added Pub. L. 95–454, title V, § 501, Oct. 13, 1978, 92 Stat. 1181; amended Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3208, related to applicability of chapter, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

AMENDMENTS

2004—Par. (1). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

§ 5403. Human Capital Performance Fund

(a) There is hereby established the Human Capital Performance Fund, to be administered by the Office for the purpose of this chapter.

(b)(1)(A) An agency shall submit a plan as described in section 5406 to be eligible for consideration by the Office for an allocation under this section. An allocation shall be made only upon approval by the Office of an agency's plan.

(B)(i) After the reduction for training required under section 5408, ninety percent of the remaining amount appropriated to the Fund may be allocated by the Office to the agencies. Of the amount to be allocated, an agency's pro rata distribution may not exceed its pro rata share of Executive branch payroll.

(ii) If the Office does not allocate an agency's full pro rata share, the undistributed amount remaining from that share will become available for distribution to other agencies, as provided in subparagraph (C).

(C)(i) After the reduction for training under section 5408, ten percent of the remaining amount appropriated to the Fund, as well as the amount of the pro rata share not distributed because of an agency's failure to submit a satisfactory plan, shall be allocated among agencies with exceptionally high-quality plans.

(ii) An agency with an exceptionally high-quality plan is eligible to receive an additional distribution in addition to its full pro rata distribution.

(2) Each agency is required to provide to the Office such payroll information as the Office specifies necessary to determine the Executive branch payroll.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1642.)

PRIOR PROVISIONS

A prior section 5403, added Pub. L. 95–454, title V, § 501, Oct. 13, 1978, 92 Stat. 1182; amended Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3209; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(4)(C)], Nov. 5, 1990, 104 Stat. 1427, 1439; Pub. L. 102–378, § 2(38), Oct. 2, 1992, 106 Stat. 1351, related to general pay increases, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5404. Human capital performance payments

(a)(1) Notwithstanding any other provision of law, the Office may authorize an agency to provide human capital performance payments to individual employees based on exceptional performance contributing to the achievement of the agency mission.

(2) The number of employees in an agency receiving payments from the Fund, in any year, shall not be more than the number equal to 15 percent of the agency's average total civilian full- and part-time permanent employment for the previous fiscal year.

(b)(1) A human capital performance payment provided to an individual employee from the Fund, in any year, shall not exceed 10 percent of the employee's rate of basic pay.

(2) The aggregate of an employee's rate of basic pay, adjusted by any locality-based comparability payments, and human capital performance pay, as defined by regulation, may not exceed the rate of basic pay for Executive Level IV in any year.

(3) Any human capital performance payment provided to an employee from the Fund is in addition to any annual pay adjustment (under section 5303 or any similar provision of law) and any locality-based comparability payment that may apply.

(c) No monies from the Human Capital Performance Fund may be used to pay for a new position, for other performance-related payments, or for recruitment or retention incentives paid under sections 5753 and 5754.

(d)(1) An agency may finance initial human capital performance payments using monies from the Human Capital Performance Fund, as available.

(2) In subsequent years, continuation of previously awarded human capital performance payments shall be financed from other agency funds available for salaries and expenses.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1643.)

REFERENCES IN TEXT

Executive Level IV, referred to in subsec. (b)(2), is set out in section 5315 of this title.

PRIOR PROVISIONS

A prior section 5404, added Pub. L. 95–454, title V, § 501, Oct. 13, 1978, 92 Stat. 1183; amended Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3210; Pub. L. 101–103, § 3(a), Sept. 30, 1989, 103 Stat. 670, related to merit increases, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5405. Regulations

The Office shall issue such regulations as it determines to be necessary for the administration of this chapter, including the administration of the Fund. The Office's regulations shall include criteria governing—

(1) an agency plan under section 5406;

(2) the allocation of monies from the Fund to agencies;

(3) the nature, extent, duration, and adjustment of, and approval processes for, payments to individual employees under this chapter;

(4) the relationship to this chapter of agency performance management systems;

(5) training of supervisors, managers, and other individuals involved in the process of making performance distinctions; and

(6) the circumstances under which funds may be allocated by the Office to an agency in amounts below or in excess of the agency's pro rata share.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1643.)

PRIOR PROVISIONS

A prior section 5405, added Pub. L. 95–454, title V, § 501, Oct. 13, 1978, 92 Stat. 1183; amended Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3211; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(C)], Nov. 5, 1990, 104 Stat. 1427, 1439, related to pay administration, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5406. Agency plan

(a) To be eligible for consideration by the Office for an allocation under this section, an agency shall—

(1) develop a plan that incorporates the following elements:

(A) adherence to merit principles set forth in section 2301;

(B) a fair, credible, and transparent employee performance appraisal system;

(C) a link between the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan;

(D) a means for ensuring employee involvement in the design and implementation of the system;

(E) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system;

(F) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

(G) effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance; and

(H) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system;

(2) upon approval, receive an allocation of funding from the Office;

(3) make payments to individual employees in accordance with the agency's approved plan; and

(4) provide such information to the Office regarding payments made and use of funds received under this section as the Office may specify.

(b) The Office, in consultation with the Chief Human Capital Officers Council, shall review and approve an agency's plan before the agency is eligible to receive an allocation of funding from the Office.

(c) The Chief Human Capital Officers Council shall include in its annual report to Congress under section 1303(d) of the Homeland Security Act of 2002 an evaluation of the formulation and implementation of agency performance management systems.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1644.)

REFERENCES IN TEXT

Section 1303(d) of the Homeland Security Act of 2002, referred to in subsec. (c), is section 1303(d) of Pub. L. 107–296, which is set out as a note under section 1401 of this title.

PRIOR PROVISIONS

A prior section 5406, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3211; amended Pub. L. 101–103, § 4, Sept. 30, 1989, 103 Stat. 671; Pub. L. 102–22, § 2(b), Mar. 28, 1991, 105 Stat. 71, related to performance awards, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5407. Nature of payment

Any payment to an employee under this section shall be part of the employee's basic pay for the purposes of subchapter III of chapter 83, and chapters 84 and 87, and for such other purposes (other than chapter 75) as the Office shall determine by regulation.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1645.)

PRIOR PROVISIONS

A prior section 5407, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3213, related to cash award program, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5408. Appropriations

There is authorized to be appropriated $500,000,000 for fiscal year 2004, and, for each subsequent fiscal year, such sums as may be necessary to carry out the provisions of this chapter. In the first year of implementation, up to 10 percent of the amount appropriated to the Fund

shall be available to participating agencies to train supervisors, managers, and other individuals involved in the appraisal process on using performance management systems to make meaningful distinctions in employee performance and on the use of the Fund.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1645.)

PRIOR PROVISIONS

Prior sections 5408 to 5410 were repealed by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, effective Nov. 1, 1993.

Section 5408, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3214, required annual reports by Office of Personnel Management.

Section 5409, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3214, directed Office of Personnel Management to prescribe regulations.

Section 5410, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3214; amended Pub. L. 101–103, § 2, Sept. 30, 1989, 103 Stat. 670; Pub. L. 102–22, § 2(c), Mar. 28, 1991, 105 Stat. 71; Pub. L. 103–89, § 2, Sept. 30, 1993, 107 Stat. 981, related to termination of chapter and accompanying regulations.

CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER IX—SEVERANCE PAY AND BACK PAY

[5591 to 5594. Repealed.]

[1] Section catchline amended by Pub. L. 97–365 without corresponding amendment of chapter analysis.

5595. Severance pay.
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AMENDMENTS

2009—Pub. L. 111–8, div. D, title VII, § 751(b), Mar. 11, 2009, 123 Stat. 695, added item 5538.

2004—Pub. L. 108–411, title II, § 203(b), Oct. 30, 2004, 118 Stat. 2313, added item 5550b.

1999—Pub. L. 106–65, div. A, title VI, § 651(a)(2), Oct. 5, 1999, 113 Stat. 664, struck out item 5532 ''Employment of retired members of the uniformed services; reduction in retired or retainer pay.''

1998—Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(b)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–521, added item 5545b.

1994—Pub. L. 103–329, title VI, § 633(b)(3), Sept. 30, 1994, 108 Stat. 2427, added item 5545a.

1993—Pub. L. 103–94, § 9(b)(1), Oct. 6, 1993, 107 Stat. 1010, which directed amendment of table of chapters for chapter 55 of this title by adding item 5520a, was executed by adding item 5520a to table of sections for this chapter to reflect the probable intent of Congress.

1992—Pub. L. 102–484, div. D, title XLIV, § 4436(a)(2), Oct. 23, 1992, 106 Stat. 2724, added item 5597.

Pub. L. 102–378, § 2(44)(B), (45)(B), Oct. 2, 1992, 106 Stat. 1352, 1353, struck out item 5550 ''Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities'' and added item 5553.

1990—Pub. L. 101–509, title V, § 529 [title I, § 107(b)], Nov. 5, 1990, 104 Stat. 1427, 1449, added item 5524a.

1986—Pub. L. 99–399, title VIII, § 803(b), Aug. 27, 1986, 100 Stat. 883, added items 5569 and 5570.

1985—Pub. L. 99–224, § 1(b), Dec. 28, 1985, 99 Stat. 1741, substituted ''and of travel, transportation and relocation expenses and allowances'' for ''other than travel and transportation expenses and allowances and relocation expenses'' in item 5584.

1984—Pub. L. 98–525, title XV, § 1537(c)(6)(B), Oct. 19, 1984, 98 Stat. 2636, inserted ''and the Department of Defense'' in item 5546a.

1982—Pub. L. 97–276, § 151(c)(2), Oct. 2, 1982, 96 Stat. 1201, added item 5546a.

1978—Pub. L. 95–454, title III, § 308(f)(2), Oct. 13, 1978, 92 Stat. 1151, substituted ''members of the uniformed services; reduction in retired or retainer pay'' for ''officers of the uniformed services; reduction in retired or retirement pay; exceptions'' in item 5532.

Pub. L. 95–390, title IV, § 401(b), Sept. 29, 1978, 92 Stat. 762, added item 5550a.

1977—Pub. L. 95–30, title IV, § 408(b), May 23, 1977, 91 Stat. 157, substituted ''city or county'' for ''city'' in item 5520.

1975—Pub. L. 94–183, § 2(24), Dec. 31, 1975, 89 Stat. 1058, struck out ''Sunday,'' after ''Night,'' in item 5545.

1974—Pub. L. 93–340, § 1(b), July 10, 1974, 88 Stat. 294, added item 5520.

1972—Pub. L. 92–453, § 3(2), Oct. 2, 1972, 86 Stat. 760, substituted ''overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses'' for ''overpayment of pay'' in item 5584.

Pub. L. 92–392, § 10(b), Aug. 19, 1972, 86 Stat. 574, added item 5550.

1970—Pub. L. 91–563, §§ 2(b), 3(b), Dec. 19, 1970, 84 Stat. 1477, substituted ''jury or witness service'' for ''jury service in State courts'' in item 5515, and ''jury and witness service'' for ''jury service in courts of the United States'' in item 5537.

1968—Pub. L. 90–616, § 1(b), Oct. 21, 1968, 82 Stat. 1212, added item 5584.

Pub. L. 90–588, § 2(c), Oct. 17, 1968, 82 Stat. 1152, added item 5519.

1967—Pub. L. 90–83, § 1(23), (26)(B), (28), (30), (35), Sept. 11, 1967, 81 Stat. 200, 201, 203, inserted items 5534a, 5595 and 5596, included Sunday rates in item 5544, Sunday and hazardous duty differential in item 5545 and Sundays in item 5546, substituted ''Severance Pay and Back Pay'' for ''Back Pay'' in heading of subchapter IX, and struck out items 5591 to 5594.

NO PAYMENT OF SERVICES TO INDIVIDUAL IN ACTING OR TEMPORARY CAPACITY AFTER SECOND NOMINATION FOR THAT INDIVIDUAL IS WITHDRAWN OR RETURNED TO PRESIDENT

Pub. L. 111–8, div. D, title VII, § 749, Mar. 11, 2009, 123 Stat. 693, provided that: ''Effective January 20, 2009, and for each fiscal year thereafter, no part of any appropriation contained in this or any other Act may be used for the payment of services to any individual carrying out the responsibilities of any position requiring Senate advice and consent in an acting or temporary capacity after the second submission of a nomination for that individual to that position has been withdrawn or returned to the President.''

NO PAYMENT TO PERSON FILLING POSITION AFTER VOTE BY SENATE NOT TO APPROVE PERSON'S NOMINATION

Pub. L. 110–161, div. D, title VII, § 709, Dec. 26, 2007, 121 Stat. 2021, provided that: ''Hereafter, no part of any appropriation contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.''

SUBCHAPTER I—GENERAL PROVISIONS

§ 5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries

Money accruing from lapsed salaries or from unused appropriations for salaries shall be covered into the Treasury of the United States. An individual who violates this section shall be removed from the service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 50 (1st sentence; and 2d sentence, so much as relates to removal).	Aug. 5, 1882, ch. 389, § 4 (297th through 316th words), 22 Stat. 255. Aug. 23, 1912, ch. 350, § 5 (so much as relates to removal), 37 Stat. 414.

In the last sentence, the word ''removed'' is substituted for ''summarily removed'' because of the provisions of the Lloyd-LaFollette Act 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5502. Unauthorized office; prohibition on use of funds

(a) Payment for services may not be made from the Treasury of the United States to an individual acting or assuming to act as an officer in the civil service or uniformed services in an office which is not authorized by existing law, unless the office is later sanctioned by law.

(b) Except as otherwise provided by statute, public money and appropriations may not be used for pay or allowance for an individual employed by an official of the United States retired from active service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 52.	R.S. § 1760.
(b)	5 U.S.C. 85.	July 1, 1898, ch. 546, § 1 (3d proviso on p. 644), 30 Stat. 644.

In subsection (a), the words ''in the civil service or uniformed services'' are substituted for ''civil, military, or naval''.

In subsection (b), the words ''Except as otherwise provided by statute'' are added in recognition of the Act of Aug. 25, 1958, Pub. L. 85–745, 72 Stat. 838, which authorizes an office staff for former Presidents. The reference to ''public money and appropriations'' is added for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5503. Recess appointments

(a) Payment for services may not be made from the Treasury of the United States to an individual appointed during a recess of the Senate to fill a vacancy in an existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until the appointee has been confirmed by the Senate. This subsection does not apply—

(1) if the vacancy arose within 30 days before the end of the session of the Senate;

(2) if, at the end of the session, a nomination for the office, other than the nomination of an individual appointed during the preceding recess of the Senate, was pending before the Senate for its advice and consent; or

(3) if a nomination for the office was rejected by the Senate within 30 days before the end of the session and an individual other than the one whose nomination was rejected thereafter receives a recess appointment.

(b) A nomination to fill a vacancy referred to by paragraph (1), (2), or (3) of subsection (a) of this section shall be submitted to the Senate not later than 40 days after the beginning of the next session of the Senate.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 56.	R.S. § 1761. July 11, 1940, ch. 580, 54 Stat. 751.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5504. Biweekly pay periods; computation of pay

(a) The pay period for an employee covers two administrative workweeks.

(b) When, in the case of an employee, it is necessary for computation of pay under this subsection to convert an annual rate of basic pay to a basic hourly, daily, weekly, or biweekly rate, the following rules govern:

(1) To derive an hourly rate, divide the annual rate by 2,087.

(2) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required.

(3) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

Rates are computed to the nearest cent, counting one-half and over as a whole cent.

(c) For the purposes of this section:

(1) The term ''employee'' means—

(A) an employee in or under an Executive agency;

(B) an employee in or under the Office of the Architect of the Capitol, the Botanic Garden, and the Library of Congress, for whom a basic administrative workweek is established under section 6101(a)(5) of this title; and

(C) an individual employed by the government of the District of Columbia.

(2) The term ''employee'' does not include—

(A) an employee on the Isthmus of Panama in the service of the Panama Canal Commission; or

(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title other than an employee or individual excluded by clauses (ii), (iii), and (xiv) through (xvii) of such section.

(3) Notwithstanding paragraph (2), an individual who otherwise would be excluded from the definition of employee shall be deemed to be an employee for purposes of this section if the individual's employing agency so elects, under guidelines in regulations promulgated by the Office of Personnel Management under subsection (d)(2).

(d)(1) The Office of Personnel Management may prescribe regulations, subject to the approval of the President, necessary for the administration of this section insofar as this section affects employees in or under an Executive agency.

(2) The Office of Personnel Management shall provide guidelines by regulation for exemptions to be made by the heads of agencies under subsection (c)(3). Such guidelines shall provide for such exemptions only under exceptional circumstances.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475; Pub. L. 90–83, § 1(21), Sept. 11, 1967, 81 Stat. 199; Pub. L. 95–454, title IV, § 408(a)(1), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1173, 1224; Pub. L. 96–54, § 2(a)(29), Aug. 14, 1979, 93 Stat. 383; Pub. L. 96–70, title III, § 3302(e)(2), Sept. 27, 1979, 93 Stat. 498; Pub. L. 99–272, title XV, § 15203(a), Apr. 7, 1986, 100 Stat. 334; Pub. L. 108–136, div. A, title XI, § 1124, Nov. 24, 2003, 117 Stat. 1637.)

HISTORICAL AND REVISION NOTES
1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 944(b), (d) (last 27 words, as applicable to subsection (b)).	June 30, 1945, ch. 212, § 604(b), (e) (last 27 words, as applicable to subsection (b)), 59 Stat. 303, 304. July 31, 1959, Pub. L. 86–122, § 1, 73 Stat. 268.

HISTORICAL AND REVISION NOTES—CONTINUED

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(b)	5 U.S.C. 944(c), (d) (last 27 words, less applicability to subsection (b)).	June 30, 1945, ch. 212, § 604(d), (e) (last 27 words, less applicability to subsection (b)), 59 Stat. 303, 304. Oct. 28, 1949, ch. 782, § 1203, 63 Stat. 973. June 20, 1958, Pub. L. 85–462, § 15, 72 Stat. 214. Aug. 14, 1964, Pub. L. 88–426, § 103(c), 78 Stat. 402.

In subsection (a), the words ''Beginning not later than October 1, 1945'' are omitted as executed. Paragraphs (1) and (3) are substituted for the words ''all officers and employees of the organizations referred to in subsection (a) of this section''. In paragraph (A), the words ''Canal Zone Government'' and ''Panama Canal Company'' are substituted for ''The Panama Canal'' and ''Panama Railroad Company'' on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038. Paragraph (B) is added on authority of former section 902, which is carried into section 5541.

In subsection (b), the exception in the last sentence is added on authority of former section 902, which is carried into section 5541.

Subsection (c) is added on authority of former section 945, which is carried into section 5548. The words ''an Executive agency'' are substituted for ''the executive branch of the Government'' to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 5504 to reflect the amendment to 5 U.S.C. 6101 by section 1(43) of this bill.

AMENDMENTS

2003—Subsecs. (a), (b). Pub. L. 108–136, § 1124(a)(2), struck out last sentence which defined ''employee''.

Subsec. (c). Pub. L. 108–136, § 1124(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108–136, § 1124(a)(1), (b), redesignated subsec. (c) as (d), inserted ''(1)'' after ''(d)'', and added par. (2).

1986—Subsec. (b). Pub. L. 99–272 struck out first sentence which provided that for pay computation purposes affecting an employee, the annual rate of basic pay established by or under statute is deemed payment for employment during 52 basic administrative workweeks of 40 hours, inserted '', in the case of an employee,'' after ''When'' in second sentence, substituted ''2,087'' for ''2,080'' in par. (1), and inserted ''other than an employee or individual excluded by section 5541(2)(xvi) of this title'' at end of last sentence.

1979—Subsec. (a)(A). Pub. L. 96–70 substituted ''Panama Canal Commission'' for ''Canal Zone Government or the Panama Canal Company''.

Subsec. (a)(B). Pub. L. 96–54 substituted ''(xvi) of this title'' for ''(xvi) of this section''.

1978—Subsec. (a). Pub. L. 95–454, § 408(a)(1), in par. (B) inserted reference to an employee or individual excluded by section 5541(2)(xvi).

Subsec. (c). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 15203(b) of Pub. L. 99–272 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective with respect to pay periods commencing on or after March 1, 1986.''

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 408(a)(1) of Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 415 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

Amendment by section 906(a)(2) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

DELEGATION OF FUNCTIONS

Functions vested in Office of Personnel Management under this section insofar as it affects officers and employees in or under executive branch of government to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

DETERMINATION OF HOURLY RATE

Pub. L. 97–253, title III, § 310(b), Sept. 8, 1982, 96 Stat. 799, as amended by Pub. L. 97–346, § 3(*l*), Oct. 15, 1982, 96 Stat. 1649; Pub. L. 98–117, § 1, Oct. 11, 1983, 97 Stat. 802, provided that:

''(1) Notwithstanding any other provision of law, effective with respect to pay periods beginning in fiscal years 1984 and 1985, and applicable in the case of an employee as defined in section 5504(b) of title 5, United States Code [subsection (b) of this section], any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

''(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

''(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

''(4) Notwithstanding any other provision of this subsection, paragraph (1) shall not be effective with respect to pay periods beginning before the effective date of any increase under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems for fiscal year 1984.''

[Section 2 of Pub. L. 98–117 provided that: ''The amendment made by this Act [enacting par. (4) of this note] shall be effective as of October 1, 1983.'']

§ 5505. Monthly pay periods; computation of pay

The pay period for an individual in the service of the United States whose pay is monthly or annual covers one calendar month, and the following rules for division of time and computation of pay for services performed govern:

(1) A month's pay is one-twelfth of a year's pay.

(2) A day's pay is one-thirtieth of a month's pay.

(3) The 31st day of a calendar month is ignored in computing pay, except that one day's pay is forfeited for one day's unauthorized absence on the 31st day of a calendar month.

(4) For each day of the month elapsing before entering the service, one day's pay is de-

ducted from the first month's pay of the individual.

This section does not apply to an employee whose pay is computed under section 5504(b) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 84.	June 30, 1906, ch. 3914, § 6, 34 Stat. 763. June 30, 1945, ch. 212, § 604(c) (2d sentence), 59 Stat. 303.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5506. Computation of extra pay based on standard or daylight saving time

When an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is entitled to extra pay for services performed between or after certain named hours of the day or night, the extra pay is computed on the basis of either standard or daylight saving time, depending on the time observed by law, custom, or practice where the services are performed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 914.	Sept. 7, 1949, ch. 538, § 2, 63 Stat. 690.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5507. Officer affidavit; condition to pay

An officer required by section 3332 of this title to file an affidavit may not be paid until the affidavit has been filed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 21b.	Dec. 11, 1926, ch. 4, § 2, 44 Stat. 919.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5508. Officer entitled to leave; effect on pay status

An officer in the executive branch and an officer of the government of the District of Columbia to whom subchapter I of chapter 63 of this title applies are not entitled to the pay of their offices solely because of their status as officers.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2061(c)(1) (last sentence).	July 2, 1953, ch. 178, § 1 "(c)(1) (last sentence)", 67 Stat. 136.

The words "including an officer of a corporation wholly owned or controlled by the United States" are omitted as unnecessary in view of the definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5509. Appropriations

There are authorized to be appropriated sums necessary to carry out the provisions of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	[Uncodified].	June 30, 1945, ch. 212, § 609, 59 Stat. 306.
.....	[Uncodified].	Oct. 28, 1949, ch. 782, § 1107, 63 Stat. 972.
.....	[Uncodified].	Sept. 30, 1950, ch. 1123, § 13, 64 Stat. 1100.
.....	42 U.S.C. 1370.	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1510", 68 Stat. 1135.
.....	[Uncodified].	Sept. 6, 1960, Pub. L. 86–707, § 501(a), 74 Stat. 800.

The remainder of the authority for this section is implied from the statutes from which this title is derived.

MERIT SYSTEMS PROTECTION BOARD AND OFFICE OF SPECIAL COUNSEL; AUTHORIZATION OF APPROPRIATIONS; RESTRICTION ON APPROPRIATIONS

Pub. L. 101–12, § 8(a), (b), Apr. 10, 1989, 103 Stat. 34, as amended by Pub. L. 103–424, § 1, Oct. 29, 1994, 108 Stat. 4361; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, §§ 641(a), 642(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–365; Pub. L. 107–304, § 2(a), (b), Nov. 27, 2002, 116 Stat. 2364, provided that:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

"(1) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

"(2) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

"(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 [Pub. L. 95–454] (5 U.S.C. 5509 note)."

[Pub. L. 107–304, § 2(c), Nov. 27, 2002, 116 Stat. 2364, provided that: This section [amending section 8(a) of Pub. L. 101–12, set out above] shall be effective as of October 1, 2002."]

[Pub. L. 104–208, div. A, title I, § 101(f) [title VI, §§ 641(b), 642(b)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–365, provided that the amendments made by section 101(f) [title VI, §§ 641(a), 642(a)] of Pub. L. 104–208 [amending section 8(a) of Pub. L. 101–12, set out above] were to be effective on Oct. 1, 1998.]

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95–454, title IX, § 903, Oct. 13, 1978, 92 Stat. 1224, provided that: "There are authorized to be appro-

priated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act [For classification of Pub. L. 95–454, see Tables].''

SUBCHAPTER II—WITHHOLDING PAY

§ 5511. Withholding pay; employees removed for cause

(a) Except as provided by subsection (b) of this section, the earned pay of an employee removed for cause may not be withheld or confiscated.

(b) If an employee indebted to the United States is removed for cause, the pay accruing to the employee shall be applied in whole or in part to the satisfaction of any claim or indebtedness due the United States.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 46a.	Feb. 24, 1931, ch. 287, 46 Stat. 1415.

In subsection (a), the words ''From and after February 24, 1931'' are omitted as executed. The word ''employee'' is coextensive with and substituted for ''civil employee of the United States'' in view of the definition of ''employee'' in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5512. Withholding pay; individuals in arrears

(a) The pay of an individual in arrears to the United States shall be withheld until he has accounted for and paid into the Treasury of the United States all sums for which he is liable.

(b) When pay is withheld under subsection (a) of this section, the employing agency, on request of the individual, his agent, or his attorney, shall report immediately to the Attorney General the balance due; and the Attorney General, within 60 days, shall order suit to be commenced against the individual.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 92–310, title II, § 202, June 6, 1972, 86 Stat. 202; Pub. L. 104–316, title I, § 103(b), Oct. 19, 1996, 110 Stat. 3828.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 82.	R.S. § 1766.

In subsection (b), reference to the ''General Accounting Office'' is substituted for ''accounting officers of the Treasury'' on authority of the Act of June 10, 1921, ch. 18, title III, 42 Stat. 23. The words ''on request of'' are substituted for ''if required to do so by'' as more accurately reflecting the intent. Reference to the ''Attorney General'' is substituted for ''Solicitor of the Treasury'' and ''Solicitor'' on authority of section 16 of the Act of March 3, 1933, ch. 212, 47 Stat. 1517; section 5 of E.O. 6166, June 10, 1933; and section 1 of 1950 Reorg. Plan No. 2, 64 Stat. 1261.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–316 substituted ''employing agency'' for ''General Accounting Office''.

1972—Subsec. (b). Pub. L. 92–310 struck out ''and his sureties'' after ''against the individual''.

§ 5513. Withholding pay; credit disallowed or charge raised for payment

When the Government Accountability Office, on a statement of the account of a disbursing or certifying official of the United States, disallows credit or raises a charge for a payment to an individual in or under an Executive agency otherwise entitled to pay, the pay of the payee shall be withheld in whole or in part until full reimbursement is made under regulations prescribed by the head of the Executive agency from which the payee is entitled to receive pay. This section does not repeal or modify existing statutes relating to the collection of the indebtedness of an accountable, certifying, or disbursing official.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 46b.	May 26, 1936, ch. 452, 49 Stat. 1374. Aug. 3, 1950, ch. 515, 64 Stat. 393.

The words ''On and after May 26, 1936'' are omitted as executed. The word ''official'' is substituted for ''officer'' and ''officers'' as the definition of ''officer'' in section 2104 excludes a member of a uniformed service. The words ''from the United States or from an agency or instrumentality thereof'' are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

§ 5514. Installment deduction for indebtedness to the United States

(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the

agency concerned. All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.

(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

(A) a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

(B) an opportunity to inspect and copy Government records relating to the debt;

(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than sixty days after the filing of the petition requesting the hearing.

(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(4) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to sections 3711 and 3716–3718 of title 31 or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

(5) For purposes of this subsection—

(A) ''disposable pay'' means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

(B) ''agency'' includes executive departments and agencies, the United States Postal Service, the Postal Regulatory Commission, any nonappropriated fund instrumentality described in section 2105(c) of this title, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.

(b)(1) The head of each agency shall prescribe regulations, subject to the approval of the President, to carry out this section and section 3530(d) of title 31. Regulations prescribed by the Secretaries of the military departments shall be uniform for the military services insofar as practicable.

(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section shall be considered to be a Government-wide rule or regulation.

(c) Subsection (a) of this section does not modify existing statutes which provide for forfeiture of pay or allowances. This section and section 3530(d) of title 31 do not repeal, modify, or amend section 4837(d) or 9837(d) of title 10 or section 1007(b), (c) of title 37.

(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over other deductions under this section.

(e) An employee of a nonappropriated fund instrumentality described in section 2105(c) of this title is deemed an employee covered by this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 96–54, § 2(a)(2), Aug. 14, 1979, 93 Stat. 381; Pub. L. 97–258, § 3(a)(12), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 97–365, § 5, Oct. 25, 1982, 96 Stat. 1751; Pub. L. 97–452, § 2(a)(2), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98–216, § 3(a)(4), Feb. 14, 1984, 98 Stat. 6; Pub. L. 104–134, title III, § 31001(h), Apr. 26, 1996, 110 Stat. 1321–363; Pub. L. 109–435, title VI, § 604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 110–181, div. A, title VI, § 652, Jan. 28, 2008, 122 Stat. 162.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 46d.	July 15, 1954, ch. 509, §§1, 2, 4, 68 Stat. 482, 483.

HISTORICAL AND REVISION NOTES—CONTINUED

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 46e.	

In subsection (a), the words ''head of the agency concerned'' are substituted for ''Secretary of the department concerned or the head of the agency or independent establishment concerned, or one of their designees''. The words ''an employee, a member of the armed forces, or a Reserve of the armed forces'' are coextensive with and substituted for ''an employee of the United States or any member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, or a reserve component thereof'' in view of the definitions in sections 2101 and 2105. The words ''basic compensation'' are omitted as included in ''basic pay''.

In subsection (b), the words ''head of each agency'' are substituted for ''Each Secretary of a department, or head of an agency or independent establishment, as appropriate''. The words ''Secretaries of the military departments'' are substituted for ''Secretaries of the Army, Navy, and Air Force'' to conform to the definition of ''military department'' in section 102.

In subsection (c), the words ''section 4837(d) or 9837(d) of title 10 or section 1007(b), (c) of title 37'' are substituted for ''the provisions of the Act of May 22, 1928 (ch. 676, 45 Stat. 698)'' in section 4 of the Act of July 15, 1954, on authority of the Acts of Aug. 10, 1956, ch. 1041, § 49(b), 70A Stat. 640, and Sept. 7, 1962, Pub. L. 87–649, § 12(b), 76 Stat. 497.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(1) and (d), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2008—Subsec. (a)(5)(B). Pub. L. 110–181, § 652(1), inserted ''any nonappropriated fund instrumentality described in section 2105(c) of this title,'' after ''Commission,''.

Subsec. (e). Pub. L. 110–181, § 652(2), added subsec. (e).

2006—Subsec. (a)(5)(B). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission''.

1996—Subsec. (a)(1). Pub. L. 104–134, § 31001(h)(A)(i), inserted at end ''All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.''

Subsec. (a)(3), (4). Pub. L. 104–134, § 31001(h)(A)(ii), (iii), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (a)(5). Pub. L. 104–134, § 31001(h)((A)(ii), redesignated par. (4) as (5).

Subsec. (a)(5)(B). Pub. L. 104–134, § 31001(h)(A)(iv), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''‘agency’ includes the United States Postal Service and the Postal Rate Commission.''

Subsec. (d). Pub. L. 104–134, § 31001(h)(B), added subsec. (d).

1984—Subsec. (c). Pub. L. 98–216 substituted ''section 3530(d)'' for ''section 581d''.

1983—Subsec. (a)(3). Pub. L. 97–452 substituted ''sections 3711 and 3716–3718 of title 31'' for ''the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)''.

1982—Pub. L. 97–365, § 5(c), substituted ''indebtedness to the United States'' for ''indebtedness because of erroneous payment'' in section catchline.

Subsec. (a). Pub. L. 97–365, § 5(a), designated existing provisions as par. (1), in par. (1) as so designated substituted provisions relating to debts to which the United States is entitled to be repaid for provisions which had related to an indebtedness to the United States because of an erroneous payment made by an agency to or on behalf of an individual, inserted provisions relating to the notification of a debt by the head of another agency or his designee, substituted provisions authorizing the deduction of not to exceed 15 percent of disposable pay for provisions which had authorized the deduction of not to exceed two-thirds of the pay from which the deduction was made, and added pars. (2), (3), and (4).

Subsec. (b). Pub. L. 97–365, § 5(b), designated existing provisions as par. (1) and added par. (2).

Pub. L. 97–258 substituted ''section 3530(d)'' for ''section 581d''.

1979—Subsec. (b). Pub. L. 96–54 substituted ''President'' for ''Director of the Bureau of the Budget''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97–365 provided: ''That this Act [enacting sections 954 and 955 of former Title 31, Money and Finance, amending this section and section 552a of this title, section 1114 of Title 18, Crimes and Criminal Procedure, sections 6103 and 7213 of Title 26, Internal Revenue Code, section 2415 of Title 28, Judiciary and Judicial Procedure, and sections 484, 951, and 952 of former Title 31, and enacting provisions set out as notes under this section and section 6103 of Title 26] may be cited as the ‘Debt Collection Act of 1982’.''

DELEGATION OF FUNCTIONS

Authority of President under subsec. (b) of this section to approve regulations prescribed by head of each agency to carry out this section and section 581d of Title 31, Money and Finance [31 U.S.C. 3530(d)], relating to installment deductions from pay for indebtedness because of erroneous payment, delegated to Office of Personnel Management, see section 8(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

IMPROVEMENTS IN DEBT COLLECTION PROCEDURES UNDER 1982 AMENDMENTS AS CONTAINED IN DEBT COLLECTION ACT OF 1982 INAPPLICABLE TO CLAIMS OR INDEBTEDNESS UNDER INTERNAL REVENUE CODE, SOCIAL SECURITY ACT, OR TARIFF LAWS

Section 8(e) of Pub. L. 97–365, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Except as otherwise provided in section 4 or 7 or the foregoing provisions of this section [amending sections 6103 and 7213 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 6103 of Title 26], nothing in this Act (or in the amendments made by this Act) [see Short Title of 1982 Amendment note above] shall apply to claims or indebtedness arising under, or amounts payable under, the Internal Revenue Code of 1986 [Title 26], the Social Security Act [section 301 et seq. of Title 42, The Public Health and

Welfare], or the tariff laws of the United States [Title 19, Customs Duties].''

COLLECTION OF INDEBTEDNESS OF EMPLOYEES OF FEDERAL GOVERNMENT RESULTING FROM ACTION OR SUIT BROUGHT AGAINST EMPLOYEE BY UNITED STATES

Pub. L. 97–276, § 124, Oct. 2, 1982, 96 Stat. 1195, provided that: ''Notwithstanding any other provision of this joint resolution [Pub. L. 97–276], in the case of any employee of the Federal Government who is indebted to the United States, as determined by a court of the United States in an action or suit brought against such employee by the United States, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of employment. The amount deducted for any period may not exceed one-fourth of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated employment. If the individual retires or resigns, or if his employment otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from later payments of any nature due to the individual from the United States Treasury.''

§ 5515. Crediting amounts received for jury or witness service

An amount received by an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police) or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 91–563, § 2(a), Dec. 19, 1970, 84 Stat. 1476; Pub. L. 104–186, title II, § 215(5), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 111–145, § 7(c)(1), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 30p.	June 29, 1940, ch. 446, § 3, 54 Stat. 689.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2010—Pub. L. 111–145 substituted '', the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police'' for ''or the Chief Administrative Officer of the House of Representatives''.

1996—Pub. L. 104–186 substituted ''Chief Administrative Officer'' for ''Clerk''.

1970—Pub. L. 91–563 substituted ''jury or witness service'' for ''jury service in State courts'' in section catchline.

Pub. L. 91–563 authorized crediting of amounts received for jury service in courts in the District of Columbia and in territories or possessions of the United States, included amounts received for service as a witness or when performing official duty under section 6322(b) of this title, and excepted individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–145 effective as though enacted as part of section 1018 of Pub. L. 108–7, see section 7(d) of Pub. L. 111–145, set out as a note under section 2107 of this title.

§ 5516. Withholding District of Columbia income taxes

(a) The Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the Mayor of the District of Columbia within 120 days of a request for agreement from the Mayor. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of subchapter II of chapter 15 of title 47, District of Columbia Code, in the case of employees of the agency who are subject to income taxes imposed by that subchapter and whose regular place of employment is within the District of Columbia. The agreement may not apply to pay of an employee who is not a resident of the District of Columbia as defined in subchapter II of chapter 15 of title 47, District of Columbia Code. In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting ''who are residents of the District of Columbia'' for ''whose regular place of employment is within the District of Columbia''. For the purpose of this subsection, ''employee'' has the meaning given it by section 1551c(z) of title 47, District of Columbia Code.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 90–623, § 1(9), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 94–455, title XII, § 1207(a)(2), Oct. 4, 1976, 90 Stat. 1705; Pub. L. 96–54, § 2(a)(30), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	[Uncodified].	Mar. 31, 1956, ch. 154, § 11 ''(k)'', 70 Stat. 77.

Section 2(c) ''(z)'' of the Act of Mar. 31, 1956, 70 Stat. 68 (section 1551c(z) of title 47, District of Columbia Code) contains a definition of ''employee'' that is applicable to this section. Accordingly, the last sentence of subsection (a) is added to preserve the application of the source law.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–54 substituted ''Mayor'' for ''Commissioner'' wherever appearing.

1976—Pub. L. 94–455 struck out ''pay for service as a member of the armed forces, or to'' after ''The agree-

ment may not apply to'' and inserted provision that in the case of service as a member of the armed forces, the second sentence shall be applied by substituting ''who are residents of the District of Columbia'' for ''whose regular place of employment is within the District of Columbia''.

1968—Subsec. (a). Pub. L. 90–623 substituted ''Commissioner'' for ''Commissioners'' in two places.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1207(f)(1) of Pub. L. 94–455 provided that: ''The amendments made by subsection (a) [amending this section and section 5517 of this title] shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act [Oct. 4, 1976].''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

§ 5517. Withholding State income taxes

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting ''who are residents of the State with which the agreement is made'' for ''whose regular place of Federal employment is within the State with which the agreement is made''.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, ''State'' means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms ''serve as a member of the armed forces'' and ''service as a member of the Armed Forces'' include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 94–455, title XII, § 1207(a)(1), (b), (c), Oct. 4, 1976, 90 Stat. 1704, 1705; Pub. L. 100–180, div. A, title V, § 505(1), Dec. 4, 1987, 101 Stat. 1086; Pub. L. 103–337, div. A, title XVI, § 1677(a)(1), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 105–34, title XIV, § 1462(a), Aug. 5, 1997, 111 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 84b.	July 17, 1952, ch. 940, § 1, 66 Stat. 765. Sept. 23, 1959, Pub. L. 86–371 ''Sec. 1'', 73 Stat. 653.
.....	5 U.S.C. 84c.	July 17, 1952, ch. 940, § 2, 66 Stat. 766. Sept. 23, 1959, Pub. L. 86–371 ''Sec. 2'', 73 Stat. 653.

In subsection (b), the words ''after March 31, 1959'' are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–34 substituted '', territory, possession, or commonwealth'' for ''or territory or possession''.

1994—Subsec. (d)(2). Pub. L. 103–337 substituted ''section 10147'' for ''section 270(a)''.

1987—Subsec. (d). Pub. L. 100–180 struck out ''do not'' before ''include''.

1976—Subsec. (a). Pub. L. 94–455, § 1207(a)(1), (c), inserted in par. (1) provision relating to the grant to employers of the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld, inserted in par. (2) ''or grants the authority'' after ''imposes the duty'', and substituted in text following par. (2) provisions that in the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting ''who are residents of the State with which the agreement is made'' for ''whose regular place of Federal employment is within the State with which the agreement is made'' for provision that the agreement may not apply to pay for service as a member of the armed forces.

Subsec. (d). Pub. L. 94–455, § 1207(b), added subsec. (d).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1462(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1998.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1207(a)(1) of Pub. L. 94–455 applicable to wages withheld after the 120-day period fol-

lowing any request for an agreement after Oct. 4, 1976, see section 1207(f)(1) of Pub. L. 94–455, set out as a note under section 5516 of this title.

Section 1207(f)(2) of Pub. L. 94–455 provided that: ''The amendments made by subsections (b) and (c) [amending this section] shall apply to wages withheld after the 120-day period following the date of the enactment of this Act [Oct. 4, 1976].''

EXECUTIVE ORDER NO. 10407

Ex. Ord. No. 10407, Nov. 7, 1952, 17 F.R. 10132, which related to regulations governing agreements concerning withholding of state or territorial income taxes, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, formerly set out as a note under section 5520 of this title.

§ 5518. Deductions for State retirement systems; National Guard employees

When—

(1) a State statute provides for the payment of employee contributions to a State employee retirement system or to a State sponsored plan providing retirement, disability, or death benefits, by withholding sums from the pay of State employees and making returns of the sums withheld to State authorities or to the person or organization designated by State authorities to receive sums withheld for the program; and

(2) individuals employed by the Army National Guard and the Air National Guard, except employees of the National Guard Bureau, are eligible for membership in a State employee retirement system or other State sponsored plan;

the Secretary of Defense, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Department of Defense shall comply with the requirements of State statute as to the individuals named by paragraph (2) of this section who are eligible for membership in the State employee retirement system. The disbursing officials paying these individuals shall withhold and pay to the State employee retirement system or to the person or organization designated by State authorities to receive sums withheld for the program the employee contributions for these individuals. For the purpose of this section, ''State'' means a State or territory or possession of the United States including the Commonwealth of Puerto Rico.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 479.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 84d.	June 15, 1956, ch. 390, 70 Stat. 283. Sept. 13, 1961, Pub. L. 87–224, § 1, 75 Stat. 496.

The words ''individuals employed by'' and the word ''individuals'' are substituted for ''civilian employees of'' and ''employees'', respectively, in view of the definition of ''employee'' in section 2105 which is limited to those employed by the Government of the United States. The word ''civilian'' is omitted as unnecessary as military personnel are not ''employed''. The words ''disbursing officials'' are substituted for ''disbursing officers'' as the definition of ''officer'' in section 2104 excludes a member of a uniformed service.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EX. ORD. NO. 10996. WITHHOLDING OF COMPENSATION FOR STATE AND STATE-SPONSORED EMPLOYEE RETIREMENT, DISABILITY, OR DEATH BENEFITS PROGRAMS

Ex. Ord. No. 10996, Feb. 16, 1962, 27 F.R. 1521, provided:

By virtue of the authority vested in me by the act of June 15, 1956, as amended, 75 Stat. 496 (5 U.S.C. 84d) [now this section], and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. As used in this order, the term:

(a) ''Employees'' means civilian employees of the Army National Guard or Air National Guard of a State who are employed pursuant to section 709 of title 32 of the United States Code, and paid from Federal, appropriated funds.

(b) ''State'' means one of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

SEC. 2. Each agreement between the Secretary of Defense and the Governor or other proper official of a State, pursuant to the provisions of the act of June 15, 1956, as amended, with respect to withholding of compensation of certain civilian employees of the Army National Guard and the Air National Guard for purposes of State or State-sponsored employee retirement, disability, or death benefits systems, shall be entered into by the Secretary of Defense within one hundred and twenty days of the receipt of a request therefor by the Secretary from the Governor or any other proper official of any State; *Provided*, that—

(a) the law of such State provides for the payment of employee contributions to such State or State-sponsored employee retirement, disability, or death benefits systems by withholding sums from the compensation of such State employees and making returns of such sums to officials of such State or organization designated by such officials to receive sums withheld for such programs;

(b) civilian employees of the Army National Guard and the Air National Guard, other than those employed by the National Guard Bureau, are eligible for membership in a State retirement, disability, or death benefits system; and

(c) each such agreement is consistent with the provisions of the said act of June 15, 1956, as amended, and of rules and regulations issued thereunder, and contains a clause that it shall be subject to any amendments of the said act, including amendments occurring after the effective date of such agreement.

SEC. 3. Each such agreement shall:

(a) Provide that the Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall comply with the requirements of such State law in the case of employee subject to the said act of June 15, 1956, as amended, who are eligible for membership in such retirement, disability, or death benefits system for State employees;

(b) Specify when the withholding of sums from the compensation of such State employees shall commence; and

(c) Provide for procedures for the withholding, the filing of the returns, and the payment of the sums withheld from compensation to the officials of the State, or organization designated by such officials to receive sums withheld for such programs, which procedures shall conform, so far as practicable, to the usual fiscal practices of the Department of the Army and the Department of the Air Force, respectively.

SEC. 4. The Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall designate, or

provide for the designation of, the officers or employees whose duty it shall be to withhold sums from compensation, file required returns, and direct the payment of sums so withheld, in accordance with the terms of the agreements entered into between the Secretary of Defense and the States.

SEC. 5. Nothing in this order, or in rules or regulations issued thereunder, or in any agreement entered into pursuant thereto, shall be construed as giving consent to the application of any provision of law of any State which has the effect of imposing more burdensome requirements upon the United States than it imposes upon departments, agencies, or political subdivisions of the State concerned, with respect to employees thereof who are members of the State or State-sponsored retirement, disability, or death benefits system, or which has the effect of subjecting the United States or any of its officers or employees to any penalty or liability.

SEC. 6. I hereby delegate to the Secretary of Defense authority to prescribe such rules and regulations, not inconsistent herewith, as may be necessary to effectuate further the provisions of the said act of June 15, 1956, as amended, or of this order.

SEC. 7. Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

SEC. 8. This order supersedes Executive Order No. 10679 of September 20, 1956.

JOHN F. KENNEDY.

§ 5519. Crediting amounts received for certain Reserve or National Guard service

An amount (other than a travel, transportation, or per diem allowance) received by an employee or individual for military service as a member of the Reserve or National Guard for a period for which he is granted military leave under section 6323(b) or (c) shall be credited against the pay payable to the employee or individual with respect to his civilian position for that period.

(Added Pub. L. 90–588, § 2(b), Oct. 17, 1968, 82 Stat. 1152; amended Pub. L. 102–378, § 2(39), Oct. 2, 1992, 106 Stat. 1351; Pub. L. 104–106, div. A, title V, § 516(b), Feb. 10, 1996, 110 Stat. 309.)

AMENDMENTS

1996—Pub. L. 104–106 substituted ''granted military leave'' for ''entitled to leave''.

1992—Pub. L. 102–378 substituted ''6323(b) or (c)'' for ''6323(c) or (d) of this title''.

§ 5520. Withholding of city or county income or employment taxes

(a) When a city or county ordinance—

(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated city or county officer, department, or instrumentality; and

(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city or county in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city or county within 120 days of a request for agreement by the proper city or county official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of any employee of the agency who is subject to the tax and (i) whose regular place of Federal employment is within the jurisdiction of the city or county with which the agreement is made or (ii) is a resident of such city or county. The agreement may not apply to pay for service as a member of the Armed Forces (other than service described in section 5517(d) of this title). The agreement may not permit withholding of a city or county tax from the pay of an employee who is not a resident of, or whose regular place of Federal employment is not within, the State in which that city or county is located unless the employee consents to the withholding.

(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other employers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city or county for services performed in withholding city or county income or employment taxes from the pay of employees of the agency.

(c) For the purpose of this section—

(1) ''city'' means any unit of general local government which—

(A) is classified as a municipality by the Bureau of the Census, or

(B) is a town or township which, in the determination of the Secretary of the Treasury—

(i) possesses powers and performs functions comparable to those associated with municipalities,

(ii) is closely settled, and

(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census,

within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(2) ''county'' means any unit of local general government which is classified as a county by the Bureau of the Census and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(3) ''ordinance'' means an ordinance, order, resolution, or similar instrument which is duly adopted and approved by a city or county in accordance with the constitution and statutes of the State in which it is located and which has the force of law within such city or county; and

(4) ''agency'' means—

(A) an Executive agency;

(B) the judicial branch; and

(C) the United States Postal Service.

(Added Pub. L. 93–340, § 1(a), July 10, 1974, 88 Stat. 294; amended Pub. L. 94–358, § 1, July 12,

1976, 90 Stat. 910; Pub. L. 95–30, title IV, § 408(a), May 23, 1977, 91 Stat. 157; Pub. L. 95–365, § 1, Sept. 15, 1978, 92 Stat. 599; Pub. L. 100–180, div. A, title V, § 505(2), Dec. 4, 1987, 101 Stat. 1086.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–180 inserted ''(other than service described in section 5517(d) of this title)'' after ''Armed Forces'' in penultimate sentence.

1978—Subsec. (a). Pub. L. 95–365 designated existing provisions as cl. (i), inserted '', or whose regular place of Federal employment is not within,'' after ''not a resident of'', and added cl. (ii).

1977—Pub. L. 95–30, § 408(a)(1), inserted ''or county'' after ''city'' in section catchline.

Subsec. (a). Pub. L. 95–30, § 408(a)(2), (3), substituted ''city or county'' for ''city'' in introductory provisions preceding par. (1), in par. (2), and in provisions following par. (2), and, in par. (1), substituted ''a designated city or county officer, department, or instrumentality'' for ''the city''.

Subsec. (b). Pub. L. 95–30, § 408(a)(2), substituted ''city or county'' for ''city''.

Subsec. (c). Pub. L. 95–30, § 408(a)(4), (5), added pars. (2) and (3) and redesignated former par. (2) as (4).

1976—Subsec. (c)(1). Pub. L. 94–358 substituted provision defining a city, for purposes of this section, as any unit of general local government which is classified a municipality by the Bureau of the Census, or is a town or township which in the opinion of the Secretary of the Treasury possesses powers and performs functions comparable to those associated with municipalities, is closely settled, and contains within its boundaries no incorporated places, as defined by the Bureau of the Census, within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government, for provision defining a city, for purposes of this section, as a city which is duly incorporated under the laws of a State and within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95–365 provided that: ''The amendments made by the first section of this Act [amending this section] shall take effect on the 90th day after the date of the enactment of this Act [Sept. 15, 1978].''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 408(c) of Pub. L. 95–30 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [May 23, 1977].''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94–358 provided that: ''The amendment made by the first section of this Act [amending this section] shall take effect on the date of the enactment of this Act [July 12, 1976].''

EFFECTIVE DATE

Section 3 of Pub. L. 93–340 provided that: ''This section shall become effective on the date of enactment of this Act [July 10, 1974]. The provisions of the first section and section 2 of this Act [enacting this section and amending section 410 of Title 39, Postal Service] shall become effective on the ninetieth day following the date of enactment.''

EXECUTIVE ORDER NO. 11833

Ex. Ord. No. 11833, Jan. 13, 1975, 40 F.R. 2673, which related to the withholding of city income or employment taxes by Federal agencies, was revoked by Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25413, formerly set out below.

EXECUTIVE ORDER NO. 11863

Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25431, which related to the withholding of city income or employment taxes by Federal agencies, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, formerly set out below.

EXECUTIVE ORDER NO. 11968

Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, which related to the withholding of District of Columbia, State and city income or employment taxes, was revoked by Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, set out below.

EX. ORD. NO. 11997. WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, CITY AND COUNTY INCOME OR EMPLOYMENT TAXES

Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, provided:

By virtue of the authority vested in me by Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to authorize the Secretary of the Treasury to provide for the withholding of county income or employment taxes as authorized by Section 5520 of Title 5 of the United States Code as amended by Section 408 of Public Law 95–30, as well as to provide for the withholding of District of Columbia, State and city income or employment taxes, it is hereby ordered as follows:

SECTION 1. Whenever the Secretary of the Treasury enters into an agreement pursuant to Sections 5516, 5517 or 5520 of Title 5 of the United States Code, with the District of Columbia, a State, a city or a county, as the case may be, with regard to the withholding, by an agency of the United States, hereinafter referred to as an agency, of income or employment taxes from the pay of Federal employees or members of the Armed Forces, the Secretary of the Treasury shall ensure that each agreement is consistent with those sections and regulations, including this Order, issued thereunder.

SEC. 2. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on the withholding certificate of an employee or a member of the Armed Forces in withholding taxes, (c) that the method for calculating the amount to be withheld for District of Columbia, State, city or county income or employment taxes shall produce approximately the tax required to be withheld by the District of Columbia or State law; or city or county ordinance, whichever is applicable, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the District of Columbia, a State, a city or a county shall conform to the usual fiscal practices of agencies. Any agreement affecting members of the Armed Forces shall also provide that the head of an agency may rely on the certificate of legal residence of a member of the Armed Forces in determining his or her residence for tax withholding purposes. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee or a member of the Armed Forces.

SEC. 3. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct payment of the taxes withheld, in accordance with this Order, any regulations prescribed by the Secretary of the Treasury, and the new applicable agreement.

SEC. 4. The Secretary of the Treasury is authorized to prescribe additional regulations to implement Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and this Order.

SEC. 5. Executive Order No. 11968 of January 31, 1977, is hereby revoked. However, all actions heretofore taken by the President or his delegates in respect of the matters affected by this Order and in force at the time of the issuance of this Order, including any regulations prescribed or approved by the President or his delegates in respect of such matters and any existing agreements approved by his delegates, shall, except as they may be inconsistent with the provisions of this

Order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this Order, unless sooner terminated by operation of law.

JIMMY CARTER.

§ 5520a. Garnishment of pay

(a) For purposes of this section—

(1) ''agency'' means each agency of the Federal Government, including—

(A) an executive agency, except for the Government Accountability Office;

(B) the United States Postal Service and the Postal Regulatory Commission;

(C) any agency of the judicial branch of the Government; and

(D) any agency of the legislative branch of the Government, including the Government Accountability Office, each office of a Member of Congress, a committee of the Congress, or other office of the Congress;

(2) ''employee'' means an employee of an agency (including a Member of Congress as defined under section 2106);

(3) ''legal process'' means any writ, order, summons, or other similar process in the nature of garnishment, that—

(A) is issued by a court of competent jurisdiction within any State, territory, or possession of the United States, or an authorized official pursuant to an order of such a court or pursuant to State or local law; and

(B) orders the employing agency of such employee to withhold an amount from the pay of such employee, and make a payment of such withholding to another person, for a specifically described satisfaction of a legal debt of the employee, or recovery of attorney's fees, interest, or court costs; and

(4) ''pay'' means—

(A) basic pay, premium pay paid under subchapter V, any payment received under subchapter VI, VII, or VIII, severance and back pay paid under subchapter IX, sick pay, incentive pay, and any other compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus pay or otherwise; and

(B) does not include awards for making suggestions.

(b) Subject to the provisions of this section and the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were a private person.

(c)(1) Service of legal process to which an agency is subject under this section may be accomplished by certified or registered mail, return receipt requested, or by personal service, upon—

(A) the appropriate agent designated for receipt of such service of process pursuant to the regulations issued under this section; or

(B) the head of such agency, if no agent has been so designated.

(2) Such legal process shall be accompanied by sufficient information to permit prompt identification of the employee and the payments involved.

(d) Whenever any person, who is designated by law or regulation to accept service of process to which an agency is subject under this section, is effectively served with any such process or with interrogatories, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is made, send written notice that such process has been so served (together with a copy thereof) to the affected employee at his or her duty station or last-known home address.

(e) No employee whose duties include responding to interrogatories pursuant to requirements imposed by this section shall be subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the carrying out of any of such employee's duties which pertain directly or indirectly to the answering of any such interrogatory.

(f) Agencies affected by legal process under this section shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

(g) Neither the United States, an agency, nor any disbursing officer shall be liable with respect to any payment made from payments due or payable to an employee pursuant to legal process regular on its face, provided such payment is made in accordance with this section and the regulations issued to carry out this section. In determining the amount of any payment due from, or payable by, an agency to an employee, there shall be excluded those amounts which would be excluded under section 462(g) of the Social Security Act (42 U.S.C. 662(g)).

(h)(1) Subject to the provisions of paragraph (2), if an agency is served under this section with more than one legal process with respect to the same payments due or payable to an employee, then such payments shall be available, subject to section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673), to satisfy such processes in priority based on the time of service, with any such process being satisfied out of such amounts as remain after satisfaction of all such processes which have been previously served.

(2) A legal process to which an agency is subject under section 459 of the Social Security Act (42 U.S.C. 659) for the enforcement of the employee's legal obligation to provide child support or make alimony payments, shall have priority over any legal process to which an agency is subject under this section.

(i) The provisions of this section shall not modify or supersede the provisions of section 459 of the Social Security Act (42 U.S.C. 659) concerning legal process brought for the enforcement of an individual's legal obligations to provide child support or make alimony payments.

(j)(1) Regulations implementing the provisions of this section shall be promulgated—

(A) by the President or his designee for each executive agency, except with regard to employees of the United States Postal Service,

the President or, at his discretion, the Postmaster General shall promulgate such regulations;

(B) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, for the legislative branch of the Government; and

(C) by the Chief Justice of the United States or his designee for the judicial branch of the Government.

(2) Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.

(k)(1) No later than 180 days after the date of the enactment of this Act, the Secretaries of the Executive departments concerned shall promulgate regulations to carry out the purposes of this section with regard to members of the uniformed services.

(2) Such regulations shall include provisions for—

(A) the involuntary allotment of the pay of a member of the uniformed services for indebtedness owed a third party as determined by the final judgment of a court of competent jurisdiction, and as further determined by competent military or executive authority, as appropriate, to be in compliance with the procedural requirements of the Servicemembers Civil Relief Act (50 App. U.S.C. 501 et seq.); and

(B) consideration for the absence of a member of the uniformed service from an appearance in a judicial proceeding resulting from the exigencies of military duty.

(3) The Secretaries of the Executive departments concerned shall promulgate regulations under this subsection that are, as far as practicable, uniform for all of the uniformed services. The Secretary of Defense shall consult with the Secretary of Homeland Security with regard to the promulgation of such regulations that might affect members of the Coast Guard when the Coast Guard is operating as a service in the Navy.

(Added Pub. L. 103–94, §9(a), Oct. 6, 1993, 107 Stat. 1007; amended Pub. L. 104–106, div. A, title VI, §643, Feb. 10, 1996, 110 Stat. 368; Pub. L. 104–193, title III, §362(b)(2), Aug. 22, 1996, 110 Stat. 2246; Pub. L. 105–85, div. A, title XI, §1105, Nov. 18, 1997, 111 Stat. 1923; Pub. L. 108–189, §2(b)(1), Dec. 19, 2003, 117 Stat. 2865; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–241, title IX, §902(a)(3), July 11, 2006, 120 Stat. 566; Pub. L. 109–435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242.)

REFERENCES IN TEXT

The date of the enactment of this Act, referred to in subsec. (k)(1), probably means the date of enactment of Pub. L. 103–94, which enacted this section and was approved Oct. 6, 1993.

The Servicemembers Civil Relief Act, referred to in subsec. (k)(2)(A), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

AMENDMENTS

2006—Subsec. (a)(1)(B). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission''.

Subsec. (k)(3). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

2004—Subsec. (a)(1)(A), (D). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

2003—Subsec. (k)(2)(A). Pub. L. 108–189 substituted ''Servicemembers Civil Relief Act'' for ''Soldiers' and Sailors' Civil Relief Act of 1940''.

1997—Subsec. (j)(2). Pub. L. 105–85, §1105(1), added par. (2) and struck out former par. (2) which read as follows: ''Such regulations shall provide that an agency's administrative costs incurred in executing legal process to which the agency is subject under this section shall be deducted from the amount withheld from the pay of the employee concerned pursuant to the legal process.''

Subsec. (k)(3), (4). Pub. L. 105–85, §1105(2), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''Regulations under this subsection may also provide that the administrative costs incurred in establishing and maintaining an involuntary allotment be deducted from the amount withheld from the pay of the member of the uniformed services concerned pursuant to such regulations.''

Subsec. (*l*). Pub. L. 105–85, §1105(3), struck out subsec. (*l*) which read as follows: ''The amount of an agency's administrative costs deducted under regulations prescribed pursuant to subsection (j)(2) or (k)(3) shall be credited to the appropriation, fund, or account from which such administrative costs were paid.''

1996—Subsecs. (h)(2), (i). Pub. L. 104–193 substituted ''section 459 of the Social Security Act (42 U.S.C. 659)'' for ''sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)''.

Subsec. (j)(2). Pub. L. 104–106, §643(a), added par. (2) and struck out former par. (2) which read as follows: ''Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.''

Subsec. (k)(3), (4). Pub. L. 104–106, §643(b), added par. (3) and redesignated former par. (3) as (4).

Subsec. (*l*). Pub. L. 104–106, §643(c), added subsec. (*l*).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective six months after Aug. 22, 1996, see section 362(d) of Pub. L. 104–193, set out as a note under section 659 of Title 42, The Public Health and Welfare.

For provisions relating to effective date of title III of Pub. L. 104–193, see section 395(a)–(c) of Pub. L. 104–193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE; SAVINGS PROVISION

Section effective 120 days after Oct. 6, 1993, and not to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as a note under section 7321 of this title.

PILOT PROGRAM ON ALTERNATIVE NOTICE OF RECEIPT OF LEGAL PROCESS FOR GARNISHMENT OF FEDERAL PAY FOR CHILD SUPPORT AND ALIMONY

Pub. L. 105–261, div. A, title X, §1061, Oct. 17, 1998, 112 Stat. 2128, authorized the Secretary of Defense to conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 659 of Title 42, The Public Health and Welfare, required the Secretary to submit to Congress, not later than Jan. 1, 2001, a report describing the experience of the Department of Defense under the authority provided for the

program, and provided for termination of pilot program on Sept. 30, 2001.

EX. ORD. NO. 12897. GARNISHMENT OF FEDERAL EMPLOYEES' PAY

Ex. Ord. No. 12897, Feb. 3, 1994, 59 F.R. 5517, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5520a(j)(1)(A) of title 5, United States Code, as added by section 9 of Public Law 103–94, it is hereby ordered as follows:

SECTION 1. The Office of Personnel Management, in consultation with the Attorney General, is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to civilian employees and agencies in the executive branch, except as provided in section 2 of this order.

SEC. 2. The Postmaster General is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to employees of the United States Postal Service.

WILLIAM J. CLINTON.

SUBCHAPTER III—ADVANCEMENT, ALLOTMENT, AND ASSIGNMENT OF PAY

§ 5521. Definitions

For the purpose of this subchapter—

(1) ''agency'' means—

(A) an Executive agency;

(B) the judicial branch;

(C) the Library of Congress;

(D) the Government Printing Office; and

(E) the government of the District of Columbia;

(2) ''employee'' means an individual employed in or under an agency;

(3) ''head of each agency'' means—

(A) the Director of the Administrative Office of the United States Courts with respect to the judicial branch; and

(B) the Mayor of the District of Columbia with respect to the government of the District of Columbia; and

(4) ''United States'', when used in a geographical sense, means the several States and the District of Columbia.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 479; Pub. L. 90–623, § 1(10), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 96–54, § 2(a)(31), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3071.	Sept. 26, 1961, Pub. L. 87–304, § 1, 75 Stat. 662. June 24, 1965, Pub. L. 89–47, 79 Stat. 171.

In paragraph (1), the word ''agency'' is substituted for ''department''. The term ''Executive agency'' is substituted for the reference to ''each executive department of the Government of the United States of America; each agency or independent establishment in the executive branch of such Government; each corporation wholly owned or controlled by such Government'' in former section 3071(1)(A)–(C).

Paragraph (2) is added for clarity and in view of the fact that the definition of ''employee'' in section 2105 does not include individuals employed by the government of the District of Columbia.

In paragraph (3), the term ''department head'' is omitted as unnecessary.

In paragraph (4), the words ''of the United States of America'' are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Par. (3)(B). Pub. L. 96–54 substituted ''Mayor'' for ''Commissioner''.

1968—Par. (3)(B). Pub. L. 90–623 substituted ''Commissioner'' for ''Board of Commissioners''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

§ 5522. Advance payments; rates; amounts recoverable

(a) The head of each agency may provide for the advance payment of the pay, allowances, and differentials, or any of them, covering a period of not more than 30 days, to or for the account of each employee of the agency (or, under emergency circumstances and on a reimbursable basis, an employee of another agency) whose departure (or that of his dependents or immediate family, as the case may be) from a place inside or outside the United States is officially authorized or ordered—

(1) from a place outside the United States from which the Secretary of State determines it is in the national interest to require the departure of some or all employees, their dependents, or both; or

(2) from any place where there is imminent danger to the life of the employee or the lives of the dependents or immediate family of the employee.

(b) Subject to adjustment of the account of an employee under section 5524 of this title and other applicable statute, the advance payment of pay, allowances, and differentials is at rates currently authorized with respect to the employee on the date the advance payment is made under agency procedures governing advance payments under this subsection. The rates so authorized may not exceed the rates to which the employee was entitled immediately before issuance of the departure order.

(c) An advance of funds under subsection (a) of this section is recoverable by the Government of the United States or the government of the District of Columbia, as the case may be, from the employee or his estate by—

(1) setoff against accrued pay, amount of retirement credit, or other amount due to the employee from the Government of the United States or the government of the District of Columbia; and

(2) such other method as is provided by law.

The head of the agency concerned may waive in whole or in part a right of recovery of an advance of funds under subsection (a) of this section, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 480; Pub. L. 96–465, title II § 2303(a), (b), Oct. 17, 1980, 94 Stat. 2164, 2165.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3072.	Sept. 26, 1961, Pub. L. 87–304, § 2, 75 Stat. 662.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–465, § 2303(a), substituted ''departure'' for ''evacuation'', substituted ''is officially authorized or ordered'' for ''is ordered for military or other reasons which create imminent danger to the life or lives of the employee or of his dependents or immediate family'', and added pars. (1) and (2).

Subsec. (b). Pub. L. 96–465, § 2303(b), substituted ''departure'' for ''evacuation'' after ''issuance of the''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

§ 5523. Duration of payments; rates; active service period

(a) The head of each agency may provide for—

(1) the payment of monetary amounts covering a period of not more than 60 days to or for the account of each employee of the agency (or, under emergency circumstances and on a reimbursable basis, an employee of another agency) whose departure (or that of the employee's dependents or immediate family, as the case may be) is authorized or ordered under section 5522(a); and

(2) the termination of payment of the monetary amounts.

The President, with respect to the Executive agencies, may extend the 60-day period for not more than 120 additional days if he determines that the extension of the period is in the interest of the United States.

(b) Subject to adjustment of the account of an employee under section 5524 of this title and other applicable statute, each payment under this section is at rates of pay, allowances, and differentials, or any of them, currently authorized with respect to the employee on the date payment is made under agency procedures governing payments under this section. The rates so authorized may not exceed the rates to which the employee was entitled immediately before issuance of the departure order. An employee in an Executive agency may be granted such additional allowance payments as the President determines necessary to offset the direct added expenses incident to the departure.

(c) Each period for which payment of amounts is made under this section to or for the account of an employee is deemed, for all purposes with respect to the employee, a period of active service, without break in service, performed by the employee in the employment of the Government of the United States or the government of the District of Columbia.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 480; Pub. L. 96–465, title II, § 2303(c), (d), Oct. 17, 1980, 94 Stat. 2165; Pub. L. 102–138, title I, § 147(a), Oct. 28, 1991, 105 Stat. 669.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3073.	Sept. 26, 1961, Pub. L. 87–304, § 3, 75 Stat. 663.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–138 substituted ''agency) whose departure (or that of the employee's dependents or immediate family, as the case may be) is authorized or ordered under section 5522(a); and'' for ''agency)—

''(A) whose departure is authorized or ordered under section 5522(a) of this title; and

''(B) who is prevented, by circumstances beyond his control and beyond the control of the Government of the United States or the government of the District of Columbia, or both, as the case may be, from performing the duties of the position which he held immediately before issuance of the departure order; and''.

1980—Subsec. (a)(1). Pub. L. 96–465, § 2303(c), in subpar. (A) substituted ''whose departure is authorized or ordered under section 5522(a) of this title; and'' for ''whose evacuation from a place inside or outside the United States is ordered for military or other reasons which create imminent danger to the life of the employee; and'', and in subpar. (B) substituted ''departure'' for ''evacuation'' after ''issuance of the''.

Subsec. (b). Pub. L. 96–465, § 2303(d), substituted ''departure'' for ''evacuation'' in two places.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

§ 5524. Review of accounts

The head of each agency shall provide for—

(1) the review of the account of each employee of the agency in receipt of payments under section 5522 or 5523 of this title, or both, as the case may be; and

(2) the adjustment of the amounts of the payments on the basis of—

(A) the rates of pay, allowances, and differentials to which the employee would have been entitled under applicable statute other than this subchapter for the respective periods covered by the payments, if he had performed active service under the terms of his appointment during each period in the position he held immediately before the issuance of the applicable evacuation order; and

(B) such additional amounts as the employee is authorized to receive in accordance with a determination of the President under section 5523(b) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3074.	Sept. 26, 1961, Pub. L. 87–304, § 4, 75 Stat. 663.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5524a. Advance payments for new appointees

(a) The head of each agency may provide for the advance payment of basic pay, covering not more than 2 pay periods, to any individual who is newly appointed to a position in the agency.

(b)(1) Subject to adjustment of the account of an employee under paragraph (2) and other applicable statutes, the advance payment of basic pay shall be made, under agency procedures governing advance payments under this section, at the initial rate of basic pay to be payable to the employee upon the commencement of service in the position to which appointed.

(2) The head of each agency shall provide for—

(A) the review of the account of each employee of the agency in receipt of any payment under this section; and

(B) the adjustment of the amount of any such payment on the basis of the rate of basic pay to which the employee would have been entitled under applicable statute other than this section for the respective periods covered by the payments, if the employee had performed active service under the terms of such employee's appointment during each period in the position to which appointed.

(c) An advance payment under this section is recoverable by the Government of the United States or the government of the District of Columbia, as the case may be, from the employee or such employee's estate by—

(1) setoff against accrued pay, amount of retirement credit, or other amount due to the employee from the Government of the United States or the government of the District of Columbia; and

(2) such other method as is provided by law.

The head of the agency concerned may waive in whole or in part a right of recovery of an advance payment under this section if it is shown that the recovery would be against equity and good conscience or against the public interest.

(Added Pub. L. 101–509, title V, § 529 [title I, § 107(a)], Nov. 5, 1990, 104 Stat. 1427, 1449.)

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5525. Allotment and assignment of pay

The head of each agency may establish procedures under which each employee of the agency is permitted to make allotments and assignments of amounts out of his pay for such purpose as the head of the agency considers appropriate. For purposes of this section, the term ''agency'' includes the Office of the Architect of the Capitol.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481; Pub. L. 107–68, title I, § 133(b)(1), Nov. 12, 2001, 115 Stat. 582.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3075.	Sept. 26, 1961, Pub. L. 87–304, § 5, 75 Stat. 663.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2001—Pub. L. 107–68 inserted at end ''For purposes of this section, the term 'agency' includes the Office of the Architect of the Capitol.''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–68, title I, § 133(b)(2), Nov. 12, 2001, 115 Stat. 582, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to pay periods beginning on or after the date of the enactment of this Act [Nov. 12, 2001].''

§ 5526. Funds available on reimbursable basis

Funds available to an agency for payment of pay, allowances, and differentials to or for the accounts of employees of the agency are available on a reimbursable basis for payment of pay, allowances, and differentials to or for the accounts of employees of another agency under this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3078.	Sept. 26, 1961, Pub. L. 87–304, § 8, 75 Stat. 664.

The word ''civilian'' is omitted as unnecessary in view of the definition of ''employee'' in section 5521(2), and the fact that military personnel are not ''employed''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5527. Regulations

(a) To the extent practicable in the public interest, the President shall coordinate the policies and procedures of the respective Executive agencies under this subchapter.

(b) The President, with respect to the Executive agencies, the head of the agency concerned, with respect to the appropriate agency outside the executive branch, and the District of Columbia Council, with respect to the government of the District of Columbia, shall prescribe and issue, or provide for the formulation and issuance of, regulations necessary and appropriate to carry out the provisions, accomplish the purposes, and govern the administration of this subchapter.

(c) The head of each Executive agency may prescribe and issue regulations, not inconsistent with the regulations of the President issued under subsection (b) of this section, necessary and appropriate to carry out his functions under this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481; Pub. L. 90–623, § 1(11), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3076.	Sept. 26, 1961, Pub. L. 87–304, § 6, 75 Stat. 664.

In subsection (b), the last sentence of former section 3076, which provided for the issuance of the regulations not later than December 25, 1961, and the effective date of the regulations as not later than March 25, 1962, is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–623 inserted reference to the District of Columbia Council, with respect to the government of the District of Columbia.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93–198.

EX. ORD. NO. 10982. ADMINISTRATION OF PROVISIONS OF CHAPTER

Ex. Ord. No. 10982, Dec. 25, 1961, 27 F.R. 3, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, provided:

By virtue of the authority vested in me by the act of September 26, 1961 (75 Stat. 662) [this subchapter] and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. As used in this order:

(a) The term ''the act'' means the act of September 26, 1961 (Public Law 87–304), 75 Stat. 662 [now this subchapter].

(b) The term ''Federal agency'' means any executive department of the Government of the United States of America, any agency or independent establishment in the executive branch of the Government, and any corporation wholly owned or controlled by the Government.

(c) The term ''foreign area'' means any area (including the Trust Territory of the Pacific Islands) situated outside (1) the United States (including the District of Columbia), (2) the Commonwealth of Puerto Rico, (3) the Canal Zone, and (4) any territory or possession of the United States.

SEC. 2. (a) Except as otherwise provided by section 2(b) and section 3(c) of this order, the Secretary of State in respect of civilian employees of Federal agencies who are located in foreign areas immediately prior to an emergency evacuation, and the Office of Personnel Management in respect of all other civilian employees of Federal agencies, are hereby designated and empowered, without the approval, ratification, or other action of the President, to perform the functions conferred upon the President by section 3(a), section 3(b), and section 6(a) of the act [sections 5523(a), 5523(b), and 5527(a) of this title].

(b) The Office of Personnel Management is hereby designated and empowered to perform the functions conferred upon the President by the provisions of section 5527 of title 5, United States Code, with respect to allotments and assignments authorized by section 5525 of title 5, United States Code, and advance payments to new appointees authorized by section 5524a of title 5, United States Code, as added by section 107(a) of the Federal Employees Pay Comparability Act of 1990, as incorporated in section 529 of Public Law 101–509.

SEC. 3. The following regulations are hereby prescribed as necessary and appropriate to carry out the provisions, accomplish the purposes, and govern the administration of the act:

(a) To the maximum extent practicable, the Secretary of State, the Office of Personnel Management, and the heads of other Federal agencies shall exercise their authority under the act and this order so that employees of different Federal agencies evacuated from the same geographic area under the same general circumstances may be treated uniformly.

(b) Advance payments of compensation, allowances, and differentials, as authorized by section 2 of the act [section 5522 of this title], shall be held to the minimum period during which the order for evacuation is anticipated to continue, and shall in no event be made for a period of more than thirty days.

(c) It is hereby determined to be in the interest of the United States that payments of monetary amounts as authorized by section 3 of the act [section 5523 of this title] to and for the account of an employee whose evacuation is ordered and who is prevented from performing the duties of his position, under the circumstances set forth in section 3 of the act, should be extended beyond sixty days for not more than one hundred and twenty additional days only upon determination, pursuant to regulations of the head of the Federal agency concerned, that such additional payments are reasonably necessary to maintain a civilian staff available for performance of duty. Such payments of monetary amounts under the authority of section 3 of the act shall be terminated as of such dates as may be determined by the Secretary of State or the Office of Personnel Management, as appropriate, but not later than the date on which an employee resumes his duties at the post from which he has been evacuated or is assigned to another position.

SEC. 4. (a) The head of each Federal agency shall issue as soon as practicable such regulations as may be necessary and appropriate to carry out his functions under the act and this order.

(b) In order to coordinate the policies and procedures of the executive branch of the Government, all regulations of any Federal agency prepared for issuance under the provisions of section 6(c) of the act [section 5527(c) of this title] and section 4(a) of this order shall be submitted for prior approval to the Secretary of State, or to the Office of Personnel Management, as may be appropriate, under section 2 of this order. The Secretary of State and the Office of Personnel Management shall review such regulations for conformance with the purpose and intent of the act and of the regulations contained in section 3 of this order. No Federal agency shall make any payment under the provisions of the act or this order until such regulations have been approved by the Secretary of State, or the Office of Personnel Management, as appropriate.

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

§ 5531. Definitions

For the purpose of section 5533 of this title—

(1) ''member'' has the meaning given such term by section 101(23) of title 37;

(2) ''position'' means a civilian office or position (including a temporary, part-time, or intermittent position), appointive or elective, in the legislative, executive, or judicial branch of the Government of the United States (including a Government corporation and a nonappropriated fund instrumentality under the jurisdiction of the armed forces) or in the government of the District of Columbia;

(3) ''retired or retainer pay'' means retired pay, as defined in section 8311(3) of this title,

determined without regard to subparagraphs (B) through (D) of such section 8311(3); except that such term does not include an annuity payable to an eligible beneficiary of a member or former member of a uniformed service under chapter 73 of title 10;

(4) ''agency in the legislative branch'' means the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Office of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, and the United States Capitol Police;

(5) ''employee of the House of Representatives'' means a congressional employee whose pay is disbursed by the Chief Administrative Officer of the House of Representatives;

(6) ''employee of the Senate'' means a congressional employee whose pay is disbursed by the Secretary of the Senate; and

(7) ''congressional employee'' has the meaning given that term by section 2107 of this title, excluding an employee of an agency in the legislative branch.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 482; Pub. L. 95–454, title III, § 308(b), Oct. 13, 1978, 92 Stat. 1150; Pub. L. 102–190, div. A, title VI, § 655(a)(2), Dec. 5, 1991, 105 Stat. 1391; Pub. L. 104–186, title II, § 215(6), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 106–398, § 1 [[div. A], title X, § 1087(f)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111–145, § 7(b)(1), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3101 (as applicable to 5 U.S.C. 3102(a)–(e) and 3105 (less (e))).	Aug. 19, 1964, Pub. L. 88–448, § 101 (as applicable to §§ 201(a)–(e) and 301 (less (e))), 78 Stat. 484.

In paragraph (2), the defined word ''position'' is substituted for ''civilian office.'' The words ''Government corporation'' are substituted for ''corporation owned or controlled by such Government'' in view of the definition in section 103.

The definitions of ''uniformed services'' and ''armed forces'' are omitted as unnecessary in view of the definitions in section 2101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2010—Par. (4). Pub. L. 111–145 substituted ''the Congressional Budget Office, and the United States Capitol Police'' for ''and the Congressional Budget Office''.

2004—Par. (4). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

2000—Pub. L. 106–398 substituted ''section'' for ''sections 5532 and'' in introductory provisions.

1996—Par. (5). Pub. L. 104–186 substituted ''Chief Administrative Officer'' for ''Clerk''.

1991—Pars. (4) to (7). Pub. L. 102–190 added pars. (4) to (7).

1978—Pub. L. 95–454 substituted '' 'member' '' for '' 'officer' '' in par. (1) and added par. (3).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–145 effective as though enacted as part of section 1018 of Pub. L. 108–7, see section 7(d) of Pub. L. 111–145, set out as a note under section 2107 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

DUAL PAY REQUIREMENTS FOR PAY PERIODS SUBSEQUENT TO ENACTMENT OF CIVIL SERVICE ACT OF 1978

Pub. L. 95–454, title III, § 308(g), Oct. 13, 1978, 92 Stat. 1151, provided that:

''(1) Except as provided in paragraph (2) of this subsection, the amendments made by this section [amending this section and section 5532 of this title] shall apply only with respect to pay periods beginning after the effective date of this Act [see Effective Date note set out under section 1101 of this title] and only with respect to members of the uniformed services who first receive retired or retainer pay (as defined in section 5531(3) of title 5, United States Code (as amended by this section)), after the effective date of this Act.

''(2) Such amendments shall not apply to any individual employed in a position on the date of the enactment of this Act [Oct. 13, 1978] so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less) if the individual, on that date, would have been entitled to retired or retainer pay but for the fact the individual does not satisfy any applicable age requirement.

''(3) The provisions of section 5532 of title 5, United States Code, as in effect immediately before the effective date of this Act, shall apply with respect to any retired officer of a regular component of the uniformed services who is receiving retired pay on or before such date, or any individual to whom paragraph (2) applies, in the same manner and to the same extent as if the preceding subsections of this section had not been enacted.''

[§ 5532. Repealed. Pub. L. 106–65, div. A, title VI, § 651(a)(1), Oct. 5, 1999, 113 Stat. 664]

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 482; Pub. L. 95–454, title III, § 308(a), (c)–(f)(1), Oct. 13, 1978, 92 Stat. 1149–1151; Pub. L. 97–276, § 151(b), Oct. 2, 1982, 96 Stat. 1200; Pub. L. 98–396, title III, § 306, Aug. 22, 1984, 98 Stat. 1424; Pub. L. 98–525, title XV, § 1537(b), Oct. 19, 1984, 98 Stat. 2635; Pub. L. 99–88, title I, § 100, Aug. 15, 1985, 99 Stat. 351; Pub. L. 99–500, § 101(*l*), Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, § 101(*l*), Oct. 30, 1986, 100 Stat. 3341–308; Pub. L. 100–202, §§ 101(*l*) [title I, § 101], 106, Dec. 22, 1987, 101 Stat. 1329–358, 1329–362, 1329–433; Pub. L. 100–457, title I, Sept. 30, 1988, 102 Stat. 2129; Pub. L. 101–509, title V, § 529 [title I, § 108(a)], Nov. 5, 1990, 104 Stat. 1427, 1449; Pub. L. 101–510, div. A, title XII, § 1206(j)(1), Nov. 5, 1990, 104 Stat. 1663; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–190, div. A, title VI, § 655(a)(1), Dec. 5, 1991, 105 Stat. 1390; Pub. L. 102–378, § 8(a), Oct. 2, 1992, 106 Stat. 1359; Pub. L. 105–55, title I, § 107, Oct. 7, 1997, 111 Stat. 1184, related to employment of retired members of uniformed services and reduction in retired or retainer pay.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 651(c) of Pub. L. 106–65, set out as an Effective Date of 1999 Amendment note under section 1466 of Title 10, Armed Forces.

§ 5533. Dual pay from more than one position; limitations; exceptions

(a) Except as provided by subsections (b), (c), and (d) of this section, an individual is not entitled to receive basic pay from more than one position for more than an aggregate of 40 hours of work in one calendar week (Sunday through Saturday).

(b) Except as otherwise provided by subsection (c) of this section, the Office of Personnel Man-

agement, subject to the supervision and control of the President, may prescribe regulations under which exceptions may be made to the restrictions in subsection (a) of this section when appropriate authority determines that the exceptions are warranted because personal services otherwise cannot be readily obtained.

(c)(1) Unless otherwise authorized by law and except as otherwise provided by paragraph (2) or (4) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position if the pay of one of the positions is paid by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police, or one of the positions is under the Office of the Architect of the Capitol, and if the aggregate gross pay from the positions exceeds $7,724 a year ($10,540, in the case of pay disbursed by the Secretary of the Senate).

(2) Notwithstanding paragraph (1) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position, for each of which the pay is disbursed by the Chief Administrative Officer of the House of Representatives or the Chief of the Capitol Police, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of the clerk hire allowance of a Member of the House.

(3) For the purposes of this subsection, ''gross pay'' means the annual rate of pay (or equivalent thereof in the case of an individual paid on other than an annual basis) received by an individual.

(4) Paragraph (1) of this subsection does not apply to pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day.

(d) Subsection (a) of this section does not apply to—

(1) pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same hours of the same day;

(2) pay consisting of fees paid on other than a time basis;

(3) pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period;

(4) pay paid by the Tennessee Valley Authority to an employee performing part-time or intermittent work in addition to his normal duties when the Authority considers it to be in the interest of efficiency and economy;

(5) pay received by an individual holding a position—

(A) the pay of which is paid by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police; or

(B) under the Architect of the Capitol;

(6) pay paid by the United States Coast Guard to an employee occupying a part-time position of lamplighter; and

(7) pay within the purview of any of the following statutes:

(A) section 162 of title 2;

(B) section 23(b) of title 13;

(C) section 327 of title 15;

(D) section 907 of title 20;

(E) section 873 of title 33; or

(F) section 631 or 631a of title 31, District of Columbia Code.

[(G) Repealed. Pub. L. 96–70, title III, § 3302(e)(8), Sept. 27, 1979, 93 Stat. 498.]

(e)(1) This section does not apply to an individual employed under sections 174j–1 to 174j–7 or 174k[1] of title 40.

(2) Subsection (c) of this section does not apply to pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 483; Pub. L. 90–57, § 105(h), July 28, 1967, 81 Stat. 143; Pub. L. 90–206, title II, § 214(*o*), Dec. 16, 1967. 81 Stat. 637; Pub. L. 91–510, title IV, § 477(d), Oct. 26, 1970, 84 Stat. 1195; Pub. L. 93–140, § 23, Oct. 26, 1973, 87 Stat. 508; Pub. L. 93–145, § 101, Nov. 1, 1973, 87 Stat. 532; Pub. L. 94–183, § 2(21), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 94–440, title I, § 103, Oct. 1, 1976, 90 Stat. 1443; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–70, title III, § 3302(e)(8), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104–186, title II, § 215(7), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 111–145, § 7(b)(2), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3105 (less (e)).	Aug. 19, 1964, Pub. L. 88–448, § 301 (less (e)), 78 Stat. 488.

In subsection (a), the words ''an individual'' are substituted for ''civilian personnel''.

In subsection (b), the words ''and issue'' are omitted as surplusage.

In subsection (c), the words ''appropriated funds are not'' are substituted for ''no funds appropriated by any Act shall be''. The words ''$2,000 a year'' are substituted for ''the sum of $2,000 per annum''.

In subsection (d)(7)(D), reference to ''section 907 of title 20'' is substituted for 5 U.S.C. 3105(d)(7)(F) to reflect the scheduled transfer of 5 U.S.C. 2358(b) to title 20.

In subsection (d)(7)(H), the words ''of chapter 7'' are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Sections 174j–1, 174j–3, 174j–4, 174j–5, 174j–6, 174j–7, and 174k of title 40, referred to in subsec. (e)(1), were transferred to sections 2042, 2043, 2044, 2045, 2046, 2047, and 2041, respectively, of Title 2, The Congress. Section 174j–2 of title 40 was repealed by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304.

AMENDMENTS

2010—Subsec. (c)(1). Pub. L. 111–145, § 7(b)(2)(A)(i), substituted '', the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police'' for ''or the Chief Administrative Officer of the House of Representatives''.

Subsec. (c)(2). Pub. L. 111–145, § 7(b)(2)(A)(ii), inserted ''or the Chief of the Capitol Police'' after ''House of Representatives''.

[1] See References in Text note below.

Subsec. (d)(5)(A). Pub. L. 111–145, §7(b)(2)(B), substituted ", the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police" for "or the Chief Administrative Officer of the House of Representatives".

1996—Subsecs. (c)(1), (2), (d)(5)(A). Pub. L. 104–186 substituted "Chief Administrative Officer" for "Clerk".

1979—Subsec. (d)(7). Pub. L. 96–70 struck out subpar. (G) which made reference to section 102 of title 2, Canal Zone Code.

1978—Subsec. (b). Pub. L. 95–454 substituted "Office of Personnel Management" for "Civil Service Commission".

1976—Subsec. (c)(1). Pub. L. 94–440 inserted "($10,540, in the case of pay disbursed by the Secretary of the Senate)" after "exceeds $7,724 a year".

1975—Subsec. (d)(7). Pub. L. 94–183 struck out subpar. (F) relating to section 3335 (a) or (c) of title 39, and redesignated subpars. (G) and (H) as (F) and (G), respectively.

1973—Subsec. (c)(1), (4). Pub. L. 93–145 inserted reference to par. (4) in par. (1) and added par. (4).

Subsec. (e). Pub. L. 93–140 designated existing provisions as par. (1) and added par. (2).

1970—Subsec. (c)(1). Pub. L. 91–510 inserted "and except as otherwise provided by paragraph (2) of this section" after "authorized by law" and substituted "if the aggregate gross pay from the positions exceeds $7,724 a year" for "if—

"(A) the pay of one or more of the positions is fixed at a single gross per annum rate, and the aggregate gross pay from the positions exceeds $6,256 a year, or

"(B) the pay of each such position is fixed at a basic rate plus additional compensation authorized by law, and the aggregate basic pay of the positions exceeds $2,000 a year".

Subsec. (c)(2). Pub. L. 91–510 substituted provision making appropriated funds unavailable for payment to an individual of pay from more than one position, for each of which pay is disbursed by the Clerk of the House, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of clerk hire allowance of a Member of the House for definition of "gross pay", now incorporated in cl. (3).

Subsec. (c)(3). Pub. L. 91–510 redesignated former cl. (2) as (3) and deleted provision which included in gross pay of an individual receiving basic pay plus additional compensation provided by law the aggregate amount received as basic and additional compensation, but excluded sums received as premium pay under subchapter V of this chapter.

1967—Subsec. (c). Pub. L. 90–206 provided for an increase in the aggregate gross pay allowed to certain specified congressional employees on two payrolls as dual office compensation.

Pub. L. 90–57 designated existing dual pay limitation provisions relating to basic compensation as par. (1), redesignated cls. (1) and (2) as (A) and (B), eliminated from cl. (A) provision for pay for one of the positions by the Secretary of the Senate and restricted such cl. (A) to payments in case of employees receiving basic rates of compensation and added par. (2) dual pay limitations applicable to aggregate gross compensation of employees receiving single per annum rates of compensation.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–145 effective as though enacted as part of section 1018 of Pub. L. 108–7, see section 7(d) of Pub. L. 111–145, set out as a note under section 2107 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–510 effective immediately prior to noon on Jan. 3, 1971, see section 601(1) of Pub. L. 91–510, set out as a note under section 72a of Title 2, The Congress.

EFFECTIVE DATE OF 1967 AMENDMENTS

Amendment by Pub. L. 90–206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90–206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

Amendment by Pub. L. 90–57, effective Aug. 1, 1967, see section 105(k) of Pub. L. 90–57, set out as an Effective Date note under section 61–1 of Title 2, The Congress.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

INCREASE IN COMPENSATION OF INDIVIDUALS WHOSE PAY IS DISBURSED BY SECRETARY OF SENATE

2010—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2010, to the figure "$33,003", see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 5, 2010, set out as a note under section 60a–1 of Title 2, The Congress.

2009—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2009, to the figure "$32,515", see section 9 of Salary Directive of President pro tempore of the Senate, Mar. 12, 2009, set out as a note under section 60a–1 of Title 2, The Congress.

2008—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2008, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 7, 2008, set out as a note under section 60a–1 of Title 2, The Congress.

2007—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2007, to the figure "$30,827", see section 9 of Salary Directive of President pro tempore of the Senate, Feb. 16, 2007, formerly set out as a note under section 60a–1 of Title 2.

2006—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2006, to the figure "$29,905", see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 4, 2006, formerly set out as a note under section 60a–1 of Title 2.

2005—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2005, to the figure "$29,289", see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 3, 2005, formerly set out as a note under section 60a–1 of Title 2.

2004—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2004, to the figure "$28,574", see section 9 of Salary Directive of President pro tempore of the Senate, Mar. 5, 2004, formerly set out as a note under section 60a–1 of Title 2.

2003—The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2003, to the figure "$27,822", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 2002, as amended, formerly set out as a note under section 60a–1 of Title 2.

2002—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2002, to the figure ''$26,985'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2001, formerly set out as a note under section 60a–1 of Title 2.

2001—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2001, to the figure ''$26,329'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2000, formerly set out as a note under section 60a–1 of Title 2.

2000—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2000, to the figure ''$25,362'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 12, 1999, formerly set out as a note under section 60a–1 of Title 2.

1999—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1999, to the figure ''$24,433'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 16, 1998, formerly set out as a note under section 60a–1 of Title 2.

1998—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1998, to the figure ''$23,698'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 1997, formerly set out as a note under section 60a–1 of Title 2.

1997—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1997, to the figure ''$23,165'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1996, formerly set out as a note under section 60a–1 of Title 2.

1995—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1995, to the figure ''$22,200'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 28, 1994, formerly set out as a note under section 60a–1 of Title 2.

1993—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1993, to the figure ''$21,764'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 17, 1992, formerly set out as a note under section 60a–1 of Title 2.

1992—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1992, to the figure ''$20,987'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1991, formerly set out as a note under section 60a–1 of Title 2.

1991—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1991, to the figure ''$20,141'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 1990, formerly set out as a note under section 60a–1 of Title 2.

1990—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1990, to the figure ''$19,347'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 21, 1989, formerly set out as a note under section 60a–1 of Title 2.

1989—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1989, to the figure ''$18,674'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 9, 1988, formerly set out as a note under section 60a–1 of Title 2.

1988—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1988, to the figure ''$17,938'', see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 4, 1988, formerly set out as a note under section 60a–1 of Title 2.

1987—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1987, to the figure ''$17,586'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 1986, formerly set out as a note under section 60a–1 of Title 2.

1985—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1985, to the figure ''$17,073'', see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 4, 1985, formerly set out as a note under section 60a–1 of Title 2.

1984—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1984, to the figure ''$16,495'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 1983, formerly set out as a note under section 60a–1 of Title 2.

1982—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1982, to the figure ''$15,860'', see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 1, 1982, formerly set out as a note under section 60a–1 of Title 2.

1980—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1980, to the figure ''$14,551'', see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 1, 1980, formerly set out as a note under section 60a–1 of Title 2.

1979—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1979, to the figure ''$13,337'', see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 13, 1979, formerly set out as a note under section 60a–1 of Title 2.

1978—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1978, to the figure ''$12,480'', see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 9, 1978, formerly set out as a note under section 60a–1 of Title 2.

1977—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1977, to the figure ''$11,830'', see section 9 of Salary Directive of President pro tempore of the Senate, Sept. 27, 1977, formerly set out as a note under section 60a–1 of Title 2.

1976—The figure ''$10,540'' in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1976, to the figure ''$11,050'', see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 8, 1976, formerly set out as a note under section 60a–1 of Title 2.

1973—The figure ''7,724'' in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1973, to the figure ''9,080'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 16, 1972, formerly set out as a note under section 60a–1 of Title 2.

1972—The figure ''7,724'' in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1972, to the figure ''8,637'', see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 23, 1971, formerly set out as a note under section 60a–1 of Title 2.

1971—The figure ''7,724'' in subsection (c)(1) of this section, deemed to refer, effective Feb. 1, 1971, to the figure ''8,187'', see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 15, 1971, formerly set out as a note under section 60a–1 of Title 2.

1970—Adjustment by President pro tempore of the Senate with respect to Senate, by Finance Clerk of House with respect to House of Representatives, and by Architect of Capitol with respect to Office of Architect of Capitol, effective on the first day of the first pay period which begins on or after Dec. 27, 1969, of rates of pay of employees of legislative branch subject to section 214 of Pub. L. 90–206 with certain exceptions, by amounts of adjustment for corresponding rates for employees subject to the General Schedule, set out in section 5332 of this title, which had been made by section 2 of Pub. L. 91–231 raising such rates by 6 percent, see Pub. L. 91–231, formerly set out as a note under section 5332 of this title.

1969—The figure ''6,662'' in subsection (c)(1)(A) of this section, as increased by Order of June 12, 1968, deemed, on and after July 1, 1969, to refer to the figure ''7,287'', see section 4(d) of Salary Directive of President pro tempore of the Senate, June 17, 1969, formerly set out as a note under section 60a–1 of Title 2.

1968—The figure ''6,256'' in subsection (c)(1)(A) of this section deemed to refer, on and after July 1, 1968, to the figure ''6,622'', see section 1(i) of Salary Directive of President pro tempore of the Senate, June 12, 1968, formerly set out as a note under section 60a–1 of Title 2.

§ 5534. Dual employment and pay of Reserves and National Guardsmen

A Reserve of the armed forces or member of the National Guard may accept a civilian office or position under the Government of the United States or the government of the District of Columbia, and he is entitled to receive the pay of

that office or position in addition to pay and allowances as a Reserve or member of the National Guard.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 484.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 30r(c) (1st sentence).	Aug. 10, 1956, ch. 1041, § 29(c) (1st sentence), 70A Stat. 632.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5534a. Dual employment and pay during terminal leave from uniformed services

A member of a uniformed service who has performed active service and who is on terminal leave pending separation from, or release from active duty in, that service under honorable conditions may accept a civilian office or position in the Government of the United States, its territories or possessions, or the government of the District of Columbia, and he is entitled to receive the pay of that office or position in addition to pay and allowances from the uniformed service for the unexpired portion of the terminal leave. Such a member also is entitled to accrue annual leave with pay in the manner specified in section 6303(a) of this title for a retired member of a uniformed service.

(Added Pub. L. 90–83, § 1(22), Sept. 11, 1967, 81 Stat. 199; amended Pub. L. 109–364, div. A, title XI, § 1101, Oct. 17, 2006, 120 Stat. 2407.)

HISTORICAL AND REVISION NOTES

This section amends chapter 55 of title 5, United States Code, by inserting a new section 5534a. This section is based on subsections (a) and (f) of former 5 U.S.C. 61a–1 the source statute for which (act of Nov. 21, 1945, ch. 489, 59 Stat. 584) was repealed by the act of September 6, 1966, Public Law 89–554 (sec. 8, 80 Stat. 653). Senate Report 1380, 89th Congress, second session, pages 449, 511, explains that the source was repealed since it had been rendered obsolete by section 4(c) of the Armed Forces Leave Act of 1946, as amended (37 U.S.C. 501), and section 219(c) of the Public Health Service Act, as added August 9, 1950 (ch. 654, sec. 2, 64 Stat. 426; 42 U.S.C. 210–1(c)), and that any existing rights are preserved by section 8 of Public Law 89–554.

At the time of enactment of the act of November 21, 1945, there was no authority to make lump-sum leave payments to members of the uniformed services who were being separated from or released from active duty in the uniformed services. Accordingly, they were placed on terminal leave until the expiration of the unused portion of their accumulated and current accrued leave, and only then separated or released. The act of November 21, 1945, in part, authorized the employment of these members during terminal leave and provided they were entitled to receive, in addition to the payment from the employment, military pay and allowances for the unexpired portion of the terminal leave. The Armed Forces Leave Act of 1946 authorized lump-sum leave payments of unused accumulated and current accrued leave. Generally, thereafter, members of the uniformed services were not placed on terminal leave, but were separated and paid a lump-sum leave payment. However, in certain instances a member may be placed on terminal leave. Such a case was considered recently by the Comptroller General of the United States (see B–157500, Oct. 13, 1965, 45 Comp. Gen. 180. In view of the foregoing, it is concluded that subsection (a) of former 5 U.S.C. 61a–1 had prospective effect and should have been reenacted in title 5, U.S.C., by Public Law 89–554.

In section 5534a, the words ''A member of a uniformed service who has performed active service'' are substituted for ''Any person, who, shall have performed active service in the Armed Forces'' to conform to the style of title 5 and the definition of ''uniformed services'' in 5 U.S.C. 2101 which is coextensive with the definition of ''armed forces'' in subsection (f) of former 5 U.S.C. 61a–1. Reorganization Plan No. 2 of 1965 (79 Stat. 1318), effective July 13, 1965, consolidated the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration. The words ''subsequent to May 1, 1940'' are omitted as executed. The word ''territories'' is substituted for ''Territories'' inasmuch as there now are no incorporated territories. The words ''(including any corporation created under authority of an act of Congress which is either wholly controlled or wholly owned by the Government of the United States, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress)'' are omitted as included in ''a civilian office or position in the Government of the United States''. The word ''pay'' is substituted for ''compensation.''

AMENDMENTS

2006—Pub. L. 109–364 inserted at end ''Such a member also is entitled to accrue annual leave with pay in the manner specified in section 6303(a) of this title for a retired member of a uniformed service.''

EFFECTIVE DATE

Section effective Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90–83, set out as an Effective Date of 1967 Amendment note under section 5102 of this title.

§ 5535. Extra pay for details prohibited

(a) An officer may not receive pay in addition to the pay for his regular office for performing the duties of a vacant office as authorized by sections 3345–3347 of this title.

(b) An employee may not receive—

(1) additional pay or allowances for performing the duties of another employee; or

(2) pay in addition to the regular pay received for employment held before his appointment or designation as acting for or instead of an occupant of another position or employment.

This subsection does not prevent a regular and permanent appointment by promotion from a lower to a higher grade of employment.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 484.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 9.	R.S. § 182.
(b)	5 U.S.C. 69 (1st 34 words).	R.S. § 1764 (1st 34 words).
	5 U.S.C. 72.	Aug. 1, 1914, ch. 223, § 12, 38 Stat. 680.

Subsection (a) was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171–1), which provides ''Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Re-

vised Statutes as now or hereafter amended shall be applicable to the Department of Defense'' is omitted from this title but is not repealed.

In subsection (a), the words ''regular office'' are coextensive with and substituted for ''proper office''.

In subsection (b), former sections 69 (1st 34 words) and 72 are combined and restated for clarity and conciseness. The word ''employee'' is coextensive with and substituted for ''officer or clerk'', ''officer or clerk in the same or any other department'', and ''person employed in the service of the United States''. The words ''under any general or lump-sum appropriation'' are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5536. Extra pay for extra services prohibited

An employee or a member of a uniformed service whose pay or allowance is fixed by statute or regulation may not receive additional pay or allowance for the disbursement of public money or for any other service or duty, unless specifically authorized by law and the appropriation therefor specifically states that it is for the additional pay or allowance.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 484.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 51.	R.S. §170.
.....	5 U.S.C. 69 (less 1st 34 words).	R.S. §1764 (less 1st 34 words).
.....	5 U.S.C. 70.	R.S. §1765.
.....	5 U.S.C. 71.	June 20, 1874, ch. 328, §3, 18 Stat. 109.
		Sept. 3, 1954, ch. 1263, §7, 68 Stat. 1228.

Sections are consolidated as R.S. §1765 includes the scope of R.S. §170, R.S. §1764, and the Act of June 20, 1874, as amended. So much of R.S. §1764 as relates to details is covered by section 5535.

R.S. §170 was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, §201(d), as added Aug. 10, 1949, ch. 412, §4, 63 Stat. 579 (former 5 U.S.C. 171–1), which provides ''Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense'' is omitted from his [sic] title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5537. Fees for jury and witness service

(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police) or an individual employed by the government of the District of Columbia may not receive fees for service—

(1) as a juror in a court of the United States or the District of Columbia; or

(2) as a witness on behalf of the United States or the District of Columbia.

(b) An official of a court of the United States or the District of Columbia may not receive witness fees for attendance before a court, commissioner, or magistrate judge where he is officiating.

(c) For the purpose of this section, ''court of the United States'' has the meaning given it by section 451 of title 28 and includes the District Court of Guam and the District Court of the Virgin Islands.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 484; Pub. L. 90–623, §1(12), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91–563, §3(a), Dec. 19, 1970, 84 Stat. 1477; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 104–186, title II, §215(8), Aug. 20, 1996, 110 Stat. 1746; Pub. L. 104–201, div. C, title XXXV, §3548(a)(5), Sept. 23, 1996, 110 Stat. 2868; Pub. L. 111–145, §7(c)(2), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 30*o*.	June 29, 1940, ch. 446, §2, 54 Stat. 689.

The words ''fees for jury service'' are coextensive with and substituted for ''compensation for such service''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–145 substituted '', the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police'' for ''or the Chief Administrative Officer of the House of Representatives'' in introductory provisions.

1996—Subsec. (a). Pub. L. 104–186 substituted ''Chief Administrative Officer'' for ''Clerk'' in introductory provisions.

Subsec. (c). Pub. L. 104–201 substituted ''the District Court of Guam and the District Court of the Virgin Islands'' for ''the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands''.

1970—Pub. L. 91–563 substituted ''jury and witness service'' for ''jury service in courts of the United States'' in section catchline, designated existing provisions as subsec. (a), inserted provisions prohibiting payment of fees for jury service in a court of the District of Columbia or for service as a witness on behalf of the United States or the District of Columbia and excepting employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, and added subsecs. (b) and (c).

1968—Pub. L. 90–623 inserted '', who is entitled to leave under section 6322 of this title,'' after ''individual employed by the government of the District of Columbia''.

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' in subsec. (b) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–145 effective as though enacted as part of section 1018 of Pub. L. 108–7, see section 7(d) of Pub. L. 111–145, set out as a note under section 2107 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

(2) the amount of pay and allowances which (as determined under subsection (d))—

(A) is payable to such employee for that service; and

(B) is allocable to such pay period.

(b) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

(1) during which such employee is entitled to re-employment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

(2) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

(c) Any amount payable under this section to an employee shall be paid—

(1) by such employee's employing agency;

(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

(f) For purposes of this section—

(1) the terms ''employee'', ''Federal Government'', and ''uniformed services'' have the same respective meanings as given those terms in section 4303 of title 38;

(2) the term ''employing agency'', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

(3) the term ''basic pay'' includes any amount payable under section 5304.

(Added Pub. L. 111–8, div. D, title VII, § 751(a), Mar. 11, 2009, 123 Stat. 693; amended Pub. L. 111–117, div. C, title VII, § 745(a), Dec. 16, 2009, 123 Stat. 3219.)

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–117 added subsec. (b) and struck out former subsec. (b), which read as follows:

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).''

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–117, div. C, title VII, § 745(b), Dec. 16, 2009, 123 Stat. 3219, provided that: ''The amendments made by this section [amending this section] shall take effect on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act [Dec. 16, 2009].''

EFFECTIVE DATE

Pub. L. 111–8, div. D, title VII, § 751(c), Mar. 11, 2009, 123 Stat. 695, provided that: ''The amendments made by this section [enacting this section] shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act [Mar. 11, 2009].''

SUBCHAPTER V—PREMIUM PAY

§ 5541. Definitions

For the purpose of this subchapter—

(1) ''agency'' means—

(A) an Executive agency;

(B) a military department;

(C) an agency in the judicial branch;

(D) the Library of Congress;

(E) the Botanic Garden;

(F) the Office of the Architect of the Capitol; and

(G) the government of the District of Columbia;

(2) ''employee'' means—

(A) an employee in or under an Executive agency;

(B) an individual employed by the government of the District of Columbia; and

(C) an employee in or under the judicial branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol, who occupies a position subject to chapter 51 and subchapter III of chapter 53 of this title;

but does not include—

(i) a justice or judge of the United States;

(ii) the head of an agency other than the government of the District of Columbia;

(iii) a teacher, school official, or employee of the Board of Education of the District of Columbia, whose pay is fixed under chapter 15 of title 31, District of Columbia Code;

(iv) a member of—

(I) the Metropolitan Police or the Fire Department of the District of Columbia; or

(II) a member of the United States Park Police, other than for purposes of section[1] 5545(a) and 5546;

(v) a student-employee as defined by section 5351 of this title;

[(vi) Repealed. Pub. L. 91–375, § 6(c)(16), Aug. 12, 1970, 84 Stat. 776;]

(vii) an employee outside the continental United States or in Alaska who is paid in accordance with local native prevailing wage rates for the area in which employed;

(viii) an employee of the Tennessee Valley Authority;

(ix) an individual to whom section 1291(a) of title 50, appendix, applies;

(x) an employee of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives;

(xi) an employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of this title, or by a wage board or similar administrative authority serving the same purpose, except as provided by section 5544 or 5550b of this title;

(xii) an employee of the Transportation Corps of the Army on a vessel operated by the United States, a vessel employee of the Environmental Science Services Administration, or a vessel employee of the Department of the Interior;

(xiii) a ''teacher'' or an individual holding a ''teaching position'' as defined by section 901 of title 20;

(xiv) a Foreign Service officer;

(xv) a member of the Senior Foreign Service;

(xvi) member of the Senior Executive Service; or

(xvii) a member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; and

(3) ''law enforcement officer'' means an employee who—

(A) is a law enforcement officer within the meaning of section 8331(20) or 8401(17);

(B) in the case of an employee who holds a supervisory or administrative position and is subject to subchapter III of chapter 83, but who does not qualify to be considered a law enforcement officer within the meaning of section 8331(20), would so qualify if such employee had transferred directly to such position after serving as a law enforcement officer within the meaning of such section;

(C) in the case of an employee who holds a supervisory or administrative position and is subject to chapter 84, but who does not qualify to be considered a law enforcement officer within the meaning of section 8401(17), would so qualify if such employee had transferred directly to such position after performing duties described in section 8401(17)(A) and (B) for at least 3 years; and

(D) in the case of an employee who is not subject to subchapter III of chapter 83 or chapter 84—

(i) holds a position that the Office of Personnel Management determines would satisfy subparagraph (A), (B), or (C) if the employee were subject to subchapter III of chapter 83 or chapter 84; or

(ii) is a special agent in the Diplomatic Security Service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 485; Pub. L. 90–83, § 1(4), Sept. 11, 1967, 81 Stat. 196; Pub. L. 91–375, § 6(c)(16), Aug. 12, 1970, 84 Stat. 776; Pub. L. 92–392, § 4, Aug. 14, 1972, 86 Stat. 573; Pub. L. 94–183, § 2(22), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 95–105, title IV, § 412(a)(1), Aug. 17, 1977, 91 Stat. 855; Pub. L. 95–426, title II, § 204(b)(5)(B), Oct. 7, 1978, 92 Stat. 974; Pub. L. 95–454, title IV, § 408(a)(2), Oct. 13, 1978, 92 Stat. 1173; Pub. L. 96–70, title III, § 3302(e)(1), Sept. 27, 1979, 93 Stat. 498; Pub. L. 96–465, title II, § 2304, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 100–325, § 2(i)(1), May 30, 1988, 102 Stat. 582; Pub. L. 101–509, title V, § 529 [title IV, § 411(a)], Nov. 5, 1990, 104 Stat. 1427, 1469; Pub. L. 102–378, § 2(40)(A)–(C), Oct. 2, 1992, 106 Stat. 1351; Pub. L. 104–201, div. C, title XXXV, § 3548(a)(6), Sept. 23, 1996, 110 Stat. 2869; Pub. L. 110–181, div. A, title XI, § 1111(b), Jan. 28, 2008, 122 Stat. 360; Pub. L. 111–282, § 4(c)(2), Oct. 15, 2010, 124 Stat. 3043.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 901(a), (d), (e).	June 30, 1945, ch. 212 § 101(a), (d), (e), 59 Stat. 295, 296. Sept. 1, 1954, ch. 1208, § 202(a), 68 Stat. 1109.
.....	5 U.S.C. 902 (less clause (1) and last sentence of (a)).	June 30, 1945, ch. 212, § 102 (less clause (1) and last sentence of (a)), 59 Stat. 296. May 24, 1946, ch. 270, § 8(a), 60 Stat. 218. Aug. 4, 1947, ch. 452, § 1, 61 Stat. 727. Aug. 18, 1959, Pub. L. 86–168, § 202(c) 73 Stat. 389.
.....	5 U.S.C. 2358(a) (as applicable to the Federal Employees Pay Act of 1945, as amended).	July 17, 1959, Pub. L. 86–91, § 10(a) (as applicable to the Federal Employees Pay Act of 1945, as amended), 73 Stat. 217.

The section is revised as a definition section. The provisions of former section 901(d) are omitted as unnecessary because the sections referred to state their application and there is no need to restate the application here.

In paragraph (1), the terms ''Executive agency'' and ''military department'' are substituted for the ref-

[1] So in original. Probably should be ''sections''.

erences in former section 901(a) and (e) to the executive branch, including Government-owned or controlled corporations, and the General Accounting Office in view of the definitions in sections 105 and 102.

In paragraph (2)(iii), the words ''chapter 15 of title 31, District of Columbia Code'' are substituted for the reference in former section 902(a)(4) to ''the Teachers Salary Act of June 4, 1924, as amended'' on authority of the provisions contained therein. Enumeration of the individuals to which the provisions apply are added.

In paragraph (2)(iv), the provisions of former section 902(a)(5) and (b)(6) are combined.

In paragraph (2)(v), the words ''student-employee as defined by section 5351 of this title'' are coextensive with and substituted for the enumeration of the employees in former section 902(a)(6).

In paragraph (2)(iv), (vi), (vii), (viii), (ix), (xi), and (xii), the reference to former section 947 is omitted as that section was repealed by the Act of Sept. 12, 1950, ch. 946, § 301(85), 64 Stat. 843.

In paragraph (2)(xii), the reference to former section 946 is omitted as unnecessary since that section is not carried into this subchapter. The words ''Panama Canal Company'' are substituted for ''Panama Railroad Company'' on authority of the Act of Sept. 2, 1950, ch. 1049, § 2(a)(2), 64 Stat. 1038.

In paragraph (2)(xiii), the words ''as defined by section 901 of title 20'' are added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

The exception for officers and employees of the Inland Waterways Corporation in former section 902(b)(3) is omitted on authority of the Act of July 19, 1963, Pub. L. 88–67, 77 Stat. 81.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2010—Par. (2)(iv)(II). Pub. L. 111–282 struck out ''a member of the United States Secret Service Uniformed Division,'' before ''a member of the United States Park Police''.

2008—Par. (2)(xi). Pub. L. 110–181 substituted ''section 5544 or 5550b'' for ''section 5544''.

1996—Par. (2)(xii). Pub. L. 104–201 inserted ''or'' after ''Services Administration,'' and struck out '', or a vessel employee of the Panama Canal Commission'' after ''Interior''.

1992—Par. (3). Pub. L. 102–378 added par. (3).

1990—Par. (2)(iv). Pub. L. 101–509 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: ''a member of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, or the Executive Protective Service;''.

1988—Par. (2)(xvii). Pub. L. 100–325 added cl. (xvii).

1980—Par. (2)(xiv). Pub. L. 96–465 struck out ''within the meaning of section 401 of the Foreign Service Act of 1946'' after ''officer''.

Par. (2)(xv). Pub. L. 96–465 substituted ''a member of the Senior Foreign Service'' for ''a 'Foreign Service information officer' as provided for by the first section of the Act entitled 'An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps', approved August 20, 1968''.

1979—Par. (2)(xii). Pub. L. 96–70 substituted ''Commission'' for ''Company''.

1978—Par. (2)(xvi). Pub. L. 95–454 added cl. (xvi).

Par. (2)(xv). Pub. L. 95–426 substituted ''International Communication Agency'' for ''United States Information Agency''.

1977—Par. (2)(xiv), (xv). Pub. L. 95–105 added cls. (xiv) and (xv).

1975—Par. (2)(iv). Pub. L. 94–183 substituted ''Executive Protective Service'' for ''White House Police''.

1972—Par. (2)(xi). Pub. L. 92–392 substituted ''pay'' for ''basic pay'' and provided for determination of pay under subchapter IV of chapter 53 of this title.

1970—Par. (2)(vi). Pub. L. 91–375 repealed cl. (vi) which excluded an employee in the postal field service from definition of ''employee''.

1967—Par. (2)(xii). Pub. L. 90–83 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''. See Historical and Revision Notes under section 2101 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–282 effective on first day of first pay period which begins after Oct. 15, 2010, see section 5 of Pub. L. 111–282, set out as a note under section 5102 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title XI, § 1111(c), Jan. 28, 2008, 122 Stat. 360, provided that: ''The amendments made by this section [amending this section and section 5550b of this title] shall take effect on the earlier of—

''(1) the effective date of any regulations prescribed to carry out such amendments; or

''(2) the 90th day after the date of the enactment of this Act [Jan. 28, 2008].''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 529 [title IV, § 411(b)] of Pub. L. 101–509 provided that: ''The amendment made by this section [amending this section] shall be effective on January 1, 1992.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

Section 204(b)(5)(B) of Pub. L. 95–426 provided that the amendment made by such section 204(b)(5)(B) is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 412(a)(2) of Pub. L. 95–105 provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1978.''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–329, title VI, § 633(a), Sept. 30, 1994, 108 Stat. 2425, provided that: ''This section [enacting section 5545a of this title, amending sections 5542 and 5547 of this title and section 213 of Title 29, Labor, and enacting provisions set out as notes under section 5545a of this title] may be cited as the 'Law Enforcement Availability Pay Act of 1994'.''

TRANSFER OF FUNCTIONS

Environmental Science Services Administration in Department of Commerce, including offices of Administrator and Deputy Administrator thereof, abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created National Oceanic and Atmospheric Administration in Department of Commerce and transferred personnel, property, records, and unexpended balances of funds of Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. Components of Environmental Science Services Administration thus transferred included Weather Bureau [now National Weather Service], Coast and Geodetic Survey [now National Ocean Survey], Environmental Data Service, National Environmental Satellite Center, and ESSA Research Laboratories.

AVAILABILITY OF PREMIUM PAY FOR ATTORNEYS EMPLOYED IN DEPARTMENT OF JUSTICE

Pub. L. 106–113, div. B, § 1000(a)(1) [title I, § 115], Nov. 29, 1999, 113 Stat. 1535, 1501A–21, provided that:

''(a) None of the funds made available by this or any other Act may be used to pay premium pay under title 5, United States Code, sections 5542–5549, to any individual employed as an attorney, including an Assistant United States Attorney, in the Department of Justice for any work performed on or after the date of the enactment of this Act [Nov. 29, 1999].

''(b) Notwithstanding any other provision of law, neither the United States nor any individual or entity acting on its behalf shall be liable for premium pay under title 5, United States Code, sections 5542–5549, for any work performed on or after the date of the enactment of this Act [Nov. 29, 1999] by any individual employed as an attorney in the Department of Justice, including an Assistant United States Attorney.''

[Pub. L. 106–553, § 1(a)(2) [title I, § 111], Dec. 21, 2000, 114 Stat. 2762, 2762A–68, provided that: ''Section 115 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(1) of Public Law 106–113) [set out above] shall apply hereafter.'']

SENSE OF CONGRESS RELATING TO LAW ENFORCEMENT OFFICER PROVISIONS

Section 2(40)(D) of Pub. L. 102–378 provided that: ''It is the sense of the Congress that—

''(i) the provisions of section 5541(3) of title 5, United States Code (as added by section 2(40)(C) of this Act)—

''(I) are enacted only for the purposes of pay and not for the purposes of retirement;

''(II) do not reflect any intent of the Congress to change retirement eligibility standards for law enforcement officers; and

''(ii) law enforcement officers in primary positions have different retirement eligibility standards than employees in supervisory or administrative positions because of the different requirements in their responsibilities.''

PAYMENT OF BONUSES FOR FOREIGN LANGUAGE CAPABILITIES

Pub. L. 100–690, title VI, § 6401, Nov. 18, 1988, 102 Stat. 4370, as amended by Pub. L. 101–509, title V, § 529 [title IV, § 408(c)], Nov. 5, 1990, 104 Stat. 1427, 1468, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Drug Enforcement Administration and the Federal Bureau of Investigation are authorized on and after October 1, 1988, to pay bonuses up to 25 percent of base pay to employees of the Drug Enforcement Administration and the Federal Bureau of Investigation who possess and make substantial use of one or more languages, other than English, in the performance of their official duties. The Administrator of the Drug Enforcement Administration and the Director of the Federal Bureau of Investigation shall develop such policies as necessary to implement the payment of these bonuses.

''(b) LIMITATION.—The provisions of this section shall apply only to an employee who has received a bonus under this section before January 1, 1992. The provisions of subchapter III of chapter 45 of title 5, United States Code, shall apply to any employee who would otherwise be eligible to receive a bonus under this section, on and after such date.''

§ 5542. Overtime rates; computation

(a) For full-time, part-time and intermittent tours of duty, hours of work officially ordered or approved in excess of 40 hours in an administrative workweek, or (with the exception of an employee engaged in professional or technical engineering or scientific activities for whom the first 40 hours of duty in an administrative workweek is the basic workweek and an employee whose basic pay exceeds the minimum rate for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) for whom the first 40 hours of duty in an administrative workweek is the basic workweek) in excess of 8 hours in a day, performed by an employee are overtime work and shall be paid for, except as otherwise provided by this subchapter, at the following rates:

(1) For an employee whose basic pay is at a rate which does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(2) For an employee whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of one and one-half times the hourly rate of the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) or the hourly rate of basic pay of the employee, and all that amount is premium pay.

(3) Notwithstanding paragraphs (1) and (2) of this subsection for an employee of the Department of Transportation who occupies a nonmanagerial position in GS–14 or under and, as

determined by the Secretary of Transportation,

(A) the duties of which are critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship;

(B) in which overtime work is therefore unusually taxing; and

(C) in which operating requirements cannot be met without substantial overtime work;

the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(4) Notwithstanding paragraph (2) of this subsection, for an employee who is a law enforcement officer, and whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of—

(A) one and one-half times the minimum hourly rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the hourly rate of basic pay of the employee,

and all that amount is premium pay.

(5) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Interior or the United States Forest Service in the Department of Agriculture engaged in emergency wildland fire suppression activities, the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(6)(A) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Navy who is assigned to temporary duty to perform work aboard, or dockside in direct support of, the nuclear aircraft carrier that is forward deployed in Japan and who would be nonexempt under the Fair Labor Standards Act but for the application of the foreign area exemption in section 13(f) of that Act (29 U.S.C. 213(f)), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(B) Subparagraph (A) shall expire on September 30, 2014.

(b) For the purpose of this subchapter—

(1) unscheduled overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed at least 2 hours in duration; and

(2) time spent in a travel status away from the official-duty station of an employee is not hours of employment unless—

(A) the time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

(B) the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station.

(c) Subsection (a) shall not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair labor[1] Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.

(d) In applying subsection (a) of this section with respect to any criminal investigator who is paid availability pay under section 5545a—

(1) such investigator shall be compensated under such subsection (a), at the rates there provided, for overtime work which is scheduled in advance of the administrative workweek—

(A) in excess of 10 hours on a day during such investigator's basic 40 hour workweek; or

(B) on a day outside such investigator's basic 40 hour workweek; and

(2) such investigator shall be compensated for all other overtime work under section 5545a.

(e) Notwithstanding subsection (d)(1) of this section, all hours of overtime work scheduled in advance of the administrative workweek shall be compensated under subsection (a) if that work involves duties as authorized by section 3056(a) of title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956, and if the investigator performs, on that same day, at least 2 hours of overtime work not scheduled in advance of the administrative workweek.

(f) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b(b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate

[1] So in original. Probably should be capitalized.

provided in paragraph (2) of such subsection (a).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 485; Pub. L. 90–83, § 1(24), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90–206, title II, § 222(a), Dec. 16, 1967, 81 Stat. 641; Pub. L. 90–556, § 1, Oct. 10, 1968, 82 Stat. 969; Pub. L. 92–194, Dec. 15, 1971, 85 Stat. 648; Pub. L. 98–473, title I, § 101(c) [title III, § 322], Oct. 12, 1984, 98 Stat. 1837, 1874; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(E), title II, § 210(1), title IV, § 410(a)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1460, 1468; Pub. L. 102–378, § 2(41), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 103–329, title VI, § 633(c), Sept. 30, 1994, 108 Stat. 2427; Pub. L. 104–52, title V, § 531, Nov. 19, 1995, 109 Stat. 496; Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(c)(2)], (h) [title VI, § 628(a)(1)], div. G, subdiv. B, title XXIII, § 2316(c)(2), Oct. 21, 1998, 112 Stat. 2681–50, 2681–102, 2681–480, 2681–519, 2681–829; Pub. L. 106–558, § 2(a), Dec. 21, 2000, 114 Stat. 2776; Pub. L. 108–136, div. A, title XI, § 1121, Nov. 24, 2003, 117 Stat. 1636; Pub. L. 111–383, div. A, title XI, § 1105(a), Jan. 7, 2011, 124 Stat. 4383.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 911.	June 30, 1945, ch. 212, § 201, 59 Stat. 296. Sept. 1, 1954, ch. 1208, § 203, 68 Stat. 1109.
(b)	5 U.S.C. 912a. 5 U.S.C. 912b.	Sept. 1, 1954, ch. 1208, § 205(b), 68 Stat. 1110.

In subsection (a)(1), and (2), the word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. References to the ''Classification Act of 1949, as amended'' are omitted as unnecessary.

In subsection (b), former sections 912a and 912b are combined and restated.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5542(a)	5 App.: 911.	July 18, 1966, Pub. L. 89–504, § 404(a), 80 Stat. 297.

The words ''of the Classification Act of 1949, as amended'' are omitted as unnecessary.

REFERENCES IN TEXT

GS–10 and GS–14, referred to in subsec. (a), are contained in the General Schedule which is set out under section 5332 of this title.

The Fair Labor Standards Act, referred to in subsec. (a)(6)(A), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsec. (c), is classified to section 207 of Title 29, Labor.

Section 37(a)(3) of the State Department Basic Authorities Act of 1956, referred to in subsec. (e), is classified to section 2709(a)(3) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2011—Subsec. (a)(6). Pub. L. 111–383 added par. (6).

2003—Subsec. (a)(2). Pub. L. 108–136 inserted ''the greater of'' before ''one and one-half'' and ''or the hourly rate of basic pay of the employee'' before '', and all that amount''.

2000—Subsec. (a)(5). Pub. L. 106–558 added par. (5).

1998—Subsec. (e). Pub. L. 105–277, § 101(b) [title IV, § 407(c)(2)] and § 2316(c)(2), amended subsec. (e) identically, substituting ''title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,'' for ''title 18, United States Code,''.

Subsec. (f). Pub. L. 105–277, § 101(h) [title VI, § 628(a)(1)], added subsec. (f).

1995—Subsec. (e). Pub. L. 104–52 added subsec. (e).

1994—Subsec. (d). Pub. L. 103–329 added subsec. (d).

1992—Subsec. (a)(4). Pub. L. 102–378, § 2(41)(A), substituted ''officer,'' for ''officer (within the meaning of section 8331(20) or 8401(17)),'' and realigned margin of closing provision.

Subsec. (c). Pub. L. 102–378, § 2(41)(B), amended second sentence generally. Prior to amendment, second sentence read as follows: ''In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.''

1990—Subsec. (a). Pub. L. 101–509, § 529 [title I, § 101(b)(3)(E)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–10'' wherever appearing.

Subsec. (a)(4). Pub. L. 101–509, § 529 [title IV, § 410(a)], added par. (4).

Subsec. (c). Pub. L. 101–509, § 529 [title II, § 210(1)], added subsec. (c).

1984—Subsec. (b)(2)(B)(iv). Pub. L. 98–473 inserted '', including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station''.

1971—Subsec. (a). Pub. L. 92–194 substituted ''For full-time, part-time and intermittent tours of duty, hours'' for ''Hours''.

1968—Subsec. (a)(3). Pub. L. 90–556 added par. (3).

1967—Subsec. (b)(2)(B). Pub. L. 90–206 designated existing provisions as cls. (i) and (iii) and added cls. (ii) and (iv).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–558, § 2(b), Dec. 21, 2000, 114 Stat. 2777, as amended by Pub. L. 107–20, title II, § 2605, July 24, 2001, 115 Stat. 178, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Dec. 21, 2000].''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(d)], div. G, subdiv. B, title XXIII, § 2316(d), Oct. 21, 1998, 112 Stat. 2681–50, 2681–102, 2681–829, provided that: ''The amendments made by this section [amending this section and section 5545a of this title] shall take effect on the first day of the first applicable pay period—

''(1) which begins on or after the 90th day following the date of the enactment of this Act [Oct. 21, 1998]; and

''(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.'' [Jan. 29, 1999, see 64 F.R. 4517.]

Amendment by section 101(h) [title VI, § 628(a)(1)] of Pub. L. 105–277 effective on first day of first applicable pay period which begins on or after Oct. 1, 1998, see section 101(h) [title VI, § 628(e)] of Pub. L. 105–277, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–329 effective first day of first applicable pay period beginning on or after 30th

day following Sept. 30, 1994, with exceptions relating to criminal investigators employed in Offices of Inspectors General, see section 633(e) of Pub. L. 103–329, set out as an Effective Date note under section 5545a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 529 [title I, § 101(b)(3)(E), title II, § 210(1)] of Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 3 of Pub. L. 90–556 provided that: ''The amendments made by this Act [amending this section and section 5545 of this title] shall take effect on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act [Oct. 10, 1968].''

EFFECTIVE DATE OF 1967 AMENDMENT

Section 220(a)(4) of title II of Pub. L. 90–206 provided that, except as otherwise expressly provided: ''Sections 222 [enacting section 5733 of this title and amending this section, section 5544 of this title, section 3571 of Title 39, The Postal Service], and 223 [enacting section 5345 of this title] shall become effective thirty days after the date of enactment of this title [Dec. 16, 1967].''

§ 5543. Compensatory time off

(a) The head of an agency may—

(1) on request of an employee, grant the employee compensatory time off from his scheduled tour of duty instead of payment under section 5542 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work; and

(2) provide that an employee whose rate of basic pay is in excess of the maximum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) shall be granted compensatory time off from his scheduled tour of duty equal to the amount of time spent in irregular or occasional overtime work instead of being paid for that work under section 5542 of this title.

(b) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee's scheduled tour of duty instead of payment under section 5544 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work. An agency head may not require an employee to be compensated for overtime work with an equivalent amount of compensatory time-off from the employee's tour of duty.

(c) The Architect of the Capitol may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work.

(d)(1) The appropriate Secretary may, on request of an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), grant such employee compensatory time off from duty instead of overtime pay for overtime work.

(2) For purposes of this subsection, the term ''appropriate Secretary'' means—

(A) with respect to an employee of a nonappropriated fund instrumentality of the Department of Defense, the Secretary of Defense; and

(B) with respect to an employee of a nonappropriated fund instrumentality of the Coast Guard, the Secretary of the Executive department in which it is operating.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 486; Pub. L. 90–83, § 1(25), Sept. 11, 1967, 81 Stat. 200; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(E), title II, § 210(2)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1460; Pub. L. 104–201, div. A, title XVI, § 1610(a), Sept. 23, 1996, 110 Stat. 2738; Pub. L. 109–163, div. A, title VI, § 674, Jan. 6, 2006, 119 Stat. 3319.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 912.	June 30, 1945, ch. 212, § 202, 59 Stat. 297. May 24, 1946, ch. 270, § 9, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 204, 68 Stat. 1109.

In subsection (a), the words ''head of an agency'' are substituted for ''head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia, or the head of any legislative or judicial agency to which this subchapter applies'' because of the definition of ''agency'' and the application stated in section 5541.

In subsection (a)(1), the word ''officer'' is omitted as included in ''employee''.

In subsection (a)(2), the words ''at his own discretion'' are omitted as unnecessary in view of the permissive nature of the authority. The word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the ''Classification Act of 1949, as amended'' is omitted as unnecessary.

In subsection (b), the words ''in his discretion'' are omitted as unnecessary in view of the permissive nature of the authority. The words ''overtime work'' are substituted for ''any work in excess of forty hours in any regularly scheduled administrative workweek'' because of the definition of ''overtime work'' in section 5542(a).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5543(a)(2) ...	5 App.: 912.	July 18, 1966, Pub. L. 89–504, § 404(b), 80 Stat. 297.

REFERENCES IN TEXT

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsecs. (a)(1) and (b), is classified to section 207 of Title 29, Labor.

GS–10, referred to in subsec. (a)(2), is contained in the General Schedule which is set out under section 5332 of this title.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163 added subsec. (d).

1996—Subsecs. (b), (c). Pub. L. 104–201 added subsec. (b) and redesignated former subsec. (b) as (c).

1990—Subsec. (a)(1). Pub. L. 101–509, § 529 [title II, § 210(2)], inserted ''under section 5542 or section 7 of the Fair Labor Standards Act of 1938'' after ''payment''.

Subsec. (a)(2). Pub. L. 101–509, § 529 [title I, § 101(b)(3)(E)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–10''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

§ 5544. Wage-board overtime and Sunday rates; computation

(a) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week. However, an employee subject to this subsection who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week. The overtime hourly rate of pay is computed as follows:

(1) If the basic rate of pay of the employee is fixed on a basis other than an annual or monthly basis, multiply the basic hourly rate of pay by not less than one and one-half.

(2) If the basic rate of pay of the employee is fixed on an annual basis, divide the basic annual rate of pay by 2,087, and multiply the quotient by one and one-half.

(3) If the basic rate of pay of the employee is fixed on a monthly basis, multiply the basic monthly rate of pay by 12 to derive a basic annual rate of pay, divide the basic annual rate of pay by 2,087, and multiply the quotient by one and one-half.

An employee subject to this subsection whose regular work schedule includes an 8-hour period of service a part of which is on Sunday is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour of work performed during that 8-hour period of service. For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday. Time spent in a travel status away from the official duty station of an employee subject to this subsection is not hours of work unless the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively (including travel by the employee to such event and the return of the employee from such event to the employee's official duty station). The first and third sentences of this subsection shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to the first and third sentences of this subsection, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.

(b) An employee under the Office of the Architect of the Capitol who is paid on a daily or hourly basis and who is not subject to chapter 51 and subchapter III of chapter 53 of this title is entitled to overtime pay for overtime work in accordance with subsection (a) of this section. The overtime hourly rate of pay is computed in accordance with subsection (a)(1) of this section.

(c) The provisions of this section, including the last two sentences of subsection (a) and the provisions of section 5543(b), shall apply to a prevailing rate employee described in section 5342(a)(2)(B).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 486; Pub. L. 90–83, § 1(26)(A), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90–206, title II, § 222(d), Dec. 16, 1967, 81 Stat. 641; Pub. L. 92–392, § 5, Aug. 19, 1972, 86 Stat. 573; Pub. L. 101–509, title V, § 529 [title II, § 210(3)], Nov. 5, 1990, 104 Stat. 1427, 1460; Pub. L. 102–378, § 2(42), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 104–201, div. A, title XVI, § 1610(b), Sept. 23, 1996, 110 Stat. 2738; Pub. L. 105–277, div. G, subdiv. B, title XXIII, § 2317(1), Oct. 21, 1998, 112 Stat. 2681–829; Pub. L. 110–181, div. A, title XI, § 1110, Jan. 28, 2008, 122 Stat. 360.)

HISTORICAL AND REVISION NOTES
1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 673c (2d proviso).	Mar. 28, 1934, ch. 102, § 23 (proviso), 48 Stat. 522. Aug. 13, 1962, Pub. L. 87–581, § 201 (2d proviso), 76 Stat. 360.
	5 U.S.C. 913.	June 30, 1945, ch. 212, § 203, 59 Stat. 297. Sept. 1, 1954, ch. 1208, § 205(a), 68 Stat. 1109.
(b)	5 U.S.C. 933 (as applicable to 5 U.S.C. 673c).	June 30, 1945, ch. 212, § 503 (as applicable to § 23 of the Act of Mar. 28, 1934, ch. 102, 48 Stat. 522, as amended), 59 Stat. 301.

In subsection (a), former sections 673c (2d proviso) and 913 are combined and restated for clarity and conciseness. The last 28 words of section 205(a) of the Act of Sept. 1, 1954, 68 Stat. 1109, are omitted as executed and covered by technical section 8.

Subsection (b) is restated to conform to subsection (a). In former section 933, the words ''Classification Act

of 1949'' were substituted for ''Classification Act of 1923'' on authority of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5544(a)	5 App.: 673c (last proviso of 1st par.).	July 18, 1966, Pub. L. 89–504, § 405(f), 80 Stat. 298.

The words ''a part of which is on Sunday'' are coextensive with and substituted for ''any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday.'' The words ''is entitled to additional pay'' are coextensive with and substituted for ''shall be paid extra compensation.''

REFERENCES IN TEXT

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsec. (a), is classified to section 207 of Title 29, Labor.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181, in third sentence of concluding provisions, substituted ''administratively (including travel by the employee to such event and the return of the employee from such event to the employee's official duty station).'' for ''administratively.''

1998—Subsec. (a). Pub. L. 105–277, which directed the amendment of subsec. (a) by inserting after the fourth sentence ''For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.'', was executed by making the insertion after the first sentence of the concluding provisions, to reflect the probable intent of Congress.

1996—Subsec. (c). Pub. L. 104–201 inserted ''and the provisions of section 5543(b)'' after ''the last two sentences of subsection (a)''.

1992—Subsec. (a). Pub. L. 102–378, § 2(42)(B), amended last two sentences generally. Prior to amendment, last two sentences read as follows: ''This section, other than the sixth sentence, shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.''

Subsec. (a)(2), (3). Pub. L. 102–378, § 2(42)(A), substituted ''2,087'' for ''2,080''.

Subsec. (c). Pub. L. 102–378, § 2(42)(C), added subsec. (c).

1990—Subsec. (a). Pub. L. 101–509 inserted at end ''This section, other than the sixth sentence, shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.''

1972—Subsec. (a). Pub. L. 92–392 substituted ''pay'' for ''basic pay'' and provided for determination of pay under section 5343 or 5349 of this title.

1967—Subsec. (a). Pub. L. 90–206 provided that time spent in a travel status away from the official duty station could not qualify as hours of work unless the travel involved the performance of work while traveling, was incident to travel involving the performance of work while traveling, carried out under arduous conditions, or resulting from an event which could not be scheduled or controlled administratively.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–206 effective thirty days after Dec. 16, 1967, see section 220(a)(4) of Pub. L. 90–206, set out as a note under section 5542 of this title.

CANAL ZONE EMPLOYEES

Section 17(3) of Pub. L. 85–550, July 25, 1958, 72 Stat. 411, provided that nothing in Pub. L. 85–550, which related to wage and employment practices of the Government of the United States in the Canal Zone, should affect the applicability of former sections 673c and 913 of this title [covered by this section] to those classes of employees, within the scope of former sections 673c and 913 of this title [covered by this section] on July 25, 1958.

§ 5545. Night, standby, irregular, and hazardous duty differential

(a) Except as provided by subsection (b) of this section, nightwork is regularly scheduled work between the hours of 6:00 p.m. and 6:00 a.m., and includes—

(1) periods of absence with pay during these hours due to holidays; and

(2) periods of leave with pay during these hours if the periods of leave with pay during a pay period total less than 8 hours.

Except as otherwise provided by subsection (c) of this section, an employee is entitled to pay for nightwork at his rate of basic pay plus premium pay amounting to 10 percent of that basic rate. This subsection and subsection (b) of this section do not modify section 5141 of title 31, or other statute authorizing additional pay for nightwork.

(b) The head of an agency may designate a time after 6:00 p.m. and a time before 6:00 a.m. as the beginning and end, respectively, of nightwork for the purpose of subsection (a) of this section, at a post outside the United States where the customary hours of business extend into the hours of nightwork provided by subsection (a) of this section.

(c) The head of an agency, with the approval of the Office of Personnel Management, may provide that—

(1) an employee in a position requiring him regularly to remain at, or within the confines

of, his station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for irregular, unscheduled overtime duty in excess of his regularly scheduled weekly tour. Premium pay under this paragraph is determined as an appropriate percentage, not in excess of 25 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) (or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position), by taking into consideration the number of hours of actual work required in the position, the number of hours required in a standby status at or within the confines of the station, the extent to which the duties of the position are made more onerous by night, Sunday, or holiday work, or by being extended over periods of more than 40 hours a week, and other relevant factors; or

(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is an appropriate percentage, not less than 10 percent nor more than 25 percent, of the rate of basic pay for the position, as determined by taking into consideration the frequency and duration of irregular, unscheduled overtime duty required in the position.

(d) The Office shall establish a schedule or schedules of pay differentials for duty involving unusual physical hardship or hazard, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970. Under such regulations as the Office may prescribe, and for such minimum periods as it determines appropriate, an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. However, the pay differential—

(1) does not apply to an employee in a position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof, except in such circumstances as the Office may by regulation prescribe; and

(2) may not exceed an amount equal to 25 percent of the rate of basic pay applicable to the employee.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 487; Pub. L. 90–83, § 1(27), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90–206, title II, § 217, Dec. 16, 1967, 81 Stat. 638; Pub. L. 90–556, § 2, Oct. 10, 1968, 82 Stat. 969; Pub. L. 91–231, § 8, Apr. 15, 1970, 84 Stat. 198; Pub. L. 94–183, § 2(23), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–54, § 2(a)(32), Aug. 14, 1979, 93 Stat. 383; Pub. L. 97–258, § 3(a)(13), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 101–173, § 1(a), Nov. 27, 1989, 103 Stat. 1292; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(E), title II, § 203], Nov. 5, 1990, 104 Stat. 1427, 1439, 1456; Pub. L. 102–378, § 3(2), Oct. 2, 1992, 106 Stat. 1355; Pub. L. 108–136, div. A, title XI, § 1122(b), Nov. 24, 2003, 117 Stat. 1637.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 921.	June 30, 1945, ch. 212, § 301, 59 Stat. 298. May 24, 1946, ch. 270, § 10, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 206, 68 Stat. 1110.
(c)	5 U.S.C. 926.	Sept. 1, 1954, ch. 1208, § 208(a), 68 Stat. 1111. July 18, 1958, Pub. L. 85–525, 72 Stat. 363.

In subsection (b), the words ''head of an agency'' are substituted for ''head of any department, independent establishment, or agency, including Government-owned or controlled corporations'' because of the definition of ''agency'' and the application stated in section 5541. The words ''the United States'' are substituted for ''the several States and the District of Columbia''.

In subsection (c), the words ''head of an agency'' are substituted for ''head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia'' because of the definition of ''agency'' and the application stated in section 5541. The word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the ''Classification Act of 1949, as amended'' is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5545(c)	5 App.: 926.	July 18, 1966, Pub. L. 89–504 §§ 404(c), 405(d), (e), 80 Stat. 297, 298.
5545(d)	5 App.: 1134.	July 19, 1966, Pub. L. 89–512, § 1, 80 Stat. 318.

In the second sentence of subsection (d), the words ''Under such regulations as the Commission may prescribe, and for such minimum periods as it determines appropriate'' are substituted for clauses (3) and (4) of the third sentence of 5 App. U.S.C. 1134. That requirement in clause (4) that the Commission prescribe regulations is codified in 5 U.S.C. 5548(b) by section 1 (32) of this bill. The words ''an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential'' are

substituted for ''The appropriate differential shall be paid to any officer or employee to whom this Act applies'' to reflect the codification of that act (Classification Act of 1949) in title 5, United States Code, and to conform with the definitions applicable.

In subsection (d)(1), the words ''does not apply to an employee'' are substituted for ''shall not be applicable with respect to any officer or employee.''

In subsection (d)(2), the words ''may not . . . applicable to the employee'' are substituted for ''shall not . . . applicable with respect to such officer or employee''.

REFERENCES IN TEXT

GS–10, referred to in subsec. (c)(1), is contained in the General Schedule which is set out under section 5332 of this title.

The Occupational Safety and Health Act of 1970, referred to in subsec. (d), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–136 inserted before period at end of first sentence '', and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970''.

1992—Subsec. (d). Pub. L. 102–378 made technical correction to directory language of Pub. L. 101–509, § 529 [title II, § 203]. See 1990 Amendment note below.

1990—Subsec. (c)(1). Pub. L. 101–509, § 529 [title I, § 101(b)(3)(E)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–10''.

Subsec. (d). Pub. L. 101–509, § 529 [title II, § 203], as amended by Pub. L. 102–378, struck out ''irregular or intermittent'' before ''duty involving unusual'' in first sentence and inserted '', except in such circumstances as the Office may by regulation prescribe'' after ''thereof'' in par. (1).

1989—Subsec. (c)(2). Pub. L. 101–173 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled, overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require him to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is determined as an appropriate percentage, not less than 10 percent nor more than 25 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS–10, by taking into consideration the frequency and duration of irregular unscheduled overtime duty required in the position.''

1982—Subsec. (a). Pub. L. 97–258 substituted ''section 5141'' for ''section 180''.

1979—Subsec. (c)(2). Pub. L. 96–54 substituted ''percent'' for ''per centum'' wherever appearing.

1978—Subsecs. (c), (d). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission'' wherever appearing.

1975—Pub. L. 94–183 struck out ''Sunday,'' after ''Night,'' in section catchline.

1970—Subsec. (c)(2). Pub. L. 91–231 corrected the system of premium compensation of employees whose work schedules cannot be administratively controlled by providing for separate treatment for irregular, unscheduled, and overtime duty on one hand and for duty at night, on Sundays, and on holidays on the other.

1968—Subsec. (c)(1). Pub. L. 90–556 inserted ''(or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position)'' after ''GS–10''.

1967—Subsec. (e)(2). Pub. L. 90–206 substituted ''not less than 10 percent nor more than 25 percent'' for ''not in excess of 15 percent''.

EFFECTIVE DATE OF 2003 AMENDMENT

Subject to any vested constitutional property rights, any administrative or judicial determination after Nov. 24, 2003, concerning backpay for a differential established under subsec. (d) of this section to be based on occupational safety and health standards described in the amendments made by subsections (a) and (b) of section 1122 of Pub. L. 108–136, amending this section and section 5343 of this title, see section 1122(c) of Pub. L. 108–136, set out as a note under section 5343 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 1(b) of Pub. L. 101–173 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to overtime duty performed on or after the first day of the first applicable pay period beginning after September 30, 1990.''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–231 effective Apr. 15, 1970, see section 9(b) of Pub. L. 91–231, formerly set out in a 1970 Increase in Pay Rates note under section 5332 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–556 effective on first day of first pay period beginning on or after thirtieth day after Oct. 10, 1968, see section 3 of Pub. L. 90–556, set out as a note under section 5542 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90–206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

§ 5545a. Availability pay for criminal investigators

(a) For purposes of this section—

(1) the term ''available'' refers to the availability of a criminal investigator and means that an investigator shall be considered generally and reasonably accessible by the agency employing such investigator to perform unscheduled duty based on the needs of an agency;

(2) the term ''criminal investigator'' means a law enforcement officer as defined under sec-

tion 5541(3) (other than an officer occupying a position under title II of Public Law 99–399, subject to subsection (k)) who is required to—

(A) possess a knowledge of investigative techniques, laws of evidence, rules of criminal procedure, and precedent court decisions concerning admissibility of evidence, constitutional rights, search and seizure, and related issues;

(B) recognize, develop, and present evidence that reconstructs events, sequences and time elements for presentation in various legal hearings and court proceedings;

(C) demonstrate skills in applying surveillance techniques, undercover work, and advising and assisting the United States Attorney in and out of court;

(D) demonstrate the ability to apply the full range of knowledge, skills, and abilities necessary for cases which are complex and unfold over a long period of time (as distinguished from certain other occupations that require the use of some investigative techniques in short-term situations that may end in arrest or detention);

(E) possess knowledge of criminal laws and Federal rules of procedure which apply to cases involving crimes against the United States, including—

(i) knowledge of the elements of a crime;

(ii) evidence required to prove the crime;

(iii) decisions involving arrest authority;

(iv) methods of criminal operations; and

(v) availability of detection devices; and

(F) possess the ability to follow leads that indicate a crime will be committed rather than initiate an investigation after a crime is committed;

(3) the term ''unscheduled duty'' means hours of duty a criminal investigator works, or is determined to be available for work, that are not—

(A) part of the 40 hours in the basic work week of the investigator; or

(B) overtime hours paid under section 5542; and

(4) the term ''regular work day'' means each day in the investigator's basic work week during which the investigator works at least 4 hours that are not overtime hours paid under section 5542 or hours considered part of section 5545a.

(b) The purpose of this section is to provide premium pay to criminal investigators to ensure the availability of criminal investigators for unscheduled duty in excess of a 40 hour work week based on the needs of the employing agency.

(c) Each criminal investigator shall be paid availability pay as provided under this section. Availability pay shall be paid to ensure the availability of the investigator for unscheduled duty. The investigator is generally responsible for recognizing, without supervision, circumstances which require the investigator to be on duty or be available for unscheduled duty based on the needs of the agency. Availability pay provided to a criminal investigator for such unscheduled duty shall be paid instead of premium pay provided by other provisions of this subchapter, except premium pay for regularly scheduled overtime work as provided under section 5542, night duty, Sunday duty, and holiday duty.

(d)(1) A criminal investigator shall be paid availability pay, if the average of hours described under paragraph (2)(A) and (B) is equal to or greater than 2 hours.

(2) The hours referred to under paragraph (1) are—

(A) the annual average of unscheduled duty hours worked by the investigator in excess of each regular work day; and

(B) the annual average of unscheduled duty hours such investigator is available to work on each regular work day upon request of the employing agency.

(3) Unscheduled duty hours which are worked by an investigator on days that are not regular work days shall be considered in the calculation of the annual average of unscheduled duty hours worked or available for purposes of certification.

(4) An investigator shall be considered to be available when the investigator cannot reasonably and generally be accessible due to a status or assignment which is the result of an agency direction, order, or approval as provided under subsection (f)(1).

(e)(1) Each criminal investigator receiving availability pay under this section and the appropriate supervisory officer, to be designated by the head of the agency, shall make an annual certification to the head of the agency that the investigator has met, and is expected to meet, the requirements of subsection (d). The head of a law enforcement agency may prescribe regulations necessary to administer this subsection.

(2) Involuntary reduction in pay resulting from a denial of certification under paragraph (1) shall be a reduction in pay for purposes of section 7512(4) of this title.

(f)(1) A criminal investigator who is eligible for availability pay shall receive such pay during any period such investigator is—

(A) attending agency sanctioned training;

(B) on agency approved sick leave or annual leave;

(C) on agency ordered travel status; or

(D) on excused absence with pay for relocation purposes.

(2) Notwithstanding paragraph (1)(A), agencies or departments may provide availability pay to investigators during training which is considered initial, basic training usually provided in the first year of service.

(3) Agencies or departments may provide availability pay to investigators when on excused absence with pay, except as provided in paragraph (1)(D).

(g) Section 5545(c) shall not apply to any criminal investigator who is paid availability pay under this section.

(h) Availability pay under this section shall be—

(1) 25 percent of the rate of basic pay for the position; and

(2) treated as part of the basic pay for purposes of—

(A) sections 5595(c), 8114(e), 8331(3), and 8704(c); and

(B) such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.

(i) The provisions of subsections (a)–(h) providing for availability pay shall apply to a pilot employed by the United States Customs Service who is a law enforcement officer as defined under section 5541(3). For the purpose of this section, section 5542(d) of this title, and section 13(a)(16) and (b)(30) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(16) and (b)(30)), such pilot shall be deemed to be a criminal investigator as defined in this section. The Office of Personnel Management may prescribe regulations to carry out this subsection.

(j) Notwithstanding any other provision of this section, any Office of Inspector General which employs fewer than 5 criminal investigators may elect not to cover such criminal investigators under this section.

(k)(1) For purposes of this section, the term ''criminal investigator'' includes a special agent occupying a position under title II of Public Law 99–399 if such special agent—

(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

(2) In applying subsection (h) with respect to a special agent under this subsection—

(A) any reference in such subsection to ''basic pay'' shall be considered to include amounts designated as ''salary'';

(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

(C) paragraph (2)(B) of such subsection shall be applied by substituting for ''Office of Personnel Management'' the following: ''Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)''.

(Added Pub. L. 103–329, title VI, § 633(b)(1), Sept. 30, 1994, 108 Stat. 2425; amended Pub. L. 104–19, title I, §§ 901, 902(a), July 27, 1995, 109 Stat. 230; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 659 [title II, § 206(b)(2)]], Sept. 30, 1996, 110 Stat. 3009–314, 3009–372, 3009–378; Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(a), (c)(1)], div. G, subdiv. B, title XXIII, § 2316(a), (c)(1), Oct. 21, 1998, 112 Stat. 2681–50, 2681–101, 2681–102, 2681–828.)

REFERENCES IN TEXT

Title II of Public Law 99–399, referred to in subsecs. (a)(2) and (k)(1), is title II of Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 858, as amended, which is classified generally to subchapter II (§ 4821 et seq.) of chapter 58 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 22 and Tables.

Sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980, referred to in subsec. (k)(2)(B), are classified to sections 4009(b)(1), 4045, 4046, and 4071e, respectively, of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–277, § 101(b) [title IV, § 407(c)(1)] and § 2316(c)(1), amended subsec. (a)(2) identically, substituting ''Public Law 99–399, subject to subsection (k))'' for ''Public Law 99–399)'' in introductory provisions.

Subsec. (k). Pub. L. 105–277, § 101(b) [title IV, § 407(a)] and § 2316(a), amended section identically, adding subsec. (k).

1996—Subsec. (h)(2)(A). Pub. L. 104–208 struck out ''8431,'' after ''8331(3),''.

1995—Subsec. (a)(2). Pub. L. 104–19, § 901(1)(A), inserted ''who'' before ''is required to'' in introductory provisions.

Subsec. (a)(2)(E)(v). Pub. L. 104–19, § 901(1)(B), inserted ''and'' at end.

Subsec. (i). Pub. L. 104–19, § 902(a), added subsec. (i).

Subsec. (j). Pub. L. 104–19, § 901(2), added subsec. (j).

EFFECTIVE DATE OF 1998 AMENDMENT

For effective date of amendment by Pub. L. 105–277, see section 101(b) [title IV, § 407(d)] and section 2316(d) of Pub. L. 105–277, set out as a note under section 5542 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(f) [title VI, § 659 [title II, § 207]] of Pub. L. 104–208 provided that: ''This title [title II (§§ 201–207) of section 659 of section 101(f) of Pub. L. 104–208, amending this section and sections 8351, 8401, 8433, 8435, and 8440a to 8440c of this title, repealing section 8431 of this title, enacting provisions set out as notes under sections 8401 and 8433 of this title, and amending provisions set out as a note under section 5343 of this title] shall take effect on the date of the enactment of this Act [Sept. 30, 1996] and withdrawals and elections as provided under the amendments made by this title shall be made at the earliest practicable date as determined by the Executive Director in regulations.''

EFFECTIVE DATE OF 1995 AMENDMENT

Section 902(b) of Pub. L. 104–19 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall take effect on the first day of the first applicable pay period which begins on or after the 30th day following the date of enactment of this Act [July 27, 1995].''

EFFECTIVE DATE

Section 633(e) of Pub. L. 103–329 provided that: ''The amendments made by this section [enacting this section and amending sections 5542 and 5547 of this title and section 213 of Title 29, Labor] shall take effect on the first day of the first applicable pay period which begins on or after the later of October 1, 1994, or the 30th day following the date of enactment of this Act [Sept. 30, 1994], except that:

''(1) Criminal investigators, employed in Offices of Inspectors General, who are not receiving administratively uncontrollable overtime compensation or who are receiving such premium pay at a rate less than 25 percent prior to the date of enactment of this Act, may implement availability pay at any time prior to September 30, 1995, after which date availability pay as authorized under this section shall be provided to such criminal investigators.

''(2) Criminal investigators, employed by Offices of Inspectors General, who are receiving administratively uncontrollable overtime at a rate less than 25 percent, shall continue to receive this compensation at the same rate or higher until availability pay compensation is provided, which shall be no later than the last pay period ending on or before September 30, 1995.''

IMPLEMENTATION

Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(b)], div. G, subdiv. B, title XXIII, § 2316(b), Oct. 21, 1998, 112 Stat. 2681–50, 2681–102, 2681–828, provided that: ''Not later than the date on which the amendments made by this section [amending this section and section 5542 of this title] take effect [see Effective Date of 1998 Amendment note set out above], each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CERTIFICATION OF CRIMINAL INVESTIGATORS

Section 633(f) of Pub. L. 103–329 provided that: ''Not later than the effective date of this section [see Effective Date note above], each criminal investigator under section 5545a of title 5, United States Code, as added by this section, and the appropriate supervisory officer, to be designated by the head of the agency, shall make an initial certification to the head of the agency that the criminal investigator is expected to meet the requirements of subsection (d) of such section 5545a. The head of a law enforcement agency may prescribe procedures necessary to administer this paragraph.''

§ 5545b. Pay for firefighters

(a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS–081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year, consists of regular tours of duty which average at least 106 hours per biweekly pay period.

(b)(1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

(A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and

(B) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);

(2) For the purpose of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(A)) for all hours in such firefighter's regular tour of duty (including overtime hours).

(c)(1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

(A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;

(B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and

(C) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.

(2) For purposes of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—

(A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and

(B) an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter's regular tour of duty (including overtime hours).

(d)(1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.

(2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in such section 7(k) shall be deemed to have occurred if the requirements of section 5542(a) are met, applying section 5542(a) as provided in subsection (f) of that section: *Provided*, That the overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter's hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters' biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected.

(4) Notwithstanding section 8114(e)(1), overtime pay for a firefighter subject to this section for hours in a regular tour of duty shall be included in any computation of pay under section 8114.

(Added Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(a)(2)], Oct. 21, 1998, 112 Stat. 2681–480,

2681–519; amended Pub. L. 106–554, § 1(a)(3) [title VI, § 641(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169.)

REFERENCES IN TEXT

Section 7(k) of the Fair Labor Standards Act of 1938, referred to in subsec. (d)(2), is classified to section 207(k) of Title 29, Labor.

AMENDMENTS

2000—Subsec. (d)(4). Pub. L. 106–554 added par. (4).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(3) [title VI, § 641(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169, provided that: ''The amendment in subsection (a) [amending this section] shall be effective as if it had been enacted as part of the Federal Firefighters Overtime Pay Reform Act of 1998 [Pub. L. 105–277, div A, § 101(h) [title VI, § 628]] (112 Stat. 2681–519).''

EFFECTIVE DATE

Section effective on first day of first applicable pay period which begins on or after Oct. 1, 1998, see section 101(h) [title VI, § 628(e)] of Pub. L. 105–277, set out as an Effective Date of 1998 Amendment note under section 4109 of this title.

REGULATIONS

Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(f)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–521, provided that: ''Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter's next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicable grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.''

ELIGIBILITY FOR PAY INCREASE

Pub. L. 106–31, title III, § 3032, May 21, 1999, 113 Stat. 104, provided that:

''(a) The treatment provided to firefighters under section 628(f) of the Treasury and General Government Appropriations Act, 1999 (as included in section 101(h) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) [set out as a note above] shall be provided to any firefighter who—

''(1) on the effective date of section 5545b of title 5, United States Code [see Effective Date note above]—

''(A) was subject to such section; and

''(B) had a regular tour of duty that averaged more than 60 hours per week; and

''(2) before December 31, 1999, is involuntarily moved without a break in service from the regular tour of duty under paragraph (1) to a regular tour of duty that—

''(A) averages 60 hours or less per week; and

''(B) does not include a basic 40-hour workweek.

''(b) Subsection (a) shall apply to firefighters described under that subsection as of the effective date of section 5545b of title 5, United States Code.

''(c) The Office of Personnel Management may prescribe regulations necessary to implement this section.''

NO REDUCTION IN REGULAR PAY

Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(g)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–521, provided that: ''Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.''

§ 5546. Pay for Sunday and holiday work

(a) An employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work as defined by section 5542(a) of this title a part of which is performed on Sunday is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay. For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.

(b) An employee who performs work on a holiday designated by Federal statute, Executive order, or with respect to an employee of the government of the District of Columbia, by order of the District of Columbia Council, is entitled to pay at the rate of his basic pay, plus premium pay at a rate equal to the rate of his basic pay, for that holiday work which is not—

(1) in excess of 8 hours; or

(2) overtime work as defined by section 5542(a) of this title.

(c) An employee who is required to perform any work on a designated holiday is entitled to pay for at least 2 hours of holiday work.

(d) An employee who performs overtime work as defined by section 5542(a) of this title on a Sunday or a designated holiday is entitled to pay for that overtime work in accordance with section 5542(a) of this title.

(e) Premium pay under this section is in addition to premium pay which may be due for the same work under section 5545(a) and (b) of this title, providing premium pay for nightwork.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90–83, § 1(29), Sept. 11, 1967, 81 Stat. 201; Pub. L. 90–623, § 1(13), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 105–277, div. G, subdiv. B, title XXIII, § 2317(2), Oct. 21, 1998, 112 Stat. 2681–829.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 922.	June 30, 1945, ch. 212, § 302, 59 Stat. 298. May 24, 1946, ch. 270, § 11, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 207, 68 Stat. 1110. July 18, 1958, Pub. L. 85–533, § 1, 72 Stat. 377.

In subsections (a) and (b), the word ''officer'' is omitted as included in ''employee''.

In subsections (b) and (c), the word ''designated'' is substituted for ''such a'' and ''such'' in former section 922(b) and (c) to identify the holiday as one designated by statute, Executive order, or the Board of Commissioners of the District of Columbia.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5546(a)	5 App.: 921a.	July 18, 1966, Pub. L. 89–504, § 405(b)(1), (c), 80 Stat. 297.

In subsection (a), the words ''An employee who performs work . . . is entitled to pay . . . at the rate of his basic pay'' are coextensive with and substituted for ''Any . . . service . . . performed . . . shall be compensated . . . at the rate of basic compensation of the officer or employee performing such work.'' The words ''section 5542(a) of this title'' are substituted for ''section 201 of this Act'' to reflect the codification of that section in title 5, United States Code. The words ''between midnight Saturday and midnight Sunday'' are coextensive with and substituted for ''within the period commencing at midnight Saturday and ending at midnight Sunday''.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 inserted at end ''For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.''

1968—Subsec. (b). Pub. L. 90–623, § 1(13)(A), substituted ''District of Columbia Council'' for ''Board of Commissioners of the District of Columbia''.

Subsec. (d). Pub. L. 90–623, § 1(13)(B), substituted ''5542(a)'' for ''5442(a)''.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, but amendment of subsec. (d) of this section by section 1(13)(B) of Pub. L. 90–623 effective as of Sept. 6, 1966, for all purposes, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93–198.

CONDITION OF PERFORMANCE

Pub. L. 105–277, div. A, § 101(h) [title VI, § 624], Oct. 21, 1998, 112 Stat. 2681–480, 2681–518, provided that: ''Notwithstanding any other provision of law, no part of any funds provided by this Act or any other Act beginning in fiscal year 1999 and thereafter shall be available for paying Sunday premium pay to any employee unless such employee actually performed work during the time corresponding to such premium pay.''

Similar provisions were contained in the following prior appropriations act:

Pub. L. 105–61, title VI, § 636, Oct. 10, 1997, 111 Stat. 1316.

§ 5546a. Differential pay for certain employees of the Federal Aviation Administration and the Department of Defense

(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the ''Administrator'') and the Secretary of Defense (hereafter in this section referred to as the ''Secretary'') may pay premium pay at the rate of 5 per centum of the applicable rate of basic pay to—

(1) any employee of the Federal Aviation Administration or the Department of Defense who is—

(A) occupying a position in the air traffic controller series classified not lower than GS–9 and located in an air traffic control center or terminal or in a flight service station;

(B) assigned to a position classified not lower than GS–09 or WG–10 located in an airway facilities sector; or

(C) assigned to a flight inspection crewmember position classified not lower than GS–11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator or the Secretary to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

(2) any employee of the Federal Aviation Administration or the Department of Defense who is assigned to a flight test pilot position classified not lower than GS-12 located in a region or center, the duties of whose position are determined by the Administrator or the Secretary to be unusually taxing, physically or mentally, and to be critical to the advancement of aviation safety; and

(3) any employee of the Federal Aviation Administration who occupies a position at the Federal Aviation Administration Academy, Oklahoma City, Oklahoma, the duties of which are determined by the Administrator to require the individual to be actively engaged in or directly responsible for training employees to perform the duties of a position described in subparagraph (a); (b); or (c) or paragraph (1) of this subsection, and who, immediately prior to assuming such position at such Academy, occupied a position referred to in subparagraph (a), (b), or (c) of paragraph (1) of this subsection.

(b) The premium pay payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.

(c)(1) The Administrator or the Secretary may pay premium pay to any employee of the Federal Aviation Administration or the Department of Defense who—

(A) is an air traffic controller located in an air traffic control center or terminal;

(B) is not required as a condition of employment to be certified by the Administrator or the Secretary as proficient and medically qualified to perform duties including the separation and control of air traffic; and

(C) is so certified.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 per centum of the applicable rate of basic pay for so long as such employee is so certified.

(d)(1) The Administrator or the Secretary may pay premium pay to any air traffic controller of the Federal Aviation Administration or the Department of Defense who is assigned by the Ad-

ministrator or the Secretary to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 per centum of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration or the Department of Defense provides on-the-job training.

(e)(1) The Administrator or the Secretary may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration or the Department of Defense who, while working a regularly scheduled eight-hour period of service, is required by his supervisor to work during the fourth through sixth hour of such period without a break of thirty minutes for a meal.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 per centum of one-half of the applicable hourly rate of basic pay.

(f)(1) The Administrator or the Secretary shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration or the Department of Defense are to be paid premium pay under this section.

(2) The Administrator and the Secretary may prescribe such rules as he determines are necessary to carry out the provisions of this section.

(Added Pub. L. 97–276, § 151(c)(1), (d), Oct. 2, 1982, 96 Stat. 1200, 1201; amended Pub. L. 97–377, title I, § 145(a), formerly § 145, Dec. 21, 1982, 96 Stat. 1917, renumbered Pub. L. 98–78, title III, § 320(1), Aug. 15, 1983, 97 Stat. 473; Pub. L. 98–525, title XV, § 1537(c)(1)–(6)(A), Oct. 19, 1984, 98 Stat. 2635, 2636.)

AMENDMENTS

1984—Pub. L. 98–525, § 1537(c)(6)(A), inserted ''and the Department of Defense'' in section catchline.

Subsec. (a). Pub. L. 98–525, § 1537(c)(1)(A), inserted ''and the Secretary of Defense (hereafter in this section referred to as the 'Secretary')'' in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 98–525, § 1537(c)(1)(B), inserted ''or the Department of Defense'' in provisions preceding subpar. (A) and ''or the Secretary'' in provisions following subpar. (C).

Subsec. (a)(2). Pub. L. 98–525, § 1537(c)(1)(C), inserted ''or the Department of Defense'' and ''or the Secretary''.

Subsecs. (c)(1), (d), (e)(1), (f)(1). Pub. L. 98–525, § 1537(c)(2)–(5)(A), inserted ''or the Secretary'' after ''Administrator'' wherever appearing, and ''or the Department of Defense'' after ''Administration'' wherever appearing.

Subsec. (f)(2). Pub. L. 98–525, § 1537(c)(5)(B), inserted ''and the Secretary''.

1982—Subsec. (a)(3). Pub. L. 97–377 added par. (3).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1984, see section 1537(f) of Pub. L. 98–525, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 145(b) of Pub. L. 97–377, as added by Pub. L. 98–78, title III, § 320(2), Aug. 15, 1983, 97 Stat. 473, provided that: ''The amendment made by subsection (a) of this section [amending this section] shall be effective as of 5 o'clock ante meridian eastern daylight time, August 3, 1981.''

EFFECTIVE DATE

Section 151(h)(1), (2) of Pub. L. 97–276 provided that:

''(1) The amendments made by subsections 152 [151] (b), (c), (e), and (g) of this joint resolution [enacting subsecs. (a) and (b) of this section and amending sections 5532, 5547, and 8344 of this title] shall take effect at 5 o'clock ante meridian eastern daylight time, August 3, 1981.

''(2) The amendments made by subsection 152 [151] (a) and subsection 152 [151] (d) of this joint resolution [enacting subsecs. (c)–(f) of this section and amending section 4109 of this title] shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this joint resolution [Oct. 2, 1982].''

§ 5547. Limitation on premium pay

(a) An employee may be paid premium pay under sections 5542, 5545(a), (b), and (c), 5545a, and 5546(a) and (b) only to the extent that the payment does not cause the aggregate of basic pay and such premium pay for any pay period for such employee to exceed the greater of—

(1) the maximum rate of basic pay payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(2) the rate payable for level V of the Executive Schedule.

(b)(1) Subject to regulations prescribed by the Office of Personnel Management, subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency (including a wildfire emergency) that involves a direct threat to life or property, including work performed in the aftermath of such an emergency.

(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would, in any calendar year, exceed the greater of—

(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

(3) Subject to regulations prescribed by the Office of Personnel Management, the head of an agency may determine that subsection (a) shall not apply to an employee who is paid premium pay to perform work that is critical to the mission of the agency. Such employees may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would not, in any calendar year, exceed the greater of—

(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

(c) The Office of Personnel Management shall prescribe regulations governing the methods of applying subsection (b)(2) and (b)(3) to employees who receive premium pay under section 5545(c) or 5545a, or to firefighters covered by section 5545b who receive overtime pay for hours in their regular tour of duty, and the method of payment to such employees. Such regulations may limit the payment of such premium pay on a biweekly basis.

(d) This section shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90–83, § 1(31), Sept. 11, 1967, 81 Stat. 201; Pub. L. 97–276, § 151(e), Oct. 2, 1982, 96 Stat. 1201; Pub. L. 98–525, title XV, § 1537(d), Oct. 19, 1984, 98 Stat. 2636; Pub. L. 100–523, § 2, Oct. 24, 1988, 102 Stat. 2605; Pub. L. 101–509, title V, § 529 [title II, § 204, title IV, § 410(b)], Nov. 5, 1990, 104 Stat. 1427, 1456, 1469; Pub. L. 102–378, § 2(43), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 103–329, title VI, § 633(b)(2), Sept. 30, 1994, 108 Stat. 2427; Pub. L. 107–107, div. A, title XI, § 1114(a), Dec. 28, 2001, 115 Stat. 1239.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 943.	June 30, 1945, ch. 212, § 603, 59 Stat. 302. May 24, 1946, ch. 270, § 7(a), 60 Stat. 218. July 3, 1948, ch. 830, § 303(a), 62 Stat. 1268. Sept. 1, 1954, ch. 1208, § 209, 68 Stat. 1112.

Former section 943(a), (b) is combined and restated for clarity and conciseness. The word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the ''Classification Act of 1949, as amended'' is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

In the codification of 5 U.S.C. 5547, the words ''premium pay under this subchapter'' were substituted for ''premium compensation provided by this Act'' appearing in the source statute—section 603 of the Federal Employees Pay Act of 1945, as amended (former 5 U.S.C. 943). This amendment of 5 U.S.C. 5547 is made for clarity and precision of reference and in recognition that the source statutes for certain sections of subchapter V of chapter 55 of title 5 include statutes that were not a part of the Federal Employees Pay Act of 1949. Specifically, 5 U.S.C. 5544(a) is based in part on section 23 (2d proviso) of the act of March 28, 1934, as amended by 76 Stat. 360; and 5 U.S.C. 5545(d) is based on section 804 of the Classification Act of 1949, as added by Public Law 89–512, 80 Stat. 318. Also, 5 U.S.C. 5541(2)(xi) in effect excludes employees subject to 5 U.S.C. 5544 from the operation of 5 U.S.C. 5547.

REFERENCES IN TEXT

GS–15, referred to in subsecs. (a)(1) and (b)(2)(A), (3)(A), is contained in the General Schedule which is set out under section 5332 of this title.

Level V of the Executive Schedule, referred to in subsecs. (a)(2) and (b)(2)(B), (3)(B), is set out in section 5316 of this title.

AMENDMENTS

2001—Pub. L. 107–107 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

''(a) An employee may be paid premium pay under sections 5542, 5545(a), (b), and (c), 5545a, and 5546(a) and (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law). The first sentence of this subsection shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.

''(b)(1) Subject to regulations prescribed by the Office of Personnel Management, the first sentence of subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency which involves a direct threat to life or property, including a forest wildfire emergency.

''(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) if, or to the extent that, the aggregate of such employee's basic pay and premium pay under those provisions would, in any calendar year, exceed the maximum rate payable for GS–15 in effect at the end of such calendar year.

''(c)(1) Subsections (a) and (b) shall not apply to a law enforcement officer.

''(2) A law enforcement officer may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) only to the extent that the payment does not cause the officer's aggregate rate of pay for any pay period to exceed the lesser of—

''(A) 150 percent of the minimum rate payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

''(B) the rate payable for level V of the Executive Schedule.''

1994—Subsec. (a). Pub. L. 103–329 inserted ''5545a,'' after ''5545(a), (b), and (c),''.

1992—Subsec. (c)(3). Pub. L. 102–378 struck out par. (3) which read as follows: ''For the purposes of this subsection, 'law enforcement officer' means any law enforcement officer within the meaning of section 8331(20) or section 8401(17).''

1990—Subsec. (a). Pub. L. 101–509, § 529 [title II, § 204(1)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–15''.

Subsec. (b). Pub. L. 101–509, § 529 [title II, § 204(2)], amended subsec. (b) generally, substituting present provisions for former provisions consisting of pars. (1) to (3) that related to pay of forest firefighters working on forest wildfire emergencies.

Subsec. (c). Pub. L. 101–509, § 529 [title IV, § 410(b)], added subsec. (c).

1988—Pub. L. 100–523 amended section generally, designating existing provisions as subsec. (a) and adding subsec. (b).

1984—Pub. L. 98–525 inserted ''or the Department of Defense''.

1982—Pub. L. 97–276 inserted provision directing that first sentence of this section not apply to any employee of Federal Aviation Administration who is paid premium pay under section 5546a of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title XI, § 1114(c), Dec. 28, 2001, 115 Stat. 1240, provided that: ''The amendments made by subsections (a) and (b) [amending this section and provisions set out as a note under this section] shall take effect on the first day of the first pay period beginning on or after the date that is 120 days following the date of enactment of this Act [Dec. 28, 2001].''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–329 effective first day of first applicable pay period beginning on or after 30th day following Sept. 30, 1994, with exceptions relating to criminal investigators employed in Offices of Inspectors General, see section 633(e) of Pub. L. 103–329, set out as an Effective Date note under section 5545a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 529 [title II, § 204] of Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1984, see section 1537(f) of Pub. L. 98–525, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–276 effective at 5 o'clock ante meridian eastern daylight time, Aug. 3, 1981, see section 151(h)(1) of Pub. L. 97–276, set out as an Effective Date note under section 5546a of this title.

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100–523 provided: ''That this Act [amending this section] may be cited as the 'Forest Wildfire Emergency Pay Equity Act of 1988'.''

PREMIUM PAY FOR PROTECTIVE SERVICES OF UNITED STATES SECRET SERVICE

Pub. L. 106–554, § 1(a)(3) [title I, § 118], Dec. 21, 2000, 114 Stat. 2763, 2763A–134, as amended by Pub. L. 107–107, div. A, title XI, § 1114(b), Dec. 28, 2001, 115 Stat. 1240, provided that: ''Hereafter, funds made available by this or any other Act may be used to pay premium pay for protective services authorized by section 3056(a) of title 18, United States Code, without regard to the restrictions contained in section 5547 of title 5, United States Code, except that such premium pay shall not be payable to an employee to the extent that the aggregate of the employee's basic and premium pay for the year would otherwise exceed the annual equivalent of that limitation. The term premium pay refers to the provisions of law cited in the first sentence of section 5547(a) of title 5, United States Code. Payment of additional premium pay payable under this section may be made in a lump sum on the last payday of the calendar year.''

Similar provisions were contained in Pub. L. 106–58, title I, § 118, Sept. 29, 1999, 113 Stat. 441.

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 5548. Regulations

(a) The Office of Personnel Management may prescribe regulations, subject to the approval of the President, necessary for the administration of this subchapter, except section 5545(d), insofar as this subchapter affects employees in or under an Executive agency.

(b) The Office shall prescribe regulations necessary for the administration of section 5545(d).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90–83, § 1(32), Sept. 11, 1967, 81 Stat. 201; Pub. L. 92–392, § 12, Aug. 19, 1972, 86 Stat. 575; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 102–378, § 2(44)(C), Oct. 2, 1992, 106 Stat. 1352.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 945.	June 30, 1945, ch. 212, § 605, 59 Stat. 304.

The words ''an Executive agency'' are substituted for ''the executive branch of the Government'' to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

The remainder of the authority is covered by sections 5504 and 6101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5548(b)	5 App.: 1072 (as applicable to 5 App.: 1134.)	Oct. 28, 1949, ch. 782, § 1101 (as applicable to § 804, added July 19, 1966, Pub. L. 89–512, § 1, 80 Stat. 318), 63 Stat. 971.
	5 App.: 1134(4) (6th through 9th words).	July 19, 1966, Pub. L. 89–512, § 1 ''Sec. 804(4) (6th through 9th words)'', 80 Stat. 318.

This section consolidates into 5 U.S.C. 5548(b) general regulatory authority granted to the Civil Service Commission by section 1101 of the Classification Act of 1949 (as applicable to sec. 804 of that act, added by Public Law 89–512) and the specific requirement in section 804(4) of that act that the Commission prescribe regulations.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–378 substituted ''section 5545(d)'' for ''sections 5545(d) and 5550 of this title''.

1978—Subsecs. (a), (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission''.

1972—Subsec. (a). Pub. L. 92–392, § 12(a), struck out reference to section 5544 of this title.

Subsec. (b). Pub. L. 92–392, § 12(b), inserted reference to section 5550 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

DELEGATION OF FUNCTIONS

Function vested in Office of Personnel Management under this section to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

§ 5549. Effect on other statutes

This subchapter does not prevent payment for overtime services or for Sunday or holiday work under any of the following statutes—

(1) section 10703 of the Farm Security and Rural Investment Act of 2002;

(2) sections 1353a and 1353b of title 8;

(3) sections 261,[1] 267, 1450, 1451, 1451a,[1] and 1452 of title 19;

(4) sections 2111 and 2112 of title 46; and

(5) section 154(f)(3) of title 47.

However, an employee may not receive premium pay under this subchapter for the same services for which he is paid under one of these statutes.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 98–89, § 3(a), Aug. 26, 1983, 97 Stat. 599; Pub. L. 107–171, title X, § 10703(c)(4), May 13, 2002, 116 Stat. 518.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 941.	June 30, 1945, ch. 212, § 601, 59 Stat. 302.

In paragraph (2), the words ''sections 1353a and 1353b of title 8'' are substituted for ''sections 342c and 342d of this title'' to reflect the scheduled transfer of those sections to title 8.

In paragraph (5), the words ''section 154(f)(3) of title 47'' are substituted for ''section 154(f)(2) of title 47'' on authority of the Act of July 16, 1952, ch. 879, § 3(b), 66 Stat. 711, which redesignated subsection (f)(2) as (f)(3).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 10703 of the Farm Security and Rural Investment Act of 2002, referred to in par. (1), is section 10703 of Pub. L. 107–171, which enacted section 2219a of Title 7, Agriculture, amended this section and sections 468 and 695 of Title 21, Food and Drugs, and repealed section 394 of Title 7.

Section 261 of title 19, referred to in par. (3), was omitted from the Code in the general revision of section 5 of act Feb. 13, 1911, ch. 46, by Pub. L. 103–66, title XIII, § 13811(a), Aug. 10, 1993, 107 Stat. 668.

Section 1451a of title 19, referred to in par. (3), was repealed by Pub. L. 103–66, title XIII, § 13811(b)(1), Aug. 10, 1993, 107 Stat. 670.

[1] See References in Text note below.

AMENDMENTS

2002—Par. (1). Pub. L. 107–171 added par. (1) and struck out former par. (1) which read as follows: ''section 394 of title 7;''.

1983—Par. (4). Pub. L. 98–89 substituted ''sections 2111 and 2112 of title 46'' for ''section 382b of title 46''.

[§ 5550. Repealed. Pub. L. 102–378, § 2(44)(A), Oct. 2, 1992, 106 Stat. 1352]

Section, added Pub. L. 92–392, § 10(a), Aug. 19, 1972, 86 Stat. 574, related to pay for Sunday and overtime work for employees of nonappropriated fund instrumentalities.

§ 5550a. Compensatory time off for religious observances

(a) Not later than 30 days after the date of the enactment of this section, the Office of Personnel Management shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Office) shall prescribe the regulations referred to in subsection (a) of this section.

(c) Regulations under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved.

(Added Pub. L. 95–390, title IV, § 401(a), Sept. 29, 1978, 92 Stat. 762; amended Pub. L. 96–54, § 2(a)(14), (15), Aug. 14, 1979, 93 Stat. 382.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 95–390, which was approved Sept. 29, 1978.

AMENDMENTS

1979—Subsecs. (a), (b). Pub. L. 96–54 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

§ 5550b. Compensatory time off for travel

(a) Notwithstanding any provision of section 5542(b)(2) or 5544(a), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

(Added Pub. L. 108–411, title II, § 203(a), Oct. 30, 2004, 118 Stat. 2313; amended Pub. L. 110–181, div. A, title XI, § 1111(a), Jan. 28, 2008, 122 Stat. 360.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181 substituted ''any provision of section 5542(b)(2) or 5544(a),'' for ''section 5542(b)(2),''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective on the earlier of the effective date of any regulations prescribed to carry out amendments by section 1111 of Pub. L. 110–181 or the 90th day after Jan. 28, 2008, see section 1111(c) of Pub. L. 110–181, set out as a note under section 5541 of this title.

EFFECTIVE DATE

Pub. L. 108–411, title II, § 203(c), Oct. 30, 2004, 118 Stat. 2313, provided that: ''The amendments made by this section [enacting this section] shall take effect on the earlier of—

''(1) the effective date of any regulations prescribed to carry out such amendments; or

''(2) the 90th day after the date of the enactment of this Act [Oct. 30, 2004].''

COMPENSATORY TIME OFF FOR TRAVEL FOR DEPARTMENT OF JUSTICE ATTORNEYS

Pub. L. 109–425, § 1, Dec. 20, 2006, 120 Stat. 2910, provided that:

''(a) IN GENERAL.—Attorneys employed by the Department of Justice (including assistant United States attorneys) shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code, without regard to any provision of section 115 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(1) of Public Law 106–113 and reenacted by section 111 of the Department of Justice Appropriations Act, 2001 (as enacted into law by appendix B of Public Law 106–553) [set out as a note under section 5541 of this title]).

''(b) APPLICABILITY.—Subsection (a) shall apply with respect to time spent in travel status on or after the date of the enactment of this Act [Dec. 20, 2006].''

SUBCHAPTER VI—PAYMENT FOR ACCUMULATED AND ACCRUED LEAVE

§ 5551. Lump-sum payment for accumulated and accrued leave on separation

(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is separated from the service, is transferred to a position described under section 6301(2)(B)(xiii) of this title, or elects to receive a lump-sum payment for leave under section 5552 of this title, is entitled to receive a lump-sum payment for accumulated and current accrued annual or vacation leave to which he is entitled by statute. The lump-sum payment shall equal the pay (excluding any differential under section 5925 and any allowance under section 5928) the employee or individual would have received had he remained in the service until expiration of the period of the annual or vacation leave. The lump-sum payment is considered pay for taxation purposes only. The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation. For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).

(b) The accumulated and current accrued annual leave to which an officer excepted from subchapter I of chapter 63 of this title by section 6301(2)(x)–(xiii) of this title, is entitled immediately before the date he is excepted under that section shall be liquidated by a lump-sum payment in accordance with subsection (a) of this section or subchapter VIII of this chapter, except that the payment is based on the rate of pay which he was receiving immediately before the date on which section 6301(2)(x)–(xiii) of this title became applicable to him.

(c)(1) Annual leave that is restored to an employee of the Department of Defense under section 6304(d) of this title by reason of the operation of paragraph (3) of such section and remains unused upon the transfer of the employee to a position described in paragraph (2) shall be liquidated by payment of a lump-sum for such leave to the employee upon the transfer.

(2) A position referred to in paragraph (1) is a position in a department or agency of the Federal Government outside the Department of Defense or a Department of Defense position that is not located at a Department of Defense installation being closed or realigned as described in section 6304(d)(3) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 93–181, § 1, Dec. 14, 1973, 87 Stat. 705; Pub. L. 95–519, § 2, Oct. 25, 1978, 92 Stat. 1819; Pub. L. 96–499, title IV, § 402(a), Dec. 5, 1980, 94 Stat. 2605; Pub. L. 101–508, title VII, § 7202(g), Nov. 5, 1990, 104 Stat. 1388–336; Pub. L. 102–138, title I, § 147(b)(1), Oct. 28, 1991, 105 Stat. 669; Pub. L. 104–201, div. A, title XVI, § 1611(a), Sept. 23, 1996, 110 Stat. 2738; Pub. L. 106–518, title III, § 310, Nov. 13, 2000, 114 Stat. 2420.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 61b (1st, 2d, and 6th sentences).	Dec. 21, 1944, ch. 632, § 1 (less 1st proviso, and less so much of last sentence as precedes 2d proviso), 58 Stat. 845. July 2, 1953, ch. 178, § 4(a) (1st and 5th sentences), 67 Stat. 137.
(b)	5 U.S.C. 2061a(a).	July 2, 1953, ch. 178, § 2(a), 67 Stat. 136.

In subsection (a), the words ''An employee as defined by section 2105 of this title'' are coextensive with and substituted for ''civilian officer or employee of the Federal Government''. Reference to ''section 1474 of Appendix to Title 50, is omitted in view of the repeal of that section by the Act of July 24, 1956, ch. 671, § 5(a)(3), 70 Stat. 606. The words ''and shall not be subject to retirement deductions'' are omitted and carried into section 8331(3).

In subsection (b)(2), reference to the limitation imposed by section 5 of the Act of July 2, 1953, ch. 178, 67 Stat. 138, is omitted as obsolete since the limitation was eliminated by the Act of Sept. 2, 1958, Pub. L. 85–914, § 1, 72 Stat. 1761.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–518 substituted '', is transferred to a position described under section

6301(2)(B)(xiii) of this title, or elects'' for ''or elects'' in first sentence.

1996—Subsec. (c). Pub. L. 104–201 added subsec. (c).

1991—Subsec. (a). Pub. L. 102–138 inserted ''(excluding any differential under section 5925 and any allowance under section 5928)'' after ''pay'' in second sentence.

1990—Subsec. (a). Pub. L. 101–508 inserted at end ''For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).''

1980—Subsec. (a). Pub. L. 96–499 provided that the period of leave used for calculating the lump-sum payment was not to be extended due to any holiday occurring after separation.

1978—Subsec. (b). Pub. L. 95–519 substituted ''6301(2)(x)–(xiii)'' for ''6301(2)(x)–(xii)'' in two places.

1973—Subsec. (a). Pub. L. 93–181 struck out exception clause that the lump-sum payment may not exceed pay for a period of annual or vacation leave in excess of 30 days or the number of days carried over to his credit at the beginning of the leave year in which entitlement to payment occurs, whichever is greater.

Subsec. (b). Pub. L. 93–181 struck out second exception clause that the payment is made without regard to the limitation in subsec. (a) of this section on the amount of leave compensable.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1611(b) of Pub. L. 104–201 provided that: ''Subsection (c) of section 5551 of title 5, United States Code (as added by subsection (a)), shall apply with respect to transfers described in such subsection (c) that take effect on or after the date of the enactment of this Act [Sept. 23, 1996].''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 147(b)(2) of Pub. L. 102–138 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to service as part of a tour of duty or extension thereof commencing on or after the date of enactment of this Act [Oct. 28, 1991].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101–508, set out as a note under section 2105 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 402(b) of Pub. L. 96–499 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1980] and shall apply to employees separating from the service on or after such date.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 4 of Pub. L. 95–519 provided that:

''(a) The amendments made by the first section and section 2 of this Act [amending this section and sections 6301, 6302, and 6306 of this title] shall take effect beginning on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act [Oct. 25, 1978].

''(b) The amendment made by section 3 of this Act [amending section 8339 of this title] shall apply only with respect to employees who retire or die on or after the date of the enactment of this Act [Oct. 25, 1978].''

§ 5552. Lump-sum payment for accumulated and accrued leave on entering active duty; election

An employee as defined by section 2105 of this title or an individual employed by a territory or possession of the United States or the government of the District of Columbia who enters on active duty in the armed forces is entitled to—

(1) receive, in addition to his pay and allowances from the armed forces, a lump-sum payment for accumulated and current accrued annual or vacation leave in accordance with section 5551 of this title; or

(2) elect to have the leave remain to his credit until his return from active duty.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 489.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 61a.	Aug. 1, 1941, ch. 348, 55 Stat. 616. Apr. 7, 1942, ch. 220, 56 Stat. 200.

The words ''An employee as defined by section 2105 of this title'' are coextensive with and substituted for ''Employees of the United States Government, . . . (including employees of any corporation created under authority of an Act of Congress which is either wholly controlled or wholly owned by the United States Government, or any corporation, all the stock of which is owned or controlled by the United States Government, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress)''.

The words ''subsequent to May 1, 1940'' are omitted as obsolete. The words ''active duty in the armed forces'' and ''active duty'' are substituted for ''active military or naval service in the land or naval forces of the United States'' and ''active military or naval service'', respectively, on authority of the National Security Act of 1947, 61 Stat. 495, as amended. The words ''by voluntary enlistment or otherwise'' are omitted as unnecessary.

In paragraph (1), the words ''in accordance with section 5551 of this title'' are added on authority of former section 61b, which is carried into section 5551.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5553. Regulations

The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter.

(Added Pub. L. 102–378, § 2(45)(A), Oct. 2, 1992, 106 Stat. 1353.)

SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

§ 5561. Definitions

For the purpose of this subchapter—

(1) ''agency'' means an Executive agency and a military department;

(2) ''employee'' means an employee in or under an agency who is a citizen or national of the United States or an alien admitted to the United States for permanent residence, but does not include a part-time or intermittent employee or native labor casually hired on an

hourly or daily basis. However, such an employee who enters a status listed in paragraph (5)(A)–(E) of this section—

(A) inside the continental United States; or

(B) who is a resident at or in the vicinity of his place of employment in a territory or possession of the United States or in a foreign country and who was not living there solely as a result of his employment;

is an employee for the purpose of this subchapter only on a determination by the head of the agency concerned that this status is the proximate result of employment by the agency;

(3) ''dependent'' means—

(A) a wife;

(B) an unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

(C) a dependent mother or father;

(D) a dependent designated in official records; and

(E) an individual determined to be dependent by the head of the agency concerned or his designee;

(4) ''active service'' means active Federal service by an employee;

(5) ''missing status'' means the status of an employee who is in active service and is officially carried or determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against his will;

but does not include the status of an employee for a period during which he is officially determined to be absent from his post of duty without authority; and

(6) ''pay and allowances'' means—

(A) basic pay;

(B) special pay;

(C) incentive pay;

(D) basic allowance for housing;

(E) basic allowance for subsistence; and

(F) station per diem allowances for not more than 90 days.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 489; Pub. L. 105–85, div. A, title VI, § 603(d)(3), Nov. 18, 1997, 111 Stat. 1783.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)–(4)	50A U.S.C. 1001.	Mar. 7, 1942, ch. 166, § 1, 56 Stat. 143. July 1, 1944, ch. 371, § 1, 58 Stat. 679. May 16, 1947, ch. 70, § 1, 61 Stat. 96. Aug. 29, 1957, Pub. L. 85–217, § 1(a), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88–428, § 1(1), (2), 78 Stat. 437.

HISTORICAL AND REVISION NOTES—CONTINUED

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(5)	50A U.S.C. 1002(a) (3d through 66th words of 1st sentence, and 1st 28 words of 3d sentence, for definition purposes).	Mar. 7, 1942, ch. 166, § 2(a) (3d through 66th words and 96th through 120th words of 1st sentence, and 1st 28 words of 3d sentence, for definition purposes); added July 1, 1944, ch. 371, § 2, 58 Stat. 679. Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, § 1(b) (1st par.), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88–428, § 1(3)(A), (C), 78 Stat. 437.
(5)	50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(6)	50A U.S.C. 1002(a) (96th through 120th words of 1st sentence, for definition purposes).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In paragraph (1), the word ''agency'' is substituted for ''department''. The words ''including such term when used in the amendment made by section 16'' are omitted as surplusage. The words ''an Executive agency and a military department'' are coextensive with and substituted for ''any executive department, independent establishment, or agency (including corporations) in the executive branch of the Federal Government'' in view of the definitions in sections 105 and 102, and on authority of 5 U.S.C. 933a which provides that general legislation governing employment, compensation, and the status of employees of the United States applies to employees of the General Accounting Office in the same manner as if they were in the executive branch.

In paragraph (3)(A), the word ''lawful'' is omitted as unnecessary in view of the accepted recognition of the fact that the word ''wife'' means a lawful wife. In paragraph (3)(E), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned, or subordinate designated by him''.

The definitions in paragraphs (5) and (6), which do not appear in, but are based on, the source law are created for legislative convenience.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1997—Par. (6)(D). Pub. L. 105–85 substituted ''housing'' for ''quarters''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 603(e) of Pub. L. 105–85 provided that: ''This section [amending this section, sections 708, 2830, 2882, 7572, and 7573 of Title 10, Armed Forces, section 107 of Title 32, National Guard, sections 101, 403, 405, 406, 420, 427, 551, and 1014 of Title 37, Pay and Allowances of the Uniformed Services, and section 454 of Title 50, Appendix, War and National Defense, repealing section 403a of Title 37, and enacting provisions set out as a note under section 403 of Title 37] and the amendments made by this section shall take effect on January 1, 1998.''

ACCOUNTING FOR CIVILIAN EMPLOYEES AND CONTRACTORS OF UNITED STATES

Pub. L. 104–106, div. A, title V, § 569(e), Feb. 10, 1996, 110 Stat. 352, directed Secretary of State to carry out

comprehensive study of provisions of this subchapter and any other law or regulation establishing procedures for accounting for civilian employees of the United States or contractors of the United States who serve with or accompany the Armed Forces in the field to determine the means, if any, by which those procedures may be improved, and further provided for submission of report to Congress not later than one year after Feb. 10, 1996, on results of study.

BENEFITS FOR UNITED STATES HOSTAGES IN IRAQ AND KUWAIT AND UNITED STATES HOSTAGES CAPTURED IN LEBANON

Pub. L. 101–513, title V, § 599C, Nov. 5, 1990, 104 Stat. 2064, as amended by Pub. L. 102–138, title III, § 302(a), Oct. 28, 1991, 105 Stat. 707; Pub. L. 102–499, § 5(a), Oct. 24, 1992, 106 Stat. 3266, provided for payment of benefits during fiscal year 1991 and thereafter for United States hostages in Iraq and Kuwait and United States hostages captured in Lebanon.

HOSTAGE RELIEF

Pub. L. 96–449, Oct. 14, 1980, 94 Stat. 1967, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, known as the ''Hostage Relief Act of 1980'', provided for benefits for United States civil service and uniformed service personnel who were placed in a captive status during a hostage period beginning on Nov. 4, 1979, due to the seizure of the United States Embassy in Iran.

EXECUTIVE ORDER NO. 12268

Ex. Ord. No. 12268, Jan. 15, 1981, 46 F.R. 4671, provided for the implementation of the Hostage Relief Act of 1980 (Pub. L. 96–449).

EXECUTIVE ORDER NO. 12313

Ex. Ord. No. 12313, July 13, 1981, 46 F.R. 36689, designated Jan. 11, 1981, as date on which all citizens and resident aliens of the United States who had been placed in captive status as a result of seizure of United States Embassy in Iran were returned to United States or otherwise accounted for and were no longer under foreign control.

§ 5562. Pay and allowances; continuance while in a missing status; limitations

(a) An employee in a missing status is entitled to receive or have credited to his account, for the period he is in that status, the same pay and allowances to which he was entitled at the beginning of that period or may become entitled thereafter. Notwithstanding any other provision of law, an employee in a missing status on or after January 1, 1965, is entitled—

(1) to payment for annual leave which accrued to his account on or after January 1, 1965, but which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status; or

(2) to have all of that leave restored to him and credited to a separate leave account in accordance with the provisions of section 6304(d)(2) of this title.

An employee shall elect in writing, within 90 days immediately following December 14, 1973, or within 90 days immediately following the termination of his missing status, whichever is later, whether he desires payment for the leave under clause (1) of this subsection or credit of the leave under clause (2) of this subsection. Payment under clause (1) of this subsection shall be at the employee's rate of basic pay in effect at the time the leave was forfeited.

(b) Entitlement to pay and allowances under subsection (a) of this section ends on the date of—

(1) receipt by the head of the agency concerned of evidence that the employee is dead; or

(2) death prescribed or determined under section 5565 of this title.

That entitlement does not end—

(A) on the expiration of the term of service or employment of an employee while he is in a missing status; or

(B) earlier than the dates prescribed in paragraphs (1) and (2) of this subsection if the employee dies while he is in a missing status.

(c) An employee who is officially determined to be absent from his post of duty without authority is indebted to the United States for payments of amounts credited to his account under subsection (a) of this section for the period of that absence.

(d) When an employee in a missing status is continued in that status under section 5565 of this title, he continues to be entitled to have pay and allowances credited under subsection (a) of this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 490; Pub. L. 93–181, § 7(a), Dec. 14, 1973, 87 Stat. 707; Pub. L. 96–54, § 2(a)(33), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, § 2(a) (1st 2 sentences and 3d sentence, less 1st 28 words); added July 1, 1944, ch. 371, § 2, 58 Stat. 679. Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, § 1(b), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88–428, § 1(3)(A), (B), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(b)	50A U.S.C. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
(c)	50A U.S.C. 1002(a) (3d sentence, less 1st 28 words).	
(d)	50A U.S.C. 1006 (2d sentence, as applicable to pay and allowances).	Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093. Aug. 14, 1964, Pub. L. 88–428, § 1(5)(B), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''An employee in a missing status'' are substituted for the first 66 words of 50A U.S.C. 1002(a) to conform to the definitions in section 5561(2) and (5). The words ''pay and allowances'' are substituted for the enumeration of pay and allowances in the first sentence of 50A U.S.C. 1002(a) to conform to the definition in sections 5561(6). The words ''or is performing full-time training duty, other full-time duty, or inactive duty training'' and ''except that the pay

and allowances for a person who is performing full-time training duty or other full-time duty without pay, or inactive duty training with or without pay, shall be that to which he would have been entitled if he had been performing full-time active duty with pay;'' are omitted as inapplicable to civilian officers and employees.

In subsection (b), the words ''under subsection (a) of this section'' are inserted for clarity.

In subsection (c), the words ''United States'' are substituted for ''Government'' to conform to the style of this title. The words ''under subsection (a) of this section'' are inserted for clarity.

In subsection (d), the words ''an employee in a missing status'' are substituted for ''a person missing under the conditions specified in section 2 of this Act'' to conform to the definitions in section 5561(2) and (5).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–54 substituted ''December 14, 1973,'' for ''the date of enactment of this sentence''.

1973—Subsec. (a). Pub. L. 93–181 inserted provisions relating to employees in missing status on or after January 1, 1965.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

FORMER EMPLOYEES OR THEIR BENEFICIARIES

Section 7(b) of Pub. L. 93–181 provided that: ''The amendment made by subsection (a) of this section [amending subsec. (a) of this section] shall apply to former employees or their beneficiaries.''

§ 5563. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) An allotment (including one for the purchase of United States savings bonds) made by an employee before he was in a missing status may be continued for the period he is in that status, notwithstanding the end of the period for which the allotment was made.

(b) In the absence of an allotment or when an allotment is insufficient for a purpose authorized by the head of the agency concerned, he or his designee may authorize such a new or increased allotment as circumstances warrant, which is payable for the period the employee concerned is in a missing status.

(c) All allotments from the pay and allowances of an employee in a missing status may not total more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the head of the agency concerned.

(d) A premium paid by the United States on insurance issued on the life of an employee, which is unearned because it covers a period after his death, reverts to the appropriation of the agency concerned.

(e) Subject to subsections (f) and (g) of this section, the head of the agency concerned or his designee may direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of an allotment from the pay and allowances of an employee in a missing status when that action is in the interests of the employee, his dependents, or the United States.

(f) When the head of the agency concerned officially reports that an employee in a missing status is alive, an allotment under subsections (a)–(d) of this section may be paid, subject to section 5562 of this title, until the date the head of the agency concerned receives evidence that the employee is dead or has returned to the controllable jurisdiction of the agency concerned.

(g) When an employee in a missing status is continued in that status under section 5565 of this title, an allotment under subsections (a)–(d) of this section may be continued, increased, or initiated.

(h) When the head of the agency concerned considers it essential for the well-being and protection of the dependents of an employee in active service (other than an employee in a missing status), he may, with or without the consent of the employee and subject to termination on specific request of the employee—

(1) direct the payment of a new allotment from the pay of the employee;

(2) increase or decrease the amount of an allotment made by the employee; and

(3) continue payment of an allotment of the employee which has expired.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 490.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1003 (1st sentence).	Mar. 7, 1942, ch. 166, §3, 56 Stat. 144. Dec. 24, 1942, ch. 828, §1 (1st par.), 56 Stat. 1092. July 1, 1944, ch. 371, §3, 58 Stat. 680.
(b)	50A U.S.C. 1003 (2d sentence, less proviso).	
(c)	50A U.S.C. 1003 (1st proviso of 2d sentence).	
(d)	50A U.S.C. 1003 (2d proviso of 2d sentence).	
(e)	50A U.S.C. 1004	Mar. 7, 1942, ch. 166, §4, 56 Stat. 144. Dec. 24, 1942, ch. 828, §1 (2d par.), 56 Stat. 1093. July 1, 1944, ch. 371, §4, 58 Stat. 680.
(f)	50A U.S.C. 1006 (1st sentence).	Mar. 7, 1942, ch. 166, §6 (1st sentence and 2d sentence, as applicable to allotments); added Dec. 24, 1942, ch. 828, §1 (4th par.), 56 Stat. 1093. Apr. 4, 1953, ch. 17, §1(b), 67 Stat. 21. Aug. 14, 1964, Pub. L. 88–428, §1(5), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to §1006 (1st sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §6 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(g)	50A U.S.C. 1006 (2d sentence, as applicable to allotments).	
(h)	50A U.S.C. 1007.	Mar. 7, 1942, ch. 166 §7, 56 Stat. 145. Aug. 14, 1964, Pub. L. 88–428, §1(6), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''employee . . . in a missing status'' are substituted for the reference to ''person

. . . entitled under section 2 of this Act to receive or be credited with pay and allowances'' to conform to the definitions in section 5561(2) and (5). The words ''except as otherwise provided herein'' are omitted as unnecessary.

In subsection (b), the words ''head of the agency concerned, he or his designee'' are substituted for ''head of the department concerned . . . head of the department concerned, or such subordinate as he may designate''. The word ''employee'' is substituted for ''person'' to conform to the definition in section 5561(2).

In subsection (c), the words ''in effect'' are omitted as surplusage. The words ''employee in a missing status'' are substituted for ''absent person'' to conform to the definitions in section 5561(2) and (5).

In subsection (d), the words ''United States'' are substituted for ''Government'' to conform to the style of this title. The word ''employee'' is substituted for ''person'' to conform to the definition in section 5561(2).

In subsection (e), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned, or such subordinates as he may designate''. The words ''employee in a missing status'' are substituted for ''person entitled to receive or be credited with pay and allowances under section 2 of this Act'' to conform to the definitions in section 5561(2) and (5). The words ''United States'' are substituted for ''Government'' to conform to the style of this title.

In subsections (f) and (g), the words ''employee in a missing status'' are substituted for ''person missing under the conditions specified in section 2 of this Act'' to conform to the definitions in section 5561(2) and (5).

In subsection (h), the words ''employee in a missing status'' are substituted for ''persons entitled under section 2 or 14 of this Act to receive pay and allowances'' to conform to the definitions in section 5561(2) and (5). In paragraph (2), the words ''heretofore or hereafter'' are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable

(a) For the purpose of this section, ''household and personal effects'' and ''household effects'' may include, in addition to other authorized weight allowances, one privately owned motor vehicle which may be shipped at United States expense.

(b) Transportation (including packing, crating, draying, temporarily storing, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of an employee in active service (without regard to pay grade) who is officially reported as dead, injured, or absent for more than 29 days in a status listed in section 5561(5)(A)–(E) of this title to—

(1) the official residence of record for the employee;

(2) the residence of his dependent, next of kin, or other person entitled to the effects under regulations prescribed by the head of the agency concerned; or

(3) another location determined in advance or later approved by the head of the agency concerned or his designee on request of the employee (if injured) or his dependent, next of kin, or other person described in paragraph (2) of this subsection.

(c) When an employee described in subsection (b) of this section is in an injured status, transportation of dependents and household and personal effects may be provided under this section only when prolonged hospitalization or treatment is anticipated.

(d) Transportation on request of a dependent may be authorized under this section only when there is a reasonable relationship between the circumstances of the dependent and the destination requested.

(e) Instead of providing transportation for dependents under this section, when the travel has been completed the head of the agency concerned may authorize—

(1) reimbursement for the commercial cost of the transportation; or

(2) a monetary allowance, instead of transportation, as authorized by statute for the whole or that part of the travel for which transportation in kind was not furnished.

(f) The head of the agency concerned may store the household and personal effects of an employee described in subsection (b) of this section until proper disposition can be made. The cost of the storage and transportation (including packing, crating, draying, temporarily storing, and unpacking) of household and personal effects shall be charged against appropriations currently available.

(g) When the head of the agency concerned determines that an emergency exists and that a sale would be in the best interests of the United States, he may provide for the public or private sale of motor vehicles and other bulky items of the household and personal effects of an employee described in subsection (b) of this section. Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of interested persons. The net proceeds from the sale shall be sent to the owner or other person entitled thereto under regulations prescribed by the head of the agency concerned. If there is no owner or other person entitled thereto, or if the owner or other person or their addresses are not ascertained within 1 year from the date of sale, the net proceeds may be covered into the Treasury of the United States as miscellaneous receipts.

(h) A claim for net proceeds covered into the Treasury under subsection (g) of this section may be filed with the Administrator of General Services by the owner, his heir or next of kin, or his legal representative at any time before the end of 5 years from the date the proceeds are covered into the Treasury. When a claim is filed, the Administrator of General Services shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of 5 years from the date the proceeds are covered into the Treasury, it is barred from being acted on by the Administrator of General Services or the courts.

(i) This section does not amend or repeal—

(1) section 2575, 2733, 4712, 6522, or 9712 of title 10;

(2) section 507 of title 14; or

(3) chapter 171 of title 28.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 491; Pub. L. 90–83, § 1(33), Sept. 11, 1967, 81 Stat. 201; Pub. L. 102–190, div. A, title X, § 1063(a), Dec. 5, 1991, 105

Stat. 1476; Pub. L. 104–316, title II, § 202(a), Oct. 19, 1996, 110 Stat. 3842.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1012 (14th sentence).	Mar. 7, 1942, ch. 166, § 12, 56 Stat. 146. Feb. 12, 1946, ch. 6, § 1(a), 60 Stat. 5. Aug. 29, 1951, ch. 356, § 1, 65 Stat. 207. Apr. 4, 1953, ch. 17, § 1(d), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, § 1(d), 71 Stat. 492.
(b)	50A U.S.C. 1012 (1st sentence). 50A U.S.C. 1014 (as applicable to § 1012 (1st sentence)).	Aug. 14, 1964, Pub. L. 88–428, § 1(8), 78 Stat. 437. Mar. 7, 1942, ch. 166, § 14 (as applicable to § 12 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(c)	50A U.S.C. 1012 (12th sentence).	
(d)	50A U.S.C. 1012 (13th sentence).	
(e)	50A U.S.C. 1012 (11th sentence).	
(f)	50A U.S.C. 1012 (9th and 10th sentences).	
(g)	50A U.S.C. 1012 (2d–4th sentences).	
(h)	50A U.S.C. 1012 (5th–7th sentences).	
(i)	50A U.S.C. 1012 (8th sentence).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''Beginning June 25, 1950, and'' are omitted as executed. The words ''not to exceed'' are omitted as unnecessary. The words ''outside the United States, or in Alaska or Hawaii'' are substituted for ''outside the continental limits of the United States or in Alaska''.

In subsection (b), the words ''Transportation . . . may be provided'' are substituted for ''may be moved''. The words ''an employee . . . for more than 28 days in a status listed in section 5561(5)(A)–(E) of this title'' are substituted for ''person . . . for a period of thirty days or more in any status listed in section 2 of this Act'' for clarity and to conform to the definitions in section 5561(2) and (5). In paragraph (1), the words ''the employee'' are substituted for ''any such person''. In paragraph (3), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned or by such person as he may designate''.

In subsection (c), the word ''employee'' is substituted for ''person''. The words ''transportation . . . may be provided under this section only when'' are substituted for ''movement . . . provided for herein may be authorized only in cases where''.

In subsection (d), the words ''on request of a dependent may be provided under . . . only'' are substituted for ''No . . . shall be authorized pursuant to . . . upon application by dependents unless''. The words ''condition and'' are omitted as surplusage.

In subsection (e)(1), the words ''reimbursement for'' are substituted for ''the payment in money of amounts equal to''.

In subsection (f), the word ''employee'' is substituted for ''person''. The words ''such time as'' are omitted as surplusage.

In subsection (g), the words ''United States'' are substituted for ''Government'' to conform to the style of this title. The word ''employee'' is substituted for ''person''. The words ''under . . . prescribed'' are substituted for ''in accordance with . . . issued''.

In subsection (h), the words ''under subsection (g) of this section'' are substituted for ''under authority of this section''.

In subsection (i), the words ''the provisions of'' are omitted as surplusage. Paragraph (3) is substituted for ''the Federal Tort Claims Act (60 Stat. 842–847), as amended;'' to reflect the correct citation of that Act.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5564(a)	50 App.: 1012.	Oct. 19, 1965, Pub. L. 89–271, 79 Stat. 992.

Only that portion of the source law applicable to civilian officers and employees and their dependents is codified in this section. That portion of the source law applicable to members of the uniformed services and their dependents is codified in 37 U.S.C. 554(a) by section 5(2) of this bill.

AMENDMENTS

1996—Subsec. (h). Pub. L. 104–316 substituted ''Administrator of General Services'' for ''General Accounting Office'' wherever appearing.

1991—Subsec. (i)(1). Pub. L. 102–190 substituted ''6522, or 9712'' for ''4713, 6522, 9712, or 9713''.

§ 5565. Agency review

(a) When an employee has been in a missing status almost 12 months and no official report of his death or the circumstances of his continued absence has been received by the head of the agency concerned, he shall have the case fully reviewed. After that review and the end of 12 months in a missing status, or after any later review which shall be made when warranted by information received or other circumstances, the head of the agency concerned or his designee may—

(1) direct the continuance of his missing status, if there is a reasonable presumption that the employee is alive; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of the ending of crediting pay and allowances and settlement of accounts. That date is—

(1) the day after the day on which the 12 months in a missing status ends; or

(2) a day determined by the head of the agency concerned or his designee when the missing status has been continued under subsection (a) of this section.

(c) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A determination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 492.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §5, 56 Stat. 145. Dec. 24, 1942, ch. 828, §1 (3d par.), 56 Stat. 1093. Aug. 14, 1964, Pub. L. 88–428, §1(4), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to §1005 (1st sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §5 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(b)	50A U.S.C. 1005 (less 1st and 2d sentences).	
(c)	50A U.S.C. 1009(b) (as applicable to §1005).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §5); added Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''When an employee has been in a missing status almost 12 months'' are substituted for ''When the twelve months' period from the date of commencement of absence is about to expire in any case of a person entitled under section 2 of this Act to receive or be credited with pay and allowances'' for clarity and to conform to the definitions in section 5561(2) and (5). For the same reasons, the words ''the end of 12 months in a missing status'' are substituted for ''the twelve months' absence shall have expired''. The words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is codified in part in section 5566(a). In paragraph (1), the words ''his'' and ''employee'' are substituted for ''person's'' and ''person''.

In subsection (b), the words ''under subsection (a) of this section'' are inserted for clarity. The words ''and payment of death gratuities'' are omitted as inapplicable to civilian officers and employees. In paragraph (1), the words ''the day on which the 12 months in a missing status ends'' are substituted for ''the day of expiration of an absence of twelve months'' for consistency with subsection (a) of this section and in view of the definition in section 5561(5). In paragraph (2), the words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words ''under subsection (a) of this section'' are substituted for ''as hereinbefore authorized''.

In subsection (c), the word ''sole'' is omitted as surplusage and in view of the provisions of section 5566(h). The word ''deemed'' is supplied to evidence the legal fiction provided by the words ''is a 'person' under this Act'' in 50A U.S.C. 1009(a). The words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words ''agencies of the United States'' are substituted for ''departments of the Government''. The words ''This section does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5566. Agency determinations

(a) The head of the agency concerned or his designee may make any determination necessary to administer this subchapter, and when so made it is conclusive as to—

(1) death or finding of death;

(2) the fact of dependency under this subchapter;

(3) any other status covered by this subchapter;

(4) an essential date, including one on which evidence or information is received by the head of the agency concerned; and

(5) whether information received concerning an employee is to be construed and acted on as an official report of death.

(b) When the head of the agency concerned receives information that he considers to conclusively establish the death of an employee, he shall take action thereon as an official report of death, notwithstanding an earlier action relating to death or other status of the employee. After the end of 12 months in a missing status prescribed by section 5565 of this title, the head of the agency concerned or his designee shall make a finding of death when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that an employee in a missing status is dead.

(c) The head of the agency concerned or his designee may determine the entitlement of an employee to pay and allowances under this subchapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that an employee captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) When circumstances warrant the reconsideration of a determination made under this subchapter, the head of the agency concerned or his designee may change or modify it.

(e) When the account of an employee has been charged or debited with an allotment paid under this subchapter, the amount so charged or debited shall be recredited to the account of the employee if the head of the agency concerned or his designee determines that the payment was induced by fraud or misrepresentation to which the employee was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from the pay and allowances of an employee for the period he is in a missing status may not be collected from the allottee as an overpayment when payment was caused by delay in receiving evidence of death. An allotment paid for a period after the end, under this subchapter or otherwise, of entitlement to pay and allowances may not be collected from the allottee or charged against the pay of a deceased employee when payment was caused by delay in receiving evidence of death.

(g) The head of the agency concerned or his designee may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A determination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 493.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1009(a) (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §9(a) (less 5th and last sentences); added July 1, 1944, ch. 371, §5, 58 Stat. 680. Apr. 4, 1953, ch. 17, §1(c), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.
	50A U.S.C. 1010.	Mar. 7, 1942, ch. 166, §10, 56 Stat. 145. July 1, 1944, ch. 371, §6, 58 Stat. 681. Aug. 14, 1964, Pub. L. 88–428, §1(7), 78 Stat. 437.
(b)	50A U.S.C. 1009(a) (3d and 4th sentences).	
(c)	50A U.S.C. 1009(a) (6th sentence, less last proviso).	
	50A U.S.C. 1014 (as applicable to §1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §9(a) (1st proviso of 6th sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(d)	50A U.S.C. 1009(a) (7th sentence).	
(e)	50A U.S.C. 1009(a) (last proviso of 6th sentence).	
(f)	50A U.S.C. 1009(a) (8th sentence).	
(g)	50A U.S.C. 1009(a) (9th sentence).	
(h)	50A U.S.C. 1009(b) (as applicable to §1009).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §9); added Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned, or such subordinate as he may designate''. The words ''for the purposes of this Act'' are omitted as surplusage. The words ''final and'' in 50A U.S.C. 1010 are omitted as surplusage and for consistency with 50A U.S.C. 1009(a) (1st sentence). The words ''the determination of the fact of dependency for the purpose of payment of all six months' death gratuities as authorized by law, and the determination of the fact of dependency under the provisions of any and all other laws providing for the payment of pay, allowances, or other emoluments to enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States where such payments are contingent upon dependency'' in 50A U.S.C. 1010 are omitted as inapplicable to civilian officers and employees and their dependents. In paragraph (2), the words ''under this subchapter'' are substituted for ''under the provisions of this Act''. In paragraph (3), the words ''covered by this subchapter'' are substituted for ''dealt with by this Act''. In paragraph (4), the words ''by the head of the agency concerned'' are substituted for ''in such department or by the head thereof''. In paragraph (5), the word ''employee'' is substituted for ''person''.

In subsection (b), the words ''head of the agency concerned'' are substituted for ''department concerned''. The word ''employee'' is substituted for ''person''. In the second sentence, the words ''the head of the agency concerned or his designee'' are inserted for clarity. The words ''is dead'' are substituted for ''is no longer alive'' for consistency with references in this section to ''death''.

In subsection (c), the words ''or his designee'' are substituted for ''or by such subordinate as he may designate''. The words ''captured, beleaguered, or besieged by a hostile force'' are substituted for ''in the hands of a hostile force'' on authority of 50A U.S.C. 1014.

In subsection (d), the words ''under this subchapter'' are substituted for ''authorized to be made by this Act''. The words ''or his designee'' are substituted for ''or such subordinate as he may designate''.

In subsection (e), the words ''an employee . . . allotment paid under this subchapter'' are substituted for ''any person . . . allotments paid pursuant to this Act''. The words ''the employee if the head of the agency concerned or his designee'' are substituted for ''such person's . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate.''

In subsection (f), the words ''may not be collected'' are substituted for ''shall not be subject to collection'' in two places. The word ''employee'' is substituted for ''person''.

In subsection (g), the words ''or his designee'' are substituted for ''or such subordinate as he may designate''.

In subsection (h), the word ''sole'' is omitted as surplusage and in view of the provisions of section 5565(c). The word ''deemed'' is supplied to evidence the legal fiction provided by the words ''is a 'person' under this Act'' in 50A U.S.C. 1009(a). The words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is codified in part in subsection (a) of this section. The words ''agencies of the United States'' are substituted for ''departments of the Government''. The words ''This section does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5567. Settlement of accounts

(a) The head of the agency concerned or his designee may settle the accounts of—

(1) an employee for whose account payment has been made under sections 5562, 5563, and 5565 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officials of the United States in settling the accounts of disbursing officials.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlement.

(c) In settling the accounts of a disbursing official, he is entitled to credit for an erroneous payment or overpayment made by him in carrying out this subchapter, except section 5568, if there is no fraud or criminality by him. Recovery may not be made from an individual who authorizes a payment under this subchapter, except section 5568, if there is no fraud or criminality by him.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 494.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1011.	Mar. 7, 1942, ch. 166, §11, 56 Stat. 146.
(b)	50A U.S.C. 1009(a) (5th sentence).	Mar. 7, 1942, ch. 166, §9(a) (5th and last sentences); added

HISTORICAL AND REVISION NOTES—CONTINUED

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(c)	50A U.S.C. 1009(a) (last sentence).	July 1, 1944, ch. 371, § 5, 58 Stat. 680. Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''or his designee'' are substituted for ''or such person as he may designate''. The word ''employee'' is substituted for ''persons''. The words ''United States'' are substituted for ''Government'' to conform to the style of this title.

In subsection (c), the words ''in carrying out this subchapter, except section 5568'' are substituted for ''in carrying out the provisions of this Act, except sections 13, 16, 17, and 18'', since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words ''under this subchapter, except section 5568'' are substituted for ''under such provisions'' for the reasons stated in the preceding sentence.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5568. Income tax deferment

Notwithstanding other statutes, any Federal income tax return of, or the payment of any Federal income tax by, an employee who, at the time the return or payment would otherwise become due, is in a missing status does not become due until the earlier of the following dates:

(1) the fifteenth day of the third month in which he ceased (except because of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of title 26 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 494.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	50A U.S.C. 1013.	Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146. Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918. Aug. 14, 1964, Pub. L. 88–428, § 1(9), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

The words ''in the case of any taxable year beginning after December 31, 1940'' are omitted as unnecessary.

The words ''an employee'' are substituted for ''any civilian officer or employee of any department'' to conform to the definition in section 5561(2). The words ''in a missing status'' are substituted for ''absent from his duty station under the conditions specified in section 2 of this Act'' to conform to the definition in section 5561(5) and in view of the provisions of section 5562 establishing the entitlement of an employee in a missing status to receive pay and allowances or to have them credited to his account. Reference to ''title 26'' is substituted for ''Internal Revenue Code of 1954''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5569. Benefits for captives

(a) For the purpose of this section—

(1) ''captive'' means any individual in a captive status commencing while such individual is—

(A) in the Civil Service, or

(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

(2) ''captive status'' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

(3) ''missing status''—

(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

(B) in the case of an individual other than an employee, has a similar meaning; and

(4) ''family member'', as used with respect to a person, means—

(A) any dependent of such person; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

(1) is incident to such individual being a captive; and

(2) is not covered—

(A) by any Government medical or health program; or

(B) by insurance.

(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

(3) The President—

(A) may defer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

(i) during the period of captivity of such individual; and

(ii) related to the captive status of such individual.

(4) A payment under this subsection shall be in addition to any other amount provided by law.

(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

(e)(1) Under regulations prescribed by the President, the benefits provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act, shall be provided in the case of any individual who is a captive.

(2) In applying such Act under this subsection—

(A) the term ''servicemember'' is deemed to include any such captive;

(B) the term ''period of military service'' is deemed to include the period during which the individual is in a captive status; and

(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

(i) after that individual has been in captive status for 90 days or more, and

(ii) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

(E) For the purpose of this paragraph, ''child'' means a dependent under section 5561(3)(B) of this title.

(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

(i) after the termination of that individual's captive status, and

(ii) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

(3) Assistance under this subsection—

(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 3524 of title 38; and

(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

(1) such family member is held in captive status; and

(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

(j) The President may prescribe regulations necessary to administer this section.

(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

(Added Pub. L. 99–399, title VIII, § 803(a), Aug. 27, 1986, 100 Stat. 879; amended Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 108–189, § 2(b)(2), Dec. 19, 2003, 117 Stat. 2865.)

REFERENCES IN TEXT

The date of the enactment of the Victims of Terrorism Compensation Act [title VIII of Pub. L. 99–399], referred to in subsec. (d)(1), is Aug. 27, 1986.

Section 802 of the Victims of Terrorism Compensation Act [Pub. L. 99–399], referred to in subsec. (d)(2), is set out as a note below.

The Servicemembers Civil Relief Act, referred to in subsec. (e)(1), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. Titles IV and V of the Act are classified to sections 541 et seq. and 561 et seq., respectively, of Title 50, Appendix. Sections 104, 105, 106, 501, 510, and 702 of the Act are classified to sections 514, 515, 516, 561, 570, and 592, respectively, of Title 50, Appendix. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

AMENDMENTS

2003—Subsec. (e)(1). Pub. L. 108–189, § 2(b)(2)(A), which directed substitution of ''provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act'' for '' 'provided by the Soldiers' and Sailors' Civil Relief Act of 1940' and all that follows through 'of such Act' '' was executed by making the substitution for ''provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act'' to reflect the probable intent of Congress.

Subsec. (e)(2)(A). Pub. L. 108–189, § 2(b)(2)(B), substituted ''servicemember'' for ''person in the military service''.

1991—Subsec. (f)(3)(A). Pub. L. 102–83 substituted ''section 3524 of title 38'' for ''section 1724 of title 38''.

SHORT TITLE OF 1986 AMENDMENT

Section 801 of title VIII of Pub. L. 99–399 provided that: ''This title [enacting this section, section 5570 of this title, sections 1051, 1095, and 2181 to 2185 of Title 10, Armed Forces, and sections 559 and 1013 of Title 37, Pay and Allowances of the Uniformed Services, amending section 6325 of this title, and enacting provisions set out as notes under this section, sections 1051, 1095, and 2181 of Title 10, and section 559 of Title 37] may be cited as the 'Victims of Terrorism Compensation Act'.''

PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981

Section 802 of title VIII of Pub. L. 99–399 provided that: ''The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title), or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title), as the case may be, shall be $50 for each day any such individual was held in captive status during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981.''

TRANSITION PROVISIONS

Section 805 of title VIII of Pub. L. 99–399 provided that:

''(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

''(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

''(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

''(c) DEFINITION.—For the purpose of this subsection, 'pay and allowances' has the meaning provided under section 5561 of title 5, United States Code.''

REGULATIONS

Section 807 of title VIII of Pub. L. 99–399 provided that: ''Any regulation required by this title or by any amendment made by this title [see Short Title note above] shall take effect not later than 6 months after the date of enactment of this Act [Aug. 27, 1986].''

EFFECTIVE DATE OF ENTITLEMENTS

Section 808 of title VIII of Pub. L. 99–399 provided that: ''Provisions enacted by this title [see Short Title note above] which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)(C)] shall not be effective until October 1, 1986.''

EXECUTIVE ORDER NO. 12576

Ex. Ord. No. 12576, Dec. 2, 1986, 51 F.R. 43721, relating to victims of terrorism compensation, was superseded by Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out below.

EX. ORD. NO. 12598. VICTIMS OF TERRORISM COMPENSATION

Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399, 100 Stat. 853) (''the Act'') [see Short Title note set out above], and in order to provide for the implementation of that Act, it is hereby ordered as follows:

SECTION 1. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5569 are delegated to the Secretary of State.

SEC. 2. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5570 are delegated to the Secretary of State, to be exercised in consultation with the Secretary of Labor.

SEC. 3. The functions vested in the President by section 806(a) (to be codified at 37 U.S.C. 559), section 806(c) (to be codified at 10 U.S.C. 1095 [now 10 U.S.C. 1095a]), and section 806(d) (to be codified at 10 U.S.C. 2181–2185) are delegated to the Secretary of Defense.

SEC. 4. The functions vested in the President by section 806(b) (to be codified at 10 U.S.C. 1051 [now 10 U.S.C. 1032]) are delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor.

SEC. 5. The Secretaries of State and Defense shall consult with each other and with the heads of other appropriate Executive departments and agencies in carrying out their functions under this Order.

SEC. 6. Executive Order No. 12576 of December 2, 1986, is hereby superseded.

RONALD REAGAN.

§ 5570. Compensation for disability or death

(a) For the purpose of this section—

(1) ''employee'' means—

(A) any individual in the Civil Service; and

(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

(2) ''family member'', as used with respect to an employee, means—

(A) any dependent of such employee; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

(Added Pub. L. 99–399, title VIII, § 803(a), Aug. 27, 1986, 100 Stat. 882.)

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of State to be exercised in consultation with the Secretary of Labor, see Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of this title.

SUBCHAPTER VIII—SETTLEMENT OF ACCOUNTS

§ 5581. Definitions

For the purpose of this subchapter—

(1) ''employee'' means—

(A) an employee as defined by section 2105 of this title; and

(B) an individual employed by the government of the District of Columbia;

but does not include an employee of—

(i) a Federal land bank;

(ii) a Federal intermediate credit bank;

(iii) a regional bank for cooperatives; or

(iv) the Senate within the purview of section 36a of title 2; and

(2) ''money due'' means the pay and allowances due on account of the services of a deceased employee for the Government of the United States or the government of the District of Columbia. It includes, but is not limited to—

(A) per diem instead of subsistence, mileage, and amounts due in reimbursement of travel expenses, including incidental and miscellaneous expenses in connection therewith for which reimbursement is due;

(B) allowances on change of official station;

(C) quarters and cost-of-living allowances and overtime or premium pay;

(D) amounts due for payment of cash awards for employees' suggestions;

(E) amounts due as refund of pay deductions for United States savings bonds;

(F) payment for accumulated and current accrued annual or vacation leave equal to the pay the deceased employee would have received had he lived and remained in the service until the end of the period of annual or vacation leave;

(G) amounts of checks drawn for pay and allowances which were not delivered by the Government to the employee during his lifetime;

(H) amounts of unnegotiated checks returned to the Government because of the death of the employee; and

(I) retroactive pay under section 5344(a) (2) of this title.

It does not include benefits, refunds, or interest payable under subchapter III of chapter 83 of this title applicable to the service of the deceased employee, or amounts the disposition of which is otherwise expressly prescribed by Federal statute.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 495; Pub. L. 96–54, § 2(a)(34), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 61k.	Aug. 3, 1950, ch. 518, § 7, 64 Stat. 396. Apr. 30, 1954, ch. 177, § 2, 68 Stat. 65.
(2)	5 U.S.C. 61g.	Aug. 3, 1950, ch. 518, § 2, 64 Stat. 396. July 2, 1953, ch. 178, § 5, 67 Stat. 138. Sept. 1, 1954, ch. 1208, § 501, 68 Stat. 1115. Sept. 2, 1958, Pub. L. 85–914, § 1, 72 Stat. 1761.
	5 U.S.C. 61i.	Aug. 3, 1950, ch. 518, § 4, 64 Stat. 396.

Paragraph (1) is supplied for convenience and is based on the first 35 words of former section 61f, which is carried into section 5582, and former section 61k.

The exception for production credit corporations in section 7 of the Act of Aug. 3, 1950, is omitted as they were merged in the Federal intermediate credit banks by the Farm Credit Act of 1956, 70 Stat. 659.

The exception in paragraph (1)(iv) for employees of the Senate is added on authority of the Act of Jan. 6, 1951, ch. 1213, 64 Stat. 1124; 2 U.S.C. 36a.

In paragraph (2), the definition of ''money due'' is substituted for ''unpaid compensation''. Paragraph (2)(I) is added on authority of former section 1182(a)(2), which is carried into section 5344.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 5344 of this title, referred to in par. (2)(I), was amended generally by Pub. L. 92–392 and provisions relating to retroactive pay formerly contained in section 5344(a)(2) are contained in section 5344(b)(2).

AMENDMENTS

1979—Par. (1). Pub. L. 96–54 inserted ''and'' after cl. (iv).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

§ 5582. Designation of beneficiary; order of precedence

(a) The employing agency shall notify each employee of his right to designate a beneficiary or beneficiaries to receive money due, and of the disposition of money due if a beneficiary is not designated. An employee may change or revoke a designation at any time under regulations promulgated—

(1) by the Director of the Office of Personnel Management or his designee, in the case of an employee of an executive agency;

(2) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, in the case of an employee of the legislative branch; and

(3) by the Chief Justice of the United States or his or her designee, in the case of an employee of the judicial branch.

(b) In order to facilitate the settlement of the accounts of deceased employees, money due an employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing agency before his death.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed legal representative of the estate of the employee.

Sixth, if none of the above, to the person or persons entitled under the laws of the domicile of the employee at the time of his death.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 495; Pub. L. 104–316, title I, § 103(c), Oct. 19, 1996, 110 Stat. 3828.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 61j.	Aug. 3, 1950, ch. 518, § 5, 64 Stat. 396.
(b)	5 U.S.C. 61f.	Aug. 3, 1950, ch. 518, § 1, 64 Stat. 395.

Subsection (a) is restated for clarity. The word ''officers'' is omitted as included in ''employee''.

In subsection (b), so much of the first 35 words of former section 61f as states the application is carried into the definition of ''employee'' in section 5581(1). The word ''officer'' is omitted as included in ''employee''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316 substituted ''An employee may change or revoke a designation at any time under regulations promulgated—'' for ''An employee may change or revoke a designation at any time under such regulations as the Comptroller General of the United States may prescribe.'' in introductory provisions and added pars. (1) to (3).

§ 5583. Payment of money due; settlement of accounts

(a) Under such regulations as the Director of the Office of Personnel Management may prescribe, the employing agency shall pay money due a deceased employee to the beneficiary designated by the employee under section 5582(b) of this title, or, if none, to the widow or widower of the employee.

(b) The Director may by regulation prescribe the method for settlement of accounts payable under subsection (a) of this section. However—

(1) accounts of employees of the government of the District of Columbia shall be paid by the District of Columbia; and

(2) accounts of employees of Government corporations or mixed ownership Government corporations may be paid by the corporations.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 496; Pub. L. 96–70, title III, § 3302(e)(7), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104–316, title II, § 202(b), Oct. 19, 1996, 110 Stat. 3842.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 61h.	Aug. 3, 1950, ch. 518, § 3, 64 Stat. 396. Apr. 30, 1954, ch. 177, § 1, 68 Stat. 64.

In subsection (a), the word ''officer'' is omitted as included in ''employee''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316, § 202(b)(1), substituted ''Director of the Office of Personnel Management'' for ''Comptroller General of the United States''.

Subsec. (b). Pub. L. 104–316, § 202(b)(2), substituted ''The Director may by regulation prescribe the method for settlement of accounts payable under subsection (a) of this section.'' for ''Except as the Comptroller General may by regulation otherwise authorize or direct, accounts not payable under subsection (a) of this section are payable on settlement of the General Accounting Office.''

1979—Subsec. (b). Pub. L. 96–70 struck out par. (2) providing that accounts of the employees of the Canal Zone Government be paid by the Canal Zone Government, and redesignated par. (3) as (2).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 5584. Claims for overpayment of pay and allowances, and of travel, transportation and relocation expenses and allowances

(a) A claim of the United States against a person arising out of an erroneous payment of pay or allowances made on or after July 1, 1960, or arising out of an erroneous payment of travel, transportation or relocation expenses and allowances, to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

(1) the authorized official;

(2) the head of the agency when—

(A) the claim is in an amount aggregating not more than $1,500; and

(B) the waiver is made in accordance with standards which the authorized official shall prescribe; or

(3) the Director of the Administrative Office of the United States Courts when the claim is in an amount aggregating not more than $10,000 and involves an officer or employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or any of the courts set forth in section 610 of title 28.

(b) The authorized official or the head of the agency, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim;

(2) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office, after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following October 21, 1968, whichever is later;

(3) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of allowances was discovered or three years immediately following October 2, 1972, whichever is later;

(4) in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered or 3 years immediately following July 25, 1974, whichever is later; or

(5) in the case of a claim involving an erroneous payment of travel, transportation or relocation expenses and allowances, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.

(g) For the purpose of this section, ''agency'' means—

(1) an Executive agency;

(2) the Government Printing Office;

(3) the Library of Congress;

(4) the Office of the Architect of the Capitol;

(5) the Botanic Garden;

(6) the Administrative Office of the United States Courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28; and

(7) the Congressional Budget Office.

For purposes of this section, the Director of the Administrative Office of the United States Courts shall be the head of the agency in the case of those entities set forth in paragraph (6) of this subsection.

(g)[1] For the purpose of this section, the term ''authorized official'' means—

(1) the head of an agency, with respect to an agency or employee in the legislative branch; or

(2) the Director of the Office of Management and Budget, with respect to any other agency or employee.

(Added Pub. L. 90–616, § 1(a), Oct. 21, 1968, 82 Stat. 1212; amended Pub. L. 92–453, § 3(1), Oct. 2, 1972, 86 Stat. 760; Pub. L. 93–359, § 1, July 25, 1974, 88 Stat. 393; Pub. L. 96–54, § 2(a)(35), Aug. 14, 1979, 93 Stat. 383; Pub. L. 99–224, § 1(a), Dec. 28, 1985, 99 Stat. 1741; Pub. L. 100–702, title X, § 1009(a), Nov. 19, 1988, 102 Stat. 4667; Pub. L. 102–190, div. A, title VI, § 657(a), Dec. 5, 1991, 105 Stat. 1393; Pub. L. 104–316, title I, § 103(d), Oct. 19, 1996, 110 Stat. 3828; Pub. L. 109–55, title I, § 1100(a), Aug. 2, 2005, 119 Stat. 577.)

AMENDMENTS

2005—Subsec. (g)(7). Pub. L. 109–55 added par. (7) in subsec. (g) defining ''agency''.

1996—Subsec. (a). Pub. L. 104–316, § 103(d)(1), in par. (1) substituted ''authorized official'' for ''Comptroller General of the United States'', and in par. (2) inserted ''and'' at end of subpar. (A), redesignated subpar. (C) as (B) and substituted ''authorized official'' for ''Comptroller General'', and struck out former subpar. (B) which read as follows: ''the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and''.

Subsec. (b). Pub. L. 104–316, § 103(d)(2), substituted ''authorized official'' for ''Comptroller General'' in introductory provisions.

Subsec. (g). Pub. L. 104–316, § 103(d)(3), added subsec. (g) defining ''authorized official''.

1991—Subsec. (a)(2)(A). Pub. L. 102–190 substituted ''$1,500'' for ''$500''.

1988—Subsec. (a)(3). Pub. L. 100–702, § 1009(a)(1), added par. (3).

Subsec. (g). Pub. L. 100–702, § 1009(a)(2), added par. (6) and last sentence.

1985—Pub. L. 99–224, § 1(a)(1), substituted ''and of travel, transportation and relocation expenses and allowances'' for ''other than travel and transportation expenses and allowances and relocation expenses'' in section catchline.

Subsec. (a). Pub. L. 99–224, § 1(a)(2), substituted ''made on or after July 1, 1960, or arising out of an erroneous payment of travel, transportation or relocation expenses and allowances'' for '', other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title, on or after July 1, 1960''.

Subsec. (b). Pub. L. 99–224, § 1(a)(3), added par. (5).

1979—Subsec. (b)(4). Pub. L. 96–54 substituted ''July 25, 1974'' for ''the date on which this clause (4) is enacted into law''.

1974—Subsec. (a). Pub. L. 93–359, § 1(1), substituted ''agency'' for ''executive agency'' in provisions preceding cl. (1) and in cl. (2) preceding subcl. (A).

Subsec. (b). Pub. L. 93–359, § 1(1)–(4), substituted ''agency'' for ''executive agency'' in provisions preceding cl. (1), inserted ''except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden,'' immediately following the designation ''(2)'' in cl. (2) and immediately following the designation ''(3)'' in cl. (3), struck out ''or'' at end of cl. (2), substituted ''October 2, 1972, whichever is later; or'' for ''the effective date of the amendment authorizing the waiver of allowances, whichever is later'' in cl. (3) and struck out the period at end of cl. (3), and added cl. (4).

Subsec. (g). Pub. L. 93–359, § 1(5), added subsec. (g).

1972—Pub. L. 92–453 inserted ''and allowances, other than travel and transportation expenses and allowances and relocation expenses'' in section catchline, and substituted ''payment of pay or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title'' for ''payment of pay'' in subsec. (a).

Subsec. (b)(2). Pub. L. 92–453 inserted ''if application for waiver is received in his office'' in cl. (2), and substituted ''October 21, 1968'' for ''the effective date of this section.''

Subsec. (b)(3). Pub. L. 92–453 added cl. (3).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–55, title I, § 1100(b), Aug. 2, 2005, 119 Stat. 577, provided that: ''The amendments made by this section [amending this section] shall apply with respect to fiscal year 2006 and each succeeding fiscal year.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–316 effective 60 days after Oct. 19, 1996, see section 101(e)(2) of Pub. L. 104–316, set out as a note under section 130c of Title 2, The Congress.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1009(b) of Pub. L. 100–702 provided that: ''The amendments made by this section [amending this section] shall apply with respect to any claim arising before the date of the enactment of this Act [Nov. 19, 1988] which is pending on such date, and to any claim which arises on or after such date of enactment.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 4 of Pub. L. 99–224 provided that: ''The amendments made by section 1 of this Act [amending this section] shall apply to any claim arising out of an erroneous payment of travel, transportation, or relocation expenses and allowances made on or after the date of the enactment of this Act [Dec. 28, 1985]. The amendments made by sections 2 and 3 of this Act [amending section 2774 of Title 10, Armed Forces, and section 716 of Title 32, National Guard] shall apply to any claim arising out of an erroneous payment of travel and

[1] So in original. Probably should be ''(h)''.

transportation allowances made on or after the date of the enactment of this Act.''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54. set out as a note under section 305 of this title.

SUBCHAPTER IX—SEVERANCE PAY AND BACK PAY

AMENDMENTS

1967—Pub. L. 90–83, §1(34)(A), Sept. 11, 1967, 81 Stat. 201, inserted ''SEVERANCE PAY AND'' before ''BACK PAY'' in subchapter heading.

[§§ 5591 to 5594. Repealed. Pub. L. 90–83, § 1(34)(B), Sept. 11, 1967, 81 Stat. 201]

HISTORICAL AND REVISION NOTES

This section deletes sections 5591, 5592, 5593, and 5594 of title 5, United States Code, to reflect the repeal of the source statutes of those sections by the act of March 30, 1966, Public Law 89–380, section 5, 80 Stat. 95.

[Sections, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 496, 497, related to back pay for individuals or preference eligibles reinstated or restored, and are covered by section 5596 of this title.]

§ 5595. Severance pay

(a) For the purpose of this section—

(1) ''agency'' means—

(A) an Executive agency;

(B) the Library of Congress;

(C) the Government Printing Office;

(D) the government of the District of Columbia;

(E) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28; and

(F) the Office of the Architect of the Capitol; and

(2) ''employee'' means—

(A) an individual employed in or under an agency; and

(B) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

(i) an employee (other than a member of the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or an employee whose pay is fixed under section 5376) whose rate of basic pay is fixed at a rate provided for one of the levels of the Executive Schedule or is in excess of the maximum rate for the Executive Schedule;

(ii) an employee serving under an appointment with a definite time limitation, except one so appointed for full-time employment without a break in service of more than 3 days following service under an appointment without time limitation;

(iii) an alien employee who occupies a position outside the several States, the District of Columbia, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979);

(iv) an employee who is subject to subchapter III of chapter 83 of this title or any other retirement statute or retirement system applicable to an employee as defined by section 2105 of this title or a member of a uniformed service and who, at the time of separation from the service, has fulfilled the requirements for immediate annuity under such a statute or system;

(v) an employee who, at the time of separation from the service, is receiving compensation under subchapter I of chapter 81 of this title, other than one receiving this compensation concurrently with pay or on account of the death of another individual;

(vi) an employee who, at the time of separation from the service, is entitled to receive benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any other severance pay from the Government;

(vii) an employee of the Tennessee Valley Authority;

(viii) an employee of the Office of the Architect of the Capitol, who is employed on a temporary when actually employed basis;

(ix) an employee of the Government Printing Office, who is employed on a temporary when actually employed basis; or

(x) such other employee as may be excluded by regulations of the President or such other officer or agency as he may designate.

(b) Under regulations prescribed by the President or such officer or agency as he may designate, an employee who—

(1) has been employed currently for a continuous period of at least 12 months; and

(2) is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency;

is entitled to be paid severance pay in regular pay periods by the agency from which separated. However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section. The Architect of the Capitol may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(F) of this section. The Public Printer may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(C) of this section.

(c) Severance pay consists of—

(1) a basic severance allowance computed on the basis of 1 week's basic pay at the rate received immediately before separation for each year of civilian service up to and including 10 years for which severance pay has not been received under this or any other authority and 2 weeks' basic pay at that rate for each year of civilian service beyond 10 years for which severance pay has not been received under this or any other authority; and

(2) an age adjustment allowance computed on the basis of 10 percent of the total basic severance allowance for each year by which the age of the recipient exceeds 40 years at the time of separation.

Total severance pay under this section may not exceed 1 year's pay at the rate received immediately before separation. For the purpose of this subsection, ''basic pay'' includes premium pay under section 5545(c)(1) of this title.

(d) If an employee is reemployed by the Government of the United States or the government of the District of Columbia before the end of the period covered by payments of severance pay, the payments shall be discontinued beginning with the date of reemployment and the service represented by the unexpired portion of the period shall be recredited to the employee for use in any later computations of severance pay. For the purpose of subsection (b) (1) of this section, reemployment that causes severance pay to be discontinued is deemed employment continuous with that serving as the basis for severance pay.

(e) If the employee dies before the end of the period covered by payments of severance pay, the payments of severance pay with respect to the employee shall be continued as if the employee were living and shall be paid on a pay period basis to the survivor of the employee in accordance with section 5582(b) of this title.

(f) Severance pay under this section is not a basis for payment, and may not be included in the basis for computation, of any other type of United States or District of Columbia Government benefits. A period covered by severance pay is not a period of United States or District of Columbia Government service or employment.

(g) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this section to an individual named by subsection (a)(2)(B) of this section.

(h)(1) Severance pay under this section may not be paid to—

(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation, is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

(ii) subchapter III of chapter 83 of this title;

(iii) subchapter II of chapter 84 of this title; or

(iv) any other retirement system of the Federal Government for persons retiring from employment with the Federal Government.

(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

(5) The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall prescribe regulations to carry out this subsection.

(6) In this subsection:

(A) The term ''defense nonappropriated fund instrumentality'' means a nonappropriated fund instrumentality of the Department of Defense.

(B) The term ''Coast Guard nonappropriated fund instrumentality'' means a nonappropriated fund instrumentality of the Coast Guard.

(C) The term ''nonappropriated fund instrumentality'' means a nonappropriated fund instrumentality described in section 2105(c) of this title.

(i)(1) In the case of an employee of the Department of Defense who is entitled to severance pay under this section, the Secretary of Defense or the Secretary of the military department concerned may, upon application by the employee, pay the total amount of the severance pay to the employee in one lump sum.

(2)(A) If an employee paid severance pay in a lump sum under this subsection is reemployed by the Government of the United States or the government of the District of Columbia at such time that, had the employee been paid severance pay in regular pay periods under subsection (b), the payments of such pay would have been discontinued under subsection (d) upon such reemployment, the employee shall repay to the Department of Defense (for the military department that formerly employed the employee, if applicable) an amount equal to the amount of severance pay to which the employee was entitled under this section that would not have been paid to the employee under subsection (d) by reason of such reemployment.

(B) The period of service represented by an amount of severance pay repaid by an employee under subparagraph (A) shall be considered service for which severance pay has not been received by the employee under this section.

(C) Amounts repaid to an agency under this paragraph shall be credited to the appropriation available for the pay of employees of the agency

for the fiscal year in which received. Amounts so credited shall be merged with, and shall be available for the same purposes and the same period as, the other funds in that appropriation.

(3) If an employee fails to repay to an agency an amount required to be repaid under paragraph (2)(A), that amount is recoverable from the employee as a debt due the United States.

(4) This subsection applies with respect to severance pay payable under this section for separations taking effect on or after February 10, 1996, and before October 1, 2014.

(j)(1) In the case of an employee of the Department of Energy who is entitled to severance pay under this section as a result of the establishment of the National Nuclear Security Administration, the Secretary of Energy may, upon application by the employee, pay the total amount of the severance pay to the employee in one lump sum.

(2)(A) If an employee paid severance pay in a lump sum under this subsection is reemployed by the Government of the United States or the government of the District of Columbia at such time that, had the employee been paid severance pay in regular pay periods under subsection (b), the payments of such pay would have been discontinued under subsection (d) upon such reemployment, the employee shall repay to the Department of Energy an amount equal to the amount of severance pay to which the employee was entitled under this section that would not have been paid to the employee under subsection (d) by reason of such reemployment.

(B) The period of service represented by an amount of severance pay repaid by an employee under subparagraph (A) shall be considered service for which severance pay has not been received by the employee under this section.

(C) Amounts repaid to the Department of Energy under this paragraph shall be credited to the appropriation available for the pay of employees of the agency for the fiscal year in which received. Amounts so credited shall be merged with, and shall be available for the same purposes and the same period as, the other funds in that appropriation.

(3) If an employee fails to repay to the Department of Energy an amount required to be repaid under paragraph (2)(A), that amount is recoverable from the employee as a debt due the United States.

(Added Pub. L. 90–83, § 1(34)(C), Sept. 11, 1967, 81 Stat. 201; amended Pub. L. 95–454, title IV, § 408(a)(3), Oct. 13, 1978, 92 Stat. 1173; Pub. L. 96–70, title I, § 1231(d), Sept. 27, 1979, 93 Stat. 470; Pub. L. 96–465, title II, § 2305, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 100–325, § 2(i)(2), May 30, 1988, 102 Stat. 582; Pub. L. 101–474, § 5(k), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(9)(J)], Nov. 5, 1990, 104 Stat. 1427, 1442; Pub. L. 103–337, div. A, title III, § 343(a), Oct. 5, 1994, 108 Stat. 2721; Pub. L. 104–106, div. A, title X, § 1035, Feb. 10, 1996, 110 Stat. 430; Pub. L. 105–55, title III, § 310(a), Oct. 7, 1997, 111 Stat. 1199; Pub. L. 105–275, title III, §§ 308(a), 309(a), Oct. 21, 1998, 112 Stat. 2452, 2454; Pub. L. 106–31, title V, § 5006, May 21, 1999, 113 Stat. 112; Pub. L. 106–65, div. A, title XI, § 1104(a), div. C, title XXXII, § 3243, Oct. 5, 1999, 113 Stat. 777, 965; Pub. L. 107–314, div. A, title XI, § 1102(a), Dec. 2, 2002, 116 Stat. 2660; Pub. L. 109–163, div. A, title XI, § 1103, Jan. 6, 2006, 119 Stat. 3448; Pub. L. 109–241, title IX, § 902(a)(3), July 11, 2006, 120 Stat. 566; Pub. L. 110–417, [div. A], title XI, § 1104, Oct. 14, 2008, 122 Stat. 4617.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5595	5 App.: 1117.	Oct. 29, 1965, Pub. L. 89–301, § 9, 79 Stat. 1118. Nov. 2, 1966, Pub. L. 89–737, § 2, 80 Stat. 1164.

In subsection (a), subsections (a) and (b) of 5 App. U.S.C. 1117 are restated as definitions.

In subsection (a)(1)(A), the term ''Executive agency'' is substituted for ''the executive branch of the Government of the United States, including each corporation wholly owned or controlled by the United States'' and ''the General Accounting Office'' to conform to the definition in 5 U.S.C. 105.

The definition in subsection (a)(2) continues the application of the section to only civilian officers and employees, and does not encompass members of the uniformed services as they are not ''employed'' in or under an agency. Throughout the section, the word ''officer'', in the phrase ''officer or employee'', is omitted as included within ''employee''. The last 40 words of 5 App. U.S.C. 1117(a) are codified in subsection (g).

In subsection (a)(2)(i), the words ''Executive Schedule'' are substituted for ''Federal Executive Salary Schedule'' to reflect the provisions of 5 U.S.C. 5311. The words ''of the General Schedule of the Classification Act of 1949, as amended'' are omitted as unnecessary.

In subsection (a)(2)(ii), the words ''without a break in service of more than 3 days'' are coextensive with and substituted for ''without a break in service or after a separation of three days or less''.

In subsection (a)(2)(iv), the words ''subchapter III of chapter 83 of this title'' are substituted for ''the Civil Service Retirement Act, as amended'' to reflect the codification of the act in title 5 U.S.C. The words ''employees as defined by section 2105 of this title'' are coextensive with and substituted for ''Federal officers and employees''.

In subsection (a)(2)(v), the words ''subchapter I of chapter 81 of this title'' are substituted for ''the Federal Employees' Compensation Act, as amended'' to reflect the codification of the act in title 5, U.S.C.

In subsection (b) the word ''agency'' is substituted for ''department, independent establishment, corporation, or other governmental unit'' to conform to the definition in subsection (a)(1). Subsection (b)(1) is substituted for 5 App. U.S.C. 1117(e).

In subsection (e), the words ''section 5582(b) of this title'' are substituted for ''the first section of the Act of August 3, 1950 (5 U.S.C. 61f)'' to reflect the codification of the section in title 5, United States Code.

REFERENCES IN TEXT

The Executive Schedule, referred to in subsec. (a)(2)(i), is set out in section 5311 et seq. of this title.

Section 3(a) of the Panama Canal Act of 1979, referred to in subsec. (a)(2)(iii), is classified to section 3602(a) of Title 22, Foreign Relations and Intercourse.

Section 609(b)(1) of the Foreign Service Act of 1980, referred to in subsec. (a)(2)(vi), is classified to section 4009(b)(1) of Title 22.

AMENDMENTS

2008—Subsec. (i)(4). Pub. L. 110–417 substituted ''2014'' for ''2010''.

2006—Subsec. (h)(5). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

Subsec. (i)(4). Pub. L. 109–163 substituted ''2010'' for ''2006''.

2002—Subsec. (i)(4). Pub. L. 107–314 substituted ''2006'' for ''2003''.

1999—Subsec. (b). Pub. L. 106–31 substituted ''(a)(1)(C)'' for ''(a)(1)(G)'' in last sentence.

Subsec. (i)(4). Pub. L. 106–65, § 1104(a), substituted ''February 10, 1996, and before October 1, 2003'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and before October 1, 1999''.

Subsec. (j). Pub. L. 106–65, § 3243, added subsec. (j).

1998—Subsec. (a)(1)(F). Pub. L. 105–275, § 308(a)(1), struck out '', but only with respect to the United States Senate Restaurants'' after ''Capitol''.

Subsec. (a)(2)(viii). Pub. L. 105–275, §§ 308(a)(2), 309(a)(1)(A), struck out ''of the United States Senate Restaurants'' after ''an employee'' and ''or'' after the semicolon.

Subsec. (a)(2)(ix), (x). Pub. L. 105–275, § 309(a)(1)(B), added cl. (ix) and redesignated former cl. (ix) as (x).

Subsec. (b). Pub. L. 105–275, § 309(a)(2), inserted at end ''The Public Printer may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(G) of this section.''

1997—Subsec. (a)(1)(F). Pub. L. 105–55, § 310(a)(1), added subpar. (F).

Subsec. (a)(2)(viii), (ix). Pub. L. 105–55, § 310(a)(2), added cl. (viii) and redesignated former cl. (viii) as (ix).

Subsec. (b). Pub. L. 105–55, § 310(a)(3), inserted at end ''The Architect of the Capitol may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(F) of this section.''

1996—Subsec. (i). Pub. L. 104–106 added subsec. (i).

1994—Subsec. (h). Pub. L. 103–337 added subsec. (h).

1990—Subsec. (a)(1)(E). Pub. L. 101–474, § 5(k)(1), added subpar. (E).

Subsec. (a)(2)(i). Pub. L. 101–509 substituted ''employee (other'' for ''employee, other'', inserted ''or an employee whose pay is fixed under section 5376)'' before ''whose rate'', and substituted ''the Executive Schedule'' for ''GS–18''.

Subsec. (b). Pub. L. 101–474, § 5(k)(2), inserted at end ''However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section.''

1988—Subsec. (a)(2)(i). Pub. L. 100–325 inserted reference to Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

1980—Subsec. (a)(2)(vi). Pub. L. 96–465 inserted ''benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any'' after ''to receive''.

1979—Subsec. (a)(2)(iii). Pub. L. 96–70 substituted ''areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)'' for ''Canal Zone''.

1978—Subsec. (a)(2)(i). Pub. L. 95–454 inserted reference to a member of the Senior Executive Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 3243 of Pub. L. 106–65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 343(b) of Pub. L. 103–337 provided that: ''Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall apply with respect to pay periods that begin on or after the date of the enactment of this Act [Oct. 5, 1994].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as a note under section 3131 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REPORT

Pub. L. 107–314, div. A, title XI, § 1102(b), Dec. 2, 2002, 116 Stat. 2660, required the President, not later than one year after Dec. 2, 2002, to submit to Committees of Congress a report on whether the authority under section 5595(i) of this title should be made permanent or expanded to be made Governmentwide.

§ 5596. Back pay due to unjustified personnel action

(a) For the purpose of this section, ''agency'' means—

(1) an Executive agency;

(2) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28;

(3) the Library of Congress;

(4) the Government Printing Office;

(5) the government of the District of Columbia;

(6) the Architect of the Capitol, including employees of the United States Senate Restaurants; and

(7) the United States Botanic Garden.

(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—

(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would

have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, or under chapter 11 of title I of the Foreign Service Act of 1980, shall be awarded in accordance with standards established under section 7701(g) of this title; and

(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

(B) Such interest—

(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

(iii) shall be compounded daily.

(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.

(3) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

(4) The pay, allowances, or differentials granted under this section for the period for which an unjustified or unwarranted personnel action was in effect shall not exceed that authorized by the applicable law, rule, regulations, or collective bargaining agreement under which the unjustified or unwarranted personnel action is found, except that in no case may pay, allowances, or differentials be granted under this section for a period beginning more than 6 years before the date of the filing of a timely appeal or, absent such filing, the date of the administrative determination.

(5) For the purpose of this subsection, ''grievance'' and ''collective bargaining agreement'' have the meanings set forth in section 7103 of this title and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980, ''unfair labor practice'' means an unfair labor practice described in section 7116 of this title and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980, and ''personnel action'' includes the omission or failure to take an action or confer a benefit.

(c) The Office of Personnel Management shall prescribe regulations to carry out this section. However, the regulations are not applicable to the Tennessee Valley Authority and its employees, or to the agencies specified in subsection (a)(2) of this section.

(Added Pub. L. 90–83, § 1(34)(C), Sept. 11, 1967, 81 Stat. 203; amended Pub. L. 94–172, § 1(a), Dec. 23, 1975, 89 Stat. 1025; Pub. L. 95–454, title VII, § 702, Oct. 13, 1978, 92 Stat. 1216; Pub. L. 96–54, § 2(a)(14), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–465, title II, § 2306, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 100–202, § 101(m) [title VI, § 623(a)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–428; Pub. L. 101–474, § 5(*l*), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 105–261, div. A, title XI, § 1104(a), Oct. 17, 1998, 112 Stat. 2141; Pub. L. 107–68, title III, § 309, Nov. 12, 2001, 115 Stat. 592.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5596(a)	5 App.: 652a.	Mar. 30, 1966, Pub. L. 89–380, §§ 2–4, 80 Stat. 94, 95.
5596(b)	5 App.: 652b.	
5596(c)	5 App.: 652c.	

In subsection (a)(1), the term ''an Executive agency'' is substituted for ''executive department of the Government of the United States'', ''agency or independent establishment in the executive branch of such Government'', ''corporation owned or controlled by such Government'', and ''the General Accounting Office'' to conform to the definition in 5 U.S.C. 105.

In subsection (b), the word ''employee'' is substituted for ''civilian officer or employee'' and ''such officer or employee'' to conform to the definition in 5 U.S.C. 2105. The words ''on or after the date of enactment of this Act'' and ''taken prior to, on, or after the date of enactment of his Act'' are omitted as executed and unnecessary, since title 5 is restated prospectively and as any existing rights are preserved by section 7 of this bill.

In subsection (c), the word ''employees'' is substituted for ''officers and employees'' to conform to the definition in 5 U.S.C. 2105.

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (b)(1)(A)(ii), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071. Chapter 11 of title I of the Act is classified generally to subchapter XI (§ 4131 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

Section 6621(a)(1) of the Internal Revenue Code of 1986, referred to in subsec. (b)(2)(B)(ii), is classified to section 6621(a)(1) of Title 26, Internal Revenue Code.

Sections 1101, 1002, and 1015 of the Foreign Service Act of 1980, referred to in subsec. (b)(5), are classified to sections 4131, 4102, and 4115, respectively, of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2001—Subsec. (a)(6), (7). Pub. L. 107–68 added pars. (6) and (7).

1998—Subsec. (b)(4), (5). Pub. L. 105–261 added par. (4) and redesignated former par. (4) as (5).

1990—Subsec. (a)(2). Pub. L. 101–474, § 5(*l*)(1), substituted ''Courts, the Federal Judicial Center, and the courts named by section 610 of title 28'' for ''Courts''.

Subsec. (c). Pub. L. 101–474, § 5(*l*)(2), substituted ''employees, or to the agencies specified in subsection (a)(2) of this section'' for ''employees''.

1987—Subsec. (b)(2) to (4). Pub. L. 100–202 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1980—Subsec. (b)(1). Pub. L. 96–465, § 2306(1), inserted in subpar. (A)(ii) ''or under chapter 11 of title I of the Foreign Service Act of 1980'' after ''chapter 71 of this title,''.

Subsec. (b)(3). Pub. L. 96–465, § 2306(2), inserted ''and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980'' after ''section 7103 of this title'', and ''and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980'' after ''section 7116 of this title''.

1979—Subsec. (c). Pub. L. 96–54 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1978—Subsec. (b). Pub. L. 95–454 substituted provisions relating to corrective measures applicable to an employee who, on the basis of a timely appeal or an administrative determination, including a decision relative to an unfair labor practice or grievance, is found by an appropriate authority under applicable law, rule, regulation, or collective bargaining agreement to have been affected by an unjustified or unwarranted personnel action, for provisions relating to corrective measures applicable to an employee who, on the basis of an administrative determination or a timely appeal, is found by an appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action.

1975—Subsec. (b)(2). Pub. L. 94–172 struck out in introductory clause provision relating to prohibition on leave credit cumulated in excess of maximum allowed under law or regulations, and added subpars. (A) and (B).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–68, title III, § 309, Nov. 12, 2001, 115 Stat. 592, provided that the amendment made by section 309 is effective for all personnel actions taken on or after Nov. 12, 2001.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 101(m) [title VI, § 623(b)] of Pub. L. 100–202 provided that:

''(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 22, 1987], and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

''(2) EXCEPTION.—

''(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) [amending this section] shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act [Dec. 22, 1987], if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

''(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

''(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

''(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act [Dec. 22, 1987].

''(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with [section] 5596(b)(2)(B) of title 5, United States Code.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 1(b) of Pub. L. 94–172 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any employee found, on or after March 30, 1966, to have undergone an unjustified or unwarranted personnel action the correction of which entitled or entitles such employee to the benefits provided under section 5596 of title 5, United States Code.''

LUMP-SUM PAYMENTS FOR FORMER EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 2 of Pub. L. 94–172 provided that: ''With respect to former employee (except a former employee referred to in section 3 of this Act) [set out as a note below] who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave, which was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of the enactment of this Act with the agency by which the employee was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to such employee. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable.''

LUMP-SUM PAYMENTS FOR POSTAL EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 3 of Pub. L. 94–172 provided that:

''(a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to his credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and, liquidation by lump-

sum payment only if a claim therefor is filed within 3 years immediately following the date of enactment of this Act with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service, as appropriate, last became applicable to the former employee.

''(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed with the Postal Service within three years immediately following the date of the enactment of this Act [Dec. 23, 1975]. Payment shall be by the Postal Service at the salary rate in effect on the date of the enactment of this Act.''

§ 5597. Separation pay

(a) For the purpose of this section—

(1) the term ''Secretary'' means the Secretary of Defense;

(2) the term ''defense agency'' means an agency of the Department of Defense, as further defined under regulations prescribed by the Secretary; and

(3) the term ''employee'' means an employee of a defense agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83, chapter 84, or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(b) In order to avoid or minimize the need for involuntary separations due to a reduction in force, base closure, reorganization, transfer of function, workforce restructuring (to meet mission needs, achieve one or more strength reductions, correct skill imbalances, or reduce the number of high-grade, managerial, or supervisory positions), or other similar action affecting 1 or more defense agencies, the Secretary shall establish a program under which separation pay may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation).

(c) Under the program, separation pay may be offered by a defense agency only—

(1) with the prior consent, or on the authority, of the Secretary; and

(2) to employees within such occupational groups or geographic locations, or subject to such other similar objective and nonpersonal limitations or conditions, as the Secretary may require.

A determination of which employees are within the scope of an offer of separation pay shall be made only on the basis of consistent and well-documented application of the relevant criteria.

(d) Such separation pay—

(1) shall be paid in a lump-sum or in installments;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section; or

(B) $25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(4) shall not be taken into account for purposes of determining the amount of any severance pay to which an individual may be entitled under section 5595 based on any other separation; and

(5) if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract, as described in subsection (g)(1).

(e) No amount shall be payable under this section based on any separation occurring after September 30, 2003.

(f) The Secretary shall prescribe such regulations as may be necessary to carry out this section.

(g)(1) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 and accepts employment with the Government of the United States, or who commences work for an agency of the United States through a personal services contract with the United States, within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the defense agency that paid the separation pay.

(2) If the employment is with an Executive agency, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(5) If the employment is without compensation, the appointing official may waive the repayment.

(h)(1)(A) In addition to any other payment that it is required to make under subchapter III of chapter 83 or chapter 84, the Department of Defense shall remit to the Office of Personnel Management an amount equal to 15 percent of the final basic pay of each covered employee.

(B) If the employee is one with respect to whom a remittance would otherwise be required

under section 4(a) of the Federal Workforce Restructuring Act of 1994 based on the separation involved, the remittance under this subsection shall be instead of the remittance otherwise required under such section 4(a).

(2) Amounts remitted under paragraph (1) shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

(3) For the purposes of this subsection—

(A) the term ''covered employee'' means an employee who is subject to subchapter III of chapter 83 or chapter 84 and to whom a voluntary separation incentive has been paid under this section on the basis of a separation occurring on or after October 1, 1997; and

(B) the term ''final basic pay'' has the meaning given such term in section 4(a)(2) of the Federal Workforce Restructuring Act of 1994.

(i)(1) Notwithstanding any other provision of this section, during fiscal year 2001, separation pay may be offered under the program carried out under this section with respect to workforce restructuring only to persons who, upon separation, are entitled to an immediate annuity under section 8336, 8412, or 8414 of this title and are otherwise eligible for the separation pay under this section.

(2) In the administration of the program under this section during fiscal year 2001, the Secretary shall ensure that not more than 1,000 employees are, as a result of workforce restructuring, separated from service in that fiscal year entitled to separation pay under this section.

(3) Separation pay may not be offered as a result of workforce restructuring under the program carried out under this section after fiscal year 2003.

(Added Pub. L. 102–484, div. D, title XLIV, § 4436(a)(1), Oct. 23, 1992, 106 Stat. 2723; amended Pub. L. 103–226, § 8(a), Mar. 30, 1994, 108 Stat. 118; Pub. L. 103–337, div. A, title III, § 341(b)(1), Oct. 5, 1994, 108 Stat. 2720; Pub. L. 104–201, div. A, title XVI, § 1612(a), Sept. 23, 1996, 110 Stat. 2739; Pub. L. 105–85, div. A, title XI, § 1106(a), (b)(1), Nov. 18, 1997, 111 Stat. 1923, 1924; Pub. L. 106–65, div. A, title XI, § 1104(b), Oct. 5, 1999, 113 Stat. 777; Pub. L. 106–398, § 1 [[div. A], title XI, §§ 1151, 1153(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–319, 1654A–323.)

REFERENCES IN TEXT

The date of the enactment of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 103–226, which was approved Mar. 30, 1994.

Section 4(a) of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (h)(1)(B), (3)(B), is section 4(a) of Pub. L. 103–226, as amended, which is set out as a note under section 8331 of this title.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(a)], inserted ''workforce restructuring (to meet mission needs, achieve one or more strength reductions, correct skill imbalances, or reduce the number of high-grade, managerial, or supervisory positions),'' after ''transfer of function,''.

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(b)(2)], inserted concluding provisions.

Subsec. (c)(2). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(b)(1)], inserted ''objective and nonpersonal'' after ''similar''.

Subsec. (d)(1). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(c)(1)], added par. (1) and struck out former par. (1) which read as follows: ''shall be paid in a lump sum;''.

Subsec. (d)(5). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(c)(2)–(4)], added par. (5).

Subsec. (g)(1). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(d)], inserted '', or who commences work for an agency of the United States through a personal services contract with the United States,'' after ''employment with the Government of the United States''.

Subsec. (i). Pub. L. 106–398, § 1 [[div. A], title XI, § 1153(a)], added subsec. (i).

1999—Subsec. (e). Pub. L. 106–65 substituted ''September 30, 2003'' for ''September 30, 2001''.

1997—Subsec. (e). Pub. L. 105–85, § 1106(b)(1), substituted ''September 30, 2001'' for ''September 30, 1999''.

Subsec. (h). Pub. L. 105–85, § 1106(a), added subsec. (h).

1996—Subsec. (g)(5). Pub. L. 104–201 added par. (5).

1994—Subsec. (e). Pub. L. 103–337 substituted ''September 30, 1999'' for ''September 30, 1997''.

Subsec. (g). Pub. L. 103–226 added subsec. (g).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1612(b) of Pub. L. 104–201 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to employment accepted on or after the date of the enactment of this Act [Sept. 23, 1996].''

LIMITATIONS FOR FISCAL YEARS 2002 AND 2003 ON VSIP AND VERA

Pub. L. 106–398, § 1 [[div. A], title XI, § 1153(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–323, as amended by Pub. L. 107–107, div. A, title XI, § 1133(a), Dec. 28, 2001, 115 Stat. 1244, provided that:

''The Secretary of Defense shall ensure that, in fiscal year 2002 not more than 2000 employees of the Department of Defense are, and in fiscal year 2003 not more than 6000 employees of the Department of Defense are, as a result of workforce restructuring, separated from service entitled to one or more of the following benefits:

''(1) Voluntary separation incentive pay under section 5597 of title 5, United States Code.

''(2) Immediate annuity under section 8336(*o*) or 8414(d) of such title.''

[Pub. L. 107–107, div. A, title XI, § 1133(b), Dec. 28, 2001, 115 Stat. 1244, provided that: ''The amendments made by subsection (a) [amending Pub. L. 106–398, § 1 [[div. A], title XI, § 1153(b)], set out above] may be superceded by another provision of law that takes effect after the date of the enactment of this Act [Dec. 28, 2001], and before October 1, 2003, establishing a uniform system of providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.'']

VOLUNTARY SEPARATION INCENTIVES

Pub. L. 106–303, § 2, Oct. 13, 2000, 114 Stat. 1064, as amended by Pub. L. 108–271, §§ 2(a), (b)(2), (c), 8(b), July 7, 2004, 118 Stat. 811, 814, provided that:

''(a) IN GENERAL.—Effective October 13, 2000, the authority to provide voluntary separation incentive payments shall be available to the Comptroller General with respect to employees of the Government Accountability Office.

''(b) TERMS AND CONDITIONS.—The authority to provide voluntary separation incentive payments under this section shall be available in accordance with the provisions of subsections (a)(2)–(e) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note), except that—

''(1) subsection (a)(2)(D) of such section shall be disregarded;

''(2) subsection (a)(2)(G) of such section shall be applied—

''(A) by construing the citations therein to be references to the appropriate authorities in connec-

tion with employees of the Government Accountability Office; and

''(B) by deeming such subsection to be amended by striking 'Code.' and inserting 'Code, or who, during the thirty-six month period preceding the date of separation, performed service for which a student loan repayment benefit was or is to be paid under section 5379 of title 5, United States Code.'

''(3) subsection (b)(1) of such section shall be applied by substituting 'Committee on Government Reform' [now Committee on Oversight and Government Reform] for 'Committee on Government Reform and Oversight';

''(4) (A) subsection (b)(2)(A) of such section shall be applied by substituting 'eliminated (if any)' for 'eliminated';

''(B) subsection (b)(2)(C) of such section shall be applied by substituting 'such positions or functions as are to be eliminated and such employees as are to be separated' for 'the eliminated positions and functions'; and

''(C) the agency strategic plan referred to in subsection (b) of such section shall, in addition to the information described in paragraph (2) thereof, contain the following: the steps to be taken to realign the Government Accountability Office's workforce in order to meet budgetary constraints or mission needs, correct skill imbalances, or reduce high-grade, managerial, or supervisory positions;

''(5) subsection (c)(1) of such section shall be applied by substituting 'to the extent necessary (A) to realign the Government Accountability Office's workforce in order to meet budgetary constraints or mission needs, (B) to correct skill imbalances, or (C) to reduce high-grade, managerial, or supervisory positions, in conformance with that agency's strategic plan (as referred to in subsection (b)).' for the matter following 'only';

''(6) subsection (c)(2)(D) of such section shall be applied by substituting 'December 31, 2003, or the end of the 3-month period beginning on the date on which such payment is offered to such employee, whichever is earlier' for 'December 31, 1997'; and

''(7) instead of the amount described in paragraph (1) of subsection (d) of such section, the amount required under such paragraph shall be determined in accordance with subsection (c)(1) of this section.

''(c) ADDITIONAL CONTRIBUTION TO RETIREMENT FUND.—

''(1) Determination of amount required.—The amount required under this paragraph shall be the amount determined under subparagraph (A) or (B), whichever is greater, for the fiscal year involved.

''(A) FIRST METHOD.—The amount required under this subparagraph shall be determined as follows:

''(i) First, determine the sum of the following:

''(I) The amount equal to 19 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8336(d) of title 5, United States Code.

''(II) The amount equal to 58 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8336 of such title 5 (not including any employee covered by subclause (I)).

''(ii) Second, reduce the sum of the amounts determined under clause (i) by the sum of the following (but not below zero):

''(I) The amount equal to 419 percent of the final basic pay of each employee described in paragraph (2), who is covered by subchapter III of chapter 83 of title 5, United States Code, and who resigns.

''(II) The amount equal to 17 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8414(b) of such title 5.

''(III) The amount equal to 8 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8412 of such title 5.

''(IV) The amount equal to 211 percent of the final basic pay of each employee described in paragraph (2), who is covered by chapter 84 of such title 5, and who resigns.

''(B) SECOND METHOD.—The amount required under this subparagraph shall be equal to 45 percent of the final basic pay of each employee described in paragraph (2).

''(2) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year involved.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection, including provisions under which any additional contribution determined under this subsection shall, at the election of the Government Accountability Office, be payable either in a lump sum or through installment payments made over a period of not to exceed 3 years.

''(B) INTEREST.—The regulations shall include provisions under which, if the installment method is chosen, interest shall be payable at the same rate as provided for under section 8348(f) of title 5, United States Code.

''(4) RULE OF CONSTRUCTION.—As used in this subsection, the term 'resign' shall not be considered to include early retirement or a separation giving rise to an immediate annuity.

''(d) DEFINITIONS.—

''(1) FINAL BASIC PAY.—As used in this section, the term 'final basic pay' has the same meaning as under section 663(d)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note).

''(2) EMPLOYEE.—As used in this section and, for purposes of this section, the provisions of law cited in subsection (b), the term 'employee' shall be considered to refer to an officer or employee of the Government Accountability Office.

''(e) NUMERICAL LIMITATION.—Not to exceed 5 percent of the Government Accountability Office's workforce (as of the start of a fiscal year) shall be permitted to receive a voluntary separation incentive payment under this section based on their separating from service in such fiscal year.

''(f) REGULATIONS.—The Comptroller General shall prescribe any regulations necessary to carry out this section, excluding subsection (c). Such regulations shall include provisions under which a voluntary separation incentive payment may be offered to any employee or group of employees based on—

''(1) geographic area, organizational unit, or occupational series or level;

''(2) skills, knowledge, or performance; or

''(3) such other similar factors (or combination of factors described in this or any other paragraph of this subsection) as the Comptroller General considers necessary and appropriate in order to achieve the purpose involved.

''(g) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Government Accountability Office workforce and not downsize the Government Accountability Office workforce.''

Pub. L. 106–117, title XI, Nov. 30, 1999, 113 Stat. 1595, as amended by Pub. L. 106–419, title II, § 207, Nov. 1, 2000, 114 Stat. 1842, known as the ''Department of Veterans Affairs Employment Reduction Assistance Act of 1999'', authorized the Secretary of Veterans Affairs to submit a plan to the Director of the Office of Management and Budget for the payment of voluntary separation incentive payments, and upon approval thereof to pay voluntary separation incentive payments to eligible employees of the Department of Veterans Affairs only to the extent necessary to reduce or restructure the positions and functions identified by the plan, pro-

vided that the employees separate from service with the Department through Dec. 31, 2002, whether by retirement or resignation, defined ''employee'' for separation incentive purposes, and provided for additional contributions to the Retirement Fund, effect of subsequent employment with the Federal Government, and effect on agency employment levels.

Pub. L. 106–113, div. B, § 1000(a)(2) [title V, § 579], Nov. 29, 1999, 113 Stat. 1535, 1501A–113, as amended by Pub. L. 106–429, § 101(a) [title V, § 584], Nov. 6, 2000, 114 Stat. 1900, 1900A–56; Pub. L. 107–115, title V, § 575, Jan. 10, 2002, 115 Stat. 2168; Pub. L. 108–7, div. E, title V, § 571, Feb. 20, 2003, 117 Stat. 208, authorized voluntary separation incentives for employees of the United States Agency for International Development who voluntarily separated (whether by retirement or resignation) on or before Jan. 1, 2003, and defined pertinent terms, provided for the development of an agency strategic plan and the approval of such plan by the Director of the Office of Management and Budget, required additional agency contributions to the Retirement Fund, specified the effect of subsequent employment with the Federal Government, mandated a reduction of agency employment levels, and authorized the Office of Personnel Management to prescribe regulations to implement these provisions.

Pub. L. 106–58, title I, § 116, Sept. 29, 1999, 113 Stat. 439, authorized the Treasury Inspector General for Tax Administration, during the period from Oct. 1, 1999 through Jan. 1, 2003, to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the plan to establish and reorganize the Office of the Treasury Inspector General for Tax Administration, defined ''employee'' for separation incentive purposes, and provided for authority to provide separation incentive payments, additional contributions to the Retirement Fund, effect of subsequent employment with the Federal Government, and effect on agency employment levels.

Pub. L. 106–58, title I, § 119, Sept. 29, 1999, 113 Stat. 441, authorized the Commissioner of the Financial Management Services of the Department of the Treasury, during the period from Oct. 1, 1999 through Jan. 31, 2000, to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the closure of the Chicago Financial Center (CFC) in a manner which the Commissioner deemed most efficient, equitable to employees, and cost effective to the Government, defined ''employee'' for separation incentive purposes, and provided for an agency plan, authority to provide separation incentive payments, eligibility requirements, effect on subsequent employment with the Federal Government, contributions to the Retirement Fund, and reduction of agency employment levels.

Pub. L. 106–58, title IV, § 411, Sept. 29, 1999, 113 Stat. 456, as amended by Pub. L. 106–554, § 1(a)(3) [title IV, § 408], Dec. 21, 2000, 114 Stat. 2763, 2763A–146, authorized the Administrator of General Services, during the period Oct. 1, 1999 through Apr. 30, 2002, to offer a voluntary separation incentive in order to provide the necessary flexibility to carry out the closing of the Federal Supply Service distribution centers, forward supply points, and associated programs in a manner which the Administrator deemed most efficient, equitable to all employees, and cost effective for the Government, defined ''employee'' for separation incentive purposes, and provided for agency strategic plan, authority to provide incentive payments, eligibility requirements, effect of subsequent employment with the Federal Government, contributions to the Retirement Fund, and reduction of agency employment levels.

Pub. L. 105–206, title I, § 1202, July 22, 1998, 112 Stat. 719, authorized Commissioner of Internal Revenue to pay voluntary separation incentive payments to any qualifying employee of the Internal Revenue Service who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2003, provided for pertinent definitions, additional Internal Revenue Service contributions to the Retirement Fund, effect of subsequent employment with the Government, and effect on Internal Revenue Service employment levels.

Pub. L. 104–208, div. A, title I, § 101(e) [title V, § 520], Sept. 30, 1996, 110 Stat. 3009–233, 3009–272, as amended by Pub. L. 105–78, title V, § 517, Nov. 13, 1997, 111 Stat. 1519; Pub. L. 106–113, div. B, § 1000(a)(4) [title V, § 515], Nov. 29, 1999, 113 Stat. 1535, 1501A–276, authorized Railroad Retirement Board and Office of Inspector General of Railroad Retirement Board to provide voluntary separation incentive payments to any qualifying employee who voluntarily separated (whether by retirement or resignation) before Mar. 31, 2000, directed the Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, to submit to Congress a strategic plan outlining intended use of such incentive payments and a proposed organizational chart for agency once such incentive payments have been completed, and further provided for pertinent definitions, additional contributions to the Retirement Fund, effect of subsequent employment with the Government, reduction of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 106–65, div. C, title XXXI, § 3161, Oct. 5, 1999, 113 Stat. 942, as amended by Pub. L. 107–107, div. C, title XXXI, § 3153(a), Dec. 28, 2001, 115 Stat. 1377, provided that notwithstanding section 101(f) [title VI, § 663(c)(2)(D)] of Public Law 104–208, set out below, Department of Energy could pay voluntary separation incentive payments under such section 663 to qualifying employees who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2004, and that not later than Mar. 15, 2000, Secretary of Energy was to submit to Director of Office of Personnel Management and Congress a report describing how the Department has paid voluntary separation payments under such section 663.

[Pub. L. 107–107, div. C, title XXXI, § 3153(b), Dec. 28, 2001, 115 Stat. 1377, provided that: ''The amendment made by subsection (a) [amending section 3161 of Pub. L. 106–65, set out above] may be superseded by another provision of law that takes effect after the date of the enactment of this Act [Dec. 28, 2001], and before January 1, 2004, establishing a uniform system for providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.'']

Pub. L. 105–261, div. C, title XXXI, § 3156, Oct. 17, 1998, 112 Stat. 2257, provided that notwithstanding section 101(f) [title VI, § 663(c)(2)(D)] of Public Law 104–208, set out below, Department of Energy could pay voluntary separation incentive payments to qualifying employees who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2001.

Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 663], Sept. 30, 1996, 110 Stat. 3009–314, 3009–383, provided that:

''(a) DEFINITIONS.—For the purposes of this section—

''(1) the term 'agency' means any Executive agency (as defined in section 105 of title 5, United States Code), other than an Executive agency (except an agency receiving such authority in the Department of Transportation Appropriations Act, 1997 [probably means the Department of Transportation and Related Agencies Appropriations Act, 1997, Pub. L. 104–205, see Tables for classification]) that is authorized by any other provision of this Act or any other Act to provide voluntary separation incentive payments during all, or any part of, fiscal year 1997; and

''(2) the term 'employee' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

''(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

''(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code,

or another retirement system for employees of the agency;

''(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

''(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 ([Pub. L. 103–226] 5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

''(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

''(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

''(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

''(b) AGENCY STRATEGIC PLAN.—

''(1) IN GENERAL.—The head of each agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Government Reform and Oversight [now Committee on Oversight and Government Reform] of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

''(2) CONTENTS.—The agency's plan shall include—

''(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

''(B) the number and amounts of voluntary separation incentive payments to be offered; and

''(C) a description of how the agency will operate without the eliminated positions and functions.

''(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

''(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

''(A) shall be paid in a lump sum after the employee's separation;

''(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

''(C) shall be equal to the lesser of—

''(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

''(ii) an amount determined by the agency head not to exceed $25,000;

''(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before December 31, 1997;

''(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

''(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

''(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

''(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

''(2) DEFINITION.—For the purpose of paragraph (I), the term 'final basic pay', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

''(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

''(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

''(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

''(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

''(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.''

Pub. L. 104–205, title III, § 349, Sept. 30, 1996, 110 Stat. 2976, authorized certain agencies of Department of Transportation to provide voluntary separation incentive payments to any qualifying employee, provided that no amount would be payable based on any separation occurring before Sept. 30, 1996, or after Sept. 30, 1997, directed agencies to submit to Congress a strategic plan outlining intended use of such incentive payments and proposed organization chart for agency once such incentive payments have been completed, and further provided for definitions, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, reductions of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 104–204, title IV, § 432, Sept. 26, 1996, 110 Stat. 2931, as amended by Pub. L. 106–377, § 1(a)(1) [title IV, § 428], Oct. 27, 2000, 114 Stat. 1441, 1441A–56, known as the ''National Aeronautics and Space Administration Federal Employment Reduction Assistance Act of 1996'', authorized the Administrator of the National Aeronautics and Space Administration (NASA), in order to avoid or minimize the need for involuntary separations due to a reduction in force, installation closure, reorganization, transfer of function, or other similar action affecting NASA, to establish a program under which voluntary separation pay, subject to the availability of appropriated funds, be offered to encourage eligible employees to separate from service by retirement or resignation up to Sept. 30, 2002, defined terms, provided for effect of subsequent employment with the Federal Government, required additional agency contributions to the Retirement Fund, reduced agency employment lev-

els, and required an annual report on the program to be submitted to the Office of Personnel Management.

Pub. L. 104–190, §1, Aug. 20, 1996, 110 Stat. 1932, authorized Agency for International Development to provide voluntary separation incentive payments to not more than 100 qualified employees of such agency who voluntarily separated (whether by retirement or resignation) before Feb. 1, 1997, and only to extent necessary to eliminate positions and functions identified by strategic plan to be submitted to Congress outlining intended use of such incentive payments and proposed organizational chart for agency once such incentive payments have been completed, and further provided for definitions, amount and treatment of payments, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, and reduction of agency employment levels.

Pub. L. 104–180, title VII, §735, Aug. 6, 1996, 110 Stat. 1604, authorized Department of Agriculture to provide voluntary separation incentive payments to qualified employees to extent necessary to eliminate positions and functions identified by strategic plan to be submitted to Congress outlining intended use of such incentive payments and proposed organizational chart for agency once such incentive payments have been completed, provided that no amount would be payable based on any separation occurring before Aug. 6, 1996, or after Sept. 30, 2000, and further provided for definitions, amount and treatment of payments, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, reduction of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 104–134, title I, §101(c) [title III, §339], Apr. 26, 1996, 110 Stat. 1321–156, 1321–210; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that, in order to avoid or minimize need for involuntary separations due to reduction in force, reorganization, transfer of function, or other similar action, Secretary of the Smithsonian Institution could pay, or authorize payment of, voluntary separation incentive payments to Smithsonian Institution employees who separated from Federal service voluntarily through Oct. 1, 1996 (whether by retirement or resignation).

Pub. L. 104–19, title I, §702, July 27, 1995, 109 Stat. 221, provided that General Accounting Office could for such employees as it deemed appropriate authorize payment to employees who voluntarily separated before Oct. 1, 1995, whether by retirement or resignation, which payment would be paid in accordance with provisions of subsection (d) of this section.

Section 3 of Pub. L. 103–226 authorized Executive agencies (other than Department of Defense, Central Intelligence Agency, or General Accounting Office) to provide voluntary separation incentive payments to qualified employees of such agencies in order to avoid or minimize need for involuntary separations due to reduction in force, reorganization, transfer of function, or other similar action, provided that in order to receive incentive payment, employee must have separated from service with agency (whether by retirement or resignation) before Apr. 1, 1995, or, under certain circumstances, not later than Mar. 31, 1997, and further provided for definitions, amount and treatment of payments, effect of subsequent employment with the Government, regulations, and authority for Director of Administrative Office of the United States Courts to establish similar program for individuals serving in the judicial branch.

MONITORING AND REPORT RELATING TO VOLUNTARY SEPARATION INCENTIVE PAYMENTS

Section 6 of Pub. L. 103–226 provided that: ''No later than December 31st of each fiscal year, the Office of Personnel Management shall submit to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Post Office and Civil Service of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

''(1) the number of employees who received a voluntary separation incentive payment under section 3 [set out above] during such preceding fiscal year;

''(2) the agency from which each such employee separated;

''(3) at the time of separation from service by each such employee—

''(A) such employee's grade or pay level; and

''(B) the geographic location of such employee's official duty station, by region, State, and city (or foreign nation, if applicable); and

''(4)(A) the number of waivers made (in the repayment upon subsequent employment) by each agency or other authority under section 3 [set out above] or the amendments made by section 8 [amending this section and section 403x of Title 50, War and National Defense]; and

''(B) the title and the grade or pay level of the position filled by the employee to whom such waiver applied.''

[Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight, see section 1(b) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.]

SOURCE OF PAYMENTS

Section 4436(b)(1) of Pub. L. 102–484 provided that: ''For fiscal years after fiscal year 1993, separation pay shall be paid by an agency out of any funds or appropriations available for salaries and expenses of such agency.''

REPORT

Section 4436(c) of Pub. L. 102–484 provided that: ''At the end of each of fiscal years 1993 through 1998, the Secretary of Defense shall submit to the President, the Congress, and the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section [enacting this section].''

CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

Sec.
5701. Definitions.
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5761. Foreign language proficiency pay awards for the Federal Bureau of Investigation.

[1] So in original. Two sections 5757 have been enacted.

AMENDMENTS

2010—Pub. L. 111–292, § 3(b), Dec. 9, 2010, 124 Stat. 3173, added item 5711.

Pub. L. 111–178, § 2(c), June 9, 2010, 124 Stat. 1263, added item 5724d.

2009—Pub. L. 111–117, div. B, title II, § 219(b), Dec. 16, 2009, 123 Stat. 3142, added item 5761.

2008—Pub. L. 110–181, div. A, title XI, § 1104(b), Jan. 28, 2008, 122 Stat. 347, added item 5737a.

2006—Pub. L. 109–163, div. A, title XI, § 1121(b), Jan. 6, 2006, 119 Stat. 3452, added item 5760.

2004—Pub. L. 108–447, div. B, title I, § 113(b), Dec. 8, 2004, 118 Stat. 2869, added item 5759.

Pub. L. 108–411, title I, § 101(a)(2), Oct. 30, 2004, 118 Stat. 2309, substituted ''Retention bonuses'' for ''Retention allowances'' in item 5754.

2002—Pub. L. 107–273, div. A, title II, § 207(a)(2), Nov. 2, 2002, 116 Stat. 1780, added item 5757 ''Extended assignment incentive''.

2001—Pub. L. 107–107, div. A, title XI, § 1112(b), Dec. 28, 2001, 115 Stat. 1239, added item 5757 ''Payment of expenses to obtain professional credentials''.

1998—Pub. L. 105–264, §§ 4(b), 5(c), Oct. 19, 1998, 112 Stat. 2354, 2355, added items 5706c, 5710, and 5739.

1996—Pub. L. 104–201, div. A, title XVI, § 1605(a)(2), title XVII, § 1723(c), Sept. 23, 1996, 110 Stat. 2736, 2759, added items 5736 to 5738 and 5756.

1994—Pub. L. 103–337, div. A, title III, § 345(a)(2), Oct. 5, 1994, 108 Stat. 2724, added item 5735.

1992—Pub. L. 102–378, § 2(46), Oct. 2, 1992, 106 Stat. 1353, struck out ''; manpower shortage positions'' after ''trainees'' in item 5723 and added item 5755.

1990—Pub. L. 101–509, title V, § 529 [title II, §§ 206(a)(2), 208(b)], Nov. 5, 1990, 104 Stat. 1427, 1457, 1460, added items 5706b, 5753, and 5754.

Pub. L. 101–391, § 4(b), Sept. 25, 1990, 104 Stat. 750, added item 5707a.

1986—Pub. L. 99–234, title I, §§ 103(b), 106(b), Jan. 2, 1986, 99 Stat. 1758, 1759, added items 5706a and 5734.

1983—Pub. L. 98–151, § 118(a)(7)(A)(ii), Nov. 14, 1983, 97 Stat. 979, added items 5724b and 5724c.

1978—Pub. L. 95–454, title IV, § 409(c), Oct. 13, 1978, 92 Stat. 1173, added item 5752.

1975—Pub. L. 94–22, § 7, May 19, 1975, 89 Stat. 86, inserted ''and reports'' after ''Regulations'' in item 5707.

1970—Pub. L. 91–563, § 4(b), Dec. 19, 1970, 84 Stat. 1477, added heading of Subchapter IV and item 5751.

Pub. L. 91–481, § 1(2), Oct. 21, 1970, 84 Stat. 1081, added item 5709.

1967—Pub. L. 90–206, title II, § 222(c)(2), Dec. 16, 1967, 81 Stat. 641, added item 5733.

Pub. L. 90–83 § 1(37)(B), Sept. 11, 1967, 81 Stat. 205, added item 5724a.

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

§ 5701. Definitions

Except as otherwise provided in section 5707(d),[1] for the purpose of this subchapter—

(1) ''agency'' means—

(A) an Executive agency;

(B) a military department;

(C) an office, agency, or other establishment in the legislative branch;

(D) an office, agency, or other establishment in the judicial branch; and

(E) the government of the District of Columbia;

but does not include—

(i) a Government controlled corporation;

[1] See References in Text note below.

(ii) a Member of Congress; or

(iii) an office or committee of either House of Congress or of the two Houses;

(2) ''employee'' means an individual employed in or under an agency including an individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis and an individual serving without pay or at $1 a year;

(3) ''subsistence'' means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler;

(4) ''per diem allowance'' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;

(5) ''Government'' means the Government of the United States and the government of the District of Columbia; and

(6) ''continental United States'' means the several States and the District of Columbia, but does not include Alaska or Hawaii.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 498; Pub. L. 94–22, § 2(a), May 19, 1975, 89 Stat. 84; Pub. L. 99–234, title I, § 101, Jan. 2, 1986, 99 Stat. 1756; Pub. L. 101–391, § 5(a)(2), Sept. 25, 1990, 104 Stat. 751.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)–(5)	5 U.S.C. 835.	June 9, 1949, ch. 185, § 2, 63 Stat. 166.
(6)	[Uncodified].	Aug. 14, 1961, Pub. L. 87–139, § 8(c), 75 Stat. 340.

In paragraph (1), the word ''agency'' is substituted for ''departments and establishments''. The terms ''Executive agency'' and ''military department'' are substituted for ''any executive department, independent commission, board, bureau, office, agency, or other establishment in the executive branch of the Government, including wholly owned Government corporations'' in view of the definitions in sections 105 and 102. The exception of ''a Government controlled corporation'' is added in subparagraph (i) to preserve the application of this subchapter to ''wholly owned Government corporations''.

Paragraph (2) is added for convenience and to eliminate the necessity of referring to ''civilian officers and employees of the agencies'' elsewhere in the text of the subchapter.

In paragraph (4), the words ''for subsistence and fees or tips to porters and stewards'' are added on authority of the words ''in lieu of their actual expenses of subsistence and all fees or tips to porters and stewards'' and ''in lieu of subsistence'' in former sections 836 and 73b–2, which are carried into sections 5702 and 5703, respectively.

Paragraph (5) is added for convenience and is based in part on former section 835(1)(A) and, insofar as concerns section 5703, on section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

Paragraph (6), insofar as concerns section 5703, is based in part on section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

The definition of ''Member of Congress'' in former section 835(4) is omitted as unnecessary in view of the definition of ''Member of Congress'' in section 2106.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 5707(d) of this title, referred to in text, was repealed by Pub. L. 104–201, div. A, title XVI, § 1614(a)(1), Sept. 23, 1996, 110 Stat. 2739.

AMENDMENTS

1990—Pub. L. 101–391 substituted ''Except as otherwise provided in section 5707(d), for the purpose'' for ''For the purpose''.

1986—Par. (4). Pub. L. 99–234 amended par. (4) generally, striking out ''flat rate'' before ''payment''.

1975—Par. (2). Pub. L. 94–22 redefined ''employee'' to include individuals employed intermittently as experts or consultants and paid on a daily when-actually-employed basis, and individuals serving without pay at $1 a year.

EFFECTIVE DATE OF 1986 AMENDMENT; REGULATIONS

Section 301 of Pub. L. 99–234 provided that:

''(a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act [enacting sections 5706a and 5734 of this title and amending this section and sections 5702 and 5707 of this title] not later than 150 days after the date of enactment of this Act [Jan. 2, 1986]. The amendments made by title I of this Act [enacting sections 5706a and 5734 of this title and amending this section, sections 5702, 5707, and 5724a of this title, section 476 of Title 2, The Congress, section 2396 of Title 22, Foreign Relations and Intercourse, section 4941 of Title 26, Internal Revenue Code, section 456 of Title 28, Judiciary and Judicial Procedure, section 326 of Title 31, Money and Finance, and section 2477 of Title 42, The Public Health and Welfare] shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act [Jan. 2, 1986], whichever occurs first.

''(b) The amendments made by section 201 of this Act [enacting section 420 of Title 41, Public Contracts] shall take effect 30 days after the effective date of the amendments made by title I.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–264, § 1, Oct. 19, 1998, 112 Stat. 2350, provided that: ''This Act [enacting sections 5706c, 5710, and 5739 of this title, amending sections 5721 to 5724, 5724a, 5725, 5727 to 5729, 5731, and 5732 of this title, section 3413 of Title 12, Banks and Banking, and sections 3322, 3528, and 3726 of Title 31, Money and Finance, and enacting provisions set out as notes under this section, section 5706c of this title, and section 3322 of Title 31] may be cited as the 'Travel and Transportation Reform Act of 1998'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title XVII, § 1701, Sept. 23, 1996, 110 Stat. 2752, provided that: ''This title [enacting sections 5737, 5738, and 5756 of this title, amending sections 3375, 5722 to 5724c, 5726 to 5729, and 5731 of this title, section 1348 of Title 31, Money and Finance, section 707 of Title 38, Veterans' Benefits, and sections 290aa and 299c–4 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under section 5722 of this title] may be cited as the 'Federal Employee Travel Reform Act of 1996'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99–234 provided that: ''This Act [enacting sections 5706a and 5734 of this title and section 420 of Title 41, Public Contracts, amending this section, sections 5702, 5707, and 5724a of this title, section 476 of Title 2, The Congress, section 2396 of Title 22, Foreign Relations and Intercourse, section 4941 of Title 26, Internal Revenue Code, section 456 of Title 28, Judiciary and Judicial Procedure, section 326 of Title 31, Money and Finance, and section 2477 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 420 of Title 41] may be cited as the 'Federal Civilian Employee and Contractor Travel Expenses Act of 1985'.''

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–22 provided: ''That this Act [amending this section, sections 5702, 5703, 5704, 5705,

and 5707 of this title, and section 68b of Title 2, The Congress, and enacting provisions set out as a note under section 5707 of this title] may be cited as the ''Travel Expense Amendments Act of 1975'.''

eTRAVEL SERVICE

Pub. L. 108–447, div. G, title II, § 209, Dec. 8, 2004, 118 Stat. 3193, provided that: ''Notwithstanding any other provision of law, no entity within the legislative branch shall be required to use the eTravel Service established by the Administrator of General Services for official travel by officers or employees of the entity during fiscal year 2005 or any succeeding fiscal year.''

CREDITWORTHINESS OF INDIVIDUALS TO BE ISSUED GOVERNMENT CHARGE CARDS

Pub. L. 111–117, div. C, title VII, § 738, Dec. 16, 2009, 123 Stat. 3214, provided that: ''Each executive department and agency shall evaluate the creditworthiness of an individual before issuing the individual a government travel charge card. Such evaluations for individually billed travel charge cards shall include an assessment of the individual's consumer report from a consumer reporting agency as those terms are defined in section 603 of the Fair Credit Reporting Act (Public Law 91–508 [Pub. L. 90–321]) [15 U.S.C. 1681a]: *Provided*, That the department or agency may not issue a government travel charge card to an individual that either lacks a credit history or is found to have an unsatisfactory credit history as a result of this evaluation: *Provided further*, That this restriction shall not preclude issuance of a restricted-use charge, debit, or stored value card made in accordance with agency procedures to: (1) an individual with an unsatisfactory credit history where such card is used to pay travel expenses and the agency determines there is no suitable alternative payment mechanism available before issuing the card; or (2) an individual who lacks a credit history. Each executive department and agency shall establish guidelines and procedures for disciplinary actions to be taken against agency personnel for improper, fraudulent, or abusive use of government charge cards, which shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or agency or with applicable standards of conduct.''

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 111–8, div. D, title VII, § 741, Mar. 11, 2009, 123 Stat. 691.

Pub. L. 110–161, div. D, title VII, § 743, Dec. 26, 2007, 121 Stat. 2032.

Pub. L. 109–115, div. A, title VIII, § 846, Nov. 30, 2005, 119 Stat. 2507.

Pub. L. 108–447, div. H, title VI, § 639, Dec. 8, 2004, 118 Stat. 3281.

Pub. L. 108–199, div. F, title VI, § 638, Jan. 23, 2004, 118 Stat. 358.

REQUIRING USE OF TRAVEL CHARGE CARD

Pub. L. 105–264, § 2, Oct. 19, 1998, 112 Stat. 2350, provided that:

''(a) IN GENERAL.—Under regulations issued by the Administrator of General Services after consultation with the Secretary of the Treasury, the Administrator shall require that Federal employees use the travel charge card established pursuant to the United States Travel and Transportation Payment and Expense Control System, or any Federal contractor-issued travel charge card, for all payments of expenses of official Government travel. The Administrator shall exempt any payment, person, type or class of payments, or type or class of personnel from any requirement established under the preceding sentence in any case in which—

''(1) it is in the best interest of the United States to do so;

''(2) payment through a travel charge card is impractical or imposes unreasonable burdens or costs on Federal employees or Federal agencies; or

''(3) the Secretary of Defense or the Secretary of Transportation (with respect to the Coast Guard) requests an exemption with respect to the members of the uniformed services.

''(b) AGENCY EXEMPTION.—The head of a Federal agency or the designee of such head may exempt any payment, person, type or class of payments, or type or class of agency personnel from subsection (a) if the agency head or the designee determines the exemption to be necessary in the interest of the agency. Not later than 30 days after granting such an exemption, the head of such agency or the designee shall notify the Administrator of General Services in writing of such exemption stating the reasons for the exemption.

''(c) LIMITATION ON RESTRICTION ON DISCLOSURE.—

''(1) IN GENERAL.—[Amended section 3413 of Title 12, Banks and Banking.]

''(2) EFFECTIVE DATE.—The amendment made by paragraph (1) is effective as of October 1, 1983, and applies to any records created pursuant to the United States Travel and Transportation Payment and Expense Control System or any Federal contractor-issued travel charge card issued for official Government travel.

''(d) COLLECTION OF AMOUNTS OWED.—

''(1) IN GENERAL.—Under regulations issued by the Administrator of General Services and upon written request of a Federal contractor, the head of any Federal agency or a disbursing official of the United States may, on behalf of the contractor, collect by deduction from the amount of pay owed to an employee of the agency any amount of funds the employee owes to the contractor as a result of delinquencies not disputed by the employee on a travel charge card issued for payment of expenses incurred in connection with official Government travel. The amount deducted from the pay owed to an employee with respect to a pay period may not exceed 15 percent of the disposable pay of the employee for that pay period, except that a greater percentage may be deducted upon the written consent of the employee.

''(2) DUE PROCESS PROTECTIONS.—Collection under this subsection shall be carried out in accordance with procedures substantially equivalent to the procedures required under section 3716(a) of title 31, United States Code.

''(3) DEFINITIONS.—For the purpose of this subsection:

''(A) AGENCY.—The term 'agency' has the meaning that term has under section 101 of title 31, United States Code.

''(B) EMPLOYEE.—The term 'employee' means an individual employed in or under an agency, including a member of any of the uniformed services. For purposes of this subsection, a member of one of the uniformed services is an employee of that uniformed service.

''(C) MEMBER; UNIFORMED SERVICE.—Each of the terms 'member' and 'uniformed service' has the meaning that term has in section 101 of title 37, United States Code.

''(e) REGULATIONS.—Within 270 days after the date of the enactment of this Act [Oct. 19, 1998], the Administrator of General Services shall promulgate regulations implementing this section, that—

''(1) make the use of the travel charge card established pursuant to the United States Travel and Transportation System and Expense Control System, or any Federal contractor-issued travel charge card, mandatory for all payments of expenses of official Government travel pursuant to this section;

''(2) specify the procedures for effecting under subsection (d) a deduction from pay owed to an employee, and ensure that the due process protections provided to employees under such procedures are no less than the protections provided to employees pursuant to section 3716 of title 31, United States Code;

''(3) provide that any deduction under subsection (d) from pay owed to an employee may occur only after reimbursement of the employee for the expenses

of Government travel with respect to which the deduction is made; and

''(4) require agencies to promptly reimburse employees for expenses charged on a travel charge card pursuant to this section, and by no later than 30 days after the submission of a claim for reimbursement.

''(f) REPORTS.—

''(1) IN GENERAL.—The Administrator of General Services shall submit 2 reports to the Congress on agency compliance with this section and regulations that have been issued under this section.

''(2) TIMING.—The first report under this subsection shall be submitted before the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 19, 1998], and the second report shall be submitted after that period and before the end of the 540-day period beginning on that date of enactment.

''(3) PREPARATION.—Each report shall be based on a sampling survey of agencies that expended more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. The head of an agency shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director of the Office of Management and Budget.

''(g) REIMBURSEMENT OF TRAVEL EXPENSES.—In accordance with regulations prescribed by the Administrator of General Services, the head of an agency shall ensure that the agency reimburses an employee who submits a proper voucher for allowable travel expenses in accordance with applicable travel regulations within 30 days after submission of the voucher. If an agency fails to reimburse an employee who has submitted a proper voucher within 30 days after submission of the voucher, the agency shall pay the employee a late payment fee as prescribed by the Administrator.''

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 5702. Per diem; employees traveling on official business

(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

(ii) payments pursuant to subsection (a) of this section until that location is reached, and

(iii) such reimbursement and payments for return to such assignment.

(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in sub-

section (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.

(c) This section does not apply to a justice or judge, except to the extent provided by section 456 of title 28.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 498; Pub. L. 91–114, § 1, Nov. 10, 1969, 83 Stat. 190; Pub. L. 94–22, § 3, May 19, 1975, 89 Stat. 84; Pub. L. 96–54, § 2(a)(36), Aug. 14, 1979, 93 Stat. 383; Pub. L. 96–346, § 1, Sept. 10, 1980, 94 Stat. 1148; Pub. L. 99–234, title I, § 102, Jan. 2, 1986, 99 Stat. 1756; Pub. L. 102–378, § 2(47), Oct. 2, 1992, 106 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 836.	June 9, 1949, ch. 185, § 3, 63 Stat. 166. Apr. 26, 1950, ch. 108, 64 Stat. 89. July 28, 1955, ch. 424, § 1, 69 Stat. 393. Aug. 14, 1961, Pub. L. 87–139, §§ 1, 8(a), 75 Stat. 339, 340.

In subsection (a), the term ''employee'' is substituted for ''civilian officers and employees of the departments and establishments'' in view of the definition of ''employee'' in sections 5701 and 2105. The words ''in lieu of their actual expenses for subsistence and all fees or tips to porters and stewards'' are omitted as unnecessary in view of the definition of ''per diem allowance'' in section 5701(4).

In subsection (b), the words ''Under regulations prescribed under section 5707 of this title'' are substituted for ''in accordance with regulations promulgated and approved under sections 835–842 of this title''.

In subsection (c), the words ''Under regulations prescribed under section 5707 of this title'' are substituted for ''in accordance with regulations promulgated by the Director, Bureau of the Budget, pursuant to section 840 of this title.''

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1992—Pub. L. 102–378 substituted ''employees'' for ''employee'' in section catchline.

1986—Subsec. (a). Pub. L. 99–234, § 102(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Under regulations prescribed under section 5707 of this title, an employee while traveling on official business away from his designated post of duty, or in the case of an individual described under section 5703 of this title, his home or regular place of business, is entitled to (1) a per diem allowance for travel inside the continental United States at a rate not to exceed $50, and (2) a per diem allowance for travel outside the continental United States, that may not exceed the rate established by the President, or his designee, for each locality where travel is to be performed. For travel consuming less than a full day, such rate may be allocated proportionately.''

Subsec. (b). Pub. L. 99–234, § 102(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Under regulations prescribed under section 5707 of this title, an employee who, while traveling on official business away from his designated post of duty or, in the case of an individual described under section 5703 of this title, his home or regular place of business, becomes incapacitated by illness or injury not due to his own misconduct, is entitled to the per diem allowance and appropriate transportation expenses to his designated post of duty, or home or regular place of business, as the case may be.''

Subsec. (c). Pub. L. 99–234, § 102, redesignated subsec. (e) as (c) and struck out former subsec. (c) which read as follows: ''Under regulations prescribed under section 5707 of this title, the Administrator of General Services, or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the maximum per diem allowance would be less than these expenses, except that such reimbursement shall not exceed $75 for each day in a travel status within the continental United States when the per diem otherwise allowable is determined to be inadequate (1) due to the unusual circumstances of the travel assignment, or (2) for travel to high rate geographical areas designated as such in regulations prescribed under section 5707 of this title.''

Subsec. (d). Pub. L. 99–234, § 102(a), struck out subsec. (d) which read as follows: ''Under regulations prescribed under section 5707 of this title, for travel outside the continental United States, the Administrator of General Services or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the per diem allowance would be less than these expenses, except that such reimbursement shall not exceed $33 for each day in a travel status outside the continental United States plus the locality per diem rate prescribed for such travel.''

Subsec. (e). Pub. L. 99–234, § 102(b), redesignated subsec. (e) as (c).

1980—Subsec. (a). Pub. L. 96–346, § 1(1), increased to $50 from $35 the maximum per diem allowance for travel inside the continental United States.

Subsec. (c). Pub. L. 96–346, § 1(2), increased to $75 from $50 the maximum reimbursement for actual and necessary expenses for travel within the continental United States.

Subsec. (d). Pub. L. 96–346, § 1(3), increased to $33 from $21 the maximum reimbursement for travel outside the continental United States.

1979—Subsec. (c). Pub. L. 96–54 substituted ''(1)'' for ''(A)'' and ''(2)'' for ''(B)''.

1975—Subsec. (a). Pub. L. 94–22 substituted provision relating to determination of per diem allowance under regulations prescribed under section 5707 for provision allowing for such determination by agency concerned, inserted provisions relating to an individual described under section 5703 and to proportionate allocation of rates for travel consuming less than a full day, struck out provision relating to Director of Bureau of Budget or another officer of Government of the United States as persons who may be designees, and raised maximum allowance from $25 to $35.

Subsec. (b). Pub. L. 94–22 inserted provision relating to an individual described under section 5703, inserted ''appropriate'' before ''transportation'', and ''or home or regular place of business, as the case may be.'' after ''expenses to his designated post of duty''.

Subsec. (c). Pub. L. 94–22 substituted the Administrator of General Services, or his designee, for the head of the agency concerned, as the party who may prescribe conditions for reimbursement for actual and necessary expenses, raised from $40 to $50 the maximum reimbursement for travel within the continental United States when the rate otherwise allowable is inadequate due to unusual circumstances or due to travel to areas designated as high rate areas, and struck out a provision, now covered by subsec. (d), for a maximum allowance per day for travel outside the continental United States.

Subsecs. (d), (e). Pub. L. 94–22 transferred from subsec. (c) to (d) provisions for reimbursement for actual and necessary expenses for travel outside the continental United States and raised from $18 to $21 the maximum reimbursement for such expenses, and redesignated former subsec. (d) as (e).

1969—Subsec. (a). Pub. L. 91–114 increased the per diem allowance for travel inside the continental United States from not to exceed the rate of $16 to not to exceed the rate of $25.

Subsec. (c). Pub. L. 91–114 in cl. (1) increased the amount authorized to be named in the travel authorization for each day in a travel status inside the continental United States from not to exceed $30 to not to exceed $40, and in cl. (2) increased the amount authorized to be named in the travel authorization for each day in a travel status outside the continental United States from not to exceed the maximum per diem allowance plus $10 to not to exceed the maximum per diem allowance plus $18.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–234 effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99–234, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to establish maximum rates of per diem allowances to extent that such authority pertains to travel status of employees while enroute to, from, or between localities situated outside 48 contiguous States of United States and District of Columbia delegated to Administrator of General Services, see section 1(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Authority of President under subsec. (a) of this section to establish maximum rates of per diem allowances and reimbursements for actual and necessary expenses of official travel for employees of Government to extent that such authority pertains to travel status in localities in Alaska, Hawaii, the Commonwealth of Puerto Rico, and possessions of United States delegated to Secretary of Defense, see section 1(h) of Ex. Ord. No. 10621, set out as a note under section 301 of Title 3.

RETENTION OF TRAVEL PROMOTIONAL ITEMS

Pub. L. 107–107, div. A, title XI, § 1116, Dec. 28, 2001, 115 Stat. 1241, provided that:

''(a) DEFINITION.—In this section, the term 'agency' has the meaning given that term under section 5701 of title 5, United States Code.

''(b) RETENTION OF TRAVEL PROMOTIONAL ITEMS.—To the extent provided under subsection (c), a Federal employee, member of the Foreign Service, member of a uniformed service, any family member or dependent of such an employee or member, or other individual who receives a promotional item (including frequent flyer miles, upgrade, or access to carrier clubs or facilities) as a result of using travel or transportation services obtained at Federal Government expense or accepted under section 1353 of title 31, United States Code, may retain the promotional item for personal use if the promotional item is obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government.

''(c) LIMITATION.—Subsection (b)—

''(1) applies only to travel that—

''(A) is at the expense of an agency; or

''(B) is accepted by an agency under section 1353 of title 31, United States Code; and

''(2) does not apply to travel by any officer, employee, or other official of the Government who is not in or under any agency.

''(d) REGULATORY AUTHORITY.—Any agency with authority to prescribe regulations governing the acquisition, acceptance, use, or disposal of any travel or transportation services obtained at Government expense or accepted under section 1353 of title 31, United States Code, may prescribe regulations to carry out subsection (b) with respect to those travel or transportation services.

''(e) REPEAL OF SUPERSEDED LAW.—[Repealed section 6008 of Pub. L. 103–355, formerly set out as a note below.]

''(f) APPLICABILITY.—This section shall apply with respect to promotional items received before, on, or after the date of enactment of this Act [Dec. 28, 2001].''

COST SAVINGS FOR OFFICIAL TRAVEL

Pub. L. 103–355, title VI, § 6008, Oct. 13, 1994, 108 Stat. 3367, related to maximizing practicable cost savings for official travel through use of frequent traveler programs, prior to repeal by Pub. L. 107–107, div. A, title XI, § 1116(e), Dec. 28, 2001, 115 Stat. 1241.

REPORTS TO CONGRESS OF PER DIEM AND MILEAGE ALLOWANCE PAYMENTS FOR FISCAL YEARS 1979 THROUGH 1981; RULES AND REGULATIONS

Section 3 of Pub. L. 96–346, for fiscal years 1979 to 1981, directed the Administrator of General Services to collect by fiscal year information with respect to agencies spending more than $5,000,000 annually on transportation of people, identifying general causes and purposes of travel and estimates of total payments, average cost and duration of trip, and identifying by specific agency of travel practices which appear to be inefficient and recommendations to Congress on the applicability of alternatives to travel as well as other techniques to improve use of travel in carrying out program objectives relating travel to mission.

EX. ORD. NO. 12561. DELEGATION OF FUNCTIONS RELATING TO TRAVEL OUTSIDE CONTINENTAL UNITED STATES

Ex. Ord. No. 12561, July 1, 1986, 51 F.R. 24299, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 102(a) of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (Public Law 99–234) (''the Act'') [amending this section] and Section 301 of Title 3 of the United States Code, it is ordered as follows:

SECTION 1. Section 1 of Executive Order No. 10621 of July 1, 1955, as amended [3 U.S.C. 301 note], is further amended by redesignating the current subsection (i) as subsection (g); by revoking the current subsection (*o*); and by adding the following new subsection (h):

''(h) The authority vested in the President by Section 102(a) of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985, 5 U.S.C. 5702(a), to establish maximum rates of per diem allowances and reimbursements for the actual and necessary expenses of official travel for employees of the Government to the extent that such authority pertains to travel status in localities in Alaska, Hawaii, the Commonwealth of Puerto Rico, and possessions of the United States.''

SEC. 2. There is hereby delegated to the Secretary of State the authority vested in the President by Section 102(a) of the Act (5 U.S.C. 5702(a)) to establish maximum rates of per diem allowances and reimbursements for the actual and necessary expenses of official travel for employees of the Government to the extent that such authority pertains to travel status in localities (including the Trust Territories of the Pacific Islands) in any area situated outside the United States, the Commonwealth of Puerto Rico, and possessions of the United States.

SEC. 3. Executive Order No. 11294 of August 4, 1966, is revoked.

RONALD REAGAN.

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay

An employee serving intermittently in the Government service as an expert or consultant

and paid on a daily when-actually-employed basis, or serving without pay or at $1 a year, may be allowed travel or transportation expenses, under this subchapter, while away from his home or regular place of business and at the place of employment or service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 499; Pub. L. 91–114, § 2, Nov. 10, 1969, 83 Stat. 190; Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–2.	Aug. 2, 1946, ch. 744, § 5, 60 Stat. 808. July 28, 1955, ch. 424, § 2, 69 Stat. 394. Aug. 14, 1961, Pub. L. 87–139, §§ 2, 8(b), 75 Stat. 339, 340.

Subsection (a) is added on authority of section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

In subsection (b), the words ''in lieu of subsistence'' are omitted as unnecessary in view of the definition of ''per diem allowance'' in section 5701(4). The words ''this subchapter'' are substituted for ''the Standardized Government Travel Regulations, Subsistence Expense Act of 1926, as amended (5 U.S.C. 821–833) and the Act of February 14, 1931, as amended by this Act'' as the Subsistence Expense Act of 1926 and the Act of February 14, 1931, were repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707.

In subsection (c), the words ''this subchapter'' are substituted for ''said regulations and said Act of February 14, 1931, as so amended'' as the Act of February 14, 1931, was repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707. The words ''in lieu of subsistence'' are omitted as unnecessary in view of the definition of ''per diem allowance'' in section 5701(4).

In subsection (d), the words ''Under regulations prescribed under section 5707 of this title'' are substituted for ''in accordance with regulations promulgated by the Director, Bureau of the Budget, pursuant to section 840 of this title''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Pub. L. 94–22 struck out separate provisions for per diem allowances of employees serving as experts, consultants, or serving without pay or at $1 a year.

1969—Subsec. (c)(1). Pub. L. 91–114 increased the per diem allowance for travel inside continental United States from not to exceed the rate of $16 to not to exceed the rate of $25.

Subsec. (d). Pub. L. 91–114 in cl. (1) increased amount authorized to be named in travel authorization for each day in a travel status inside continental United States from not to exceed $30 to not to exceed $40, and in cl. (2) increased amount authorized to be named in travel authorization for each day in a travel status outside continental United States from not to exceed maximum per diem allowance plus $10 to not to exceed the maximum per diem allowance plus $18.

§ 5704. Mileage and related allowances

(a)(1) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to a rate per mile established by the Administrator of General Services, instead of the actual expenses of transportation, for the use of a privately owned automobile when that mode of transportation is authorized or approved as more advantageous to the Government. In any year in which the Internal Revenue Service establishes a single standard mileage rate for optional use by taxpayers in computing the deductible costs of operating their automobiles for business purposes, the rate per mile established by the Administrator shall not exceed the single standard mileage rate established by the Internal Revenue Service.

(2) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to a rate per mile established by the Administrator of General Services, instead of the actual expenses of transportation, for the use of a privately owned airplane or a privately owned motorcycle when that mode of transportation is authorized or approved as more advantageous to the Government.

(b) A determination that travel by a privately owned vehicle is more advantageous to the Government is not required under subsection (a) of this section when payment on a mileage basis is limited to the cost of travel by common carrier including per diem.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, in any case in which an employee who is engaged on official business for the Government chooses to use a privately owned vehicle in lieu of a Government vehicle, payment on a mileage basis is limited to the cost of travel by a Government vehicle.

(d) In addition to the rate per mile authorized under subsection (a) of this section, the employee may be reimbursed for—

(1) parking fees;

(2) ferry fees;

(3) bridge, road, and tunnel costs; and

(4) airplane landing and tie-down fees.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 499; Pub. L. 94–22, § 5, May 19, 1975, 89 Stat. 85; Pub. L. 96–346, § 2, Sept. 10, 1980, 94 Stat. 1148; Pub. L. 103–329, title VI, § 634(a), Sept. 30, 1994, 108 Stat. 2428.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 837.	June 9, 1949, ch. 185, § 4, 63 Stat. 166. July 28, 1955, ch. 424, § 4, 69 Stat. 394. Aug. 14, 1961, Pub. L. 87–139, §§ 3, 4, 75 Stat. 339, 340.

The word ''employee'' is substituted for ''Civilian officers and employees of departments and establishments'' in view of the definition of ''employee'' in sections 5701 and 2105.

In subsection (a), the words ''Under regulations prescribed under section 5707 of this title'' are substituted for ''under regulations prescribed by the Director of the Bureau of the Budget''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1994—Pub. L. 103–329 amended text generally. Prior to amendment, text read as follows:

''(a) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to not in excess of—

''(1) 20 cents a mile for the use of a privately owned motorcycle;

''(2) 25 cents a mile for the use of a privately owned automobile; or

''(3) 45 cents a mile for the use of a privately owned airplane;

instead of actual expenses of transportation when that mode of transportation is authorized or approved as more advantageous to the Government. A determination of such advantage is not required when payment on a mileage basis is limited to the cost of travel by common carrier including per diem. Notwithstanding the preceding provisions of this subsection, in any case in which an employee who is engaged on official business for the Government chooses to use a privately owned vehicle in lieu of a Government vehicle, payment on a mileage basis is limited to the cost of travel by a Government vehicle.

''(b) In addition to the mileage allowance authorized under subsection (a) of this section, the employee may be reimbursed for—

''(1) parking fees;

''(2) ferry fees;

''(3) bridge, road, and tunnel costs; and

''(4) airplane landing and tie-down fees.''

1980—Subsec. (a)(1). Pub. L. 96–346, § 2(1), substituted ''20 cents'' for ''11 cents''.

Subsec. (a)(2). Pub. L. 96–346, § 2(2), substituted ''25 cents'' for ''20 cents''.

Subsec. (a)(3). Pub. L. 96–346, § 2(3), substituted ''45 cents'' for ''24 cents''.

1975—Subsec. (a). Pub. L. 94–22 struck out ''or other individual performing services for the Government'' after ''employee'', substituted ''for the Government'' for ''inside or outside his designated post of duty or place of service'', increased from 8 to 11 cents the allowance for use of a motorcycle, from 12 to 20 cents the allowance for use of an automobile, and from 12 to 24 cents the allowance for use of an airplane, and inserted provision relating to the limitation of an allowance to the cost of travel by Government vehicle when an employee chooses a privately owned vehicle in lieu of a Government vehicle.

Subsec. (b). Pub. L. 94–22 inserted ''authorized'' after ''allowance'', struck out ''or other individual performing service for the Government'' after ''employee'', and provided for reimbursement of airplane landing and tie-down fee.

§ 5705. Advancements and deductions

An agency may advance, through the proper disbursing official, to an employee entitled to per diem or mileage allowances under this subchapter, a sum considered advisable with regard to the character and probable duration of the travel to be performed. A sum advanced and not used for allowable travel expenses is recoverable from the employee or his estate by—

(1) setoff against accrued pay, retirement credit, or other amount due the employee;

(2) deduction from an amount due from the United States; and

(3) such other method as is provided by law.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 500; Pub. L. 94–22, § 2(b), May 19, 1975, 89 Stat. 84.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 838.	June 9, 1949, ch. 185, § 5, 63 Stat. 166.

The words ''disbursing official'' are substituted for ''disbursing officer'' because of the definition of ''officer'' in section 2104 which excludes a member of a uniformed service. Application to section 5703 is based on former section 73b–2, which is carried into section 5703.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Pub. L. 94–22 struck out ''or individual'' after ''employee'' wherever appearing.

§ 5706. Allowable travel expenses

Except as otherwise permitted by this subchapter or by statutes relating to members of the uniformed services, only actual and necessary travel expenses may be allowed to an individual holding employment or appointment under the United States.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 500.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 839.	June 9, 1949, ch. 185, § 6, 63 Stat. 167.

The words ''members of the uniformed services'' are substituted for ''military personnel''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5706a. Subsistence and travel expenses for threatened law enforcement personnel

(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expenses to and from such alternate location.

(Added Pub. L. 99–234, title I, § 103(a), Jan. 2, 1986, 99 Stat. 1757.)

EFFECTIVE DATE

Section effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99–234, set out as an Effective Date of 1986 Amendment note under section 5701 of this title.

§ 5706b. Interview expenses

An individual being considered for employment by an agency may be paid travel or transportation expenses under this subchapter for travel to and from pre-employment interviews determined necessary by the agency.

(Added Pub. L. 101–509, title V, § 529 [title II, § 206(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1457.)

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5706c. Reimbursement for taxes incurred on money received for travel expenses

(a) Under regulations prescribed pursuant to section 5707 of this title, the head of an agency or department, or his or her designee, may use appropriations or other funds available to the agency for administrative expenses, for the reimbursement of Federal, State, and local income taxes incurred by an employee of the agency or by an employee and such employee's spouse (if filing jointly), for any travel or transportation reimbursement made to an employee for which reimbursement or an allowance is provided.

(b) Reimbursements under this section shall include an amount equal to all income taxes for which the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in subsection (a). In addition, reimbursements under this section shall include penalties and interest, for the tax years 1993 and 1994 only, as a result of agencies failing to withhold the appropriate amounts for tax liabilities of employees affected by the change in the deductibility of travel expenses made by Public Law 102–486.

(Added Pub. L. 105–264, § 4(a), Oct. 19, 1998, 112 Stat. 2354.)

REFERENCES IN TEXT

Public Law 102–486, referred to in subsec. (b), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of Title 42, The Public Health and Welfare, and Tables.

EFFECTIVE DATE

Pub. L. 105–264, § 4(c), Oct. 19, 1998, 112 Stat. 2354, provided that: ''This section [enacting this section] shall be effective as of January 1, 1993.''

§ 5707. Regulations and reports

(a)(1) The Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter, except that the Director of the Administrative Office of the United States Courts shall prescribe such regulations with respect to official travel by employees of the judicial branch of the Government.

(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal.

(b) The Administrator of General Services shall prescribe the mileage reimbursement rates for use on official business of privately owned airplanes, privately owned automobiles, and privately owned motorcycles while engaged on official business as provided for in section 5704 of this title as follows:

(1)(A) The Administrator of General Services, in consultation with the Secretary of Transportation, the Secretary of Defense, and representatives of organizations of employees of the Government, shall conduct periodic investigations of the cost of travel and the operation of privately owned vehicles to employees while engaged on official business, and shall report the results of such investigations to Congress at least once a year.

(B) In conducting the periodic investigations, the Administrator shall review and analyze among other factors—

(i) depreciation of original vehicle cost;

(ii) gasoline and oil (excluding taxes);

(iii) maintenance, accessories, parts, and tires;

(iv) insurance; and

(v) State and Federal taxes.

(2)(A) The Administrator shall issue regulations under this section which—

(i) shall prescribe a mileage reimbursement rate which reflects the current costs as determined by the Administrator of operating privately owned automobiles, and which shall not exceed, as provided in section 5704(a)(1) of this title, the single standard mileage rate established by the Internal Revenue Service, and

(ii) shall prescribe mileage reimbursement rates which reflect the current costs as determined by the Administrator of operating privately owned airplanes and motorcycles.

(B) At least once each year after the issuance of the regulations described in subparagraph (A) of this paragraph, the Administrator shall determine, based upon the results of the cost investigation, specific figures, each rounded to the nearest half cent, of the average, actual cost per mile during the period for the use of a privately owned airplane, automobile, and motorcycle.

(C) The Administrator shall report the specific figures to Congress not later than five working days after the Administrator makes the cost determination. Each such report shall be printed in the Federal Register.

(D) The mileage reimbursement rates contained in the regulations prescribed under this section shall be adjusted within thirty days following the submission of the report under subparagraph (C) of this paragraph.

(c) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 500; Pub. L. 94–22, § 6(a), May 19, 1975, 89 Stat. 85; Pub. L.

99–234, title I, §104, Jan. 2, 1986, 99 Stat. 1758; Pub. L. 101–391, §5(a)(1), Sept. 25, 1990, 104 Stat. 750; Pub. L. 103–329, title VI, §634(b), (c), Sept. 30, 1994, 108 Stat. 2429, 2430; Pub. L. 104–201, div. A, title XVI, §1614(a)(1), Sept. 23, 1996, 110 Stat. 2739; Pub. L. 104–316, title I, §103(e), Oct. 19, 1996, 110 Stat. 3829.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 840.	June 9, 1949, ch. 185, §7, 63 Stat. 167.

The first sentence is based in part on former sections 73b–2, 836, and 837, which are carried into this subchapter. Application of the second sentence to section 5703, and the third sentence, are based on former section 73b–2, which is carried into section 5703.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1996—Subsec. (b)(1)(A). Pub. L. 104–316 struck out ''the Comptroller General of the United States,'' after ''in consultation with''.

Subsec. (d). Pub. L. 104–201 struck out subsec. (d) which provided that agencies ensure that their approved accommodation percentages be not less than specified percentages for fiscal years beginning 4 and 5 years after Sept. 25, 1990, and that their percentages be not less than 90 percent for fiscal years beginning 6 years after Sept. 25, 1990, and thereafter.

1994—Subsec. (b). Pub. L. 103–329, §634(b), amended subsec. (b) generally, revising and restructuring text.

Subsec. (c). Pub. L. 103–329, §634(c), redesignated par. (1) as entire subsec. and struck out par. (2) which read as follows: ''The requirements of paragraph (1) of this subsection shall expire upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.''

1990—Subsec. (d). Pub. L. 101–391 added subsec. (d).

1986—Subsec. (a). Pub. L. 99–234 designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 99–234 added subsec. (c).

1975—Pub. L. 94–22 inserted ''and reports'' in section catchline, designated existing provisions as subsec. (a), substituted ''Administrator of General Services'' for ''Director of the Bureau of the Budget'', struck out provision for fixing, payment, advancement and recovery of travel allowances and expenses in accordance with the regulations and provision for the non-applicability of this section to per diem allowances under section 5703(c), and inserted provision for regulations for travel by employees of the judicial branch of the Government by the Director of the Administrative Office of the United States Courts, and added subsec. (b).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–234 effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99–234, set out as a note under section 5701 of this title.

REGULATIONS; TIME FOR ISSUANCE

Section 6(b) of Pub. L. 94–22 provided that regulations required under the first sentence of subsec. (b)(2) of this section, as amended by subsec. (a) of section 6 of Pub. L. 94–22, were to be issued no later than 30 days after May 19, 1975.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsection (b)(1) of this section relating to reporting results of investigations to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 174 of House Document No. 103–7.

REPORTS REGARDING FOREIGN TRAVEL

Pub. L. 105–277, div. G, subdiv. B, title XXV, §2505, Oct. 21, 1998, 112 Stat. 2681–837, as amended by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §707], Nov. 29, 1999, 113 Stat. 1536, 1501A–461; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814, provided that:

''(a) PROHIBITION.—Except as provided in subsection (e), none of the funds authorized to be appropriated for the Department of State for fiscal year 2000 or 2001 may be used to pay for the expenses of foreign travel by an officer or employee of an Executive branch agency to attend an international conference, or for the routine services that a United States diplomatic mission or consular post provides in support of foreign travel by such an officer or employee to attend an international conference, unless that officer or employee has submitted a preliminary report with respect to that foreign travel in accordance with subsection (b), and has not previously failed to submit a final report with respect to foreign travel to attend an international conference required by subsection (c).

''(b) PRELIMINARY REPORTS.—A preliminary report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to proposed foreign travel to attend an international conference, submitted to the Director prior to commencement of the travel, setting forth—

''(1) the name and employing agency of the officer or employee;

''(2) the name of the official who authorized the travel; and

''(3) the purpose and duration of the travel.

''(c) FINAL REPORTS.—A final report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to foreign travel to attend an international conference, submitted to the Director not later than 30 days after the conclusion of the travel—

''(1) setting forth the actual duration and cost of the travel; and

''(2) updating any other information included in the preliminary report.

''(d) REPORT TO CONGRESS.—The Director shall submit a report on January 31 of the years 2000 and 2001 and July 31 of the years 2000 and 2001, to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives, setting forth with respect to each international conference for which reports described in subsection (c) were required to be submitted to the Director during the preceding six months—

''(1) the names and employing agencies of all officers and employees of Executive branch agencies who attended the international conference;

''(2) the names of all officials who authorized travel to the international conference, and the total number of officers and employees who were authorized to travel to the conference by each such official; and

''(3) the total cost of travel by officers and employees of Executive branch agencies to the international conference.

''(e) EXCEPTIONS.—This section shall not apply to travel by—

''(1) the President or the Vice President;

''(2) any officer or employee who is carrying out an intelligence or intelligence-related activity, who is performing a protective function, or who is engaged in a sensitive diplomatic mission; or

''(3) any officer or employee who travels prior to January 1, 1999.

''(f) DEFINITIONS.—In this section:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of International Conferences of the Department of State.

''(2) EXECUTIVE BRANCH AGENCY.—The terms 'Executive branch agency' and 'Executive branch agencies' mean—

''(A) an entity or entities, other than the Government Accountability Office, defined in section 105 of title 5, United States Code; and

''(B) the Executive Office of the President (except as provided in subsection (e)).

''(3) INTERNATIONAL CONFERENCE.—The term 'international conference' means any meeting held under the auspices of an international organization or foreign government, at which representatives of more than two foreign governments are expected to be in attendance, and to which United States Executive branch agencies will send a total of ten or more representatives.

''(g) REPORT.—Not later than 180 days after the date of enactment of this Act [Oct. 21, 1998], and annually thereafter, the President shall submit to the appropriate congressional committees a report describing—

''(1) the total Federal expenditure of all official international travel in each Executive branch agency during the previous fiscal year; and

''(2) the total number of individuals in each agency who engaged in such travel.''

REPORTING OF EMPLOYEE RELOCATION EXPENSES

Pub. L. 105–61, title VI, § 635, Oct. 10, 1997, 111 Stat. 1316, provided that: ''No later than 30 days after the enactment of this Act [Oct. 10, 1997], the Director of the Office of Management and Budget shall require all Federal departments and agencies to report total obligations for the expenses of employee relocation. All obligations incident to employee relocation authorized under either chapter 57 of title 5, United States Code, or section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081; Public Law 96–465), shall be included. Such information for the past, current, and budget years shall be included in the agency budget submission to the President. The Director of the Office of Management and Budget shall prepare a table presenting obligations for the expenses of employee relocation for all departments and agencies, and such table shall be transmitted to Congress each year as part of the President's annual budget.''

GAO AUDIT OF AGENCY COMPLIANCE

Section 5(b) of Pub. L. 101–391, which provided that not later than 6 months after the last day of the first fiscal year during which lodging expenses were subject to the requirements of former subsec. (d) of this section, and not later than 6 months after the last day of every fiscal year thereafter, the Comptroller General was to conduct an audit of the compliance of agencies with the requirements of such subsection, and was to submit a report to Congress describing the results of such audit, was repealed by Pub. L. 104–201, div. A, title XVI, § 1614(a)(2), Sept. 23, 1996, 110 Stat. 2739, and Pub. L. 104–316, title I, § 103(f), Oct. 19, 1996, 110 Stat. 3829.

§ 5707a. Adherence to fire safety guidelines in establishing rates and discounts for lodging expenses

(a)(1) For the purpose of making payments under this chapter for lodging expenses incurred in a State, each agency shall ensure that not less than 90 percent of the commercial-lodging room nights for employees of that agency for a fiscal year are booked in approved places of public accommodation.

(2) Each agency shall establish explicit procedures to satisfy the percentage requirement of paragraph (1).

(3) An agency shall be considered to be in compliance with the percentage requirement of paragraph (1) until September 30, 2002, and after that date if travel arrangements of the agency, whether made for civilian employees, members of the uniformed services, or foreign service personnel, are made through travel management processes designed to book commercial lodging in approved places of public accommodation, whenever available.

(b) Studies or surveys conducted for the purposes of establishing per diem rates for lodging expenses under this chapter shall be limited to approved places of public accommodation. The provisions of this subsection shall not apply with respect to studies and surveys that are conducted in any jurisdiction that is not a State.

(c) The Administrator of General Services may not include in any directory which lists lodging accommodations any hotel, motel, or other place of public accommodation that is not an approved place of public accommodation.

(d) The Administrator of General Services shall include in each directory which lists lodging accommodations a description of the access and safety devices, including appropriate emergency alerting devices, which each listed place of public accommodation provides for guests who are hearing-impaired or visually or physically handicapped.

(e) The Administrator of General Services may take any additional actions the Administrator determines appropriate to facilitate the ability of employees traveling on official business to stay at approved places of public accommodation.

(f) For purposes of this section:

(1) The term ''agency'' does not include the government of the District of Columbia.

(2) The term ''approved places of public accommodation'' means hotels, motels, and other places of public accommodation that are listed by the Administrator of the Federal Emergency Management Agency as meeting the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225).

(3) The term ''State'' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

(Added Pub. L. 101–391, § 4(a), Sept. 25, 1990, 104 Stat. 749; amended Pub. L. 105–85, div. A, title XI, § 1107(a)–(c), Nov. 18, 1997, 111 Stat. 1924, 1925; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85, § 1107(a)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 105–85, § 1107(c)(1), substituted ''approved places of public accommodation'' for ''places of public accommodation that meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974'' and struck out ''as defined in section 4 of the Federal Fire Prevention and Control Act of 1974'' after ''that is not a State''.

Pub. L. 105–85, § 1107(a)(1), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 105–85, § 1107(c)(2), substituted ''is not an approved place of public accommodation'' for ''does not meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974''.

Pub. L. 105–85, § 1107(a)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–85, § 1107(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 105–85, § 1107(c)(3), substituted ''facilitate the ability of'' for ''encourage'' and ''approved places of public accommodation'' for ''places of public accommodation that meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974''.

Pub. L. 105–85, § 1107(a)(1), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 105–85, § 1107(b), added subsec. (f).

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'' substituted for ''Director of the Federal Emergency Management Agency'' in subsec. (f)(2) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE

Section 4(c) of Pub. L. 101–391 provided that: ''The amendments made by this section [enacting this section] shall take effect 60 days after the date of the publication in the Federal Register [Nov. 24, 1992, 57 F.R. 55314] of the master list of certified places of public accommodation maintained by the Director [now Administrator] of the Federal Emergency Management Agency pursuant to section 28(b) of the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2224(b)] (as added by section 3 of this Act).''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 5708. Effect on other statutes

This subchapter does not modify or repeal—

(1) any statute providing for the traveling expenses of the President;

(2) any statute providing for mileage allowances for Members of Congress;

(3) any statute fixing or permitting rates higher than the maximum rates established under this subchapter; or

(4) any appropriation statute item for examination of estimates in the field.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 500.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1), (2)	5 U.S.C. 841.	June 9, 1949, ch. 185, § 8, 63 Stat. 167.
(3), (4)	5 U.S.C. 842.	June 9, 1949, ch. 185, § 9, 63 Stat. 167.

In paragraph (2), the words ''Members of Congress'' are substituted for ''the President of the Senate or Members of Congress'' in view of the definition of ''Member of Congress'' in section 2106.

The first sentence of section 9 of the Act of June 9, 1949, which repealed the Subsistence Act of 1926 and the Auto Mileage Act of February 14, 1931, is omitted as executed.

The first proviso of former section 842, which related to appropriation Acts for the years 1949 and 1950, is omitted as obsolete. The remainder of former section 842, other than the parenthetical expressions, is omitted as executed and existing rights are preserved by technical section 8.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5709. Air evacuation patients: furnished subsistence

Notwithstanding any other provision of law, and under regulations prescribed under section 5707 of this title, an employee and his dependents may be furnished subsistence without charge while being evacuated as a patient by military aircraft of the United States.

(Added Pub. L. 91–481, § 1(1), Oct. 21, 1970, 84 Stat. 1081.)

§ 5710. Authority for travel expenses test programs

(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official for a period not to exceed 24 months any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

(3) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section to the appropriate committees of the Congress at least 30 days before the effective date of the program.

(c) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator and the appropriate committees of the Congress a report on the results of the program no later than 3 months after completion of the program.

(d) No more than 10 test programs under this section may be conducted simultaneously.

(e) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.

(Added Pub. L. 105–264, § 5(a), Oct. 19, 1998, 112 Stat. 2354.)

REFERENCES IN TEXT

The date of the enactment of the Travel and Transportation Reform Act of 1998, referred to in subsec. (e), is the date of enactment of Pub. L. 105–264, which was approved Oct. 19, 1998.

§ 5711. Authority for telework travel expenses test programs

(a) Except as provided under subsection (f)(1), in this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Oversight and Government Reform of the House of Representatives.

(b)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an employing agency may pay through the proper disbursing official any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter for employees participating in a telework program. Under an approved test program, an agency may provide an employee with the option to waive any payment authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

(3) Under any test program, if an agency employee voluntarily relocates from the pre-existing duty station of that employee, the Administrator may authorize the employing agency to establish a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by that agency.

(4) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

(c) The Administrator shall transmit a copy of any test program approved by the Administrator under this section, and the rationale for approval, to the appropriate committees of Congress at least 30 days before the effective date of the program.

(d)(1) An agency authorized to conduct a test program under subsection (b) shall provide to the Administrator, the Telework Managing Officer of that agency, and the appropriate committees of Congress a report on the results of the program not later than 3 months after completion of the program.

(2) The results in a report described under paragraph (1) may include—

(A) the number of visits an employee makes to the pre-existing duty station of that employee;

(B) the travel expenses paid by the agency;

(C) the travel expenses paid by the employee; or

(D) any other information the agency determines useful to aid the Administrator, Telework Managing Officer, and Congress in understanding the test program and the impact of the program.

(e) No more than 10 test programs under this section may be conducted simultaneously.

(f)(1) In this subsection, the term ''appropriate committee of Congress'' means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives;

(C) the Committee on the Judiciary of the Senate; and

(D) the Committee on the Judiciary of the House of Representatives.

(2) The Patent and Trademark Office shall conduct a test program under this section, including the provision of reports in accordance with subsection (d)(1).

(3) In conducting the program under this subsection, the Patent and Trademark Office may pay any travel expenses of an employee for travel to and from a Patent and Trademark Office worksite or provide an employee with the option to waive any payment authorized or required under this subchapter, if—

(A) the employee is employed at a Patent and Trademark Office worksite and enters into an approved telework arrangement;

(B) the employee requests to telework from a location beyond the local commuting area of the Patent and Trademark Office worksite; and

(C) the Patent and Trademark Office approves the requested arrangement for reasons of employee convenience instead of an agency need for the employee to relocate in order to perform duties specific to the new location.

(4)(A) The Patent and Trademark Office shall establish an oversight committee comprising an equal number of members representing management and labor, including representatives from each collective bargaining unit.

(B) The oversight committee shall develop the operating procedures for the program under this subsection to—

(i) provide for the effective and appropriate functioning of the program; and

(ii) ensure that—

(I) reasonable technological or other alternatives to employee travel are used before requiring employee travel, including teleconferencing, videoconferencing or internet-based technologies;

(II) the program is applied consistently and equitably throughout the Patent and Trademark Office; and

(III) an optimal operating standard is developed and implemented for maximizing the use of the telework arrangement described under paragraph (2) while minimizing agency travel expenses and employee travel requirements.

(5)(A) The test program under this subsection shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

(B) The Director of the Patent and Trademark Office shall—

(i) prepare an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program; and

(ii) before the test program is implemented, submit the analysis and criteria to the Administrator of General Services and to the appropriate committees of Congress.

(C) With respect to an employee of the Patent and Trademark Office who voluntarily relocates from the pre-existing duty station of that employee, the operating procedures of the program may include a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by the Office.

(g) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Telework Enhancement Act of 2010.

(Added Pub. L. 111–292, § 3(a), Dec. 9, 2010, 124 Stat. 3171.)

REFERENCES IN TEXT

The date of the enactment of the Telework Enhancement Act of 2010, referred to in subsec. (g), is the date of enactment of Pub. L. 111–292, which was approved Dec. 9, 2010.

SUBCHAPTER II—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

§ 5721. Definitions

For the purpose of this subchapter—

(1) ''agency'' means—

(A) an Executive agency;

(B) a military department;

(C) a court of the United States;

(D) the Administrative Office of the United States Courts;

(E) the Library of Congress;

(F) the Botanic Garden;

(G) the Architect of the Capitol;

(H) the Government Printing Office; and

(I) the government of the District of Columbia;

but does not include a Government controlled corporation;

(2) ''employee'' means an individual employed in or under an agency;

(3) ''continental United States'' means the several States and the District of Columbia, but does not include Alaska or Hawaii;

(4) ''Government'' means the Government of the United States and the government of the District of Columbia;

(5) ''appropriation'' includes funds made available by statute under section 9104 of title 31;

(6) ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979); and

(7) ''Foreign Service of the United States'' means the Foreign Service as constituted under the Foreign Service Act of 1980.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 500; Pub. L. 97–258, § 3(a)(14), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 105–264, § 6(1), Oct. 19, 1998, 112 Stat. 2356; Pub. L. 110–161, div. H, title I, § 1303(a), Dec. 26, 2007, 121 Stat. 2242.)

HISTORICAL AND REVISION NOTES

The section is based on sections 18 and 19 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811, 812. Sections 18 and 19 of the Act of Aug. 2, 1946, are omitted from this title and transferred to other titles of the United States Code since such sections apply also to sections 9, 11, and 16(a) of the Act of Aug. 2, 1946, which sections appear in titles 31 and 41 of the United States Code.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 3(a) of the Panama Canal Act of 1979, referred to in par. (6), is classified to section 3602(a) of Title 22, Foreign Relations and Intercourse.

The Foreign Service Act of 1980, referred to in par. (7), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§ 3901 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

AMENDMENTS

2007—Par. (1)(G) to (I). Pub. L. 110–161 added subpar. (G) and redesignated former subpars. (G) and (H) as (H) and (I), respectively.

1998—Pars. (6), (7). Pub. L. 105–264 added pars. (6) and (7).

1982—Par. (5). Pub. L. 97–258 substituted ''section 9104'' for ''section 849''.

§ 5722. Travel and transportation expenses of new appointees; posts of duty outside the continental United States

(a) Under regulations prescribed under section 5738 of this title and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations—

(1) travel expenses of a new appointee and transportation expenses of his immediate family and his household goods and personal effects from the place of actual residence at the time of appointment to the place of employment outside the continental United States;

(2) these expenses on the return of an employee from his post of duty outside the continental United States to the place of his actual residence at the time of assignment to duty outside the continental United States; and

(3) the expenses of transporting a privately owned motor vehicle as authorized under section 5727(c) of this title.

(b) An agency may pay expenses under subsection (a)(1) of this section only after the individual selected for appointment agrees in writing to remain in the Government service for a minimum period of—

(1) one school year as determined under chapter 25 of title 20, if selected for appointment to a teaching position, except as a substitute, in the Department of Defense under that chapter; or

(2) 12 months after his appointment, if selected for appointment to any other position;

unless separated for reasons beyond his control which are acceptable to the agency concerned. If the individual violates the agreement, the

money spent by the Government for the expenses is recoverable from the individual as a debt due the Government.

(c) An agency may pay expenses under subsection (a)(2) of this section only after the individual has served for a minimum period of—

(1) one school year as determined under chapter 25 of title 20, if employed in a teaching position, except as a substitute, in the Department of Defense under that chapter; or

(2) not less than one nor more than 3 years prescribed in advance by the head of the agency, if employed in any other position;

unless separated for reasons beyond his control which are acceptable to the agency concerned. These expenses are payable whether the separation is for Government purposes or for personal convenience.

(d) This section does not apply to appropriations for the Foreign Service of the United States.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 501; Pub. L. 104–201, div. A, title XVII, §§1715(b)(1), 1723(b)(1), Sept. 23, 1996, 110 Stat. 2755, 2759; Pub. L. 105–264, §6(2), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–3(a) (less 3d–6th proviso).	Aug. 2, 1946, ch. 744, §7, 60 Stat. 808. Sept. 23, 1950, ch. 1010, §2, 64 Stat. 985. Aug. 30, 1961, Pub. L. 87–172, §2, 75 Stat. 409.

In subsections (b)(1) and (c)(1), the words ''under chapter 25 of title 20'' are substituted for ''under the Defense Department Overseas Teachers Pay and Personnel Practices Act'' to reflect the scheduled transfer of that Act from chapter 34 of title 5 to chapter 25 of title 20.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–264, §6(2)(A), substituted ''continental United States;'' for ''United States;''.

Subsec. (b). Pub. L. 105–264, §6(2)(B), substituted ''Government'' for ''United States'' in two places in concluding provisions.

1996—Subsec. (a). Pub. L. 104–201, §1723(b)(1), in introductory provisions, substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

Subsec. (a)(3). Pub. L. 104–201, §1715(b)(1), added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1725(a) of title XVII of div. A of Pub. L. 104–201 provided that: ''The amendments made by this title [enacting sections 5737, 5738, and 5756 of this title, amending this section, sections 3375, 5723 to 5724c, 5726 to 5729, and 5731 of this title, section 1348 of Title 31, Money and Finance, section 707 of Title 38, Veterans' Benefits, and sections 290aa and 299c–4 of Title 42, The Public Health and Welfare] shall take effect 180 days after the date of the enactment of this Act [Sept. 23, 1996].''

REGULATIONS

Section 1725(b) of title XVII of div. A of Pub. L. 104–201 provided that: ''The Administrator of General Services shall, not later than the effective date set forth under subsection (a) [set out above], issue final regulations implementing the amendments made by this title [see Effective Date of 1996 Amendment note above].''

ASSESSMENT OF COST SAVINGS

Section 1724 of title XVII of div. A of Pub. L. 104–201 directed Comptroller General, not later than one year after the effective date set forth in section 1725(a) of Pub. L. 104–201, to submit to Congress an assessment of costs of Federal travel administration that were saved as a result of the amendments made by title XVII of div. A of Pub. L. 104–201 and the regulations prescribed to carry out the amendments.

§ 5723. Travel and transportation expenses of new appointees and student trainees

(a) Under regulations prescribed under section 5738 of this title and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations—

(1) travel expenses (A) of a new appointee, or a student trainee when assigned on completion of college work, to any position, (B) of a new appointee to the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or (C) of any person appointed by the President to a position the rate of pay for which is equal to or higher than the minimum rate of pay payable for a position classified above GS–15 pursuant to section 5108;

(2) transportation expenses of his immediate family and his household goods and personal effects to the extent authorized by section 5724 of this title; and

(3) the expenses of transporting a privately owned motor vehicle as authorized under section 5727(c) of this title;

from his place of residence at the time of selection or assignment to his duty station. If the travel and transportation expenses of a student trainee were paid when he was appointed, they may not be paid when he is assigned after completion of college work. Travel expenses payable under this subsection may include the per diem and mileage allowances authorized for employees by subchapter I of this chapter. Advances of funds may be made for the expenses authorized by this subsection to the extent authorized by section 5724(f) of this title. In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee.

(b) An agency may pay travel and transportation expenses under subsection (a) of this section only after the individual selected or assigned agrees in writing to remain in the Government service for 12 months after his appointment or assignment, unless separated for reasons beyond his control which are acceptable to the agency concerned. If the individual violates the agreement, the money spent by the Government for the expenses is recoverable from the individual as a debt due the Government.

(c) An agency may pay travel and transportation expenses under subsection (a) of this section whether or not the individual selected has been appointed at the time of the travel. In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.

(d) This section does not impair or otherwise affect the authority of an agency under existing statute to pay travel and transportation expenses of individuals named by subsection (a) of this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 502; Pub. L. 95–454, title III, § 305, title IV, § 409(a), title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1147, 1173, 1224; Pub. L. 98–151, § 118(a)(1), Nov. 14, 1983, 97 Stat. 977; Pub. L. 98–473, title I, § 120(a), Oct. 12, 1984, 98 Stat. 1968; Pub. L. 100–325, § 2(j), May 30, 1988, 102 Stat. 582; Pub. L. 100–398, § 6, Aug. 17, 1988, 102 Stat. 987; Pub. L. 101–509, title V, § 529 [title II, § 206(b)], Nov. 5, 1990, 104 Stat. 1427, 1457; Pub. L. 102–378, § 2(48), Oct. 2, 1992, 106 Stat. 1353; Pub. L. 104–201, div. A, title XVII, §§ 1715(b)(2), 1723(b)(1), Sept. 23, 1996, 110 Stat. 2755, 2759; Pub. L. 105–264, § 6(3), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–3 (less (a)).	Aug. 25, 1958, Pub. L. 85–749, 72 Stat. 843. July 5, 1960, Pub. L. 86–587, § 1, 74 Stat. 327. Oct. 16, 1963, Pub. L. 88–146, 77 Stat. 252.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 3 of the Presidential Transition Act of 1963, referred to in subsecs. (a) and (c), is section 3 of Pub. L. 88–277, which is set out as a note under section 102 of Title 3, The President.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–264 substituted ''spent by the Government'' for ''spent by the United States'' and ''due the Government'' for ''due the United States''.

1996—Subsec. (a). Pub. L. 104–201, § 1723(b)(1), in introductory provisions, substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

Subsec. (a)(3). Pub. L. 104–201, § 1715(b)(2), which directed amendment of subsec. (a) by adding par. (3) at the end, was executed by adding par. (3) after par. (2) to reflect the probable intent of Congress.

1992—Pub. L. 102–378, § 2(48)(A), struck out ''; manpower shortage positions'' after ''trainees'' in section catchline.

Subsecs. (d), (e). Pub. L. 102–378, § 2(48)(B), redesignated subsec. (e) as (d) and struck out former subsec. (d) which authorized Office to delegate its authority to determine positions for which there was a manpower shortage for purposes of this section.

1990—Subsec. (a)(1)(A). Pub. L. 101–509, § 529 [title II, § 206(b)(1)], substituted ''any position'' for ''a position in the United States for which the Office of Personnel Management determines there is a manpower shortage''.

Subsec. (a)(1)(C). Pub. L. 101–509, § 529 [title II, § 206(b)(2)], substituted ''the minimum rate of pay payable for a position classified above GS–15 pursuant to section 5108; and'' for ''the minimum rate of pay prescribed for GS–16; and''.

1988—Subsec. (a). Pub. L. 100–398, § 6(2), inserted at end ''In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee.''

Subsec. (a)(1). Pub. L. 100–398, § 6(1), which directed that par. (1) be amended by striking out ''or (B)'' and inserting ''or (C)'', could not be executed because phrase ''or (B)'' did not appear in par. (1) after the intervening amendment by Pub. L. 100–325, see below.

Pub. L. 100–325 inserted reference to Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service in cl. (B) and redesignated a second cl. (B) as (C).

Subsec. (c). Pub. L. 100–398, § 6(3), inserted at end ''In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.''

1984—Subsec. (a)(1). Pub. L. 98–473 directed amendment of subpar. (C) by striking out '', by and with the advice and consent of the Senate,'' which was executed to second subpar. (B) by striking out that phrase following ''appointed by the President'', as probable intent of Congress.

1983—Subsec. (a)(1). Pub. L. 98–151, designated existing provisions as subpars. (A) and (B), and added a second subpar. (B) relating to any person appointed by President.

1978—Subsec. (a)(1). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Pub. L. 95–454, § 409(a), inserted reference to a new appointee to the Senior Executive Service.

Subsec. (d). Pub. L. 95–454, §§ 305, 906(a)(3), struck out ''not'' before ''delegate'', and substituted ''Office'' for ''Commission''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT; REGULATIONS

Amendment by Pub. L. 98–151 and promulgation of regulations for amendments by Pub. L. 98–151 effective Nov. 14, 1983, see section 118(c) of Pub. L. 98–151, set out as a note under section 5724 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by sections 305 and 906(a)(2), (3) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

Amendment by section 409(a) of Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

FUNDING OF AMENDMENTS BY PUB. L. 98–151

Amendments by Pub. L. 98–151 to be carried out by agencies by use of funds appropriated or otherwise

available for administrative expenses of such agencies, and do not authorize appropriation of funds in amounts exceeding sums already authorized to be appropriated for such agencies, see section 118(b) of Pub. L. 98–151, set out as a note under section 5724 of this title.

§ 5724. Travel and transportation expenses of employees transferred; advancement of funds; reimbursement on commuted basis

(a) Under regulations prescribed under section 5738 of this title and when the head of the agency concerned or his designee authorizes or approves, the agency shall pay from Government funds—

(1) the travel expenses of an employee transferred in the interest of the Government from one official station or agency to another for permanent duty, and the transportation expenses of his immediate family, or a commutation thereof under section 5704 of this title;

(2) the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking his household goods and personal effects not in excess of 18,000 pounds net weight; and

(3) upon the separation (or death in service) of a career appointee, as defined in section 3132(a)(4) of this title, the travel expenses of that individual (if applicable), the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of eighteen thousand pounds net weight, to the place where the individual will reside (or, in the case of a career appointee who dies in service or who dies after separating but before the travel, transportation, and moving is completed, to the place where the family will reside) within the United States, if such individual—

(A) during or after the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 17, 1988); and

(B) is eligible to receive an annuity upon such separation (or, in the case of death in service, met the requirements for being considered eligible to receive an annuity, as of date of death) under the provisions of subchapter III of chapter 83 or chapter 84 of this title.

(b) Under regulations prescribed under section 5738 of this title, an employee who transports a house trailer or mobile dwelling inside the continental United States, inside Alaska, or between the continental United States and Alaska, for use as a residence, and who otherwise would be entitled to transportation of household goods and personal effects under subsection (a) of this section, is entitled, instead of that transportation, to—

(1) a reasonable allowance for transportation of the house trailer or mobile dwelling, if the trailer or dwelling is transported by the employee; or

(2) commercial transportation of the house trailer or mobile dwelling, at Government expense, or reimbursement to the employee therefor, including the payment of necessary tolls, charges, and permit fees, if the trailer or dwelling is not transported by the employee.

However, payment under this subsection may not exceed the maximum payment to which the employee otherwise would be entitled under subsection (a) of this section for transportation and temporary storage of his household goods and personal effects in connection with this transfer.

(c) Under regulations prescribed under section 5738 of this title, an employee who transfers between points inside the continental United States, instead of being paid for the actual expenses of transporting, packing, crating, temporarily storing, draying, and unpacking of household goods and personal effects, shall be reimbursed on a commuted basis at the rates per 100 pounds that are fixed by zones in the regulations. The reimbursement may not exceed the amount which would be allowable for the authorized weight allowance. However, under regulations prescribed under section 5738 of this title, payment of actual expenses may be made when the head of the agency determines that payment of actual expenses is more economical to the Government.

(d) When an employee transfers to a post of duty outside the continental United States, his expenses of travel and transportation to and from the post shall be allowed to the same extent and with the same limitations prescribed for a new appointee under section 5722 of this title.

(e) When an employee transfers from one agency to another, the agency to which he transfers pays the expenses authorized by this section. However, under regulations prescribed under section 5738 of this title, in a transfer from one agency to another because of a reduction in force or transfer of function, expenses authorized by this section and sections 5726(b) and 5727 of this title (other than expenses authorized in connection with a transfer to a foreign country) and by section 5724a(a) through (f) of this title may be paid in whole or in part by the agency from which the employee transfers or by the agency to which he transfers, as may be agreed on by the heads of the agencies concerned.

(f) An advance of funds may be made to an employee under regulations prescribed under section 5738 of this title with the same safeguards required under section 5705 of this title.

(g) The allowances authorized by this section do not apply to an employee transferred under the Foreign Service Act of 1980.

(h) When a transfer is made primarily for the convenience or benefit of an employee, including an employee in the Foreign Service of the United States, or at his request, his expenses of travel and transportation and the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking of household goods and personal effects may not be allowed or paid from Government funds.

(i) An agency may pay travel and transportation expenses (including storage of household

goods and personal effects) and other relocation allowances under this section and sections 5724a, 5724b, and 5726(c) of this title when an employee is transferred within the continental United States only after the employee agrees in writing to remain in the Government service for 12 months after his transfer, unless separated for reasons beyond his control that are acceptable to the agency concerned. If the employee violates the agreement, the money spent by the Government for the expenses and allowances is recoverable from the employee as a debt due the Government.

(j) The regulations prescribed under this section shall provide that the reassignment or transfer of any employee, for permanent duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the period of advance notice is reasonable.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 502; Pub. L. 90–83, § 1(36), Sept. 11, 1967, 81 Stat. 204; Pub. L. 90–623, § 1(14), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 96–465, title II, § 2314(d), Oct. 17, 1980, 94 Stat. 2168; Pub. L. 98–151, § 118(a)(2)–(4), (7)(B), Nov. 14, 1983, 97 Stat. 977, 979; Pub. L. 100–440, title VI, § 629(a), Sept. 22, 1988, 102 Stat. 1758; Pub. L. 100–566, § 3, Oct. 31, 1988, 102 Stat. 2845; Pub. L. 102–378, § 2(49), Oct. 2, 1992, 106 Stat. 1353; Pub. L. 103–338, §§ 3(a), 4, Oct. 6, 1994, 108 Stat. 3114; Pub. L. 104–201, div. A, title XVII, § 1723(a)(1)(B), (b)(1), (2), Sept. 23, 1996, 110 Stat. 2759; Pub. L. 105–85, div. C, title XXXV, § 3550(c)(1), Nov. 18, 1997, 111 Stat. 2074; Pub. L. 105–264, § 6(4), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–1(a), (b).	Aug. 2, 1946, ch. 744, § 1(a), (b), 60 Stat. 806. Sept. 23, 1950, ch. 1010, §§ 1(a), (b), 3(b), 64 Stat. 985, 986. Feb. 12, 1958, Pub. L. 85–326, 72 Stat. 14. Sept. 6, 1960, Pub. L. 86–707, § 301(c)(1), 74 Stat. 796. Oct. 9, 1962, Pub. L. 87–776, 76 Stat. 777.

In subsections (a)(1) and (f), the words ''section 5704 of this title'' and ''section 5705 of this title'', respectively, are substituted for ''the Act of February 14, 1931 (5 U.S.C. 73a)'' and ''the Subsistence Expense Act of 1926 (5 U.S.C. 828)'', respectively, on authority of sections 4, 5, and 9(a) of the Travel Expense Act of 1949, as amended, which are carried into sections 5704, 5705, and 5708.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5724(a)(2) ...	5 App.: 73b–1(a).	July 21, 1966, Pub. L. 89–516, § 1(a), 80 Stat. 323.
5724(c)	5 App.: 73b–1(b).	July 21, 1966, Pub. L. 89–516, § 1(b), 80 Stat. 323.
5724(e)	5 App.: 73b–4d.	July 21, 1966, Pub. L. 89–516, § 2 ''Sec. 26'', 80 Stat. 324.

1967 ACT—CONTINUED

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5724(i)	5 App.: 73b–4f.	July 21, 1966, Pub. L. 89–516, § 2 ''Sec. 28'', 80 Stat. 325.

Subsection (a)(1), (3) of section 1 of the act of July 21, 1966, was effected in the codification of 5 U.S.C. 5724(a)(1), (f); accordingly, no further amendments to 5 U.S.C. 5724 are necessary.

In subsection (e), the word ''However'' is substituted for ''and notwithstanding the provisions of the fourth proviso of section 1(a) of this Act'' to reflect the codification of that proviso in 5 U.S.C. 5724(e). The words ''agency'' and ''agencies'' are substituted for ''department'' and ''departments'', respectively, to conform to the definition in 5 U.S.C. 5721(1). The words ''this section and sections 5726(b) and 5727 of this title'' and ''section 5724a (a), (b) of this title'' are substituted for ''section 1, subsections (a) and (b) and subsections (e) and (f)'' and ''sections 23 and 24 of this Act'', respectively, to reflect the codification of the cited sections in 5 U.S.C. The word ''employee'' is substituted for ''officer or employee'' to conform to the definitions in 5 U.S.C. 5721(2) and 2105.

In subsection (i), the words ''An agency may pay * * * expenses * * * and allowances under this section and sections 5724a and 5726(c) of this title * * * only after'' are substituted for ''Notwithstanding the provisions of subsections (a) and (b) of section 1, and of sections 23, 24, 25, and 27 of this Act, the * * * expenses * * * and * * * allowances shall not be allowed thereunder * * * unless and until'' for clarity and to conform to the style of 5 U.S.C., and to reflect the codification of the cited sections in 5 U.S.C. The word ''employee'' is substituted for ''civilian officer or employee'' and ''such officer or employee'' to conform to the definitions in 5 U.S.C. 5721(2) and 2105. The words ''continental United States'' are substituted for ''continental United States, excluding Alaska'' to conform to the definition in 5 U.S.C. 5721(3). The word ''agency'' is substituted for ''department or agency'' to conform to the definition in 5 U.S.C. 5721(1). In the last sentence, the words ''money spent by the United States for the expenses and allowances'' are substituted for ''moneys expended by the United States under said sections of this act on account of such officer or employee.''

REFERENCES IN TEXT

Section 4103 of title 38, referred to in subsec. (a)(3)(A), was repealed by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7306 of Title 38, Veterans' Benefits.

The Foreign Service Act of 1980, referred to in subsec. (g), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§ 3901 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–264, § 6(4)(A), struck out '', its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979'' after ''United States''.

Subsec. (i). Pub. L. 105–264, § 6(4)(B), substituted ''Government'' for ''United States'' in two places in last sentence.

1997—Subsec. (a)(3). Pub. L. 105–85, which directed the substitution of ''or the Commonwealth of Puerto Rico'' for '', the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as de-

scribed in section 3(a) of the Panama Canal Act of 1979'', effective Jan. 1, 1999, could not be executed because such language did not appear in text subsequent to amendment by Pub. L. 105–264. See 1998 Amendment note above.

1996—Subsecs. (a), (b). Pub. L. 104–201, § 1723(b)(1), in introductory provisions, substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

Subsec. (c). Pub. L. 104–201, § 1723(b)(2)(A), substituted ''under regulations prescribed under section 5738 of this title'' for ''under regulations prescribed by the President''.

Pub. L. 104–201, § 1723(b)(1), substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

Subsec. (e). Pub. L. 104–201, § 1723(b)(2)(A), substituted ''under regulations prescribed under section 5738 of this title'' for ''under regulations prescribed by the President''.

Pub. L. 104–201, § 1723(a)(1)(B), substituted ''section 5724a(a) through (f)'' for ''section 5724a(a), (b)''.

Subsec. (f). Pub. L. 104–201, § 1723(b)(2)(B), substituted ''under regulations prescribed under section 5738 of this title'' for ''under the regulations of the President''.

1994—Subsec. (a)(3). Pub. L. 103–338, § 4, amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of eighteen thousand pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

''(A) during or after the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 17, 1988); and

''(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or chapter 84 of this title.''

Subsec. (a)(3)(A). Pub. L. 103–338, § 3(a), substituted ''November 17, 1988'' for ''November 27, 1988''.

1992—Subsec. (a)(3)(A). Pub. L. 102–378 substituted ''Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 27, 1988)'' for ''Service''.

1988—Subsec. (a)(3). Pub. L. 100–440 added par. (3).

Subsec. (a)(3)(A). Pub. L. 100–566 substituted ''during or after the five'' for ''during the five'' and struck out '', and thereafter'' after ''of this title''.

1983—Subsec. (a)(2). Pub. L. 98–151, § 118(a)(2), substituted ''18,000'' for ''11,000''.

Subsec. (b)(1). Pub. L. 98–151, § 118(a)(3), struck out ''not in excess of 20 cents a mile'' after ''allowance''.

Subsec. (i). Pub. L. 98–151, § 118(a)(7)(B), inserted reference to section 5724b of this title.

Subsec. (j). Pub. L. 98–151, § 118(a)(4), added subsec. (j).

1980—Subsec. (g). Pub. L. 96–465 substituted ''the Foreign Service Act of 1980'' for ''chapter 14 of title 22''.

1968—Subsec. (e). Pub. L. 90–623 substituted ''section 5724a(a), (b)'' for ''section 5724(a), (b)''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 3550(c)(3) of Pub. L. 105–85 provided that: ''The amendments made by this subsection [amending this section and section 5724a of this title] shall take effect on January 1, 1999.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3(b) of Pub. L. 103–338 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if included in the Technical and Miscellaneous Civil Service Amendments Act of 1992 (Public Law 102–378; 106 Stat. 1346; 5 U.S.C. 1101 note).''

Section 5(a) of Pub. L. 103–338 provided that: ''This Act [amending this section and enacting provisions set out as notes under this section] and the amendment made by this Act shall take effect on October 1, 1994, or, if later, the date of the enactment of this Act [Oct. 6, 1994].''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 applicable with respect to a separation that takes effect on or after Oct. 2, 1992, see section 9(b)(11) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT; PROMULGATION OF REGULATIONS

Section 118(c) of Pub. L. 98–151 provided that:

''(1) The amendments made by subsection (a) [enacting sections 5724b and 5724c of this title and amending this section and sections 5723, 5724a, and 5726 of this title] shall take effect on the date of the enactment of this joint resolution [Nov. 14, 1983].''

''(2) Not later than thirty days after the date of the enactment of this joint resolution, the President shall prescribe the regulations required under the amendments made by subsection (a). Such regulations shall take effect as of such date of enactment.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 effective as of Sept. 11, 1967, for all purposes, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

MOVING EXPENSES FOR FAMILY OF CAREER APPOINTEES DYING IN SERVICE BETWEEN JANUARY 1, 1994, AND OCTOBER 6, 1994

Section 5(b) of Pub. L. 103–338 provided that:

''(1) IN GENERAL.—Under regulations prescribed by the President or his designee, an agency shall, as appropriate, pay or make reimbursement for any moving expenses which would be payable under the provisions of section 5724(a)(3) of title 5, United States Code, as amended by section 4 (but which would not have been payable under such provisions, as last in effect before being so amended).

''(2) APPLICABILITY.—The moving expenses to which this subsection applies are those incurred by the family of an individual who died—

''(i) before separating from Government service; and

''(ii) during the period beginning on January 1, 1994, and ending on the effective date of this Act [Oct. 6, 1994].

''(3) CONDITION.—Payment or reimbursement under this subsection may not be made except upon appropriate written application submitted within 12 months after the date on which the regulations referred to in paragraph (1) take effect.''

FUNDING OF AMENDMENTS BY PUB. L. 100–440

Section 629(b) of Pub. L. 100–440 provided that: ''The amendments made by subsection (a) [amending this section] shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.''

FUNDING OF AMENDMENTS BY PUB. L. 98–151

Section 118(b) of Pub. L. 98–151 provided that: ''The amendments made by subsection (a) [enacting sections 5724b and 5724c of this title and amending this section and sections 5723, 5724a, and 5726 of this title] shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.''

RATES OF REIMBURSEMENT

Administrator of General Services empowered to prescribe regulations relating to establishment of rates used in reimbursing civilian officers or employees of Government on a commuted basis in lieu of payment of actual expenses of transportation, etc., of their household goods and personal effects upon transfer from one official station to another, see Ex. Ord. No. 11012, Mar. 28, 1962, 27 F.R. 2983, set out as a note under section 301 of Title 3, The President.

§ 5724a. Relocation expenses of employees transferred or reemployed

(a) Under regulations prescribed under section 5738, an agency shall pay to or on behalf of an employee who transfers in the interest of the Government, a per diem allowance or the actual subsistence expenses, or a combination thereof, of the immediate family of the employee for en route travel of the immediate family between the employee's old and new official stations.

(b)(1) Under regulations prescribed under section 5738, an agency may pay to or on behalf of an employee who transfers in the interest of the Government between official stations located within the United States—

(A) the expenses of transportation of the employee and the employee's spouse for travel to seek permanent residence quarters at a new official station; and

(B) either—

(i) a per diem allowance or the actual subsistence expenses (or a combination of both); or

(ii) an amount for subsistence expenses, that may not exceed a maximum amount determined by the Administrator of General Services.

(2) Expenses may be allowed under paragraph (1) only for one round trip in connection with each change of station of the employee.

(c)(1) Under regulations prescribed under section 5738, an agency may pay to or on behalf of an employee who transfers in the interest of the Government—

(A) actual subsistence expenses of the employee and the employee's immediate family for a period of up to 60 days while the employee or family is occupying temporary quarters when the new official station is located within the United States; or

(B) an amount for subsistence expenses, that may not exceed a maximum amount determined by the Administrator of General Services, instead of the actual subsistence expenses authorized in subparagraph (A) of this paragraph.

(2) The period authorized in paragraph (1) of this subsection for payment of expenses for residence in temporary quarters may be extended up to an additional 60 days if the head of the agency concerned or the designee of such head of the agency determines that there are compelling reasons for the continued occupancy of temporary quarters.

(3) The regulations implementing paragraph (1)(A) shall prescribe daily rates and amounts for subsistence expenses per individual.

(d)(1) Under regulations prescribed under section 5738, an agency shall pay to or on behalf of an employee who transfers in the interest of the Government, expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station and purchase of a residence at the new official station that are required to be paid by the employee, when the old and new official stations are located within the United States.

(2) Under regulations prescribed under section 5738, an agency shall pay to or on behalf of an employee who transfers in the interest of the Government from a post of duty located outside the United States to an official station within the United States (other than the official station within the United States from which the employee was transferred when assigned to the foreign tour of duty)—

(A) expenses required to be paid by the employee of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station from which the employee was transferred when the employee was assigned to the post of duty located outside the United States; and

(B) expenses required to be paid by the employee of the purchase of a residence at the new official station within the United States.

(3) Reimbursement of expenses under paragraph (2) of this subsection shall not be allowed for any sale (or settlement of an unexpired lease) or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the post of duty outside the United States.

(4) Reimbursement for brokerage fees on the sale of the residence and other expenses under this subsection may not exceed those customarily charged in the locality where the residence is located.

(5) Reimbursement may not be made under this subsection for losses incurred by the employee on the sale of the residence.

(6) This subsection applies regardless of whether title to the residence or the unexpired lease is—

(A) in the name of the employee alone;

(B) in the joint names of the employee and a member of the employee's immediate family; or

(C) in the name of a member of the employee's immediate family alone.

(7)(A) In connection with the sale of the residence at the old official station, reimbursement under this subsection shall not exceed 10 percent of the sale price.

(B) In connection with the purchase of a residence at the new official station, reimbursement under this subsection shall not exceed 5 percent of the purchase price.

(8) Under regulations prescribed under section 5738, an agency may pay to or on behalf of an employee who transfers in the interest of the Government expenses of property management services, instead of expenses under paragraph (1) or (2) of this subsection for sale of the employee's residence, when the agency determines that such transfer is advantageous and cost-effective for the Government.

(e) Under regulations prescribed under section 5738, an agency may pay to or on behalf of an employee who transfers in the interest of the Government, the expenses of property management services when the employee transfers to a post of duty outside the United States. Such payment shall terminate upon return of the employee to an official station within the United States.

(f)(1) Under regulations prescribed under section 5738 and subject to paragraph (2), an employee who is reimbursed under subsections (a) through (e) of this section or section 5724(a) of this title is entitled to an amount for miscellaneous expenses—

(A) not to exceed two weeks' basic pay, if such employee has an immediate family; or

(B) not to exceed one week's basic pay, if such employee does not have an immediate family.

(2) Amounts paid under paragraph (1) may not exceed amounts determined at the maximum rate payable for a position at GS–13 of the General Schedule.

(g) A former employee separated by reason of reduction in force or transfer of function who within one year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred, may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) through (f) of this section, in the same manner as though the employee had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated.

(h) Payments for subsistence expenses, including amounts in lieu of per diem or actual subsistence expenses or a combination thereof, authorized under this section may not exceed the maximum payment allowed under regulations which implement section 5702 of this title.

(Added Pub. L. 90–83, § 1(37)(A), Sept. 11, 1967, 81 Stat. 204; amended Pub. L. 96–70, title I, § 1231(d), Sept. 27, 1979, 93 Stat. 470; Pub. L. 98–151, § 118(a)(5), (6), Nov. 14, 1983, 97 Stat. 977, 978; Pub. L. 99–234, title I, § 105, Jan. 2, 1986, 99 Stat. 1758; Pub. L. 100–202, § 101(m) [title VI, § 628(a)(1)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–430; Pub. L. 101–510, div. A, title XII, § 1206(c), Nov. 5, 1990, 104 Stat. 1661; Pub. L. 104–201, div. A, title XVII, §§ 1711–1713(a), 1714, 1718, Sept. 23, 1996, 110 Stat. 2753–2755, 2757; Pub. L. 105–85, div. C, title XXXV, § 3550(c)(2), Nov. 18, 1997, 111 Stat. 2074; Pub. L. 105–264, §§ 6(5), 7, Oct. 19, 1998, 112 Stat. 2356, 2357.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5724a(a)	5 App.: 73b–4a.	July 21, 1966, Pub. L. 89–516, § 2 "Sec. 23", 80 Stat. 323.
5724a(b)	5 App.: 73b–4b.	July 21, 1966, Pub. L. 89–516, § 2 "Sec. 24", 80 Stat. 324.
5724a(c)	5 App.: 73b–4e.	July 21, 1966, Pub. L. 89–516, § 2 "Sec. 27", 80 Stat. 325.

In subsection (a), the word "agency" is substituted for "department" to conform to the definition in 5 U.S.C. 5721(1). The word "employee" is substituted for "officers or employees" and "officer or employee" to conform to the definitions in 5 U.S.C. 5721(2) and 2105. The words "section 5724(a) of this title" and "section 5702 of this title" are substituted for "subsection (a) of section 1 of this Act" and "section 3 of the Travel Expense Act of 1949 (63 Stat. 166, as amended; 5 U.S.C. 836)" to reflect the codification of the cited acts in 5 U.S.C. In subsection (a)(2), the words "within the continental United States" are coextensive with and substituted for "within the continental United States, excluding Alaska" on authority of the definition of "continental United States" in 5 U.S.C. 5721(3).

In subsection (b), the words "this subchapter" and "subsection (a) of this section or section 5724(a) of this title" are substituted for "this Act" and "section 1(a) or section 23 of this Act", respectively, to reflect the codification of the act in 5 U.S.C. The word "officer" is omitted as included in "employee". The words "in the General Schedule of the Classification Act of 1949, as amended" are omitted as unnecessary.

In subsection (c), the word "officer" is omitted as included in "employee". The words "sections 5724, 5725, 5726(b), and 5727 of this title" and "subsections (a) and (b) of this section" are substituted for "section 1 of this Act" and "sections 23 and 24 of this Act", respectively, to reflect the codification of the act in title 5, United States Code.

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (f)(2), is set out under section 5332 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–264, § 7(1), substituted "Under regulations prescribed under section 5738, an agency shall pay" for "An agency shall pay".

Subsec. (b)(1). Pub. L. 105–264, § 7(2), substituted "Under regulations prescribed under section 5738, an agency may pay" for "An agency may pay" in introductory provisions.

Subsec. (b)(1)(B)(ii). Pub. L. 105–264, § 7(3), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "an amount for subsistence expenses."

Subsec. (c)(1). Pub. L. 105–264, § 7(2), substituted "Under regulations prescribed under section 5738, an agency may pay" for "An agency may pay" in introductory provisions.

Subsec. (c)(1)(B). Pub. L. 105–264, § 7(4), substituted "an amount for subsistence expenses, that may not exceed a maximum amount determined by the Administrator of General Services," for "an amount for subsistence expenses".

Subsec. (d)(1), (2). Pub. L. 105–264, § 7(1), substituted "Under regulations prescribed under section 5738, an agency shall pay" for "An agency shall pay".

Subsec. (d)(2)(A). Pub. L. 105–264, §7(5), substituted ''of the sale'' for ''for the sale''.

Subsec. (d)(2)(B). Pub. L. 105–264, §7(6), substituted ''of the purchase'' for ''for the purchase''.

Subsec. (d)(8). Pub. L. 105–264, §7(2), (7), substituted ''Under regulations prescribed under section 5738, an agency may pay'' for ''An agency may pay'' and ''paragraph (1) or (2)'' for ''paragraph (2) or (3)''.

Subsec. (e). Pub. L. 105–264, §7(2), substituted ''Under regulations prescribed under section 5738, an agency may pay'' for ''An agency may pay''.

Subsec. (f)(1). Pub. L. 105–264, §7(8), substituted ''Under regulations prescribed under section 5738 and subject to paragraph (2),'' for ''Subject to paragraph (2),'' in introductory provisions.

Subsec. (i). Pub. L. 105–264, §7(9), struck out subsec. (i) which read as follows: ''Subsections (a), (b), and (c) shall be implemented under regulations issued under section 5738 of this title.''

Subsec. (j). Pub. L. 105–264, §6(5), struck out subsec. (j) which read as follows: ''For purposes of subsections (c), (d), and (e), the term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979 (22 U.S.C. 3602(a))).''

1997—Subsec. (j). Pub. L. 105–85, which directed the amendment of subsec. (j) by inserting ''and'' after ''Northern Mariana Islands,'' and by substituting ''United States.'' for ''United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979 (22 U.S.C. 3602(a))).'', effective Jan. 1, 1999, could not be executed because subsec. (j) did not appear subsequent to amendment by Pub. L. 105–264. See 1998 Amendment note above.

1996—Pub. L. 104–201, §1711, amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (c) which made funds available to pay certain expenses of employees for whom Government pays travel and transportation expenses under section 5724(a) of this title, provided for entitlement to certain amounts of basic pay to such employees, and provided for payment of expenses of certain former employees.

Subsec. (c). Pub. L. 104–201, §1712, added subsec. (c).

Subsec. (d). Pub. L. 104–201, §1713(a), added subsec. (d).

Subsec. (d)(8). Pub. L. 104–201, §1714(1), added par. (8).

Subsec. (e). Pub. L. 104–201, §1714(2), added subsec. (e).

Subsecs. (f) to (j). Pub. L. 104–201, §1718, added subsecs. (f) to (j).

1990—Subsec. (a)(2). Pub. L. 101–510 struck out ''continental'' before ''United States'' in second sentence.

1987—Subsec. (a)(4)(A). Pub. L. 100–202 inserted provisions authorizing reimbursement of expenses of selling residence of employee at official station from which employee was transferred when assigned to duty outside United States, its territories or possessions, Puerto Rico, or parts of Panama, provisions authorizing reimbursement of expenses of purchasing residence at new official station in United States, its territories or possessions, Puerto Rico, or parts of Panama, and provisions disallowing reimbursement of expenses in connection with transfers from a post of duty located outside the United States, its territories or possessions, Puerto Rico, or parts of Panama, for any transaction that occurs prior to official notification that employee's return to the United States would be to official station other than official station from which employee was transferred.

1986—Subsec. (a)(1). Pub. L. 99–234, §105(1), (2), substituted ''allowance or'' for ''allowance instead of'' and ''maximum payment permitted under regulations which implement section 5702 of this title'' for ''maximum per diem rates prescribed by or under section 5702 of this title''.

Subsec. (a)(2). Pub. L. 99–234, §105(1), (2), substituted ''allowance or'' for ''allowance instead of'' and ''maximum payment permitted under regulations which implement section 5702 of this title'' for ''maximum per diem rates prescribed by or under section 5702 of this title''.

Subsec. (a)(3). Pub. L. 99–234, §105(2), (3), substituted ''maximum payment permitted under regulations which implement section 5702 of this title'' for ''maximum per diem rates prescribed by or under section 5702 of this title'' and ''daily rates and amounts'' for ''average daily rates''.

1983—Subsec. (a)(3). Pub. L. 98–151, §118(a)(5)(A), in first sentence substituted ''60 days'' for ''30 days''.

Pub. L. 98–151, §118(a)(5)(B), substituted provisions authorizing extension for an additional 60 days if agency head or designee determines existence of compelling reasons for continued occupancy, for provisions authorizing extension for an additional 30 days if the employee moves to or from Alaska, Hawaii, the territories or possessions, etc., and struck out provisions relating to additional limitations on daily rates for reimbursement for subsistence expenses.

Subsec. (a)(4). Pub. L. 98–151, §118(a)(6), redesignated existing provisions as subpar. (A) and added subpar. (B).

1979—Subsec. (a)(3), (4). Pub. L. 96–70 substituted in pars. (3) and (4) ''areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)'' for ''Canal Zone'' wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1999, see section 3550(c)(3) of Pub. L. 105–85, set out as a note under section 5724 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 101(m) [title VI, §628(a)(2)] of Pub. L. 100–202 provided that: ''The amendments made by paragraph (2) [probably means par. (1) which amended this section] shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section [Dec. 22, 1987].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–234 effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99–234, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT; PROMULGATION OF REGULATIONS

Amendment by Pub. L. 98–151 and promulgation of regulations for amendments by Pub. L. 98–151 effective Nov. 14, 1983, see section 118(c) of Pub. L. 98–151, set out as a note under section 5724 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EXTENSION OF PAYMENT OF RELOCATION EXPENSES TO PUERTO RICO, NORTHERN MARIANA ISLANDS, AND TERRITORIES AND POSSESSIONS OF THE UNITED STATES

Pub. L. 105–277, div. A, §101(b) [title I, §125], Oct. 21, 1998, 112 Stat. 2681–50, 2681–74, provided that: ''Effective with the enactment of this Act [Oct. 21, 1998], and in

any fiscal year hereafter, the Attorney General and the Secretary of the Treasury may, for their respective agencies, extend the payment of relocation expenses listed in section 5724a(b)(1) of Title 5 of the United States Code to include the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.''

FUNDING OF AMENDMENTS BY PUB. L. 98–151

Amendments by Pub. L. 98–151 to be carried out be agencies by use of funds appropriated or otherwise available for administrative expenses of such agencies, and do not authorize appropriation of funds in amounts exceeding sums already authorized to be appropriated for such agencies, see section 118(b) of Pub. L. 98–151, set out as a note under section 5724 of this title.

§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

(a) Under regulations prescribed under section 5738 of this title and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of substantially all of the Federal, State, and local income taxes incurred by an employee, or by an employee and such employee's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee and spouse, as the case may be,[1] would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

(b) For the purposes of this section, ''moving or storage expenses'' means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5724c of this title.

(Added Pub. L. 98–151, § 118(a)(7)(A)(i), Nov. 14, 1983, 97 Stat. 978; amended Pub. L. 98–473, title I, § 120(b), Oct. 12, 1984, 98 Stat. 1969; Pub. L. 104–201, div. A, title XVII, § 1723(b)(1), Sept. 23, 1996, 110 Stat. 2759.)

CODIFICATION

Prior to amendment by Pub. L. 98–473, the words ''as the case may be'' were preceded by ''the employee, or the employee and spouse,''.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–201 substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

1984—Pub. L. 98–473 amended section generally, substituting ''reimbursement of substantially all of the Federal, State, and local income taxes'' for ''reimbursement of all or part of the Federal, State, and city income taxes'' and ''for which the employee and spouse, as the case may be'' for ''for which the employee, or the employee and spouse, as the case may be'' in subsec. (a) and ''5724c'' for ''5726(c)'' in subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

[1] See Codification note below.

EFFECTIVE DATE; PROMULGATION OF REGULATIONS

Enactment by Pub. L. 98–151 and promulgation of regulations for amendments by Pub. L. 98–151 effective Nov. 14, 1983, see section 118(c) of Pub. L. 98–151, set out as an Effective Date of 1983 Amendment; Promulgation of Regulations note under section 5724 of this title.

FUNDING OF AMENDMENTS BY PUB. L. 98–151

Amendments by Pub. L. 98–151 to be carried out by agencies by use of funds appropriated or otherwise available for administrative expenses of such agencies, and do not authorize appropriation of funds in amounts exceeding sums already authorized to be appropriated for such agencies, see section 118(b) of Pub. L. 98–151, set out as a note under section 5724 of this title.

§ 5724c. Relocation services

Under regulations prescribed under section 5738 of this title, each agency may enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out this subchapter. An agency may pay a fee for such services. Such services include arranging for the purchase of a transferred employee's residence.

(Added Pub. L. 98–151, § 118(a)(7)(A)(i), Nov. 14, 1983, 97 Stat. 978; amended Pub. L. 98–473, title I, § 120(b), Oct. 12, 1984, 98 Stat. 1969; Pub. L. 104–201, div. A, title XVII, § 1713(b), Sept. 23, 1996, 110 Stat. 2754.)

AMENDMENTS

1996—Pub. L. 104–201 amended section generally. Prior to amendment, section read as follows: ''Under such regulations as the President may prescribe, each agency is authorized to enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employee's residence.''

1984—Pub. L. 98–473 amended section generally, adding authority of the President to prescribe regulations.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

EFFECTIVE DATE; PROMULGATION OF REGULATIONS

Enactment by Pub. L. 98–151 and promulgation of regulations for amendments by Pub. L. 98–151 effective Nov. 14, 1983, see section 118(c) of Pub. L. 98–151, set out as an Effective Date of 1983 Amendment; Promulgation of Regulations note under section 5724 of this title.

FUNDING OF AMENDMENTS BY PUB. L. 98–151

Amendments by Pub. L. 98–151 to be carried out by agencies by use of funds appropriated or otherwise available for administrative expenses of such agencies, and do not authorize appropriation of funds in amounts exceeding sums already authorized to be appropriated for such agencies, see section 118(b) of Pub. L. 98–151, set out as a note under section 5724 of this title.

§ 5724d. Transportation and moving expenses for immediate family of certain deceased Federal employees

(a) IN GENERAL.—Under regulations prescribed by the President, the head of the agency concerned (or a designee) may determine that a covered employee died as a result of personal injury sustained while in the performance of the employee's duty and authorize or approve the pay-

ment by the agency, from Government funds, of—

(1) any qualified expense of the immediate family of the covered employee attributable to a change in their place of residence, if the place where the immediate family will reside following the death of the employee is—

(A) different from the place where the immediate family resided at the time of the employee's death; and

(B) within the United States; and

(2) any expense of preparing and transporting the remains of the deceased to—

(A) the place where the immediate family will reside following the death of the employee; or

(B) such other place appropriate for interment as is determined by the agency head (or designee).

(b) NO DUPLICATE PAYMENT OF EXPENSES.—No expenses may be paid under this section if those expenses are paid from Government funds under section 5742 or any other authority.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''covered employee'' means—

(A) a law enforcement officer, as defined in section 5541;

(B) any employee in or under the Federal Bureau of Investigation who is not described in subparagraph (A); and

(C) a customs and border protection officer, as defined in section 8331(31); and

(2) the term ''qualified expense'', as used with respect to an immediate family changing its place of residence, means the transportation expenses of the immediate family, the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods and personal effects of such immediate family, not in excess of 18,000 pounds net weight, and, when authorized or approved by the agency head (or designee), the transportation of 1 privately owned motor vehicle.

(Added Pub. L. 111–178, § 2(a), June 9, 2010, 124 Stat. 1262.)

NO RELEVANCE AS TO COMPENSATION CLAIMS

Pub. L. 111–178, § 2(b), June 9, 2010, 124 Stat. 1263, provided that: ''No determination made under section 5724d of title 5, United States Code, shall be deemed relevant to or be considered in connection with any claim for compensation under chapter 81 of that title or under any other law under which compensation may be provided on account of death or personal injury, nor shall any determination made with respect to any such claim be deemed relevant to or be considered in connection with any request for payment of expenses under such section 5724d.''

§ 5725. Transportation expenses; employees assigned to danger areas

(a) When an employee of the Government is on duty, or is transferred or assigned to duty, at a place designated by the head of the agency concerned as inside a zone—

(1) from which his immediate family should be evacuated; or

(2) to which they are not permitted to accompany him;

because of military or other reasons which create imminent danger to life or property, or adverse living conditions which seriously affect the health, safety, or accommodations of the immediate family, Government funds may be used to transport his immediate family and household goods and personal effects, under regulations prescribed by the head of the agency, to a location designated by the employee. When circumstances prevent the employee from designating a location, or it is administratively impracticable to determine his intent, the immediate family may designate the location. When the designated location is inside a zone to which movement of families is prohibited under this subsection, the employee or his immediate family may designate an alternate location.

(b) When the employee is assigned to a duty station from which his immediate family is not excluded by the restrictions in subsection (a) of this section, Government funds may be used to transport his immediate family and household goods and personal effects from the designated or alternate location to the duty station.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 503; Pub. L. 105–264, § 6(6), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–1(d).	Sept. 23, 1960, ch. 1010, § 1(c), 64 Stat. 985.

The word ''employee'' is substituted for ''civilian officers and employees'' in view of the definition of ''employee'' in sections 5721 and 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–264 substituted ''Government'' for ''United States'' in introductory provisions.

§ 5726. Storage expenses; household goods and personal effects

(a) For the purpose of subsection (b) of this section, ''household goods and personal effects'' means such personal property of an employee and his dependents as authorized under regulations prescribed under section 5738 of this title to be transported or stored, including, in emergencies, motor vehicles authorized to be shipped at Government expense.

(b) Under regulations prescribed under section 5738 of this title, an employee, including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title, assigned to a permanent duty station outside the continental United States may be allowed storage expenses and related transportation and other expenses for his household goods and personal effects when—

(1) the duty station is one to which he cannot take or at which he is unable to use his household goods and personal effects; or

(2) the head of the agency concerned authorizes storage of the household goods and personal effects in the public interest or for reasons of economy.

The weight of the household goods and personal effects stored under this subsection, together

with the weight of property transported under section 5724(a), may not exceed 18,000 pounds net weight, excluding a motor vehicle described by subsection (a) of this section.

(c) Under regulations prescribed under section 5738 of this title, when an employee, including a new appointee and a student trainee to the extent authorized by section 5723 of this title, is assigned to a permanent duty station at an isolated location in the continental United States to which he cannot take or at which he is unable to use his household goods and personal effects because of the absence of residence quarters at the location, nontemporary storage expenses or storage at Government expense in Government-owned facilities (including related transportation and other expenses), whichever is more economical, may be allowed the employee under regulations prescribed by the head of the agency concerned. The weight of property stored under this subsection, together with the weight of property transported under sections 5723(a) and 5724(a) of this title, may not exceed the total maximum weight the employee would be entitled to have moved. The period of nontemporary storage under this subsection may not exceed 3 years.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 504; Pub. L. 90–83, §1(38), Sept. 11, 1967, 81 Stat. 205; Pub. L. 98–151, §118(a)(2), Nov. 14, 1983, 97 Stat. 977; Pub. L. 104–201, div. A, title XVII, §1723(b)(1), (3), Sept. 23, 1996, 110 Stat. 2759.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–1(e).	Sept. 6, 1960, Pub. L. 86–707, §301(c)(2), (d) (as applicable to the Administrative Expenses Act of 1946, as amended), 74 Stat. 796.

The word ''employee'' is substituted for ''civilian officer or employee'' in view of the definition of ''employee'' in sections 5721 and 2105.

In subsection (b), the words ''including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title'' are substituted for ''including any new appointee in accordance with section 73b–3 of this title'' for clarity and reflect the codification of former section 73b–3 in this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5726(c)	5 App.: 73b–4c.	July 21, 1966, Pub. L. 89–516, §2 ''Sec. 25'', 80 Stat. 324.

The amendment of subsection (a) of 5 U.S.C. 5726 reflects the addition of a new subsection (c).

Subsection (b) of 5 U.S.C. 5726 was derived from subsection (e) of section 1 of the Administrative Expenses Act of 1946, as amended (74 Stat. 796). In the codification of subsection (e), the words ''7,000 pounds net weight'' were substituted for ''the maximum weight limitation provided by subsection (a)''. During the pendency of the codification bill, section 1(a)(2) of Public Law 89–516, amended subsection (a) of section 1 of the Administrative Expenses Act of 1946 to increase the maximum weight limitation from 7,000 to 11,000 pounds. Thus, the amendment of subsection (b) is necessary to reflect the current weight limitation applicable.

In subsection (c), the word ''employee'' is substituted for ''civilian officer or employee'' to conform to the definitions in 5 U.S.C. 5721(2) and 2105. The words ''including a new appointee and a student trainee to the extent authorized by section 5723 of this title'' are substituted for ''including any new appointee in accordance with section 7(b) of this Act, as amended'' for clarity and to reflect the codification of section 7(b) in 5 U.S.C. 5723. The words ''continental United States'' are coextensive with and substituted for ''continental United States, excluding Alaska'' on authority of the definition of ''continental United States'' in 5 U.S.C. 5721(3). The words ''head of the agency concerned'' are substituted for ''head of the Executive Department or agency concerned'' to conform to the definition in 5 U.S.C. 5721(1). In the penultimate sentence, the words ''sections 5723(a) and 5724(a) of this title'' are substituted for ''section 1 or 7(b) of this Act'' to reflect the codification of sections 1 and 7(b) in 5 U.S.C. 5723(a) and 5724(a); and the word ''officer'' is omitted as included in ''employee''. In the last sentence, the words ''under this subsection'' are inserted for clarity.

Subsection (b) of section 25 of the Administrative Expenses Act of 1946 (added by section 2 of Public Law 89–516) is omitted as executed.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–201, §1723(b)(3), substituted ''as authorized under regulations prescribed under section 5738 of this title'' for ''as the President may by regulation authorize''.

Subsecs. (b), (c). Pub. L. 104–201, §1723(b)(1), substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

1983—Subsec. (b). Pub. L. 98–151 substituted ''18,000'' for ''11,000''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT; PROMULGATION OF REGULATIONS

Amendment by Pub. L. 98–151 and promulgation of regulations for amendments by Pub. L. 98–151 effective Nov. 14, 1983, see section 118(c) of Pub. L. 98–151, set out as a note under section 5724 of this title.

FUNDING OF AMENDMENTS BY PUB. L. 98–151

Amendments by Pub. L. 98–151 to be carried out by agencies by use of funds appropriated or otherwise available for administrative expenses of such agencies, and do not authorize appropriation of funds in amounts exceeding sums already authorized to be appropriated for such agencies, see section 118(b) of Pub. L. 98–151, set out as a note under section 5724 of this title.

§ 5727. Transportation of motor vehicles

(a) Except as specifically authorized by statute, an authorization in a statute or regulation to transport the effects of an employee or other individual at Government expense is not an authorization to transport an automobile.

(b) Under regulations prescribed under section 5738 of this title, the privately owned motor vehicle of an employee, including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title, may be transported at Government expense to, from, and between the continental United States and a post of duty outside the continental United States, or between posts of duty outside the continental United States, when—

(1) the employee is assigned to the post of duty for other than temporary duty; and

(2) the head of the agency concerned determines that it is in the interest of the Government for the employee to have the use of a motor vehicle at the post of duty.

(c) Under regulations prescribed under section 5738 of this title, the privately owned motor vehicle or vehicles of an employee, including a new appointee or a student trainee for whom travel and transportation expenses are authorized under section 5723 of this title, may be transported at Government expense to a new official station of the employee when the agency determines that such transport is advantageous and cost-effective to the Government.

(d) An employee may transport only one motor vehicle under subsection (b) of this section during a 4-year period, except when the head of the agency concerned determines that replacement of the motor vehicle during the period is necessary for reasons beyond the control of the employee and is in the interest of the Government, and authorizes in advance the transportation under subsection (b) of this section of one additional privately owned motor vehicle as a replacement. When an employee has remained in continuous service outside the continental United States during the 4-year period after the date of transportation under subsection (b) of this section of his motor vehicle, the head of the agency concerned may authorize transportation under subsection (b) of this section of a replacement for that motor vehicle.

(e) When the head of an agency authorizes transportation under subsection (b) or (c) of this section of a privately owned motor vehicle, the transportation may be by—

(1) commercial means, if available at reasonable rates and under reasonable conditions; or

(2) Government means on a space-available basis.

(f)(1) This section, except subsection (a), does not apply to—

(A) the Foreign Service of the United States; or

(B) the Central Intelligence Agency.

(2) This section, except subsection (a), does not affect section 403e(4) of title 50.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 504; Pub. L. 96–465, title II, § 2314(e), Oct. 17, 1980, 94 Stat. 2168; Pub. L. 104–201, div. A, title XVII, §§ 1715(a), 1723(b)(1), Sept. 23, 1996, 110 Stat. 2755, 2759; Pub. L. 105–264, § 6(7), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 73c.	June 30, 1932, ch. 314, § 209, 47 Stat. 405. Apr. 30, 1940, ch. 172, 54 Stat. 174. Aug. 13, 1946, ch. 957, § 1131(64), 60 Stat. Stat. 1040.
(b)–(e)	5 U.S.C. 73b–1(f).	Sept. 6, 1960, Pub. L. 86–707, § 321, 74 Stat. 797. Feb. 5, 1964, Pub. L. 88–266, 78 Stat. 8.

In subsection (a), the proviso in former section 73c is omitted as superseded by section 2634 of title 10, and by former section 73b–1(f), which is carried into subsections (b)–(e).

In subsection (b), the words ''including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title'' are substituted for ''including any new appointee, in accordance with section 73b–3 of this title'' for clarity and reflect the codification of former section 73b–3 in this title. The words ''at Government expense'' are inserted for clarity.

The last sentence of subsection (f) of former section 73b–1 which provided that for the purposes of that subsection and subsection (e), which is carried into section 5726, Alaska shall be considered to be outside the continental limits of the United States is omitted as unnecessary in view of the definition of ''continental United States'' in section 5721(4).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–264 substituted ''continental United States'' for ''United States''.

1996—Subsec. (b). Pub. L. 104–201, § 1723(b)(1), in introductory provisions, substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

Subsec. (c). Pub. L. 104–201, § 1715(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104–201, § 1715(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104–201, § 1715(a)(3), inserted ''or (c)'' after ''subsection (b)''.

Pub. L. 104–201, § 1715(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 104–201, § 1715(a)(1), redesignated subsec. (e) as (f).

1980—Subsec. (e)(2). Pub. L. 96–465 substituted ''section 403e(4) of title 50'' for ''(A) section 1138 of title 22; or'' and struck out ''(B) section 403e(4) of title 50''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

§ 5728. Travel and transportation expenses; vacation leave

(a) Under regulations prescribed under section 5738 of this title, an agency shall pay from its appropriations the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty outside the continental United States, Alaska, and Hawaii to the place of his actual residence at the time of appointment or transfer to the post of duty, after he has satisfactorily completed an agreed period of service outside the continental United States, Alaska, and Hawaii and is returning to his actual place of residence to take leave before serving another tour of duty at the same or another post of duty outside the continental United States, Alaska, and Hawaii under a new written agreement made before departing from the post of duty.

(b) Under regulations prescribed under section 5738 of this title, an agency shall pay from its appropriations the expenses of round-trip travel

of an employee of the Government appointed by the President, by and with the advice and consent of the Senate, for a term fixed by statute, and of transportation of his immediate family, but not household goods, from his post of duty outside the continental United States, Alaska, and Hawaii to the place of his actual residence at the time of appointment to the post of duty, after he has satisfactorily completed each 2 years of service outside the continental United States, Alaska, and Hawaii and is returning to his actual place of residence to take leave before serving at least 2 more years of duty outside the continental United States, Alaska, and Hawaii.

(c)(1) Under regulations prescribed under section 5738 of this title, an agency may pay, subject to paragraph (3) of this subsection, the expenses described in paragraph (2) of this subsection in any case in which the head of the agency determines that the payment of such expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii.

(2) The expenses payable under paragraph (1) of this subsection are the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty in Alaska or Hawaii to the place of his actual residence at the time of appointment or transfer to the post of duty, incurred after he has satisfactorily completed an agreed period of service in Alaska or Hawaii and in returning to his actual place of residence to take leave before serving another tour of duty at the same or another post of duty in Alaska or Hawaii under a new written agreement made before departing from the post of duty.

(3) The payment of expenses of any employee and the transportation of his family under paragraph (1) of this subsection is limited to the expenses of travel and transportation incurred for not more than two round trips commenced within 5 years after the date the employee first commences any period of consecutive tours of duty in Alaska or Hawaii.

(d) This section does not apply to appropriations for the Foreign Service of the United States.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 505; Pub. L. 97–253, title III, § 351(a), (b), Sept. 8, 1982, 96 Stat. 800; Pub. L. 104–201, div. A, title XVII, § 1723(b)(1), Sept. 23, 1996, 110 Stat. 2759; Pub. L. 105–264, § 6(8), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 73b–3(a) (3d proviso).	Aug. 31, 1954, ch. 1155 (1st proviso), 68 Stat. 1008.
(b)	5 U.S.C. 73b–3(a) (4th proviso).	Sept. 2, 1958, Pub. L. 85–858, 72 Stat. 1274.

The first 14 words of subsections (a) and (b), and subsection (c), are added on authority of former section 73b–3(a) (less 3d–6th provisos), which is carried into section 5722.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–264 substituted ''an employee of the Government'' for ''an employee of the United States''.

1996—Subsecs. (a) to (c)(1). Pub. L. 104–201, § 1723(b)(1), substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

1982—Subsecs. (a), (b). Pub. L. 97–253, § 351(a), inserted '', Alaska, and Hawaii'' after ''continental United States'' wherever appearing.

Subsecs. (c), (d). Pub. L. 97–253, § 351(b), added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 351(c), (d) of Pub. L. 97–253, as amended by Pub. L. 97–346, § 3(m), Oct. 15, 1982, 96 Stat. 1649, provided that:

''(c)(1) Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect with respect to expenses incurred after the date of enactment of this Act [Sept. 8, 1982] for round-trip travel (commenced after such date) of an employee or transportation of his immediate family from his post of duty to the place of his actual residence at the time of appointment or transfer to the post of duty.

''(2) The amendments made by this section [amending this section] shall not apply to any employee who is serving a tour of duty at a post of duty in Alaska or Hawaii on the date of the enactment of this Act [Sept. 8, 1982] during—

''(A) such tour of duty, and

''(B) any other consecutive tour of duty following such tour of duty.

''(d) For the purposes of subsection (c), the term 'employee' shall have the same meaning as provided in section 5721(2) of title 5, United States Code.''

§ 5729. Transportation expenses; prior return of family

(a) Under regulations prescribed under section 5738 of this title, an agency shall pay from its appropriations, not more than once before the return to the United States of an employee whose post of duty is outside the continental United States, the expenses of transporting his immediate family and of shipping his household goods and personal effects from his post of duty to his actual place of residence when—

(1) he has acquired eligibility for that transportation; or

(2) the public interest requires the return of the immediate family for compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental health, death of a member of the immediate family, or obligation imposed by authority or circumstances over which the individual has no control.

(b) Under regulations prescribed under section 5738 of this title, an agency shall reimburse from its appropriations an employee whose post of duty is outside the continental United States for the proper transportation expenses of returning his immediate family and his household goods and personal effects to the United States, when—

(1) their return was made at the expense of the employee before his return and for other than reasons of public interest; and

(2) he acquires eligibility for those transportation expenses.

(c) This section does not apply to appropriations for the Foreign Service of the United States.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 505; Pub. L. 104–201, div. A, title XVII, § 1723(b)(1), Sept. 23, 1996, 110 Stat. 2759; Pub. L. 105–264, § 6(9), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–3(a) (5th and 6th provisos).	Aug. 31, 1954, ch. 1155 (less 1st proviso), 68 Stat. 1008.

The first 14 words of subsections (a) and (b), and subsection (c), are added on authority of former section 73b–3(a) (less 3d–6th provisos), which is carried into section 5722. The words ''household effects'' and ''household goods'' in the 5th and 6th provisos of former section 73b–3(a) are changed to ''household goods and personal effects'' for clarity and consistency in the use of the words elsewhere in this subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–264 struck out ''or its territories or possessions'' after ''to the United States''.

1996—Subsecs. (a), (b). Pub. L. 104–201 substituted ''Under regulations prescribed under section 5738 of this title'' for ''Under such regulations as the President may prescribe''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

§ 5730. Funds available

Funds available for travel expenses of an employee are available for expenses of transportation of his immediate family, and funds available for transportation of things are available for transportation of household goods and personal effects, as authorized by this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 506.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–1(c).	Aug. 2, 1946, ch. 744, § 1(c). 60 Stat. 807.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5731. Expenses limited to lowest first-class rate

(a) The allowance for actual expenses for transportation may not exceed the lowest first-class rate by the transportation facility used unless it is certified, in accordance with regulations prescribed under section 5738 of this title, that—

(1) lowest first-class accommodations are not available; or

(2) use of a compartment or other accommodation authorized or approved by the head of the agency concerned or his designee is required for security purposes.

(b) Instead of the maximum fixed by subsection (a) of this section, the allowance to an employee of the Government for actual expenses for transportation on an inter-island steamship in Hawaii may not exceed the rate for accommodations on the steamship that is equivalent as nearly as possible to the rate for the lowest first-class accommodations on trans-pacific steamships.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 506; Pub. L. 104–201, div. A, title XVII, § 1723(b)(4), Sept. 23, 1996, 110 Stat. 2759; Pub. L. 105–264, § 6(10), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 73b.	Mar. 3, 1933, ch. 212, § 10, 47 Stat. 1516. Aug. 2, 1946, ch. 744, § 6, 60 Stat. 808.
(b)	5 U.S.C. 73e.	May 28, 1938, ch. 289, § 811, 52 Stat. 577.

In subsection (a), the words ''by or under authority of law'' are omitted as surplusage.

In subsection (b), the words ''by or under authority of law'' are omitted as surplusage. The words ''after the date of the enactment of this Act'' are omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–264 substituted ''Government'' for ''United States''.

1996—Subsec. (a). Pub. L. 104–201 substituted ''in accordance with regulations prescribed under section 5738 of this title'' for ''in accordance with regulations prescribed by the President''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of this title.

§ 5732. General average contribution; payment or reimbursement

Under such regulations as the President may prescribe, appropriations chargeable for the transportation of baggage and household goods and personal effects of employees of the Government, volunteers as defined by section 8142(a) of this title, and members of the uniformed services are available for the payment or reimbursement of general average contributions required. Appropriations are not available for the payment or reimbursement of general average contributions—

(1) required in connection with and applicable to quantities of baggage and household goods and personal effects in excess of quantities authorized by statute or regulation to be transported;

(2) when the individual concerned is allowed under statute or regulation a commutation instead of actual transportation expenses; or

(3) when the individual concerned selected the means of shipment.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 506; Pub. L. 105–264, § 6(11), Oct. 19, 1998, 112 Stat. 2356.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 73b–5.	June 4, 1954, ch. 264, § 4, 68 Stat. 176.
.....	22 U.S.C. 2504(h) (as applicable to 5 U.S.C. 73b–5).	Dec. 13, 1963, Pub. L. 88–200, § 2(e) (as applicable to the Act of June 4, 1954, ch. 264, § 4 (5 U.S.C. 73b–5)), 77 Stat. 360.

The word ''personal'' is added before the word ''effects'' for clarity and to preserve consistency throughout this subchapter. The words ''employees of the United States . . . and members of the uniformed services'' are substituted for ''military personnel and civilian employees of departments and agencies of the Federal Government''. The words ''a volunteer as defined by section 8142(a) of this title'' are based on sections 2504(a), 2505, and 2507 (a) of title 22. The words ''pursuant to law'' are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Pub. L. 105–264 substituted ''Government'' for ''United States'' in introductory provisions.

EX. ORD. NO. 10614. PAYMENT OF GENERAL-AVERAGE CONTRIBUTIONS IN CONNECTION WITH TRANSPORTATION OF EFFECTS

Ex. Ord. No. 10614, May 25, 1955, 20 F.R. 3699, provided:

SECTION 1. *Definitions*. As used in these regulations:

(a) The term ''military personnel'' means members and former and deceased members of the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (63 Stat. 804) [37 U.S.C. 101].

(b) The term ''civilian employees'' means civilian officers and employees of a department, including Foreign Service personnel, and former and deceased civilian officers and employees.

(c) The terms ''military personnel'' and ''civilian employees'' shall also include those individuals enumerated under the term ''person'' as defined in section 1 of the Missing Persons Act, as amended [now section 5561 of this title].

(d) The term ''department'' means an executive department, independent establishment, or other agency of the Federal Government, including wholly-owned or controlled Government corporations.

(e) The term ''general-average contribution'' means the contribution by all parties to a sea venture (1) to make good the loss sustained by any one of their number on account of voluntary sacrifices made of part of the ship or cargo to save the residue or the lives of those on board from impending peril, or (2) for extraordinary expenses necessarily incurred for the common benefit and safety of all.

(f) The term ''household goods'' means such baggage, household goods, and effects, including privately-owned automobiles and professional books, papers, and equipment, of military personnel and civilian employees as are authorized to be transported at Government expense by law or regulations pursuant to law.

SEC. 2. *Allowance of general-average contributions*. Whenever military personnel or civilian employees of a department are liable for general-average contributions arising out of shipments of household goods (as defined in section 1 (f) hereof), authorized or approved under law or regulations pursuant to law, disbursements shall be made, under rules and regulations prescribed by the head of the department concerned, from appropriations chargeable for the transportation of baggage and household goods and effects (a) for the payment of the general-average contributions for which such military personnel or civilian employees are liable, or (b) for the reimbursement of such military personnel or civilian employees in the amounts of their general-average liability paid by them and for which receipts are furnished, subject to the limitations set forth in section 3 hereof.

SEC. 3. *Limitations*. The provisions of section 2 hereof shall not apply:

(a) In case the shipment of household goods is made under law or regulation pursuant to law which provides for reimbursement to the military person or civilian employee concerned on a commuted basis in lieu of payment by the Government of the actual costs of the shipment; or

(b) In case the military person or civilian employee concerned has himself selected the means of shipment; or

(c) To quantities of household goods (excluding automobiles) shipped in excess of quantities authorized to be transported by law or regulation pursuant to law. In any case of such excess shipment, the liability of the Government for the employee's general-average contribution shall not exceed the proportion that the applicable limitation, by weight or volume, bears to the total quantity, by weight or volume, of the household goods shipped.

SEC. 4. *Effective date*. This order shall be effective in any case in which the loss involved occurs, or has occurred, on or after June 4, 1954.

DWIGHT D. EISENHOWER.

§ 5733. Expeditious travel

The travel of an employee shall be by the most expeditious means of transportation practicable and shall be commensurate with the nature and purpose of the duties of the employee requiring such travel.

(Added Pub. L. 90–206, title II, § 222(c)(1), Dec. 16, 1967, 81 Stat. 641.)

EFFECTIVE DATE

Section effective thirty days after Dec. 16, 1967, see section 220(a)(4) of Pub. L. 90–206, set out as an Effective Date of 1967 Amendment note under section 5542 of this title.

§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service

Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employees within the meaning of this chapter.

(Added Pub. L. 99–234, title I, § 106(a), Jan. 2, 1986, 99 Stat. 1758.)

EFFECTIVE DATE

Section effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99–234, set out as an Effective Date of 1986 Amendment note under section 5701 of this title.

§ 5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service

(a) IN GENERAL.—Notwithstanding any other provision of law, employees of the Department

of Defense described in subsection (b) may be authorized travel, transportation, and relocation expenses and allowances in connection with appointments referred to in such subsection under the same conditions and to the same extent authorized by this subchapter for transferred employees.

(b) COVERED EMPLOYEES.—Subsection (a) applies to any employee of the Department of Defense who—

(1) is scheduled for separation from the Department, other than for cause;

(2) is selected for appointment to a continuing position with the United States Postal Service; and

(3) accepts the appointment.

(Added Pub. L. 103–337, div. A, title III, § 345(a)(1), Oct. 5, 1994, 108 Stat. 2723.)

EFFECTIVE DATE

Section 345(b) of Pub. L. 103–337 provided that: ''The amendments made by subsection (a) [enacting this section] shall apply to persons separated from employment with the Department of Defense on or after the date of the enactment of this Act [Oct. 5, 1994].''

§ 5736. Travel, transportation, and relocation expenses of certain nonappropriated fund employees

An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) of this title who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for transferred employees.

(Added Pub. L. 104–201, div. A, title XVI, § 1605(a)(1), Sept. 23, 1996, 110 Stat. 2736.)

EFFECTIVE DATE

Section 1605(b) of Pub. L. 104–201 provided that: ''Section 5736 of title 5, United States Code (as added by subsection (a)(1)), shall apply to moves between positions as described in such section that are effective on or after October 1, 1996.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5737. Relocation expenses of an employee who is performing an extended assignment

(a) Under regulations prescribed under section 5738 of this title, an agency may pay to or on behalf of an employee assigned from the employee's official station to a duty station for a period of not less than six months and not greater than 30 months, the following expenses in lieu of payment of expenses authorized under subchapter I of this chapter:

(1) Travel expenses to and from the assignment location in accordance with section 5724 of this title.

(2) Transportation expenses of the immediate family and household goods and personal effects to and from the assignment location in accordance with section 5724 of this title.

(3) A per diem allowance for en route travel of the employee's immediate family to and from the assignment location in accordance with section 5724a(a) of this title.

(4) Travel and transportation expenses of the employee and spouse to seek new residence quarters at the assignment location in accordance with section 5724a(b) of this title.

(5) Subsistence expenses of the employee and the employee's immediate family while occupying temporary quarters upon commencement and termination of the assignment in accordance with section 5724a(c) of this title.

(6) An amount, in accordance with section 5724a(f), to be used by the employee for miscellaneous expenses of this title.[1]

(7) The expenses of transporting a privately owned motor vehicle or vehicles to the assignment location in accordance with section 5727 of this title.

(8) An allowance as authorized under section 5724b of this title for Federal, State, and local income taxes incurred on reimbursement of expenses paid under this section or on services provided in kind under this section.

(9) Expenses of nontemporary storage of household goods and personal effects as defined in section 5726(a) of this title, subject to the limitation that the weight of the household goods and personal effects stored, together with the weight of property transported under section 5724(a) of this title, may not exceed the total maximum weight which could be transported in accordance with section 5724(a) of this title.

(10) Expenses of property management services.

(b) An agency shall not make payment under this section to or on behalf of the employee for expenses incurred after termination of the temporary assignment.

(Added Pub. L. 104–201, div. A, title XVII, § 1716, Sept. 23, 1996, 110 Stat. 2756.)

EFFECTIVE DATE

Section effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 5722 of this title.

§ 5737a. Employees temporarily deployed in contingency operations

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''covered employee'' means an individual who—

(A) is an employee of an Executive agency or a military department, excluding a Government controlled corporation; and

(B) is assigned on a temporary change of station in support of a contingency operation;

(2) the term ''temporary change of station'', as used with respect to an employee, means an assignment—

[1] So in original.

(A) from the employee's official duty station to a temporary duty station; and

(B) for which such employee is eligible for expenses under section 5737; and

(3) the term ''contingency operation'' has the meaning given such term by section 1482a(c) of title 10.

(b) QUARTERS AND RATIONS.—The head of an agency may provide quarters and rations, without charge, to any covered employee of such agency during the period of such employee's temporary assignment (as described in subsection (a)(1)(B)).

(c) STORAGE OF MOTOR VEHICLE.—The head of an agency may provide for the storage, without charge, or for the reimbursement of the cost of storage, of a motor vehicle that is owned or leased by a covered employee of such agency (or by a dependent of such an employee) and that is for the personal use of the covered employee. This subsection shall apply—

(1) with respect to storage during the period of the employee's temporary assignment (as described in subsection (a)(1)(B)); and

(2) in the case of a covered employee, with respect to not more than one motor vehicle as of any given time.

(d) RELATIONSHIP TO OTHER BENEFITS.—Any benefits under this section shall be in addition to (and not in lieu of) any other benefits for which the covered employee is otherwise eligible.

(Added Pub. L. 110–181, div. A, title XI, § 1104(a), Jan. 28, 2008, 122 Stat. 346.)

§ 5738. Regulations

(a)(1) Except as specifically provided in this subchapter, the Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter.

(2) The Administrator of General Services shall include in the regulations authority for the head of an agency or his designee to waive any limitation of this subchapter or in any implementing regulation for any employee relocating to or from a remote or isolated location who would suffer hardship if the limitation were not waived. A waiver of a limitation under authority provided in the regulations pursuant to this paragraph shall be effective notwithstanding any other provision of this subchapter.

(b) In prescribing regulations for the implementation of section 5724b of this title, the Administrator of General Services shall consult with the Secretary of the Treasury.

(c) The Secretary of Defense shall prescribe regulations necessary for the implementation of section 5735 of this title.

(Added Pub. L. 104–201, div. A, title XVII, § 1722, Sept. 23, 1996, 110 Stat. 2758.)

EFFECTIVE DATE

Section effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 5722 of this title.

§ 5739. Authority for relocation expenses test programs

(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official any necessary relocation expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

(b) The Administrator shall transmit a copy of any test program approved or extended by the Administrator under this section to the appropriate committees of the Congress at least 30 days before the effective date of the program or extension.

(c)(1) An agency authorized to conduct a test program under subsection (a) shall annually submit a report on the results of the program to date to the Administrator.

(2) Not later than 3 months after completion of a test program, the agency conducting the program shall submit a final report on the results of the program to the Administrator and the appropriate committees of Congress.

(d) No more than 12 test programs under this section may be conducted simultaneously.

(e)(1) The Administrator may not approve any test program for an initial period of more than 4 years.

(2)(A) Upon the request of the agency administering a test program, the Administrator may extend the program.

(B) An extension under subparagraph (A) may not exceed 4 years.

(C) The Administrator may exercise more than 1 extension under subparagraph (A) with respect to any test program.

(Added Pub. L. 105–264, § 5(b), Oct. 19, 1998, 112 Stat. 2355; amended Pub. L. 109–325, § 1(a), Oct. 11, 2006, 120 Stat. 1760; Pub. L. 111–112, § 1(a), Nov. 30, 2009, 123 Stat. 3024.)

AMENDMENTS

2009—Subsec. (a)(3). Pub. L. 111–112, § 1(a)(1), struck out par. (3) which read as follows: ''Nothing in this section is intended to limit the authority of any agency to conduct test programs.''

Subsec. (b). Pub. L. 111–112, § 1(a)(2), inserted ''or extended'' after ''approved'' and ''or extension'' after ''of the program''.

Subsec. (c). Pub. L. 111–112, § 1(a)(3), added subsec. (c) and struck out former subsec. (c) which read as follows: ''An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator and the appropriate committees of the Congress a report on the results of the program no later than 3 months after completion of the program.''

Subsec. (d). Pub. L. 111–112, § 1(a)(4), substituted ''12'' for ''10''.

Subsec. (e). Pub. L. 111–112, § 1(a)(5), added subsec. (e) and struck out former subsec. (e) which read as follows: ''The authority to conduct test programs under this section shall expire 11 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.''

2006—Subsec. (a)(1). Pub. L. 109–325, § 1(a)(1), struck out ''for a period not to exceed 24 months'' after ''disbursing official''.

Subsec. (e). Pub. L. 109–325, §1(a)(2), substituted ''11 years'' for ''7 years''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–112, §1(b), Nov. 30, 2009, 123 Stat. 3025, provided that: ''This section [amending this section] shall take effect on December 18, 2009.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–325, §1(b), Oct. 11, 2006, 120 Stat. 1760, provided that: ''The amendments made by this section [amending this section] shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).''

SUBCHAPTER III—TRANSPORTATION OF REMAINS, DEPENDENTS, AND EFFECTS

§ 5741. General prohibition

Except as specifically authorized by statute, the head of an Executive department or military department may not authorize an expenditure in connection with the transportation of remains of a deceased employee.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 506.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 103.	June 7, 1897, ch. 3, §1 (last proviso on p. 86), 30 Stat. 86.

The words ''a military department'' are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5742. Transportation of remains, dependents, and effects; death occurring away from official station or abroad

(a) For the purpose of this section, ''agency'' means—

(1) an Executive agency;

(2) a military department;

(3) an agency in the legislative branch; and

(4) an agency in the judicial branch.

(b) When an employee dies, the head of the agency concerned, under regulations prescribed by the President and, except as otherwise provided by law, may pay from appropriations available for the activity in which the employee was engaged—

(1) the expense of preparing and transporting the remains to the home or official station of the employee, or such other place appropriate for interment as is determined by the head of the agency concerned, if death occurred while the employee was in a travel status away from his official station in the United States or while performing official duties outside the continental United States or in transit thereto or therefrom;

(2) the expense of transporting his dependents, including expenses of packing, crating, draying, and transporting household effects and other personal property to his former home or such other place as is determined by the head of the agency concerned, if—

(A) the employee died while performing official duties outside the continental United States or in transit thereto or therefrom; or

(B) in the case of an employee who was a party to a mandatory mobility agreement that was in effect when the employee died—

(i) the employee died in the circumstances described in subparagraph (A); or

(ii)(I) the employee died as a result of disease or injury incurred while performing official duties—

(aa) in an overseas location that, at the time such employee was performing such official duties, was within the area of responsibility of the Commander of the United States Central Command; and

(bb) in direct support of or directly related to a military operation, including a contingency operation (as defined in section 101(13) of title 10) or an operation in response to an emergency declared by the President; and

(II) the employee's dependents were residing either outside the continental United States or within the continental United States when the employee died; and

(3) the travel expenses of not more than 2 persons to escort the remains of a deceased employee, if death occurred while the employee was in travel status away from his official station in the United States or while performing official duties outside the United States or in transit thereto or therefrom, from the place of death to the home or official station of such person, or such other place appropriate for interment as is determined by the head of the agency concerned.

(c) When a dependent of an employee dies while residing with the employee performing official duties outside the continental United States or in Alaska or in transit thereto or therefrom, the head of the agency concerned may pay the necessary expenses of transporting the remains to the home of the dependent, or such other place appropriate for interment as is determined by the head of the agency concerned. If practicable, the agency concerned in respect of the deceased may furnish mortuary services and supplies on a reimbursable basis when—

(1) local commercial mortuary facilities and supplies are not available; or

(2) the cost of available mortuary facilities and supplies are prohibitive in the opinion of the head of the agency.

Reimbursement for the cost of mortuary services and supplies furnished under this subsection shall be collected and credited to current appropriations available for the payment of these costs.

(d) The benefits of this section may not be denied because the deceased was temporarily absent from duty when death occurred.

(e) Employees covered by this section include an employee who has been reassigned away from the employee's home of record pursuant to a mandatory mobility agreement executed as a condition of employment.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 507; Pub. L. 101–510, div. A, title XII, § 1206(d), Nov. 5, 1990, 104 Stat. 1661; Pub. L. 105–277, div. A, § 101(d) [title V, § 589(b)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–210; Pub. L. 110–181, div. A, title XI, § 1103(a), Jan. 28, 2008, 122 Stat. 346.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)–(c)	5 U.S.C. 103a.	July 8, 1940, ch. 551, § 1, 54 Stat. 743. July 15, 1954, ch. 507, § 7(b), 68 Stat. 479.
(d)	5 U.S.C. 103b.	July 8, 1940, ch. 551, § 2, 54 Stat. 744.

Subsection (a) is based on the words ''department, independent establishment, agency, or federally owned or controlled corporation, hereinafter called department'' in former section 103a. The terms ''Executive agency'' and ''military department'' include a department, independent establishment, agency, or federally owned or controlled corporation in the executive branch because of the definitions in sections 105 and 102.

The words ''a military department'' are included to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force, as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Subsection (b) is restated for clarity and conciseness and to eliminate redundancy. In paragraphs (1) and (2), the words ''outside the United States'' are coextensive with and substituted for ''in a Territory or possession of the United States or in a foreign country''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110–181 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the expense of transporting his dependents, including expenses of packing, crating, draying, and transporting household effects and other personal property to his former home or such other place as is determined by the head of the agency concerned, if death occurred while the employee was performing official duties outside the continental United States or in transit thereto or therefrom; and''.

1998—Subsec. (b)(3). Pub. L. 105–277 added par. (3).

1990—Subsec. (b)(1), (2). Pub. L. 101–510, § 1206(d)(1), inserted ''continental'' after ''outside the''.

Subsec. (e). Pub. L. 101–510, § 1206(d)(2), added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title XI, § 1103(b), Jan. 28, 2008, 122 Stat. 346, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Jan. 28, 2008].''

DELEGATION OF FUNCTIONS

Authority of President under subsec. (b) of this section to prescribe regulations with respect to payment of expenses when an employee dies delegated to Administrator of General Services, see section 1(13) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Authority of President under subsec. (e) of this section delegated to Office of Personnel Management by section 6(b) of Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, eff. May 4, 1991, set out as a note under section 5301 of this title.

TRAVEL TO UNITED STATES FOR IMMEDIATE FAMILY OF EMPLOYEES SERVING ABROAD

Pub. L. 110–161, div. D, title VII, § 701, Dec. 26, 2007, 121 Stat. 2019, provided that: ''Hereafter, funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.''

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

AMENDMENTS

1970—Pub. L. 91–563, § 4(a), Dec. 19, 1970, 84 Stat. 1477, added heading of Subchapter IV.

§ 5751. Travel expenses of witnesses

(a) Under such regulations as the Attorney General may prescribe, an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives) summoned, or assigned by his agency, to testify or produce official records on behalf of the United States is entitled to travel expenses under subchapter I of this chapter. If the case involves the activity in connection with which he is employed, the travel expenses are paid from the appropriation otherwise available for travel expenses of the employee under proper certification by a certifying official of the agency concerned. If the case does not involve its activity, the employing agency may advance or pay the travel expenses of the employee, and later obtain reimbursement from the agency properly chargeable with the travel expenses.

(b) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives) summoned, or assigned by his agency, to testify in his official capacity or produce official records, on behalf of a party other than the United States, is entitled to travel expenses under subchapter I of this chapter, except to the extent that travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

(Added Pub. L. 91–563, § 4(a), Dec. 19, 1970, 84 Stat. 1477; amended Pub. L. 104–186, title II, § 215(9), Aug. 20, 1996, 110 Stat. 1746.)

AMENDMENTS

1996—Pub. L. 104–186 substituted ''Chief Administrative Officer'' for ''Clerk'' in subsecs. (a) and (b).

§ 5752. Travel expenses of Senior Executive Service candidates

Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requested by the employing agency.

(Added Pub. L. 95–454, title IV, § 409(b), Oct. 13, 1978, 92 Stat. 1173.)

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415(a)(1), (b) of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

§ 5753. Recruitment and relocation bonuses

(a)(1) This section may be applied to—

(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

(3) In this section, the term ''employee'' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

(b) The Office of Personnel Management may authorize the head of an agency to pay a bonus under this section to an individual only if—

(1) the position to which such individual is appointed (as described in paragraph (2)(A)) or to which such individual moves or must relocate (as described in paragraph (2)(B)) is likely to be difficult to fill in the absence of such a bonus; and

(2) the individual—

(A) is newly appointed as an employee of the Federal Government; or

(B)(i) is currently employed by the Federal Government; and

(ii)(I) moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

(II) must relocate to accept a position in a different geographic area.

(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not longer than 4 years. The Office may, by regulation, prescribe a minimum service period for purposes of this section.

(2)(A) The agreement shall include—

(i) the commencement and termination dates of the required service period (or provisions for the determination thereof);

(ii) the amount of the bonus;

(iii) the method of payment; and

(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

(ii) the effect of the termination.

(C) The required service period shall commence upon the commencement of service with the agency or movement to a new position or geographic area, as applicable, unless the service agreement provides for a later commencement date in circumstances and to the extent allowable under regulations of the Office, such as when there is an initial period of formal basic training.

(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year, as determined under regulations of the Office) in the required service period of the employee involved.

(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full period of service required by the agreement, or in a combination of these forms of payment.

(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the maximum bonus allowable shall—

(1) be equal to the maximum that would be determined if subsection (d)(1) were applied by substituting ''50'' for ''25''; but

(2) in no event exceed 100 percent of the annual rate of basic pay of the employee at the beginning of the service period.

Nothing in this subsection shall be considered to permit the waiver of any requirement under subsection (c).

(f) The Office shall require that an agency establish a plan for the payment of recruitment bonuses before paying any such bonuses, and a plan for the payment of relocation bonuses before paying any such bonuses, subject to regulations prescribed by the Office.

(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a bonus under this section in appropriate circumstances when the agreed-upon service period has not been completed.

(Added Pub. L. 108–411, title I, § 101(a)(1), Oct. 30, 2004, 118 Stat. 2305.)

PRIOR PROVISIONS

A prior section 5753, added Pub. L. 101–509, title V, § 529 [title II, § 208(a)], Nov. 5, 1990, 104 Stat. 1427, 1458, which related to recruitment and relocation bonuses, was repealed by Pub. L. 108–411, title I, § 101(a)(1), Oct. 30, 2004, 118 Stat. 2305.

EFFECTIVE DATE

Pub. L. 108–411, title I, § 101(d), Oct. 30, 2004, 118 Stat. 2310, provided that:

''(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section [enacting this section and section 5754 of this title, repealing former sections 5753 and 5754 of this title, and amending provisions set out as a note under section 5305 of this title] shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act [Oct. 30, 2004].

''(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to such section as in effect on the day before such effective date.

''(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to such section as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).''

§ 5754. Retention bonuses

(a)(1) This section may be applied to—

(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

(3) In this section, the term ''employee'' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee if—

(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

(A) the Federal service; or

(B) for a different position in the Federal service under conditions described in regulations of the Office.

(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

(d)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

(2)(A) The agreement shall include—

(i) the length of the required service period;

(ii) the amount of the bonus;

(iii) the method of payment; and

(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

(ii) the effect of the termination.

(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

(e)(1) Except as provided in subsection (f), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

(A) 25 percent of the employee's basic pay if paid under subsection (b); or

(B) 10 percent of an employee's basic pay if paid under subsection (c).

(2)(A) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement.

(B) An installment payment is derived by multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee.

(C) If the installment payment percentage established for the employee is less than the bonus percentage rate established for the employee, the accrued but unpaid portion of the bonus is payable as part of the final installment payment

to the employee after completion of the full service period under the terms of the service agreement.

(D) For purposes of this paragraph, the bonus percentage rate established for an employee means the bonus percentage rate established for such employee in accordance with paragraph (1) or subsection (f), as the case may be.

(3) A retention bonus is not part of the basic pay of an employee for any purpose.

(f) Upon the request of the head of an agency, the Office may waive the limit established under subsection (e)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

(g) The Office shall require that, before paying any bonuses under this section, an agency shall establish a plan for the payment of any such bonuses, subject to regulations prescribed by the Office.

(h) The Office may prescribe regulations to carry out this section.

(Added Pub. L. 108–411, title I, § 101(a)(1), Oct. 30, 2004, 118 Stat. 2307.)

PRIOR PROVISIONS

A prior section 5754, added Pub. L. 101–509, title V, § 529 [title II, § 208(a)], Nov. 5, 1990, 104 Stat. 1427, 1459, which related to retention allowances, was repealed by Pub. L. 108–411, title I, § 101(a)(1), Oct. 30, 2004, 118 Stat. 2305.

EFFECTIVE DATE

Section effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with exception for payment of certain retention allowances, see section 101(d) of Pub. L. 108–411, set out as a note under section 5753 of this title.

§ 5755. Supervisory differentials

(a)(1) The Office of Personnel Management may authorize the head of an agency to pay a differential to an employee under the General Schedule who has supervisory responsibility for 1 or more employees not under the General Schedule, if 1 or more of the subordinate employees would, in the absence of such a differential, be paid more than the supervisory employee.

(2) For the purposes of comparing the pay of a supervisory employee under the General Schedule with the pay of a subordinate employee not under the General Schedule, comparability payments under section 5304, differentials, and allowances that are not a part of basic pay may be taken into consideration, as provided by regulations of the Office.

(b)(1) A supervisory differential, which shall be stated as a percentage of the supervisory employee's rate of basic pay (excluding any comparability payments under section 5304) or as a dollar amount, may not cause the supervisory employee's pay to exceed the pay of the highest paid subordinate employee by more than 3 percent.

(2) A supervisory differential may not be considered to be part of the basic pay of an employee, and the reduction or elimination of a supervisory differential may not be appealed. The preceding sentence shall not be construed to extinguish or lessen any right or remedy under subchapter II of chapter 12 or under any of the laws referred to in section 2302(d).

(3) A supervisory differential shall be paid in the same manner and at the same time as the employee's basic pay is paid.

(c) For the purpose of this section—

(1) the terms ''agency'' and ''employee'' have the meanings given them by section 5102; and

(2) any reference to ''an employee under the General Schedule'' shall be considered to be a reference to any employee holding a position to which subchapter III of chapter 53 applies.

(d) The Office shall prescribe such regulations as it considers necessary for the administration of this section.

(Added Pub. L. 101–509, title V, § 529 [title II, § 211(a)], Nov. 5, 1990, 104 Stat. 1427, 1461.)

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5756. Home marketing incentive payment

(a) Under regulations prescribed under subsection (b), an agency may pay to an employee who transfers in the interest of the Government an amount to encourage the employee to aggressively market the employee's residence at the official station from which transferred when—

(1) the residence is entered into a relocation services program established under a contract in accordance with section 5724c of this title to arrange for the purchase of the residence;

(2) the employee finds a buyer who completes the purchase of the residence through the program; and

(3) the sale of the residence results in a reduced cost to the Government.

(b)(1) The Administrator of General Services shall prescribe regulations to carry out this section.

(2) The regulations shall include a limitation on the maximum amount payable with respect to an employee's residence. The Administrator shall establish the limitation in consultation with the Director of the Office of Management and Budget. For fiscal years 1997 and 1998, the maximum amount shall be the amount equal to five percent of the sale price of the residence.

(Added Pub. L. 104–201, div. A, title XVII, § 1717, Sept. 23, 1996, 110 Stat. 2757.)

EFFECTIVE DATE

Section effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 5722 of this title.

§ 5757.[1] Payment of expenses to obtain professional credentials

(a) An agency may use appropriated funds or funds otherwise available to the agency to pay for—

[1] Another section 5757 is set out after this section.

(1) expenses for employees to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and

(2) examinations to obtain such credentials.

(b) The authority under subsection (a) may not be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position that is excepted from the competitive service because of the confidential, policy-determining, policy-making, or policy-advocating character of the position.

(Added Pub. L. 107–107, div. A, title XI, § 1112(a), Dec. 28, 2001, 115 Stat. 1238.)

§ 5757.[1] Extended assignment incentive

(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

(2) $15,000 per year in the service period.

(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's entitlement to retain or receive incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency's independent authority to administratively determine compensation for a class of its employees.

(Added Pub. L. 107–273, div. A, title II, § 207(a)(1), Nov. 2, 2002, 116 Stat. 1779.)

EFFECTIVE DATE

Section effective on the first day of the first applicable pay period beginning on or after 6 months after Nov. 2, 2002, see section 207(c) of Pub. L. 107–273, set out as an Effective Date of 2002 Amendment note under section 5307 of this title.

REPORT

Pub. L. 107–273, div. A, title II, § 207(d), Nov. 2, 2002, 116 Stat. 1780, provided that: "No later than 3 years after the effective date of this section [see Effective Date note above], the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report."

§ 5759.[1] Retention and relocation bonuses for the Federal Bureau of Investigation

(a) AUTHORITY.—The Director of the Federal Bureau of Investigation, after consultation with the Director of the Office of Personnel Management, may pay, on a case-by-case basis, a bonus under this section to an employee of the Bureau if—

(1)(A) the unusually high or unique qualifications of the employee or a special need of the Bureau for the employee's services makes it essential to retain the employee; and

[1] Another section 5757 is set out preceding this section.

[1] So in original. No section 5758 has been enacted.

(B) the Director of the Federal Bureau of Investigation determines that, in the absence of such a bonus, the employee would be likely to leave—

(i) the Federal service; or

(ii) for a different position in the Federal service; or

(2) the individual is subject to a mobility agreement and is transferred to a position in a different geographical area in which there is a shortage of critical skills (as determined by the Director of the Federal Bureau of Investigation).

(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Bureau to complete a period of service with the Bureau. Such agreement shall include—

(1) the period of service the individual shall be required to complete in return for the bonus; and

(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination, including requirements for a bonus recipient's repayment of a bonus in circumstances determined by the Director of the Federal Bureau of Investigation.

(c) LIMITATION ON AUTHORITY.—A bonus paid under this section may not exceed 50 percent of the employee's annual rate of basic pay. The bonus may be paid in a lump sum or installments linked to completion of periods of service.

(d) IMPACT ON BASIC PAY.—A bonus paid under this section is not part of the basic pay of an employee for any purpose.

(Added Pub. L. 108–447, div. B, title I, § 113(a), Dec. 8, 2004, 118 Stat. 2868; amended Pub. L. 111–117, div. B, title II, § 217, Dec. 16, 2009, 123 Stat. 3141; Pub. L. 111–259, title IV, § 443, Oct. 7, 2010, 124 Stat. 2733.)

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111–259, § 443(1), substituted ''is subject to a mobility agreement and is transferred to a position in a different geographical area in which there is a shortage of critical skills'' for ''is transferred to a different geographic area with a higher cost of living''.

Subsec. (b)(2). Pub. L. 111–259, § 443(2), substituted '', including requirements for a bonus recipient's repayment of a bonus in circumstances determined by the Director of the Federal Bureau of Investigation.'' for the period.

Subsec. (c). Pub. L. 111–259, § 443(3), substituted ''annual rate of basic pay. The bonus may be paid in a lump sum or installments linked to completion of periods of service.'' for ''basic pay.''

Subsec. (d). Pub. L. 111–259, § 443(4), substituted ''bonus paid under this section'' for ''retention bonus''.

2009—Subsec. (e). Pub. L. 111–117 struck out subsec. (e). Text read as follows: ''The authority to grant bonuses under this section shall cease to be available after December 31, 2009.''

§ 5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive

(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the heads of agencies, travel and transportation described in subsection (d) may be provided for not more than 3 family members of an employee described in subsection (b).

(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the head of an agency may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in subsection (b) if the head of an agency determines—

(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the head of the agency; and

(B) no other family member who is eligible for travel and transportation under subsection (a) is able to serve as an attendant for the family member.

(3) If no family member of an employee described in subsection (b) is able to travel to the repatriation site of the employee, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the employee.

(b) COVERED EMPLOYEES.—An employee described in this subsection is an employee (as defined in section 2105 of this title) who—

(1) was held captive, as determined by the head of an agency concerned; and

(2) is repatriated to a site inside or outside the United States.

(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term ''family member'' has the meaning given the term in section 411h(b) of title 37.

(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the employee is located.

(2) In addition to the transportation authorized by subsection (a), the head of an agency may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of title 37.

(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of title 37.

(4) An allowance under this subsection may be paid in advance.

(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.

(Added Pub. L. 109–163, div. A, title XI, § 1121(a), Jan. 6, 2006, 119 Stat. 3451.)

§ 5761. Foreign language proficiency pay awards for the Federal Bureau of Investigation

The Director of the Federal Bureau of Investigation may, under regulations prescribed by the Director, pay a cash award of up to 10 percent of basic pay to any Bureau employee who maintains proficiency in a language or languages critical to the mission or who uses one or

more foreign languages in the performance of official duties.

(Added Pub. L. 111–117, div. B, title II, § 219(a), Dec. 16, 2009, 123 Stat. 3141.)

CHAPTER 59—ALLOWANCES

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AMENDMENTS

2001—Pub. L. 107–107, div. A, title XI, § 1111(b), Dec. 28, 2001, 115 Stat. 1238, added item 5949.

1991—Pub. L. 102–190, div. A, title X, § 1092(a)(2), Dec. 5, 1991, 105 Stat. 1487, added item 5942a.

1983—Pub. L. 98–164, title I, § 127(b)(2), Nov. 22, 1983, 97 Stat. 1027, struck out item 5944 ''Illness and burial expenses; native employees in foreign countries''.

1980—Pub. L. 96–465, title II, §§ 2310(b), 2311(b), Oct. 17, 1980, 94 Stat. 2166, added items 5927 and 5928.

1978—Pub. L. 95–603, § 2(b), Nov. 6, 1978, 92 Stat. 3020, added item 5948.

Pub. L. 95–426, title IV, § 411(b), Oct. 7, 1978, 92 Stat. 981, added item 5926.

1971—Pub. L. 91–656, §§ 6(c), 7(b), Jan. 8, 1971, 84 Stat. 1954, substituted ''duty at remote worksites'' for ''duty on California offshore islands or at Nevada Test Site'' in item 5942 and added item 5947.

1967—Pub. L. 90–83, § 1(40)(B), (42), Sept. 11, 1967, 81 Stat. 206, 207, added items 5902 and 5903, and inserted ''or at Nevada Test Site'' in item 5942.

SUBCHAPTER I—UNIFORMS

§ 5901. Uniform allowances

(a) There is authorized to be appropriated annually to each agency of the Government of the United States, including a Government owned corporation, and of the government of the District of Columbia, on a showing of necessity or desirability, such sums as may be necessary to carry out this subchapter. The head of the agency concerned, out of funds made available by the appropriation, shall—

(1) furnish to each of these employees a uniform at a cost not to exceed $400 a year (or such higher maximum amount as the Office of Personnel Management may establish under section 5902); or

(2) pay to each of these employees an allowance for a uniform not to exceed $400 a year (or such higher maximum amount as the Office of Personnel Management may establish under section 5902).

The allowance may be paid only at the times and in the amounts authorized by the regulations prescribed under section 5903 of this title. When the agency pays direct to the uniform vendor, the head of the agency may deduct a service charge of not more than 4 percent.

(b) When the furnishing of a uniform or the payment of a uniform allowance is authorized under another statute or regulation existing on September 1, 1954, the head of the agency concerned may continue the furnishing of the uniform or the payment of the uniform allowance under that statute or regulation, but in that event a uniform may not be furnished or allowance paid under this section.

(c) An allowance paid under this section is not wages within the meaning of section 409 of title 42 or chapters 21 and 24 of title 26.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 508; Pub. L. 90–83, § 1(39), Sept. 11, 1967, 81 Stat. 206; Pub. L. 101–509, title V, § 529 [title II, § 202(a)], Nov. 5, 1990, 104 Stat. 1427, 1456; Pub. L. 102–378, § 2(50), Oct. 2, 1992, 106 Stat. 1353.)

HISTORICAL AND REVISION NOTES
1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 2131.	Sept. 1, 1954, ch. 1208, § 402, 68 Stat. 1114. May 13, 1955, ch. 40, 69 Stat. 49.
(c)	5 U.S.C. 2132 (less applicability to the Civil Service Retirement Act, as amended).	Sept. 1, 1954, ch. 1208, § 403 (less applicability to the Civil Service Retirement Act, as amended), 68 Stat. 1115.
(d)	5 U.S.C. 2133.	Sept. 1, 1954, ch. 1208, § 404, 68 Stat. 1115.

In subsection (a), the word ''concerned'' is substituted for ''to which any such appropriation is made''.

In subsection (b), the words ''in his discretion'' are omitted as unnecessary in view of the permissive nature of the authority.

In subsections (b) and (d), the word ''rules'' is omitted as covered by the word ''regulations''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5901(a)	5 App.: 2131.	Oct. 29, 1965, Pub. L. 89–301 § 13, 79 Stat. 1122. July 18, 1966, Pub. L. 89–504, § 407(a), 80 Stat. 299.

The amendment to the third sentence of subsection (a) of 5 U.S.C. 5901, and the deletion of subsection (d) thereof, reflect the recodification of subsection (d) in 5 U.S.C. 5903 by section 1(40)(A) of this bill. In the last sentence of subsection (a), the words ''When'' and ''pays'' are substituted for ''In those instances where'' and ''makes reimbursement'', respectively.

AMENDMENTS

1992—Subsec. (a)(1), (2). Pub. L. 102–378 substituted ''5902)'' for ''5902).''

1990—Subsec. (a). Pub. L. 101–509, § 529 [title II, § 202(a)(1)], substituted ''such sums as may be necessary to carry out this subchapter.'' for ''an amount not to exceed $125 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties and who are not being furnished with the uniform.''

Subsec. (a)(1), (2). Pub. L. 101–509, § 529 [title II, § 202(a)(2)], substituted ''$400 a year (or such higher maximum amount as the Office of Personnel Management may establish under section 5902).'' for ''$125 a year''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

AVAILABILITY OF APPROPRIATIONS FOR UNIFORMS AND UNIFORM ALLOWANCES

Pub. L. 102–394, title V, § 504, Oct. 6, 1992, 106 Stat. 1825, provided that: ''Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–170, title V, § 504, Nov. 26, 1991, 105 Stat. 1141.

Pub. L. 101–517, title V, § 504, Nov. 5, 1990, 104 Stat. 2221.

Pub. L. 101–166, title V, § 504, Nov. 21, 1989, 103 Stat. 1189.

Pub. L. 100–202, § 101(h) [title V, § 504], Dec. 22, 1987, 101 Stat. 1329–256, 1329–287.

Pub. L. 99–500, § 101(i) [H.R. 5233, title V, § 504], Oct. 18, 1986, 100 Stat. 1783–287, and Pub. L. 99–591, § 101(i) [H.R. 5233, title V, § 504], Oct. 30, 1986, 100 Stat. 3341–287.

Pub. L. 99–178, title V, § 504, Dec. 12, 1985, 99 Stat. 1132.

Pub. L. 98–619, title V, § 504, Nov. 8, 1984, 98 Stat. 3333.

Pub. L. 98–139, title V, § 504, Oct. 31, 1983, 97 Stat. 889.

Pub. L. 97–377, title I, § 101(e)(1) [title V, § 504], Dec. 21, 1982, 96 Stat. 1878, 1904.

§ 5902. Increase in maximum uniform allowance

The Office of Personnel Management may, from time to time, by regulation adjust the maximum amount for the cost of uniforms and the maximum allowance for uniforms under section 5901.

(Added Pub. L. 90–83, § 1(40)(A), Sept. 11, 1967, 81 Stat. 206; amended Pub. L. 101–509, title V, § 529 [title II, § 202(b)], Nov. 5, 1990, 104 Stat. 1427, 1456.)

HISTORICAL AND REVISION NOTES

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5902	5 App.: 2134.	July 18, 1966, Pub. L. 89–504, § 407(b), 80 Stat. 299.

The words ''any other provision of'' following ''Notwithstanding'' are omitted as unnecessary. The words ''section 5901 of this title'' are substituted for ''this title'' in three places to reflect the codification of that title in title 5, United States Code.

AMENDMENTS

1990—Pub. L. 101–509 amended section generally. Prior to amendment, section read as follows: ''Notwithstanding section 5901 of this title, each of the respective maximum uniform allowances in effect on April 1, 1966, for the respective categories of employees to whom uniform allowances are paid under section 5901 of this title are increased, subject to the maximum allowance authorized by section 5901 of this title, as follows:

''(1) If the maximum uniform allowance is $100 or more, it is increased by 25 percent.

''(2) If the maximum uniform allowance is $75 or more but less than $100, it is increased by 30 percent.

''(3) If the maximum uniform allowance is $50 or more but less than $75, it is increased by 35 percent.

''(4) If the maximum uniform allowance is less than $50, it is increased by 40 percent.

The maximum uniform allowances, as in effect on April 1, 1966, and as increased by this section, may not be reduced.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

§ 5903. Regulations

The Office of Personnel Management may prescribe such regulations as it considers necessary for the administration of this subchapter.

(Added Pub. L. 90–83, § 1(40)(A), Sept. 11, 1967, 81 Stat. 206; amended Pub. L. 96–54, § 2(a)(2), Aug. 14, 1979, 93 Stat. 381; Pub. L. 101–509, title V, § 529 [title II, § 202(b)], Nov. 5, 1990, 104 Stat. 1427, 1456.)

HISTORICAL AND REVISION NOTES

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5903	5: 5901(d).	[None.]

The regulatory authority contained in 5 U.S.C. 5901(d), the source statute for which was section 404 of the act of September 1, 1954, ch. 1208, 68 Stat. 1115, applies also to section 405 of that act (added by section 407 of the act of July 18, 1966, Public Law 89–504, 80 Stat. 299). Section 405 is codified as 5 U.S.C. 5902 by this bill.

AMENDMENTS

1990—Pub. L. 101–509 amended section generally. Prior to amendment, section read as follows: ''The President shall prescribe regulations necessary for the uniform administration of this subchapter.''

1979—Pub. L. 96–54 substituted ''President'' for ''Director of the Bureau of the Budget''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than

90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

SUBCHAPTER II—QUARTERS

§ 5911. Quarters and facilities; employees in the United States

(a) For the purpose of this section—

(1) ''Government'' means the Government of the United States;

(2) ''agency'' means an Executive agency, but does not include the Tennessee Valley Authority;

(3) ''employee'' means an employee of an agency;

(4) ''United States'' means the several States, the District of Columbia, and the territories and possessions of the United States including the Commonwealth of Puerto Rico;

(5) ''quarters'' means quarters owned or leased by the Government; and

(6) ''facilities'' means household furniture and equipment, garage space, utilities, subsistence, and laundry service.

(b) The head of an agency may provide, directly or by contract, an employee stationed in the United States with quarters and facilities, when conditions of employment or of availability of quarters warrant the action.

(c) Rental rates for quarters provided for an employee under subsection (b) of this section or occupied on a rental basis by an employee or member of a uniformed service under any other provision of statute, and charges for facilities made available in connection with the occupancy of the quarters, shall be based on the reasonable value of the quarters and facilities to the employee or member concerned, in the circumstances under which the quarters and facilities are provided, occupied, or made available. The amounts of the rates and charges shall be paid by, or deducted from the pay of, the employee or member of a uniformed service, or otherwise charged against him in accordance with law. The amounts of payroll deductions for the rates and charges shall remain in the applicable appropriation or fund. When payment of the rates and charges is made by other than payroll deductions, the amounts of payment shall be credited to the Government as provided by law.

(d) When, as an incidental service in support of a program of the Government, quarters and facilities are provided by appropriate authority of the Government to an individual other than an employee or member of a uniformed service, the rates and charges therefor shall be determined in accordance with this section. The amounts of payment of the rates and charges shall be credited to the Government as provided by law.

(e) The head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise.

(f) The President may prescribe regulations governing the provision, occupancy, and availability of quarters and facilities, the determination of rates and charges therefor, and other related matters, necessary and appropriate to carry out this section. The head of each agency may prescribe regulations, not inconsistent with the regulations of the President, necessary and appropriate to carry out the functions of the agency head under this section.

(g) Subsection (c) of this section does not repeal or modify any provision of statute authorizing the provision of quarters or facilities, either without charge or at rates or charges specifically fixed by statute.

(h) A member of the uniformed service on a permanent change of duty station or temporary duty orders and occupying unaccompanied personnel housing—

(1) is exempt from the requirement of subsection (c) to pay a rental rate or charge based on the reasonable value of the quarters and facilities provided; and

(2) shall pay such lesser rate or charge as the Secretary of Defense establishes by regulation.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 508; Pub. L. 99–145, title VIII, § 809(c), Nov. 8, 1985, 99 Stat. 681.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 3121.	Aug. 20, 1964, Pub. L. 88–459, § 1, 78 Stat. 557.
(b)	5 U.S.C. 3122.	Aug. 20, 1964, Pub. L. 88–459, § 2, 78 Stat. 557.
(c)	5 U.S.C. 3123.	Aug. 20, 1964, Pub. L. 88–459, § 3, 78 Stat. 557.
(d)	5 U.S.C. 3124.	Aug. 20, 1964, Pub. L. 88–459, § 4, 78 Stat. 557.
(e)	5 U.S.C. 3125.	Aug. 20, 1964, Pub. L. 88–459, § 5, 78 Stat. 557.
(f)	5 U.S.C. 3126.	Aug. 20, 1964, Pub. L. 88–459, § 6, 78 Stat. 558.
(g)	5 U.S.C. 3127.	Aug. 20, 1964, Pub. L. 88–459, § 7, 78 Stat. 558.

In subsection (a)(2), the term ''Executive agency'' is coextensive with and substituted for ''each executive department of the Government'', ''each agency or independent establishment in the executive branch of the Government'', ''each corporation owned or controlled by the Government'', and ''the General Accounting Office'' in view of the definition of ''Executive agency'' in section 105.

In subsection (a)(3), the term ''employee'' is substituted for ''civilian officer or employee'' in view of the definition of ''employee'' in section 2105.

Subsection (a)(7) of former section 3121 is omitted as unnecessary in view of the definition of ''uniformed services'' in section 2101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1985—Subsec. (h). Pub. L. 99–145 added subsec. (h).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 effective Oct. 1, 1985, see section 813 of Pub. L. 99–145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (f) of this section to issue regulations provided for therein (relating to provision, occupancy, and availability of quarters and facilities, determination of rates and charges therefor, and other related matters, as are necessary and appropriate to carry out provisions of this section) delegated to Director of Office of Management and Budget, see section 9(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

DEPOSIT IN SPECIAL FUND OF RENTS AND CHARGES COLLECTED FOR USE OR OCCUPANCY OF QUARTERS

Pub. L. 98–473, title I, § 101(c) [title III, § 320], Oct. 12, 1984, 98 Stat. 1837, 1874, as amended by Pub. L. 100–446, title III, § 316, Sept. 27, 1988, 102 Stat. 1826; Pub. L. 101–121, title III, § 317, Oct. 23, 1989, 103 Stat. 745, provided that: ''Notwithstanding title 5 of the United States Code or any other provision of law, after September 30, 1984, rents and charges collected by payroll deduction or otherwise for the use or occupancy of quarters of agencies funded by this Act [probably means Department of the Interior and Related Agencies Appropriation Act, 1985, as set forth in section 101(c) of Pub. L. 98–473] shall thereafter be deposited in a special fund in each agency, to remain available until expended, for the maintenance and operation of the quarters of that agency: *Provided*, That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act, as amended (25 U.S.C. 450 et seq.) [25 U.S.C. 450f et seq.], under which such tribe or tribal organization may retain rents and charges for the operation, maintenance, and repair of such quarters.''

§ 5912. Quarters in Government owned or rented buildings; employees in foreign countries

Under regulations prescribed by the head of the agency concerned and approved by the President, an employee who is a citizen of the United States permanently stationed in a foreign country may be furnished, without cost to him, living quarters, including heat, fuel, and light, in a Government owned or rented building. The rented quarters may be furnished only within the limits of appropriations made therefor.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 509.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 118a.	June 26, 1930, ch. 622, 46 Stat. 818. Sept. 6, 1960, Pub. L. 86–707, § 511(c)(6), 74 Stat. 801.

The words ''which appropriations are hereby authorized'' are omitted as unnecessary in view of section 5509.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5913. Official residence expenses

(a) For the purpose of this section, ''agency'' has the meaning given it by section 5721 of this title.

(b) Under such regulations as the President may prescribe, funds available to an agency for administrative expenses may be allotted to posts in foreign countries to defray the unusual expenses incident to the operation and maintenance of official residences suitable for—

(1) the chief representatives of the United States at the posts; and

(2) such other senior officials of the Government of the United States as the President may designate.

(c) Funds made available under subsection (b) may be provided in advance to persons eligible to receive reimbursements.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 510; Pub. L. 109–140, § 7, Dec. 22, 2005, 119 Stat. 2652.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3039.	Aug. 2, 1946, ch. 744, § 22, added Sept. 6, 1960, Pub. L. 86–707, § 311(a), 74 Stat. 796.

The word ''agency'' is substituted for ''department'' and defined to conform to the definition of ''department'' in section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–140 added subsec. (c).

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations governing allotment to posts in foreign countries, for purpose stated in this section, of funds available to the departments for administrative expenses, and to designate senior officials of this Government in foreign countries, see section 1(c) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

SUBCHAPTER III—OVERSEAS DIFFERENTIALS AND ALLOWANCES

§ 5921. Definitions

For the purpose of this subchapter—

(1) ''Government'' means the Government of the United States;

(2) ''agency'' means an Executive agency and the Library of Congress, but does not include a Government controlled corporation;

(3) ''employee'' means an employee in or under an agency and more specifically defined by regulations prescribed by the President;

(4) ''United States'', when used in a geographical sense, means the several States and the District of Columbia;

(5) ''continental United States'' means the several States and the District of Columbia, but does not include Alaska or Hawaii; and

(6) ''foreign area'' means—

(A) the Trust Territory of the Pacific Islands; and

(B) any other area outside the United States, the Commonwealth of Puerto Rico, the Canal Zone, and territories and possessions of the United States.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 510.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3032.	Sept. 6, 1960, Pub. L. 86–707, § 111, 74 Stat. 792.

In paragraph (1), the words ''of America'' are omitted as unnecessary.

In paragraph (2), the word ''agency'' is substituted for ''Government agency''. The term ''Executive agency'' is substituted for the reference to ''each executive department of the Government, each independent establishment or agency in the executive branch of the Government, including each corporation wholly owned (either directly or through one or more corporations) by the Government''. The exception of ''a Government controlled corporation'' is added to preserve the application of this subchapter to corporations wholly owned by the Government.

In paragraph (3), the word ''employee'' is substituted for ''individual in the civilian service'' in view of the definition of ''employee'' in section 2105. Reference to ''ambassadors, ministers, and officers of the Foreign Service under the Department of State'' is omitted as included in the definition of ''employee''.

In paragraph (4), the words ''of the United States of America'' are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

LIMITATION ON HOUSING BENEFITS

Pub. L. 101–246, title I, § 156, Feb. 16, 1990, 104 Stat. 46, provided that:

''(a) IN GENERAL.—The Secretary of State shall establish and implement an appropriate housing policy and space standards in consultation with all agencies with employees outside the United States who are under the authority of the chief of mission or with other agencies or employees who participate in the overseas housing program. Such policy may not provide housing or related benefits based solely on the representational status of the employee, except if such individual is the ambassador, deputy chief of mission, permanent charge, or the consul general when serving as the principal officer.

''(b) WAIVER.—The Secretary of State may grant exceptions to the restriction on providing housing or related benefits on a representational basis under subsection (a) on a case-by-case basis where a documented need for such exception is established. The Secretary of State shall prepare a comprehensive list annually of all such exceptions granted under this subsection.''

AMENDMENT, MODIFICATION, OR SUPERSEDURE OF PROVISIONS INCONSISTENT WITH THE OVERSEAS DIFFERENTIALS AND ALLOWANCES ACT

Section 511(b) of Pub. L. 86–707, Sept. 6, 1960, 74 Stat. 800, Overseas Differentials and Allowances Act, provided that: ''Any provision of law which is not repealed by subsection (a) of this section but is inconsistent with any provision of this Act or of any amendment made by this Act [enacting chapter 37 of former title 5 (now covered by this subchapter), amending other sections as shown in the Tables, and enacting provisions set out as notes under this section and section 912 of Title 26, Internal Revenue Code] shall be held and considered to be amended, modified, or superseded to the extent necessary to carry out the purposes of and conform to such provision of this Act or of such amendment.''

APPROPRIATIONS

Section 501(a) of Pub. L. 86–707, Sept. 6, 1960, 74 Stat. 800, Overseas Differentials and Allowances Act, provided that: ''There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act and the amendments made by this Act [enacting chapter 37 of former title 5 (now covered by this subchapter), amending other sections as shown in the Tables, and enacting provisions set out as notes under this section and section 912 of Title 26, Internal Revenue Code].''

REFERENCES TO PROVISIONS AFFECTED BY THE OVERSEAS DIFFERENTIALS AND ALLOWANCES ACT

Section 521 of Pub. L. 86–707, Sept. 6, 1960, 74 Stat. 802, Overseas Differentials and Allowances Act, provided that: ''Whenever reference is made in any other law or in any regulation to any provision of law which is repealed, modified, amended, or superseded by reason of section 511 of this Act [repealing sections 170g(b), 170r, and 170s of former title 5, sections 888, 1132, 1133 and 1136(9) of Title 22, Foreign Relations and Intercourse, and sections 403a(d) and 403e(b) of Title 50, War and National Defense, amending section 118a of former title 5, section 1131 of Title 22, and sections 403a(c) and 403e(1)(A), (3) (A–C) of Title 50, and enacting provisions set out as a note under this section], such reference, unless inconsistent with this Act shall be held and considered to refer to this Act or the appropriate provision of, or amendment made by, this Act.''

TRANSITIONAL PROVISIONS FOR PAYMENT OF ALLOWANCES AND DIFFERENTIALS

Section 522 of Pub. L. 86–707, Sept. 6, 1960, 74 Stat. 802, Overseas Differentials and Allowances Act, provided that: ''Notwithstanding any provision of this Act [enacting chapter 37 of former title 5 (now covered by this subchapter), amending other sections as shown in the Tables, and enacting provisions set out as notes under this section and section 912 of Title 26, Internal Revenue Code] and until such time as regulations are issued under this Act, employees shall continue to be paid allowances and differentials in accordance with rules and regulations issued pursuant to the laws in effect immediately prior to the enactment of this Act [Sept. 6, 1960] and such rules and regulations may be amended or revoked in accordance with the provision of such laws.''

EX. ORD. NO. 10903. DELEGATION OF REGULATORY AUTHORITY

Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, as amended by Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739; Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447; Ex. Ord. No. 11380, Nov. 8, 1967, 32 F.R. 15627; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and various provisions of law cited in the body of this order, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of State is hereby designated and empowered to perform the following-described functions without the approval, ratification, or other action of the President:

(a) The authority vested in the President by section 5921(3) of title 5, United States Code, to prescribe regulations defining the term ''employee''.

(b) The authority vested in the President by subchapter III of chapter 59 of title 5 of the United States Code, to prescribe regulations, including the regulations referred to in sections 5922(b), 5922(c), and 5924(4)(B) of that title (governing, respectively, (1) cer-

tain waivers of recovery, (2) the payment of allowances and differentials authorized by said subchapter and certain other matters, and (3) travel expenses for dependents of certain employees).

(c) The authority vested in the President by section 5913 of title 5 of the United States Code, (1) to prescribe regulations governing the allotment to posts in foreign countries, for the purpose stated in that section, of funds available to the departments for administrative expenses, and (2) to designate senior officials of this Government in foreign countries.

(d) The authority vested in the President by other provisions of law (including section 235(2) [now 707(a)(2)] of title 38 of the United States Code) to prescribe regulations governing representation allowances similar to those authorized by section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085).

(e) The authority vested in the President by section 5912 of title 5 of the United States Code to approve regulations prescribed by heads of agencies (under which employees who are citizens of the United States permanently stationed in foreign countries may be furnished, without cost to them, living quarters, including heat, fuel, and light, in government-owned or rented buildings).

(f) [Repealed by Ex. Ord. No. 12292, § 4(f), Feb. 23, 1981, 46 F.R. 13967]

(g) [Redesignated (e) by Ex. Ord. No. 12292, § 4(f), Feb. 23, 1981, 46 F.R. 13967]

SEC. 2. (1) [Superseded by Ex. Ord. No. 11230, § 2(8). June 28, 1965, 30 F.R. 8447]

SEC. 2. (2) [Superseded by Ex. Ord. No. 11228, § 3(5), June 14, 1965, 30 F.R. 7739]

SEC. 3. That portion of section 2 of Executive Order No. 10624 of July 28, 1955 [set out as a note under section 1762 of Title 7, Agriculture], which precedes the proviso thereof, is hereby amended to read as follows:

''SEC. 2. In addition to rules and regulations, pertaining to allowances and benefits, otherwise applicable to personnel assigned abroad under Title VI of the Act of August 28, 1954 [chapter 43 of Title 7, Agriculture], there shall be applicable to the personnel rules and regulations prescribed by the Secretary of State in pursuance of (1) so much of the authority vested in the President by Title II of the Overseas Differentials and Allowances Act [sections 5922–5925, of this title], or by any amendment thereof, as relates to quarters allowances of cost-of-living allowances, and (2) so much of the authority vested in the President and the Secretary of State by Title IX of the Foreign Service Act of 1946 [subchapter IX of chapter 14 of Title 22, Foreign Relations and Intercourse], or by any amendment thereof, as relates to allowances and benefits under the said Title IX [subchapter IX of chapter 14 of Title 22.]:''

SEC. 4. (a) Section 2 of Executive Order No. 10853 of November 27, 1959, is hereby amended to read as follows:

''SEC. 2. The Secretary of State is hereby authorized and directed to exercise the following-described statutory powers of the President:

''(a) That part of the functions vested in the President by section 7(a) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 216; 5 U.S.C. 2355(a)) [section 905(a) of Title 20, Education] which consists of authority to prescribe regulations relating to quarters and quarters allowance.

''(b) The authority vested in the President by section 8(a)(1) of the Defense Department Overseas and Teachers Pay and Personnel Practices Act (73 Stat. 216; 5 U.S.C. 2356(a)(1)) [section 906(a)(1) of Title 20, Education] to prescribe regulations relating to cost-of-living allowances.

''(c) The authority vested in the President by section 235(a) [now 707(a)(5)] of title 38 of the United States Code to prescribe rules and regulations with respect to allowances and benefits similar to those provided for in section 941 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1156).''

(b) The reference in section 1 of Executive Order No. 10853 of November 27, 1959, to the regulations contained in Executive Order No. 10000 of September 16, 1948, shall be deemed to include a reference to the corresponding regulations prescribed in pursuance of the provisions of this order.

SEC. 5. (a) The following-described Executive order and parts thereof are hereby revoked, subject to the provisions of section 5(b) of this order:

1. Parts I, III, IV, and V of Executive Order No. 10000 of September 16, 1948.
2. Executive Order No. 10011 of October 22, 1948.
3. Executive Order No. 10085 of October 28, 1949.
4. Executive Order No. 10100 of January 28, 1950.
5. Executive Order No. 10187 of December 4, 1950.
6. Executive Order No. 10261 of June 27, 1951.
7. Executive Order No. 10313 of December 14, 1951.
8. Executive Order No. 10391 of September 3, 1952.
9. Executive Order No. 10503 of December 1, 1953.
10. Executive Order No. 10623 of July 23, 1955.
11. Section 1 and, to the extent that it pertains to Executive Order No. 10000, section 3 of Executive Order No. 10636 of September 16, 1955.

(b) Existing rules and regulations prescribed in or pursuant to the Executive order provisions revoked by section 5(a) of this order, other existing rules and regulations pertaining to allowances, differentials, and other benefits corresponding to those authorized by the provisions of law referred to in this order and actions heretofore taken in pursuance of any thereof shall remain in effect until hereafter superseded in pursuance of the provisions of this order.

SEC. 6. This order and such of the regulations prescribed by the Secretary of State, the Director of the Office of Management and Budget, and the Office of Personnel Management thereunder as the Secretary, Director, and Office shall, respectively, determine, shall be published in the Federal Register.

EX. ORD. NO. 11137. ALLOWANCES AND BENEFITS

Ex. Ord. No. 11137, Jan. 7, 1964, 29 F.R. 223, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code and by the various provisions of law cited in the body of this order, and as President of the United States it is ordered as follows:

PART I—ALLOWANCES AND DIFFERENTIALS IN FOREIGN AREAS

SECTION 101. The term ''employee'', as defined in 5 U.S.C. 5921(3), is hereby further defined as including civilian employees, compensated from non-appropriated funds, of the instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c).

SEC. 102. The Secretary of each military department with respect to his department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by 5 U.S.C. 5922(c) to prescribe regulations governing payments of allowances and differentials in foreign areas to the extent that the said authority is in respect of employees referred to in section 101 of this order whose rates of basic compensation from nonappropriated funds are fixed in accordance with regulations prescribed by the Secretary concerned.

SEC. 103. Regulations prescribed under authority delegated by the provisions of Section 102 hereof:

(a) Shall, so far as practicable, be uniform.

(b) In the case of regulations prescribed by the Secretaries of the military departments, shall require the approval of the Secretary of Defense.

(c) Shall not, with respect to any locality, authorize allowances or differentials which exceed those prescribed under Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], for other employees of the United States in the same locality.

SEC. 104. Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], is hereby modified to the extent of the definition and the delegations of authority contained in Sections 101 and 102 hereof.

PART II—COST OF LIVING ALLOWANCES IN CERTAIN NON-FOREIGN AREAS

SEC. 201. The Secretary of Defense with respect to the military departments, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by paragraph (2) of Section 912 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 912(2)), to approve the regulations there contemplated to the extent that the said regulations are in respect of the payment of cost-of-living allowances to employees, compensated from nonappropriated funds, of instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c), who are stationed outside the continental United States or in Alaska.

SEC. 202. Regulations approved under authority delegated by the provisions of Section 201 hereof:

(a) Shall, so far as practicable, be uniform.

(b) Shall not apply to employees who are stationed in either the Canal Zone or in any ''foreign area'' as defined in 5 U.S.C. 5921(6).

(c) Shall be limited to employees whose rates of basic compensation are fixed in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility to employees stationed in the continental United States, exclusive of Alaska.

(d) Shall not, with respect to any locality, authorize allowances which exceed those prescribed under Executive Order No. 10000 of September 16, 1948, as amended, for other employees of the United States in the same locality.

PART III—GENERAL PROVISIONS

SEC. 301. All actions heretofore taken by the President or his delegate with respect to the matters affected by this order, and in effect at the time of the issuance of this order, including any regulations prescribed or approved by the President or his delegate with respect to such matters, shall, except as they are inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to appropriate authority.

SEC. 302. This order, and the regulations prescribed or approved under the authority thereof, shall be published in the Federal Register.

§ 5922. General provisions

(a) Notwithstanding section 5536 of this title and except as otherwise provided by this subchapter, the allowances and differentials authorized by this subchapter may be granted to an employee officially stationed in a foreign area—

(1) who is a citizen of the United States; and

(2) whose rate of basic pay is fixed by statute or, without taking into consideration the allowances and differentials provided by this subchapter, is fixed by administrative action pursuant to law or is fixed administratively in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility in the continental United States.

To the extent authorized by a provision of statute other than this subchapter, the allowances and differentials provided by this subchapter may be paid to an employee officially stationed in a foreign area who is not a citizen of the United States.

(b) Allowances granted under this subchapter may be paid in advance, or advance of funds may be made therefor, through the proper disbursing official in such sums as are considered advisable in consideration of the need and the period of time during which expenditures must be made in advance by the employee. An advance of funds not subsequently covered by allowances accrued to the employee under this subchapter is recoverable by the Government by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned, under regulations of the President, may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(c) The allowances and differentials authorized by this subchapter shall be paid under regulations prescribed by the President governing—

(1) payments of the allowances and differentials and the respective rates at which the payments are made;

(2) the foreign areas, the groups of positions, and the categories of employees to which the rates apply; and

(3) other related matters.

(d) When a quarters allowance or allowance related to education under this subchapter, or quarters furnished in Government-owned or controlled buildings under section 5912, would be furnished to an employee but for the death of the employee, such allowances or quarters may be furnished or continued for the purpose of allowing any child of the employee to complete the current school year at post or away from post notwithstanding the employee's death.

(e) When an allowance related to education away from post under this subchapter would be authorized with respect to an employee but for the evacuation or authorized departure status of the post, such an allowance may be furnished or continued for the purpose of allowing any dependent children of such employee to complete the current school year.

(f)(1) If an employee dies at post in a foreign area, a transfer allowance under section 5924(2)(B) may be granted to the spouse or dependents of such employee (or both) for the purpose of providing for their return to the United States.

(2) A transfer allowance under this subsection may not be granted with respect to the spouse or a dependent of the employee unless, at the time of death, such spouse or dependent was residing—

(A) at the employee's post of assignment; or

(B) at a place, outside the United States, for which a separate maintenance allowance was being furnished under section 5924(3).

(3) The President may prescribe any regulations necessary to carry out this subsection.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 510; Pub. L. 102–138, title I, § 147(c), Oct. 28, 1991, 105 Stat. 669;

Pub. L. 106–113, div. B, § 1000(a)(7) [div. A, title III, § 335], Nov. 29, 1999, 113 Stat. 1536, 1501A–441.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 3033.	Sept. 6, 1960, Pub. L. 86–707, § 201, 74 Stat. 793.
(b)	5 U.S.C. 3034.	Sept. 6, 1960, Pub. L. 86–707, § 202, 74 Stat. 793.
(c)	5 U.S.C. 3035.	Sept. 6, 1960, Pub. L. 86–707, § 203, 74 Stat. 793.

In subsection (a), the word ''only'' is omitted as surplusage.

In subsection (b), the words ''disbursing official'' are substituted for ''disbursing officer'' because of the definition of ''officer'' in section 2104 which excludes a member of a uniformed service.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1999—Subsec. (f). Pub. L. 106–113 added subsec. (f).

1991—Subsecs. (d), (e). Pub. L. 102–138 added subsecs. (d) and (e).

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

§ 5923. Quarters allowances

(a) When Government owned or rented quarters are not provided without charge for an employee in a foreign area, one or more of the following quarters allowances may be granted when applicable:

(1) A temporary subsistence allowance for the reasonable cost of temporary quarters (including meals and laundry expenses) incurred by the employee and his family—

(A) for a period not in excess of 90 days after first arrival at a new post of assignment in a foreign area or a period ending with the occupation of residence quarters, whichever is shorter; and

(B) for a period of not more than 30 days immediately before final departure from the post after the necessary evacuation of residence quarters.

(2) A living quarters allowance for rent, heat, light, fuel, gas, electricity, and water, without regard to section 3324(a) and (b) of title 31.

(3) Under unusual circumstances, payment or reimbursement for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred in initial repairs, alterations, and improvements to the privately leased residence of an employee at a post of assignment in a foreign area, if—

(A) the expenses are administratively approved in advance; and

(B) the duration and terms of the lease justify payment of the expenses by the Government.

(b) The 90-day period under subsection (a)(1)(A) and the 30-day period under subsection (a)(1)(B) may each be extended for not more than 60 additional days if the head of the agency concerned or his designee determines that there are compelling reasons beyond the control of the employee for the continued occupancy of temporary quarters.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 511; Pub. L. 97–258, § 3(a)(15), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 102–138, title I, § 147(d), Oct. 28, 1991, 105 Stat. 669.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3036.	Sept. 6, 1960, Pub. L. 86–707, § 211, 74 Stat. 793.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1991—Pub. L. 102–138 designated existing provisions as subsec. (a), substituted ''subsistence'' for ''lodging'' and inserted ''(including meals and laundry expenses)'' after ''quarters'' in par. (1), substituted ''90 days'' for ''3 months'' in par. (1)(A), substituted ''30 days'' for ''1 month'' in par. (1)(B), and added subsec. (b).

1982—Par. (2). Pub. L. 97–258 substituted ''section 3324(a) and (b)'' for ''section 529''.

§ 5924. Cost-of-living allowances

The following cost-of-living allowances may be granted, when applicable, to an employee in a foreign area:

(1) A post allowance to offset the difference between the cost of living at the post of assignment of the employee in a foreign area and the cost of living in the District of Columbia, except that employees receiving the temporary subsistence allowance under section 5923(1) are ineligible for a post allowance under this paragraph.

(2) A transfer allowance for extraordinary, necessary, and reasonable subsistence and other relocation expenses (including unavoidable lease penalties), not otherwise compensated for, incurred by an employee incident to establishing himself at a post of assignment in—

(A) a foreign area (including costs incurred in the United States, its territories or possessions, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements prior to departure for a post of assignment in a foreign area); or

(B) the United States after the employee agrees in writing to remain in Government service for 12 months after transfer, unless separated for reasons beyond the control of the employee that are acceptable to the agency concerned.

(3) A separate maintenance allowance to assist an employee who is compelled or authorized, because of dangerous, notably unhealthful, or excessively adverse living conditions at the employee's post of assignment in a foreign area, or for the convenience of the Govern-

ment, or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents, to meet the additional expenses of maintaining, elsewhere than at the post, the employee's spouse or dependents, or both.

(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents (or, to the extent education away from post is involved, official assignment to service in such area or areas), as follows:

(A) An allowance not to exceed the cost of obtaining such kindergarten, elementary and secondary educational services as are ordinarily provided without charge by the public schools in the United States (including such educational services as are provided by the States under the Individuals with Disabilities Education Act), plus, in those cases when adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest United States locality where an adequate school is available, without regard to section 3324(a) and (b) of title 31. When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post. The amount of the allowance granted shall be determined on the basis of the educational facility used.

(B) The travel expenses of dependents of an employee to and from a secondary or post-secondary educational institution, not to exceed one annual trip each way for each dependent, except that an allowance payment under subparagraph (A) may not be made for a dependent during the 12 months following the arrival of the dependent at the selected educational institution under authority contained in this subparagraph.

(C) In those cases in which an adequate school is available at the post of the employee, if the employee chooses to educate the dependent at a school away from post, the education allowance which includes board and room, and periodic travel between the post and the school chosen, shall not exceed the total cost to the Government of the dependent attending an adequate school at the post of the employee.

(D) Allowances provided pursuant to subparagraphs (A) and (B) may include, at the election of the employee, payment or reimbursement of the costs incurred to store baggage for the employee's dependent at or in the vicinity of the dependent's school during one trip per year by the dependent between the school and the employee's duty station, except that such payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage in connection with the trip, and such payment or reimbursement shall be in lieu of transportation of the baggage.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 511; Pub. L. 92–187, § 2, Dec. 15, 1971, 85 Stat. 644; Pub. L. 93–126, § 12, Oct. 18, 1973, 87 Stat. 454; Pub. L. 93–475, § 13, Oct. 26, 1974, 88 Stat. 1443; Pub. L. 94–141, title IV, § 405, Nov. 29, 1975, 89 Stat. 770; Pub. L. 96–53, title V, § 510, Aug. 14, 1979, 93 Stat. 380; Pub. L. 96–100, title V, § 502, Nov. 2, 1979, 93 Stat. 734; Pub. L. 96–132, § 4(h), Nov. 30, 1979, 93 Stat. 1045; Pub. L. 96–465, title II, §§ 2307, 2308, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 97–258, § 3(a)(15), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 99–251, title III, § 303, Feb. 27, 1986, 100 Stat. 26; Pub. L. 101–510, div. A, title XII, § 1206(h), Nov. 5, 1990, 104 Stat. 1662; Pub. L. 102–138, title I, § 147(e), Oct. 28, 1991, 105 Stat. 670; Pub. L. 103–236, title I, § 176, Apr. 30, 1994, 108 Stat. 413; Pub. L. 104–201, div. C, title XXXV, § 3548(a)(7), Sept. 23, 1996, 110 Stat. 2869; Pub. L. 106–113, div. B, § 1000(a)(7) [div. A, title III, § 336], Nov. 29, 1999, 113 Stat. 1536, 1501A–442; Pub. L. 107–228, div. A, title III, § 319, Sept. 30, 2002, 116 Stat. 1380; Pub. L. 109–472, § 3, Jan. 11, 2007, 120 Stat. 3554.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3037.	Sept. 6, 1960, Pub. L. 86–707, § 221, 74 Stat. 794.

In paragraph (1), the word ''Washington'' is omitted as covered by ''District of Columbia''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (4)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

AMENDMENTS

2007—Par. (4)(A). Pub. L. 109–472, § 3(1), inserted ''United States'' after ''nearest'' in first sentence.

Par. (4)(B). Pub. L. 109–472, § 3(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) related to educational travel expenses of dependents of an employee.

Par. (4)(D). Pub. L. 109–472, § 3(3), added subpar. (D).

2002—Par. (4)(B). Pub. L. 107–228 inserted after first sentence ''At the election of the employee, in lieu of the transportation of the baggage of a dependent from the dependent's school, the costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the employee's duty station may be paid or reimbursed to the employee, except that the amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.''

1999—Par. (4). Pub. L. 106–113 substituted ''between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest locality where an adequate school is available,'' for ''between that post and the nearest locality where adequate schools are available,'' in subpar. (A) and added subpar. (C).

1996—Par. (3). Pub. L. 104–201 struck out at end ''Notwithstanding section 1217(d) of the Panama Canal Act

of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term 'foreign area' includes the Republic of Panama.''

1994—Par. (4)(A). Pub. L. 103–236, §176(a), inserted after first sentence ''When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post.''

Par. (4)(B). Pub. L. 103–236, §176(b), inserted ''(or to and from a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the United States at which the dependent is enrolled, with the allowable travel expense not to exceed the cost of travel to and from the school in the United States)'' after ''in the United States''.

1991—Par. (1). Pub. L. 102–138, §147(e)(1), substituted ''Columbia, except that employees receiving the temporary subsistence allowance under section 5923(1) are ineligible for a post allowance under this paragraph'' for ''Columbia''.

Par. (2). Pub. L. 102–138, §147(e)(2), in introductory provisions substituted ''subsistence and other relocation expenses (including unavoidable lease penalties)'' for ''expenses'', in subpar. (A) inserted ''the Commonwealth of the Northern Mariana Islands,'' after ''Puerto Rico,'' and in subpar. (B) substituted ''after the employee agrees in writing to remain in Government service for 12 months after transfer, unless separated for reasons beyond the control of the employee that are acceptable to the agency concerned'' for ''between assignments to posts in foreign areas''.

Par. (4). Pub. L. 102–138, §147(e)(3), in introductory provisions substituted ''dependents (or, to the extent education away from post is involved, official assignment to service in such area or areas)'' for ''dependents'', in subpar. (A) substituted ''United States (including such educational services as are provided by the States under the Individuals with Disabilities Education Act)'' for ''United States'', and in subpar. (B) substituted ''postsecondary educational institution education (other than a program of post-baccalaureate education)'' for ''undergraduate college education'' in two places and inserted at end provision defining ''educational institution'' for purposes of subpar. (B).

1990—Par. (3). Pub. L. 101–510 inserted at end ''Notwithstanding section 1217(d) of the Panama Canal Act of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term 'foreign area' includes the Republic of Panama.''

1986—Par. (2)(A). Pub. L. 99–251 inserted '', its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements''.

1982—Par. (4)(A). Pub. L. 97–258 substituted ''section 3324(a) and (b)'' for ''section 529''.

1980—Par. (3). Pub. L. 96–465, §2307, inserted ''or authorized'' after ''compelled'' and ''or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents'' after ''of the Government,''.

Par. (4)(B). Pub. L. 96–465, §2308, substituted ''one annual trip each way for each dependent'' for ''(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, of the Department of Justice, of the Agency for International Development, of the Central Intelligence Agency, or of the National Security Agency, or (ii) or one trip each way for each dependent of any other employee, for the purpose of obtaining each type of education''.

1979—Par. (4)(B). Pub. L. 96–132 inserted reference to the Department of Justice.

Pub. L. 96–100 inserted provisions relating to applicability to dependents of employees of the Central Intelligence Agency and the National Security Agency.

Pub. L. 96–53 substituted ''(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, or of the Agency for International Development, or (ii)'' for ''one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or''.

1975—Par. (2)(A). Pub. L. 94–141 expanded applicability to include costs incurred in the United States prior to departure for a post of assignment in a foreign area.

1974—Par. (4)(B). Pub. L. 93–475 substituted ''one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or one trip each way for each dependent of any other employee,'' for ''one trip each way for each dependent''.

1973—Par. (4)(A). Pub. L. 93–126 inserted ''kindergarten,'' before ''elementary''.

1971—Par. (3). Pub. L. 92–187 substituted ''the employee's post'' for ''his post'' and ''the employee's spouse or'' for ''his wife or his''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations governing travel expenses for dependents of certain employees, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

§ 5925. Post differentials

(a) A post differential may be granted on the basis of conditions of environment which differ substantially from conditions of environment in the continental United States and warrant additional pay as a recruitment and retention incentive. A post differential may be granted to an employee officially stationed in the United States who is on extended detail in a foreign area. A post differential under this subsection may not exceed 35 percent of the rate of basic pay.

(b) Any employee granted a differential under subsection (a) of this section may be granted an additional differential for an assignment to a post determined to have especially adverse conditions of environment which warrant additional pay as a recruitment and retention incentive for the filling of positions at that post. An additional differential for any employee under this subsection—

(1) may be paid for each assignment to a post determined to have such conditions;

(2) may be paid periodically or in a lump sum; and

(3) may not exceed 15 percent of the rate of basic pay of that employee for the period served under that assignment.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 512; Pub. L. 96–465, title II, § 2309, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 108–199, div. D, title V, § 591(a), Jan. 23, 2004, 118 Stat. 207; Pub. L. 109–140, § 4(b), Dec. 22, 2005, 119 Stat. 2651.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3038.	Sept. 6, 1960, Pub. L. 86–707, § 231, 74 Stat. 795.

In the last sentence, the words ''Additional compensation paid as'' are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–140 struck out ''25 percent of the rate of basic pay or, in the case of an employee of the United States Agency for International Development,'' after ''may not exceed'' in last sentence.

2004—Subsec. (a). Pub. L. 108–199 inserted ''or, in the case of an employee of the United States Agency for International Development, 35 percent of the rate of basic pay'' after ''25 percent of the rate of basic pay''.

1980—Pub. L. 96–465 designated existing provisions as subsec. (a), inserted ''under this subsection'' before ''may not exceed'', and added subsec. (b).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–199, div. D, title V, § 591(c), Jan. 23, 2004, 118 Stat. 207, which provided that except for employees of the United States Agency for International Development stationed in Iraq and Afghanistan, the amendments made by subsections (a) and (b), amending this section and section 5928 of this title, would not take effect until the same authority was enacted for employees of the Department of State, was repealed by Pub. L. 109–140, § 4(a), Dec. 22, 2005, 119 Stat. 2651.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

CRITERIA

Pub. L. 109–140, § 4(d), Dec. 22, 2005, 119 Stat. 2651, provided that: ''The Secretary of State shall inform the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate of the criteria to be used in determinations of appropriate adjustments in post differentials under section 5925(a) of title 5, United States Code, as amended by subsection (b), and danger pay allowances under section 5928 of title 5, United States Code, as amended by subsection (c).''

EXTENSION OF FOREIGN POST DIFFERENTIALS TO CERTAIN FEDERAL EMPLOYEES WHO SERVED IN CONNECTION WITH OPERATION DESERT STORM

Pub. L. 102–190, div. A, title X, § 1093, Dec. 5, 1991, 105 Stat. 1487, provided that:

''(a) WAIVER OF REQUIREMENT THAT EMPLOYEE BE DETAILED TO A POST FOR AN 'EXTENDED' PERIOD.—An individual who performed service of a type described in subsection (b) shall, upon appropriate written application, be granted the total amount to which such individual would have been entitled for such service under section 5925(a) of title 5, United States Code, disregarding any eligibility requirement relating to the minimum period of time for which an individual must serve at, or be detailed to, a post.

''(b) DESCRIPTION OF SERVICE INVOLVED.—This section applies with respect to any period of service if, or to the extent that—

''(1) it was performed as an employee—

''(A) in connection with Operation Desert Storm;

''(B) during the Persian Gulf conflict;

''(C) at a post within the area designated by the President, in Executive Order 12744 [26 U.S.C. 112 note], as a 'combat zone' for purposes of section 112 of the Internal Revenue Code of 1986 [26 U.S.C. 112]; and

''(D) while a differential under section 5925(a) of title 5, United States Code, was authorized with respect to such post; and

''(2) no differential under such section 5925(a) was granted to such employee for such service.

''(c) REGULATIONS.—The President may prescribe any regulations necessary to carry out this section.

''(d) DEFINITIONS.—For the purpose of this section—

''(1) the term 'employee' has the meaning given such term by section 5921(3) of title 5, United States Code;

''(2) the term 'Operation Desert Storm' has the meaning given such term by section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 [Pub. L. 102–25] (10 U.S.C. 101 note); and

''(3) the term 'Persian Gulf conflict' means the period beginning on August 2, 1990, and ending on June 2, 1991.''

§ 5926. Compensatory time off at certain posts in foreign areas

(a) Under regulations prescribed pursuant to this subchapter, and notwithstanding subchapter V of chapter 55 of this title or any other law, the head of an agency may, on request of an employee serving in a foreign area—

(1) at an isolated post performing functions required to be maintained on a substantially continuous basis, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work; or

(2) at a post in a locality that customarily observes irregular hours of work or where other special conditions are present, in order to cope with those special circumstances, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work for use during the pay period in which it is earned.

Credit for compensatory time off earned under paragraph (2) shall not form the basis for any additional compensation.

(b) Compensatory time earned under this section shall be for use only while the employee is assigned to the post where it is earned. Any such compensatory time not used at the time the employee is reassigned to another post shall be forfeited.

(Added Pub. L. 95–426, title IV, § 411(a), Oct. 7, 1978, 92 Stat. 980.)

§ 5927. Advances of pay

(a) Up to three months' pay may be paid in advance—

(1) to an employee upon the assignment of the employee to a post in a foreign area;

(2) to an employee, other than an employee appointed under section 303 of the Foreign Service Act of 1980 (and employed under section 311 of such Act), who—

(A) is a citizen of the United States;

(B) is officially stationed or located outside the United States pursuant to Government authorization; and

(C) requires (or has a family member who requires) medical treatment outside the United States, in circumstances specified by the President in regulations; and

(3) to an employee compensated pursuant to section 408 of the Foreign Service Act of 1980, who—

(A) pursuant to United States Government authorization is located outside the country of employment; and

(B) requires medical treatment outside the country of employment in circumstances specified by the President in regulations.

(b) For the purpose of this section, the term ''country of employment'', as used with respect to an individual under subsection (a)(3), means the country (or other area) outside the United States where such individual is hired (as described in subsection (a)(3)) by the Government.

(Added Pub. L. 96–465, title II, § 2310(a), Oct. 17, 1980, 94 Stat. 2166; amended Pub. L. 106–113, div. B, § 1000(a)(7) [div. A, title III, § 337], Nov. 29, 1999, 113 Stat. 1536, 1501A–442; Pub. L. 107–228, div. A, title III, § 320, Sept. 30, 2002, 116 Stat. 1380.)

REFERENCES IN TEXT

Sections 303, 311, and 408 of the Foreign Service Act of 1980, referred to in subsec. (a)(2), (3), are classified to sections 3943, 3951, and 3968, respectively, of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107–228, § 320(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''to a foreign national employee appointed under section 303 of the Foreign Service Act of 1980, or a nonfamily member United States citizen appointed under such section 303 (and employed under section 311 of such Act) for service at such nonfamily member's post of residence, who—

''(A) is located outside the country of employment of such foreign national employee or nonfamily member (as the case may be) pursuant to Government authorization; and

''(B) requires medical treatment outside the country of employment of such foreign national employee or nonfamily member (as the case may be), in circumstances specified by the President in regulations.''

Subsec. (b). Pub. L. 107–228, § 320(2), substituted ''hired'' for ''appointed''.

1999—Pub. L. 106–113 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Up to three months' pay may be paid in advance to an employee upon the assignment of the employee to a post in a foreign area.''

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of Title 22, Foreign Relations and Intercourse.

§ 5928. Danger pay allowance

An employee serving in a foreign area may be granted a danger pay allowance on the basis of civil insurrection, civil war, terrorism, or wartime conditions which threaten physical harm or imminent danger to the health or well-being of the employee. A danger pay allowance may not exceed 35 percent of the basic pay of the employee, except that if an employee is granted an additional differential under section 5925(b) of this title with respect to an assignment, the sum of that additional differential and any danger pay allowance granted to the employee with respect to that assignment may not exceed 35 percent of the basic pay of the employee. The presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it.

(Added Pub. L. 96–465, title II, § 2311(a), Oct. 17, 1980, 94 Stat. 2166; amended Pub. L. 98–164, title I, § 131, Nov. 22, 1983, 97 Stat. 1028; Pub. L. 108–199, div. D, title V, § 591(b), Jan. 23, 2004, 118 Stat. 207; Pub. L. 109–140, § 4(c), Dec. 22, 2005, 119 Stat. 2651.)

AMENDMENTS

2005—Pub. L. 109–140 substituted ''35 percent of the basic pay of the employee'' for ''25 percent of the basic pay of the employee or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development'' in two places.

2004—Pub. L. 108–199 inserted ''or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development'' after ''25 percent of the basic pay of the employee'' in two places.

1983—Pub. L. 98–164 inserted provision that presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section, and that each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of action taken and circumstances justifying it.

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of Title 22, Foreign Relations and Intercourse.

DANGER PAY ALLOWANCE; DEA OR FBI EMPLOYEE

Pub. L. 101–246, title I, § 151, Feb. 16, 1990, 104 Stat. 42, as amended by Pub. L. 107–273, div. C, title I, § 11005, Nov. 2, 2002, 116 Stat. 1817, provided that: ''The Secretary of State may not deny a request by the Drug Enforcement Administration or Federal Bureau of Investigation to authorize a danger pay allowance (under section 5928 of title 5, United States Code) for any employee of such agency.''

GREATER UTILIZATION OF DANGER PAY ALLOWANCE

Pub. L. 98–533, title III, § 304, Oct. 19, 1984, 98 Stat. 2711, provided that: ''In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.''

SUBCHAPTER IV—MISCELLANEOUS ALLOWANCES

ELIGIBILITY OF ADDITIONAL EMPLOYEES FOR REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE

Pub. L. 106–567, title IV, § 406, Dec. 27, 2000, 114 Stat. 2849, as amended by Pub. L. 107–108, title IV, § 404, Dec. 28, 2001, 115 Stat. 1404, provided that:

''(a) IN GENERAL.—Notwithstanding any provision of title VI, section 636 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 [Pub. L. 104–208, div. A, title I, § 101(f)] (5 U.S.C. prec. 5941 note), the Director of Central Intelligence may—

''(1) designate as qualified employees within the meaning of subsection (b) of that section appropriate categories of employees not otherwise covered by that subsection; and

''(2) use appropriated funds available to the Director to reimburse employees within categories so designated for 100 percent of the costs incurred by such employees for professional liability insurance in accordance with subsection (a) of that section.

''(b) REPORTS.—The Director of Central Intelligence shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee of Intelligence of the House of Representatives a report on each designation of a category of employees under paragraph (1) of subsection (a), including the approximate number of employees covered by such designation and an estimate of the amount to be expended on reimbursement of such employees under paragraph (2) of that subsection.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a) and (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

Pub. L. 106–346, § 101(a) [title III, § 348], Oct. 23, 2000, 114 Stat. 1356, 1356A–33, provided that: ''In addition to the authority provided in section 636 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as included in Public Law 104–208, title I, section 101(f), as amended [set out as a note below], beginning in fiscal year 2001 and thereafter, amounts appropriated for salaries and expenses for the Department of Transportation may be used to reimburse an employee whose position is that of safety inspector for not to exceed one-half the costs incurred by such employee for professional liability insurance. Any payment under this section shall be contingent upon the submission of such information or documentation as the Department may require.''

REIMBURSEMENTS RELATING TO PROFESSIONAL LIABILITY INSURANCE

Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 636], Sept. 30, 1996, 110 Stat. 3009–314, 3009–363, as amended by Pub. L. 105–277, div. A, § 101(h) [title VI, § 644], Oct. 21, 1998, 112 Stat. 2681–480, 2681–526; Pub. L. 106–58, title VI, § 642(a), Sept. 29, 1999, 113 Stat. 477; Pub. L. 110–161, div. F, title IV, § 429(a), Dec. 26, 2007, 121 Stat. 2151, provided that:

''(a) AUTHORITY.—Notwithstanding any other provision of law, amounts appropriated by this Act (or any other Act for fiscal year 1997 or any fiscal year thereafter) for salaries and expenses shall be used to reimburse any qualified employee for not to exceed one-half the costs incurred by such employee for professional liability insurance. A payment under this section shall be contingent upon the submission of such information or documentation as the employing agency may require.

''(b) QUALIFIED EMPLOYEE.—For purposes of this section, the term 'qualified employee' means an agency employee whose position is that of—

''(1) a law enforcement officer;

''(2) a supervisor or management official; or

''(3) a temporary fire line manager.

''(c) DEFINITIONS.—For purposes of this section—

''(1) the term 'agency' means an Executive agency, as defined by section 105 of title 5, United States Code, any agency or court in the Judicial Branch, and any agency of the Legislative Branch of Government including any office or committee of the Senate or the House of Representatives;

''(2) the term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, prosecution, detention, or supervision of individuals suspected or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of such title 5, or under section 4823 of title 22, United States Code;

''(3) the terms 'supervisor' and 'management official' have the respective meanings given them by section 7103(a) of such title 5, and, with regard to the Judicial Branch, mean a justice or judge of the United States as defined in 28 U.S.C. 451 in regular active service or retired from regular active service, other judicial officers as authorized by the Judicial Conference of the United States, and supervisors and managers within the Judicial Branch as authorized by the Judicial Conference of the United States;

''(4) the term 'professional liability insurance' means insurance which provides coverage for—

''(A) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual's official duties as a qualified employee; and

''(B) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding; and

''(5) notwithstanding the definition of the terms 'supervisor' and 'management official' under section 7103(a) of title 5, United States Code, the term 'temporary fire line manager' means an employee of the Forest Service or the Department of the Interior, whose duties include, as determined by the employing agency—

''(A) temporary supervision or management of personnel engaged in wildland or managed fire activities;

''(B) providing analysis or information that affects a decision by a supervisor or manager about a wildland or managed fire; or

''(C) directing the deployment of equipment for a wildland or managed fire.

''(d) APPLICABILITY.—The amendments made by this section [this note] shall take effect on the date of the enactment of this Act [Sept. 30, 1996] and shall apply thereafter.''

[Pub. L. 110–161, div. F, title IV, § 429(b), Dec. 26, 2007, 121 Stat. 2152, provided that: ''The amendment made by subsection (a) [amending section 101(f) [title VI, § 636] of Pub. L. 104–208, set out above] shall take effect on the date of enactment of this Act [Dec. 26, 2007].'']

[Pub. L. 106–58, title VI, § 642(b), Sept. 29, 1999, 113 Stat. 477, provided that: ''The amendment made by subsection (a) [amending section 101(f) [title VI, § 636] of Pub. L. 104–208, set out above] shall take effect on October 1, 1999, or the date of the enactment of this Act [Sept. 29, 1999], whichever is later.'']

§ 5941. Allowances based on living costs and conditions of environment; employees stationed outside continental United States or in Alaska

(a) Appropriations or funds available to an Executive agency, except a Government controlled corporation, for pay of employees stationed outside the continental United States or in Alaska whose rates of basic pay are fixed by statute, are available for allowances to these employees. The allowance is based on—

(1) living costs substantially higher than in the District of Columbia;

(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

(3) both of these factors.

The allowance may not exceed 25 percent of the rate of basic pay. Except as otherwise specifically authorized by statute, the allowance is paid only in accordance with regulations prescribed by the President establishing the rates and defining the area, groups of positions, and classes of employees to which each rate applies. Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).

(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

(A) January 1, 2010; and

(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under paragraphs (2) and (3), respectively, of section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

(2)(A) In this paragraph, the term ''applicable locality-based comparability pay percentage'' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under paragraph (1), (2), or (3) of section 1914 of Non-Foreign Area Retirement Equity Assurance Act of 2009.

(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

(ii) dividing the resulting percentage determined under clause (i) by the sum of—

(I) one; and

(II) the applicable locality-based comparability payment percentage expressed as a numeral.

(3) No allowance rate computed under paragraph (2) may be less than zero.

(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).

(d) An employee entitled to a cost-of-living allowance under section 5924 of this title may not be paid an allowance under subsection (a) of this section based on living costs substantially higher than in the District of Columbia.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 512; Pub. L. 111–84, div. A, title XIX, § 1912(b), Oct. 28, 2009, 123 Stat. 2620.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 118h.	Apr. 20, 1948, ch. 219, § 207, 62 Stat. 194. June 30, 1948, ch. 775, § 104, 62 Stat. 1205.

The section is reorganized and restated for clarity and conciseness.

The word ''allowances'' is substituted for ''additional compensation'' as a more apt term and for consistency.

In subsection (a), the words ''Executive agency'' are substituted for ''executive departments, independent establishments, and wholly owned Government corporations'' in view of the definition of ''Executive agency'' in section 105. The exception of a ''Government controlled corporation'' is added to preserve the application to ''wholly owned Government corporation''.

Subsection (b) is based on the second proviso of former section 118h and is restated to reflect the provisions of sections 511(b), (c)(7) and 521 of the Act of Sept. 6, 1960, Pub. L. 86–707, 74 Stat. 800–802. The reference to section 204 of the Act of Apr. 20, 1948, is omitted as obsolete, since the section was applicable only to fiscal year 1949.

The last proviso of former section 118h which provided the effective date of the section is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (a), is the date of enactment of Pub. L. 111–84, which was approved Oct. 28, 2009.

Section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (c)(1)(B), (2)(A), is section 1914 of Pub. L. 111–84, which is set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–84, § 1912(b)(1), inserted at end ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).''

Subsecs. (b) to (d). Pub. L. 111–84, § 1912(b)(2), (3), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–84 effective on the first day of the first applicable pay period beginning on or after Jan. 1, 2010, with transition and savings provisions, see sections 1914, 1915, and 1919(b) of Pub. L.

111–84, set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of this title.

PROHIBITION OF REDUCTION OF ALLOWANCE; STUDY AND REPORT ON ADJUSTING CALCULATION OF GEOGRAPHIC FACTORS

Pub. L. 102–141, title IV, § 1, Oct. 28, 1991, 105 Stat. 861, as amended by Pub. L. 103–329, title V, § 532, Sept. 30, 1994, 108 Stat. 2413; Pub. L. 104–52, title IV, § 5, Nov. 19, 1995, 109 Stat. 490; Pub. L. 105–61, title V, § 515, Oct. 10, 1997, 111 Stat. 1306, provided that: ''The allowances provided to employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10000 [set out below] as in effect on the date of the enactment of this Act [Oct. 28, 1991] may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 2000: *Provided*, That no later than March 1, 2000, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

''(1) an examination of the pay practices of other employers in the affected areas;

''(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for calculating allowances to take into account all cost of living in the geographic areas of the affected employee; and

''(3) an evaluation of the likely impact of the different approaches on the Government's ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.''

EX. ORD. NO. 10000. REGULATIONS GOVERNING ADDITIONAL COMPENSATION AND CREDIT GRANTED CERTAIN FEDERAL EMPLOYEES SERVING OUTSIDE THE UNITED STATES

Ex. Ord. No. 10000, Sept. 16, 1948, 13 F.R. 5453, as amended by Ex. Ord. No. 10636, Sept. 16, 1955, 20 F.R. 7025; Ex. Ord. No. 11938, Sept. 29, 1976, 41 F.R. 43383; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12510, Apr. 17, 1985, 50 F.R. 15535; Ex. Ord. No. 13207, Apr. 5, 2001, 66 F.R. 18399, provided:

By virtue of the authority vested in me by section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948 (Public Law 491, 80th Congress), as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948 (Public Law 862, 80th Congress), and by sections 303, 443, and 853 of the Foreign Service Act of 1946 (60 Stat. 1002, 1006, 1024), and as President of the United States, I hereby prescribe the following regulations (1) governing the payment of additional compensation to personnel of the United States employed outside the continental United States or in Alaska, under the provisions of the said section 207, as amended, (2) governing the payment of salary differentials to Foreign Service staff officers and employees serving at certain posts, pursuant to the said section 443, and (3) relating to unhealthful foreign posts, pursuant to the said section 853:

PART I—ADDITIONAL COMPENSATION IN FOREIGN AREAS

SECTION 101. DEFINITIONS. As used in this Part, (a) the words ''foreign areas'' mean all areas exclusive of (1) the forty-eight states of the United States, (2) the District of Columbia, and (3) non-foreign areas as defined in section 201 of this order, and (b) the words ''section 207 of the Act'' mean section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948, Public Law 491, 80th Congress, as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948, Public Law 862, 80th Congress.

SEC. 102. ADDITIONAL COMPENSATION BY REASON OF ENVIRONMENT. The Secretary of State shall from time to time, subject to applicable law, (a) designate places in foreign areas having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as ''foreign post differential.''

SEC. 103. BASIS FOR FOREIGN POST DIFFERENTIAL. The Secretary of State may establish a foreign post differential for any place when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

SEC. 104. AGENCIES COVERED. Subject to the provisions of section 207 of the Act and of this Part, every executive department, independent establishment, and wholly owned Government corporation shall pay a foreign post differential fixed under section 102 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed.

SEC. 105. PERSONS ELIGIBLE TO RECEIVE FOREIGN POST DIFFERENTIAL. (a) In order that an employee be eligible to receive a foreign post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the foreign post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 105(a) hereof, the classes of persons eligible to receive the foreign post differentials fixed pursuant to section 102 hereof shall include:

(1) Persons recruited or transferred from the United States.

(2) Persons employed locally but (a) who were originally recruited from the United States and have been in substantially continuous employment by other Federal agencies, United States firms, interests, or organizations, international organizations in which the United States Government participates, or foreign governments, and whose conditions of employment provide for their return transportation to the United States, or (b) who were at the time of employment temporarily absent from the United States for purposes of travel or formal study and maintained residence in the United States during such temporary absence. When used in a geographical sense in section 105(b) hereof, ''United States'' includes the areas included within the definition of non-foreign areas as set forth in section 201 hereof.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

SEC. 106. PAYMENT OF FOREIGN POST DIFFERENTIALS.

(a) The following regulations shall govern the payment of foreign post differentials under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and the end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 102(c) hereof.

(3) Payments to persons serving on a part-time basis shall be pro-rated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

SEC. 107. PERSONS SERVING UNDER CONTRACT. Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a foreign post differential under this Part shall, if he is serving under contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive a foreign post differential.

SEC. 108. PERIODIC REVIEW. The Secretary of State shall periodically, but at least annually, review the places designated, the rates fixed, and the regulations prescribed pursuant to section 102 hereof, with a view to making such changes therein as will insure that the payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified.

SEC. 109. ADDITIONAL LIVING COST COMPENSATION. No executive department, independent establishment, or wholly owned Government corporation shall pay, pursuant to section 207 of the Act, additional compensation to any employee located in any foreign area by reason of living costs which are substantially higher than those in the District of Columbia: *Provided*, That this section shall not be construed to prevent any payment, under section 204 of said Independent Offices Appropriation Act, 1949, or under other appropriate authority.

PART II—ADDITIONAL COMPENSATION IN NON-FOREIGN AREAS

SEC. 201. DEFINITION. As used in this Part, the term ''non-foreign areas'' includes Alaska, Hawaii, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and such additional areas located outside the continental United States as the Secretary of State shall designate as being within the scope of the provisions of this Part[.]

SEC. 202. ADDITIONAL COMPENSATION BY REASON OF ENVIRONMENT. The Office of Personnel Management shall from time to time, subject to applicable law, (a) designate places in non-foreign areas having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as ''non-foreign area post differential.''

SEC. 203. BASIS FOR NON-FOREIGN AREA POST DIFFERENTIAL. The Office of Personnel Management may establish a non-foreign area post differential for any place in the non-foreign areas when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

SEC. 204. PERSONS ELIGIBLE TO RECEIVE NON-FOREIGN AREA POST DIFFERENTIAL. (a) In order that an employee be eligible to receive a non-foreign area post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the non-foreign area post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 204(a) hereof, the classes of persons eligible to receive the non-foreign area post differentials fixed pursuant to section 202 hereof shall include:

(1) Persons recruited or transferred from outside the area concerned.

(2) Persons employed in the area concerned but (a) who were originally recruited from outside such area and have been in substantially continuous employment by other Federal agencies, contractors of Federal agencies, or international organizations in which the U. S. Government participates, and whose conditions of employment provide for their return transportation to places outside the area concerned, or (b) who were at the time of employment temporarily present in the area concerned for purposes of travel or formal study and maintained residence outside such area during the period so present.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

SEC. 205. ADDITIONAL LIVING COST COMPENSATION. The Office of Personnel Management shall from time to time, subject to applicable law, (1) designate places in non-foreign areas eligible to receive additional compensation by virtue of living costs that are substantially higher than in the Washington, D.C., area, (2) fix for each place so designated an additional rate or rates of compensation by reason of such higher living costs, and (3) prescribe by regulation such additional policies or procedures as may be necessary to administer such compensation. Additional compensation under this section is referred to as a ''non-foreign area cost-of-living allowance''.

SEC. 206. COORDINATION. The Office of Personnel Management shall define the extent to which and the conditions under which an employee serving within the non-foreign areas may receive both a non-foreign area post differential and a non-foreign area cost-of-living allowance, pursuant to section 207 of the Act. In carrying out its functions under this Part the Office may take due notice if any special allowances, other than under section 207 of the act, granted to personnel employed by the United States in non-foreign areas.

SEC. 207. AGENCIES COVERED. Subject to the provisions of section 207 of the Act and of this Part, every Executive department, independent establishment, and wholly owned Government corporation shall pay (a) a non-foreign area post differential fixed under section 202 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed, and (b) a non-foreign area cost-of-living allowance fixed under section 205 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that allowance has been fixed.

SEC. 208. PAYMENT OF NON-FOREIGN AREA POST DIFFERENTIALS AND COST-OF-LIVING ALLOWANCES.

(a) The following regulations shall govern the payment of non-foreign area post differentials and non-foreign area cost-of-living allowances under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 202(c) hereof.

(3) Payments to persons serving on a part-time basis shall be prorated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

SEC. 209. PERSONS SERVING UNDER CONTRACT. Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a non-foreign area post differential or a non-foreign area cost-of-living allowance under this Part shall, if he is

serving under a contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive said differential and allowance.

SEC. 210. PERIODIC REVIEW. The Office of Personnel Management shall periodically review the places designated, the rates fixed, and the regulations prescribed pursuant to this Part, with a view to making such changes therein as will insure that payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified: *Provided*, That the rate of such additional compensation may be reduced gradually.

PART III—INTERIM ARRANGEMENTS

SEC. 301. TEMPORARY REGULATIONS. During the period commencing with the date of this order or the effective date of section 207 of the Act (as defined in section 101 hereof), whichever shall occur earlier, and ending on a date or dates fixed by the Secretary of State and the Office of Personnel Management, respectively, as the effective dates of the designation of places and of the fixing of additional rates of compensation, under Parts I and II of this order, but in no event later than January 1, 1949, and notwithstanding the provisions of Parts I and II of this order, the payment of salaries and compensation (including the payment of additional compensation) of persons subject to the provisions of said section 207 shall be governed by the regulations and practices in effect in the respective Executive departments, independent establishments, and wholly owned government corporations immediately prior to April 20, 1948. Executive Order No. 9962 of May 24, 1948 is hereby revoked.

PART IV—FOREIGN SERVICE SALARY DIFFERENTIALS

[Part IV relating to Foreign Service salary differentials terminated June 30, 1951, pursuant to section 404 of this Executive Order.]

PART V—UNHEALTHFUL POSTS

[Part V relating to Unhealthful Posts terminated June 30, 1951, pursuant to section 503 of this Executive Order.]

PART VI—GENERAL PROVISIONS

SEC. 601. PUBLICATION. This order, and the places designated, the rates fixed, and the regulations prescribed by the Secretary of State and the Office of Personnel Management pursuant to Parts I and II of this order, shall be published in the Federal Register.

EXECUTIVE ORDER NO. 12070

Ex. Ord. No. 12070, June 30, 1978, 43 F.R. 28977, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which related to suspension of certain requirements in determination of cost of living allowance rates, was superseded by Ex. Ord. No. 12510, Apr. 17, 1985, 50 F.R. 15535.

§ 5942. Allowance based on duty at remote worksites

(a) Notwithstanding section 5536 of this title, an employee of an Executive department or an independent establishment who is assigned to duty, except temporary duty, at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite, is entitled, in addition to pay otherwise due him, to an allowance of not to exceed $10 a day. The allowance shall be paid under regulations prescribed by the President establishing the rates at which the allowance will be paid and defining and designating those sites, areas, and groups of positions to which the rates apply.

(b) Under procedures prescribed by the President, the maximum allowance specified in subsection (a) may be adjusted from time to time in the interest of recruiting and retaining employees for performance of duty at remote worksites.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 513; Pub. L. 90–83, § 1(41), Sept. 11, 1967, 81 Stat. 207; Pub. L. 91–656, § 6(a), Jan. 8, 1971, 84 Stat. 1953; Pub. L. 101–510, div. A, title XII, § 1206(g), Nov. 5, 1990, 104 Stat. 1662.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 70c.	Aug. 31, 1964, Pub. L. 88–538, § 1, 78 Stat. 745.

The words ''of the United States'' are omitted as unnecessary because of the definition of ''employee'' in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5942	5 App.: 70c.	Mar. 31, 1966, Pub. L. 89–383, § 1, 80 Stat. 98.

AMENDMENTS

1990—Pub. L. 101–510 designated existing provisions as subsec. (a) and added subsec. (b).

1971—Pub. L. 91–656 substituted ''duty at remote worksites'' for ''duty on California offshore islands or at Nevada Test Site'' in section catchline and assignment to duty ''at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite'' for assignment to duty ''on one of the California offshore islands or at the United States Atomic Energy Commission Nevada Test Site, including the Nuclear Rocket Development Station'', inserted reference to employee ''of an Executive department or an independent establishment'' and provision for designation by regulation of sites to which the rates apply.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 6(b) of Pub. L. 91–656 provided that: ''Notwithstanding section 5536 of title 5, United States Code, and the amendment made by subsection (a) of this section [amending this section], and until the effective date of regulations prescribed by the President under such amendment—

''(1) allowances may be paid to employees under section 5942 of title 5, United States Code, and the regulations prescribed by the President under such section, as in effect immediately prior to the effective date of this section [Jan. 8, 1971]; and

''(2) such regulations may be amended or revoked in accordance with such section 5942 as in effect immediately prior to the effective date of this section [Jan. 8, 1971].''

DELEGATION OF FUNCTIONS

Authority of President under this section to prescribe regulations establishing rates at which an allowance based on duty (except temporary duty) at remote worksites will be paid and defining and designating sites, areas, and groups of positions to which rates apply delegated to Office of Personnel Management, see section 8(3) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5942a. Separate maintenance allowance for duty at Johnston Island

(a) Notwithstanding section 5536 of this title, and under regulations prescribed by the President, an employee of an Executive agency (other than a Government corporation) who is assigned to a post of duty at Johnston Island, a possession of the United States in the Pacific Ocean, is entitled to receive a separate maintenance allowance if the head of the employing agency finds that—

(1) it is necessary for the employee to maintain the employee's spouse or dependents, or both, at a location other than Johnston Island—

(A) by reason of dangerous or adverse living conditions at Johnston Island; or

(B) for the convenience of the Federal Government; and

(2) the allowance is needed to help the employee meet the additional expenses involved in maintaining the employee's spouse or dependents, or both, at such other location rather than at the post.

(b) The regulations prescribed by the President shall include provisions for determining the rate at which an allowance under this section shall be paid.

(Added Pub. L. 102–190, div. A, title X, § 1092(a)(1), Dec. 5, 1991, 105 Stat. 1486.)

EFFECTIVE DATE

Section 1092(b) of Pub. L. 102–190 provided that: ''The amendments made by subsection (a) [enacting this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Dec. 5, 1991].''

DELEGATION OF FUNCTIONS

Authority of President under this section to prescribe regulations delegated to the Office of Personnel Management by section 8(4) of Ex. Ord. No. 11609, set out as a note under section 301 of Title 3, The President.

§ 5943. Foreign currency appreciation allowances

(a) The President, under such regulations as he may prescribe, may meet losses sustained by employees and members of the uniformed services while serving in a foreign country due to the appreciation of foreign currency in its relation to the American dollar. Allowances and expenditures under this section are not subject to income taxes.

(b) Annual appropriations are authorized to carry out subsection (a) of this section and to cover any deficiency in the accounts of the Secretary of the Treasury, including interest, arising out of the arrangement approved by the President on July 27, 1933, for the conversion into foreign currency of checks and drafts of employees and members of the uniformed services for pay and expenses.

(c) Payment under subsection (a) of this section may not be made to an employee or member of a uniformed service for a period during which his check or draft was converted into foreign currency under the arrangement referred to by subsection (b) of this section.

(d) The President shall report annually to Congress all expenditures made under this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 513; Pub. L. 96–54, § 2(a)(37), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 118c.	Mar. 26, 1934, ch. 87, 48 Stat. 466. Aug. 14, 1937, ch. 627, 50 Stat. 641. Sept. 12, 1950, ch. 946, § 301(87), 64 Stat. 843.

The section is reorganized and restated for clarity and conciseness.

In subsection (a), the words ''notwithstanding the provisions of any other Act'' are omitted as unnecessary. The words ''Secretary of the Treasury'' are substituted for ''Treasurer of the United States'' on authority of 1950 Reorg. Plan No. 26 §§1, 2, eff. July 31, 1950, 64 Stat. 1280. The words ''Provided, That such action as the President may take shall be binding upon all executive officers of the Government'' are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–54, § 2(a)(37)(A), struck out provision relating to recommendation of the Director of the Bureau of the Budget to the President.

Subsec. (d). Pub. L. 96–54, § 2(a)(37)(B), substituted ''President'' for ''Director of the Bureau of the Budget''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to make recommendations concerning meeting of losses sustained by employees and members of uniformed services while serving in a foreign country due to appreciation of foreign currency in its relation to American dollar and under subsec. (d) of this section to report annually to Congress on expenditures made under subsec. (d) of this section, delegated to Secretary of the Treasury, see section 2 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

[§ 5944. Repealed. Pub. L. 98–164, title I, § 127(b)(1), Nov. 22, 1983, 97 Stat. 1027]

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 513, authorized head of Executive department or military department which maintained a permanent staff of employees in foreign countries to pay burial expenses and expenses in connection with last illness and death of a native employee of his department in a country in which Secretary of State determined it was customary for employers to pay these expenses, and in foreign countries in which custom did not exist, on finding

that immediate family of deceased was destitute, he could pay such of expenses as employee in charge of the office abroad in which deceased was employed considered proper. See section 3968(a)(1) of Title 22, Foreign Relations and Intercourse.

§ 5945. Notary public commission expenses

An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia who is required to serve as a notary public in connection with the performance of official business is entitled to an allowance, established by the agency concerned, not in excess of the expense required to obtain the commission. Funds available to an agency concerned for personal services or general administrative expenses are available to carry out this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 514.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 70a.	July 11, 1956, ch. 554, § 1, 70 Stat. 519.
.....	5 U.S.C. 70b.	July 11, 1956, ch. 554, § 2, 70 Stat. 520.

In the first sentence, the words ''to be incurred by them in order'' are omitted as surplusage. The words ''from and after January 1, 1955'' are omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5946. Membership fees; expenses of attendance at meetings; limitations

Except as authorized by a specific appropriation, by express terms in a general appropriation, or by sections 4109 and 4110 of this title, appropriated funds may not be used for payment of—

(1) membership fees or dues of an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia in a society or association; or

(2) expenses of attendance of an individual at meetings or conventions of members of a society or association.

This section does not prevent the use of appropriations for the Department of Agriculture for expenses incident to the delivery of lectures, the giving of instructions, or the acquiring of information at meetings by its employees on subjects relating to the authorized work of the Department.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 514.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 83.	June 26, 1912, ch. 182, § 8, 37 Stat. 184. Mar. 4, 1913, ch. 145 (3d full par. on p. 854), 37 Stat. 854.

The words ''or by sections 4109 and 4110 of this title'' are added on authority of former sections 2309 and 2318(b), which are carried into sections 4109 and 4110, respectively.

In the last sentence, the words ''This section does not'' are substituted for ''That nothing contained in the Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes, approved June twenty-sixth, nineteen hundred and twelve, shall be so construed as to'' appearing in the Act of Mar. 4, 1913, 37 Stat. 854.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations

(a) An employee of the Corps of Engineers, Department of the Army, engaged in floating plant operations may be furnished quarters or subsistence, or both, on vessels, without charge, when the furnishing of the quarters or subsistence, or both, is determined to be equitable to the employee concerned, and necessary in the public interest, in connection with such operations.

(b) Notwithstanding section 5536 of this title, an employee entitled to the benefits of subsection (a) of this section while on a vessel, may be paid, in place of these benefits, an allowance for quarters or subsistence, or both, when—

(1) adverse weather conditions or similar circumstances beyond the control of the employee or the Corps of Engineers prevent transportation of the employee from shore to the vessel; or

(2) quarters or subsistence, or both, are not available on the vessel while it is undergoing repairs.

(c) The quarters or subsistence, or both, or allowance in place thereof, may be furnished or paid only under regulations prescribed by the Secretary of the Army.

(Added Pub. L. 91–656, § 7(a), Jan. 8, 1971, 84 Stat. 1954.)

§ 5948. Physicians comparability allowances

(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section, section 5307, and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

(1) $14,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

(2) $30,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114[1] of title 38 or ac-

[1] See References in Text note below.

tive service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician.

(b) An allowance may not be paid pursuant to this section to any physician who—

(1) is employed on less than a half-time or intermittent basis,

(2) occupies an internship or residency training position,

(3) is a reemployed annuitant, or

(4) is fulfilling a scholarship obligation.

(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service.

(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

(g) For the purpose of this section—

(1) ''Government physician'' means any individual employed as a physician or dentist who is paid under—

(A) section 5332 of this title, relating to the General Schedule;

(B) Subchapter VIII of chapter 53 of this title, relating to the Senior Executive Service;

(C) section 5371, relating to certain health care positions;

(D) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

(E) chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following), relating to the Foreign Service;

(F) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

(G) section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission;

(H) section 2 of the Act of May 29, 1959[2] (Public Law 86–36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency;

(I) section 5376, relating to certain senior-level positions;

(J) section 5377, relating to critical positions; or

(K) subchapter IX of chapter 53, relating to special occupational pay systems; and

(2) ''agency'' means an Executive agency, as defined in section 105 of this title, the Library of Congress, and the District of Columbia government.

(h)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81 or 87 of this title, or other benefits related to basic pay.

(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician's basic pay is paid.

(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.

(j) Not later than June 30 of each year, the President shall submit to each House of Congress a written report on the operation of this section. Each report shall include, with respect to the year covered by such report, information as to—

(1) which agencies entered into agreements under this section;

(2) the nature and extent of the recruitment or retention problems justifying the use of authority by each agency under this section;

(3) the number of physicians with whom agreements were entered into by each agency;

(4) the size of the allowances and the duration of the agreements entered into; and

(5) the degree to which the recruitment or retention problems referred to in paragraph (2) were alleviated under this section.

(Added Pub. L. 95–603, § 2(a), Nov. 6, 1978, 92 Stat. 3018; amended Pub. L. 96–166, § 2, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 97–141, § 2, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98–168, title I, § 102(a), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 98–615, title II, § 204(a)(3), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 100–140, § 1, Oct. 26, 1987, 101 Stat. 830; Pub. L. 101–420, § 1(a), formerly § 1, Oct. 12, 1990, 104 Stat. 908, renumbered § 1(a), Pub. L. 103–114, § 1(b)(2)(A), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 102–378, § 2(51), Oct. 2, 1992, 106 Stat. 1353; Pub. L. 103–89, § 3(b)(1)(M), Sept. 30, 1993, 107 Stat. 982; Pub. L. 103–114, §§ 1(a)(1), 2(a), Oct. 26, 1993, 107

[2] See References in Text note below.

Stat. 1115, 1116; Pub. L. 105–61, title V, § 517(a), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 105–266, § 7(a), Oct. 19, 1998, 112 Stat. 2369; Pub. L. 106–554, § 1(a)(1) [title II, § 218(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–28; Pub. L. 106–571, §§ 2(a)(1), (b), 3(d), Dec. 28, 2000, 114 Stat. 3054, 3057.)

REFERENCES IN TEXT

Sections 4104 and 4114 of title 38, referred to in subsec. (a), were repealed by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210, and a new section 4101 containing different subject matter was added. For provisions similar to those contained in sections 4104 and 4114 prior to repeal, see sections 7401 and 7405 to 7407 of Title 38, Veterans' Benefits.

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title II of the Public Health Service Act is classified generally to subchapter I (§ 201 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Foreign Service Act of 1980, referred to in subsec. (g)(1)(E), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 4 of title I of the Act is classified generally to subchapter IV (§ 3961 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

Section 1202 of the Panama Canal Act of 1979, referred to in subsec. (g)(1)(G), is classified to section 3642 of Title 22, Foreign Relations and Intercourse.

Section 2 of the Act of May 29, 1959 (Public Law 86–36, as amended, 50 U.S.C. 402 note), referred to in subsec. (g)(1)(H), was repealed by Pub. L. 104–201, div. A, title XVI, § 1633(b)(1), Sept. 23, 1996, 110 Stat. 2751.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–571, § 2(a)(1), struck out second sentence which read as follows: ''No agreement shall be entered into under this section later than September 30, 2005, nor shall any agreement cover a period of service extending beyond September 30, 2007.''

Pub. L. 106–554 amended second sentence generally. Prior to amendment, second sentence read as follows: ''No agreement shall be entered into under this section later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002.''

Subsec. (h)(1). Pub. L. 106–571, § 3(d), substituted ''chapter 81 or 87'' for ''chapter 81, 83, or 87''.

Subsec. (j). Pub. L. 106–571, § 2(b), in par. (1), substituted ''(j)'' for ''(j)(1)'', redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, in par. (5), substituted ''paragraph (2)'' for ''subparagraph (B)'', and struck out former par. (2) which read as follows: ''In addition to the information required under paragraph (1), the last report due under this subsection before the expiration of the authority to enter into agreements under this section shall include—

''(A) recommendations as to whether or not such authority should be continued beyond September 30, 2000, and, if so, by what period of time; and

''(B) the reasons for those recommendations.''

1998—Subsec. (a)(2). Pub. L. 105–266 substituted ''$30,000'' for ''$20,000''.

1997—Subsec. (d). Pub. L. 105–61, § 517(a)(1), substituted ''No agreement shall be entered into under this section later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002.'' for ''No agreement shall be entered into under this section later than September 30, 1997, nor shall any agreement cover a period of service extending beyond September 30, 1999.''

Subsec. (j)(2)(A). Pub. L. 105–61, § 517(a)(2), substituted ''September 30, 2000'' for ''September 30, 1997''.

1993—Subsec. (d). Pub. L. 103–114, § 1(a)(1), amended second sentence generally. Prior to amendment, second sentence read as follows: ''No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995.''

Subsec. (g)(1)(C) to (L). Pub. L. 103–89 redesignated subpars. (D) to (L) as (C) to (K), respectively, and struck out former subpar. (C) which read as follows: ''chapter 54 of this title, relating to the performance management and recognition system;''.

Subsec. (j). Pub. L. 103–114, § 2(a), added subsec. (j).

1992—Subsec. (a). Pub. L. 102–378, § 2(51)(A), inserted '', section 5307,'' after ''provisions of this section'' in first sentence.

Subsec. (g)(1)(D). Pub. L. 102–378, § 2(51)(B)(i), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''section 5371 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;''.

Subsec. (g)(1)(J) to (L). Pub. L. 102–378, § 2(51)(B)(ii)–(iv), added subpars. (J) to (L).

1990—Subsec. (d). Pub. L. 101–420 added second sentence and struck out former second sentence which read as follows: ''No agreement shall be entered into under this section later than September 30, 1990, nor shall any agreement cover a period of service extending beyond September 30, 1992.''

1987—Subsec. (a). Pub. L. 100–140, § 1(a)(3), inserted last sentence.

Subsec. (a)(1). Pub. L. 100–140, § 1(a)(1), substituted ''$14,000'' for ''$7,000''.

Subsec. (a)(2). Pub. L. 100–140, § 1(a)(2), substituted ''$20,000'' for ''$10,000''.

Subsec. (d). Pub. L. 100–140, § 1(b), substituted ''September 30, 1990'' for ''September 30, 1987'' and ''September 30, 1992'' for ''September 30, 1989''.

1984—Subsec. (g)(1)(C). Pub. L. 98–615 substituted ''performance management and recognition system'' for ''Merit Pay System''.

1983—Subsec. (d). Pub. L. 98–168 substituted ''1987'' for ''1983'', and ''1989'' for ''1985''.

1981—Subsec. (d). Pub. L. 97–141, § 2(1), substituted ''September 30, 1983, nor shall any agreement cover a period of service extending beyond September 30, 1985'' for ''September 30, 1981, nor shall any agreement cover a period of service extending beyond September 30, 1983''.

Subsec. (g)(1). Pub. L. 97–141, § 2(2), (3), reenacted provisions preceding subpar. (A) without change, and in subpar. (F), substituted ''chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following)'' for ''title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861–890)''.

1979—Subsec. (d). Pub. L. 96–166, § 2(1), substituted ''September 30, 1981'' for ''September 30, 1979'' and ''September 30, 1983'' for ''September 30, 1981''.

Subsec. (g)(1). Pub. L. 96–166, § 2(2)(A), directed the amendment of subsec. (g)(1) by inserting ''or dentist'' after ''physician'' which was executed by inserting the term after ''employed as a physician'' in introductory phrase as the probable intent of Congress.

Pub. L. 96–166, § 2(2)(B)–(E), redesignated subpars. (B) through (G) as (D) through (I), respectively, added subpars. (B) and (C), substituted in subpar. (D) as redesignated, ''5371'' for ''5361'', and substituted in subpar. (H) as redesignated, ''section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission; or'' for ''section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or''.

Subsec. (g)(2). Pub. L. 96–166, § 2(3), inserted reference to the Library of Congress.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 517(c) of Pub. L. 105–61 provided that: ''The amendments made by this section [amending this section and provisions set out as a note under this section] shall take effect on the date of enactment of this Act [Oct. 10, 1997].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF REPEAL

Section 3 of Pub. L. 95–603, as amended by Pub. L. 96–166, § 4, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 97–141, § 3, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98–168, title I, § 102(b), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 100–140, § 1(c), as added Pub. L. 103–114, § 1(b)(1), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 101–420, § 1(b), as added Pub. L. 103–114, § 1(b)(2)(B), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 103–114, § 1(a)(2), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 105–61, title V, § 517(b), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 106–554, § 1(a)(1) [title II, § 218(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–28, which provided that this section would be repealed, unless specifically extended by Act of Congress, effective on Sept. 30, 2007, was repealed by Pub. L. 106–571, § 2(a)(2), Dec. 28, 2000, 114 Stat. 3054.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–571, § 1, Dec. 28, 2000, 114 Stat. 3054, provided that: ''This Act [amending this section and sections 8331, 8339, 8401, and 8415 of this title] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 2000'.''

SHORT TITLE OF 1983 AMENDMENT

Section 101 of title I of Pub. L. 98–168 provided that: ''This title [amending this section, enacting provisions set out below, and amending provisions set out as a note above] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1983'.''

SHORT TITLE OF 1981 AMENDMENT

Section 1 of Pub. L. 97–141 provided: ''That this Act [amending this section and section 8344 of this title and provisions set out below and enacting provisions set out as notes under this section and section 8344 of this title] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1981'.''

SHORT TITLE OF 1979 AMENDMENT

Section 1 of Pub. L. 96–166 provided: ''That this Act [amending this section and section 5383 of this title and provisions set out as a note under this section, and enacting provisions set out below] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1979'.''

SHORT TITLE

Section 1 of Pub. L. 95–603 provided: ''That this Act [enacting this section and provisions set out as notes under this section] may be cited as the 'Federal Physicians Comparability Allowance Act of 1978'.''

CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105–266, § 7(c), Oct. 19, 1998, 112 Stat. 2370, provided that: ''Nothing in this section [amending this section and enacting provisions set out as a note below] shall be considered to authorize additional or supplemental appropriations for the fiscal year in which occurs the date of the enactment of this Act [Oct. 19, 1998].''

CONSTRUCTION OF 1993 AMENDMENT

Section 1(a)(4) of Pub. L. 103–114 provided that: ''The amendments made by this subsection [amending this section and provisions set out above] shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending September 30, 1993.''

Section 1(c) of Pub. L. 103–114 provided that: ''For purposes of applying the amendments made by this section [amending this section and enacting and amending provisions set out as notes above]—

''(1) the provisions of subsection (b)(1) [enacting and amending provisions set out as notes above] shall be treated as having been enacted immediately before the provisions of subsection (b)(2) [enacting and amending provisions set out as notes above]; and

''(2) the provisions of subsection (b)(2) shall be treated as having been enacted immediately before the provisions of subsection (a) [amending this section and enacting and amending provisions set out as notes above].''

MODIFICATION OF SERVICE AGREEMENTS IN EFFECT ON OCTOBER 19, 1998; LIMITATION

Pub. L. 105–266, § 7(b), Oct. 19, 1998, 112 Stat. 2369, provided that:

''(1) IN GENERAL.—Any service agreement under section 5948 of title 5, United States Code, which is in effect on the date of the enactment of this Act [Oct. 19, 1998] may, with respect to any period of service remaining in such agreement, be modified based on the amendment made by subsection (a) [amending this section].

''(2) LIMITATION.—A modification taking effect under this subsection in any year shall not cause an allowance to be increased to a rate which, if applied throughout such year, would cause the limitation under section 5948(a)(2) of such title (as amended by this section), or any other applicable limitation, to be exceeded.''

EFFECTIVENESS OF SERVICE AGREEMENTS LIMITED BY APPROPRIATION ACTS

Section 1(a)(3) of Pub. L. 103–114 provided that: ''Any service agreement entered into on or after the date of the enactment of this Act [Oct. 26, 1993] pursuant to section 5948 of title 5, United States Code, as amended by paragraph (1), shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.''

DUE DATE FOR FIRST ANNUAL REPORT ON OPERATION OF SECTION

Section 2(b) of Pub. L. 103–114 provided that: ''The first report under section 5948(j) of title 5, United States Code, as amended by subsection (a), shall be due not later than June 30, 1994.''

PAY OF CERTAIN FEDERAL PHYSICIANS FOR FISCAL YEAR 1982

Section 103 of Pub. L. 98–168 provided that any individual whose aggregate pay for fiscal year 1982 exceeded the limitation set forth in section 5383(b) of this title is relieved of all liability to the United States for any amounts paid to such individual in excess of such limitation if, and to the extent that, such liability takes into account any allowance paid under this section, provided for repayment to individuals relieved from liability of amounts already paid, and defined the terms ''aggregate pay'', ''appropriate agency head'', and ''agency''.

SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1981; ADVANCE AUTHORIZATION; FISCAL YEAR 1982

Section 4 of Pub. L. 97–141 provided that any service agreement entered into on or after Dec. 29, 1981, pursuant to this section, as amended by section 2 of Pub. L. 97–141, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts, and that the amendments made by Pub. L. 97–141 shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending Sept. 30, 1982.

SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1979; ADVANCE AUTHORIZATION

Section 5 of Pub. L. 96–166 provided that any service agreement entered into on or after Dec. 29, 1979, pursuant to this section, as amended by section 2 of Pub. L. 96–166, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

TIME OF ENTRY INTO ALLOWANCE AGREEMENTS AND FOR COMMENCEMENT OF ALLOWANCE

Section 2(c) of Pub. L. 95–603 provided that no agreement be entered into under this section before 60th day after Nov. 6, 1978, and that no agreement provide for payment of any allowance under such section for any pay period beginning before later of such 60th day, or Oct. 1, 1978.

EX. ORD. NO. 12109. DELEGATION OF AUTHORITY TO DIRECTOR OF OFFICE OF PERSONNEL MANAGEMENT

Ex. Ord. No. 12109, Dec. 28, 1978, 44 F.R. 1067, provided: By the authority vested in me as President of the United States of America by Section 5948 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–101. The Director of the Office of Personnel Management is hereby designated and empowered to exercise, in consultation with the Director of the Office of Management and Budget, the authority of the President under Section 5948 of Title 5 of the United States Code, to prescribe regulations, criteria, and conditions with regard to the payment of comparability allowances to recruit and retain certain Federal physicians.

1–102. Until the Office of Personnel Management is established (on or before January 1, 1979), pursuant to Reorganization Plan No. 2 of 1978 (43 FR 36037) [set out under section 1101 of this title], the Civil Service Commission shall exercise the authority delegated under this Order to the Director of the Office of Personnel Management.

JIMMY CARTER.

§ 5949. Hostile fire pay

(a) The head of an Executive agency may pay an employee hostile fire pay at the rate of $150 for any month in which the employee was—

(1) subject to hostile fire or explosion of hostile mines;

(2) on duty in an area in which the employee was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period on duty in that area, other employees were subject to hostile fire or explosion of hostile mines; or

(3) killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

(b) An employee covered by subsection (a)(3) who is hospitalized for the treatment of his or her injury or wound may be paid hostile fire pay under this section for not more than three additional months during which the employee is so hospitalized.

(c) An employee may be paid hostile fire pay under this section in addition to other pay and allowances to which entitled, except that an employee may not be paid hostile fire pay under this section for periods of time during which the employee receives payment under section 5925 of this title because of exposure to political violence or payment under section 5928 of this title.

(Added Pub. L. 107–107, div. A, title XI, § 1111(a), Dec. 28, 2001, 115 Stat. 1238.)

EFFECTIVE DATE

Pub. L. 107–107, div. A, title XI, § 1111(c), Dec. 28, 2001, 115 Stat. 1238, as amended by Pub. L. 108–375, div. A, title X, § 1084(h)(3), Oct. 28, 2004, 118 Stat. 2064, provided that: ''Section 5949 of title 5, United States Code, as added by subsection (a), is effective as if enacted into law on September 11, 2001, and may be applied with respect to any hostile action that took place on or after that date.''

Subpart E—Attendance and Leave

CHAPTER 61—HOURS OF WORK

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
6101. Basic 40-hour workweek; work schedules; regulations.
[6102. Repealed.]
6103. Holidays.
6104. Holidays; daily, hourly, and piece-work basis employees.
6105. Closing of Executive departments.
6106. Time clocks; restrictions.

SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

6120. Purpose.
6121. Definitions.
6122. Flexible schedules; agencies authorized to use.
6123. Flexible schedules; computation of premium pay.
6124. Flexible schedules; holidays.
6125. Flexible schedules; time-recording devices.
6126. Flexible schedules; credit hours; accumulation and compensation.
6127. Compressed schedules; agencies authorized to use.
6128. Compressed schedules; computation of premium pay.
6129. Administration of leave and retirement provisions.
6130. Application of programs in the case of collective bargaining agreements.
6131. Criteria and review.
6132. Prohibition of coercion.
6133. Regulations; technical assistance; program review.

AMENDMENTS

1982—Pub. L. 97–221, § 2(b), July 23, 1982, 96 Stat. 233, inserted ''SUBCHAPTER I—GENERAL PROVISIONS'' before item 6101 and inserted ''SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES'' and items 6120 to 6133 after item 6106.

1972—Pub. L. 92–392, § 7(b), Aug. 19, 1972, 86 Stat. 573, struck out item 6102 ''Eight-hour day; 40-hour work week; wage-board employees''.

SUBCHAPTER I—GENERAL PROVISIONS

AMENDMENTS

1982—Pub. L. 97–221, § 2(a)(1), July 23, 1982, 96 Stat. 227, added subchapter I heading so as to designate existing provisions as ''SUBCHAPTER I—GENERAL PROVISIONS''.

§ 6101. Basic 40-hour workweek; work schedules; regulations

(a)(1) For the purpose of this subsection, ''employee'' includes an employee of the government of the District of Columbia and an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not in-