

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

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	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 posi-

tion 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

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	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 re-