

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highest rate of basic pay payable under section 5382 of this title, to a member of the Senior Executive Service, was repealed by Pub.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

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	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)(1) 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 com-

mencing 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

Pub. L. 103-356, title I, §101, Oct. 13, 1994, 108 Stat. 3410, 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

Pub. L. 101-194, title VII, §704(b), Nov. 30, 1989, 103 Stat. 1769, provided that: “This section and the amendments made by this section [amending this section, section 4501 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