

the first day of the first pay period beginning on or after the date on which a change in the definition of the CMSA, PMSA, or MSA is made effective.

(h) Payment of, or an increase in, a special law enforcement adjusted rate of pay is not an equivalent increase in pay within the meaning of 5 U.S.C. 5335.

(i) A special law enforcement adjusted rate of pay is included in an employee's "total remuneration," as defined in § 551.511(b) of this chapter, and "straight time rate of pay," as defined in § 551.512(b) of this chapter, for the purpose of computations under the Fair Labor Standards Act of 1938, as amended.

(j) Termination of a special law enforcement adjusted rate of pay under paragraph (f) of this section is not an adverse action for the purpose of subpart D of part 752 of this chapter.

(k) When an employee's *special law enforcement adjusted rate of pay* under this subpart is greater than any applicable *locality rate of pay* under subpart F of this part, a *continued rate of pay* under subpart G of this part, or special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), the payment of the rate resulting from the comparison required by paragraph (a) of this section shall be deemed to have reduced the special pay adjustment for law enforcement officers payable under section 404 of FEPCA, as authorized by section 404(a) of FEPCA.

[57 FR 2432, Jan. 22, 1992, as amended at 58 FR 33499, June 18, 1993; 58 FR 69173, Dec. 30, 1993; 61 FR 3540, Feb. 1, 1996; 64 FR 36771, July 8, 1999; 64 FR 69173, Dec. 10, 1999]

§ 531.305 Reports.

The Office of Personnel Management may require agencies to report pertinent information concerning the administration of payments under this subpart.

§ 531.306 Effect of special pay adjustments for law enforcement officers on retention payments under FBI demonstration project.

As required by section 406 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), a retention payment payable to an employee of the

New York Field Division of the Federal Bureau of Investigation under section 601(a)(2) of Public Law 100-453, as amended, shall be reduced by the amount of any special pay adjustment for law enforcement officers payable to that employee under this subpart. For the purpose of applying this section, the amount of the special pay adjustment for law enforcement officers shall be determined by subtracting the employee's scheduled annual rate of pay from his or her special law enforcement adjusted rate of pay.

[61 FR 3540, Feb. 1, 1996]

§ 531.307 Continuation of a special law enforcement adjusted rate of pay.

(a) Except as provided in paragraphs (c) and (d) of this section, the dollar amount of a special law enforcement adjusted rate of pay that was calculated under regulations which included nationwide or worldwide special salary rates established under 5 U.S.C. 5305 in the definition of "scheduled annual rate of pay" shall not be reduced.

(b) At the time of an adjustment in pay under 5 U.S.C. 5303, a special law enforcement adjusted rate of pay continued under paragraph (a) of this section shall be increased by the lesser of—

(1) The dollar amount of the adjustment (including a zero adjustment) made under 5 U.S.C. 5303 in the General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range); or

(2) The dollar amount of the adjustment (including a zero adjustment) in the special salary rate applicable to the employee as a result of the annual review of special rates required by 5 CFR 530.304.

(c) When an employee who is receiving a special law enforcement adjusted rate of pay continued under paragraph (a) of this section moves to a position in another special pay adjustment area to which a lesser special pay adjustment factor is applicable under § 531.302(a), the continued rate shall be reduced. The reduced continued rate shall be derived by—

(1) Determining the special law enforcement adjusted rate of pay to which the employee would have been

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entitled immediately before the employee's continued rate was first established if the special pay adjustment factor for the new area had been applicable; and

(2) Adjusting that rate as required under paragraph (b) of this section during the intervening period.

(d) A special law enforcement adjusted rate of pay that is continued under this section terminates on the date any of the conditions specified in § 531.304(f) is satisfied or on the date an employee is reduced in grade or is no longer in a position covered by a nationwide or worldwide special rate authorization (or, in the event of the conversion of a nationwide or worldwide special rate authorization to a local special rate authorization, a position covered by the new local special rate authorization).

[58 FR 69173, Dec. 30, 1993]

Subpart D—Within-Grade Increases

SOURCE: 46 FR 2319, Jan. 9, 1981, unless otherwise noted.

§ 531.401 Principal authorities.

The following are the principal authorities for the regulations in this subpart:

(a) Section 2301(b)(3) of title 5, United States Code, provides in part that "appropriate incentives and recognition should be provided for excellence in performance."

(b) Section 5301(a)(2) of title 5, United States Code, provides that "pay distinctions be maintained in keeping with work and performance distinctions."

(c) Section 5338 of title 5, United States Code, provides that "The Office of Personnel Management may prescribe regulations necessary for the administration" of General Schedule pay rates, including within-grade increases.

(d) Section 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103-89) provides that "the Office of Personnel Management shall prescribe regula-

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tions necessary for the administration of this section."

[51 FR 8419, Mar. 11, 1986, as amended at 59 FR 40793, Aug. 10, 1994; 60 FR 33098, June 27, 1995]

§ 531.402 Employee coverage.

(a) Except as provided in paragraph (b) of this section, this subpart applies to employees who occupy permanent positions classified and paid under the General Schedule and who are paid less than the maximum rate of their grades.

(b) This subpart does not apply to:

(1) Members of the Senior Executive Service established under subchapter II of chapter 31 of title 5, United States Code;

(2) Individuals appointed by the President, by and with the advice and consent of the Senate; and

(3) Employees of the government of the District of Columbia.

[46 FR 2319, Jan. 9, 1981, as amended at 50 FR 35499, Aug. 30, 1985; 58 FR 65536, Dec. 15, 1993; 60 FR 43947, Aug. 23, 1995]

§ 531.403 Definitions.

In this subpart:

Acceptable level of competence means performance by an employee that warrants advancement of the employee's rate of basic pay to the next higher step of the grade or the next higher rate within the grade (as defined in this section) of his or her position, subject to the requirements of § 531.404 of this subpart, as determined by the head of the agency.

Agency means an agency defined in section 5102 of title 5, United States Code.

Calendar week means a period of any seven consecutive calendar days.

Critical element has the meaning given that term in § 430.203 of this chapter.

Employee means an employee of an agency.

Equivalent increase means an increase or increases in an employee's rate of basic pay equal to or greater than the difference between the employee's rate of basic pay and the rate of pay for the next higher step of that grade or the next higher rate within the grade (as defined in this section).

Next higher rate within the grade for a GM employee (as defined in § 531.202)