

employee is reemployed with the Federal Government.

[46 FR 2319, Jan. 9, 1981, as amended at 46 FR 41019, Aug. 14, 1981; 46 FR 43371, Aug. 28, 1981; 46 FR 45747, Sept. 15, 1981; 57 FR 3712, Jan. 31, 1992; 57 FR 12404, Apr. 10, 1992; 59 FR 40794, Aug. 10, 1994; 59 FR 66332, Dec. 28, 1994]

§ 531.407 Equivalent increase determinations.

(a) *Multiple increases.* When an employee receives more than one increase in his or her rate of basic pay during a waiting period, no one of which is an equivalent increase, the first and subsequent increases during the waiting period shall be added together until they amount to an equivalent increase, at which time the employee shall be deemed to have received an equivalent increase.

(b) *Position change.* When an employee changes positions without receiving an equivalent increase, or when an individual not covered by this subpart moves to a position in which he or she is covered by this subpart without receiving an equivalent increase, he or she shall be deemed to have received his or her last equivalent increase—

(1) At the time of the last equivalent increase in the prior position; or

(2) At the time he or she was deemed to have received an equivalent increase in the prior position under paragraph (a) of this section, if that is later.

(c) *Increases in pay not considered equivalent increases.* An increase in an employee's rate of basic pay shall not be considered an equivalent increase when it results from the following:

(1) A statutory pay adjustment, including a general pay increase made under section 5403 of title 5, United States Code, but not including a merit increase made under section 5404 of that title;

(2) The periodic adjustment of a wage schedule or the application of a new pay or evaluation plan under the Federal Wage System;

(3) The establishment of higher minimum rates under section 5305 of title 5, United States Code, or an increase in such rates;

(4) A quality step increase under section 5336 of title 5, United States Code, and subpart E of this part;

(5) A temporary or term promotion when returned to the permanent grade and step;

(6) An increase resulting from placement of an employee in a supervisory or managerial position who does not satisfactorily complete a probationary period established under section 3321(a)(2) of title 5, United States Code, and is returned to a position at the same grade and step held by the employee before such placement; and

(7) An interim within-grade increase terminated under § 531.414(c) of this part.

(d) *Merit increases.* For the purpose of applying section 5335 of title 5, United States Code, and this subpart, all or any portion of a merit increase, or a zero merit increase, authorized under former section 5404 of title 5, United States Code (which was repealed as of November 1, 1993, by Public Law 103-89), is an equivalent increase.

[46 FR 2319, Jan. 9, 1981, as amended at 50 FR 35499, Aug. 30, 1985; 56 FR 20333, May 3, 1991; 57 FR 3712, Jan. 31, 1992; 64 FR 69173, Dec. 10, 1999]

§ 531.408 [Reserved]

§ 531.409 Acceptable level of competence determinations.

(a) *Responsibility.* The head of the agency or other agency official to whom such authority is delegated shall determine which employees are performing at an acceptable level of competence.

(b) *Basis for determination.* When applicable, an acceptable level of competence determination shall be based on a current rating of record made under part 430, subpart B, of this chapter. For those agencies not covered by chapter 43 of title 5, United States Code, and for employees in positions excluded from 5 U.S.C. 4301, an acceptable level of competence determination shall be based on performance appraisal requirements established by the agency. If an employee has been reduced in grade because of unacceptable performance and has served in one position at the lower grade for at least the minimum period established by the agency, a rating of record at the lower grade shall be used as the basis for an