Federal Register
Vol. 46, No. 6
Friday, January 9, 1981

Presidential Documents

Title 3—

The President

Executive Order 12262 of January 7, 1981

Interagency Employee Benefit Council

By the authority vested in me as President by the Constitution of the United States of America, and in order to improve the administration of the Employee Retirement Income Security Act (ERISA) and to continue the improvements made by Reorganization Plan No. 4 of 1978, it is hereby ordered as follows:

1-1. *Establishment of the Council.*

1-101. There is established the Interagency Employee Benefit Council.

1-102. The Council shall be composed of the following, or their representatives:

(a) The Secretary of the Treasury.

(b) The Attorney General.

(c) The Secretary of Commerce.

(d) The Secretary of Labor.

(e) The Secretary of Health and Human Services.

(f) The Director of the Office of Management and Budget.

(g) The Administrator of the Small Business Administration.

(h) The Chairman of the Equal Employment Opportunity Commission.

(i) The Executive Director of the President's Commission on Pension Policy.

1-103. The following, or their designated representatives, are invited to participate in the activities of the Council:

(a) The Federal Trade Commission.

(b) The Securities and Exchange Commission.

(c) The National Labor Relations Board.

(d) Any other Executive agencies the Council invites.

1-104. The Secretary of Labor shall be the Chairman of the Council.

1-2. *Functions of the Council.*

1-201. The Council shall assist in interagency coordination of proposals affecting employee benefits under ERISA. It shall identify the potential economic consequences of those proposals for ERISA participants.

1-202. The Council shall develop comprehensive long-term and short-term policies applicable to the plans covered by ERISA. The Council shall identify and coordinate research into employee benefit issues affecting ERISA-covered employees, into the economic effects of private pensions, and into the effectiveness of ERISA.

1-203. The Council shall develop effective policy approaches to a comprehensive information-sharing program among ERISA agencies, including development of a common or coordinated data base, data use, and publications. The Council shall develop a program for the use of common facilities and a common information system.

1–204. The Council shall identify inconsistencies in the operation of programs under ERISA. It shall recommend to the President ways to reduce or eliminate those inconsistencies.

1–205. Where feasible, the Council should coordinate public participation through public hearings on government-wide ERISA-related programs.

1–206. The Council shall establish and maintain a mechanism to evaluate the effectiveness of the overall ERISA program.

1–207. The Council shall submit annually to the President a summary report of significant ERISA-related achievements of the member agencies.

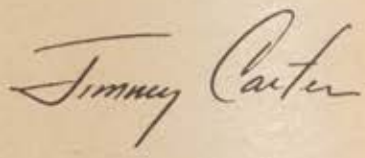
1–3. *Administrative Provisions.*

1–301. The Council shall meet at least once each quarter.

1–302. Each member agency with respect to matters within the jurisdiction of the agency shall cooperate with and assist the Council in performing its functions.

1–303. The Secretary of Labor shall be responsible for providing the Council with such administrative services and support as may be necessary.

1–304. The Council may establish such working groups or subcommittees as may be appropriate for the conduct of the Council's functions.



THE WHITE HOUSE,
January 7, 1981.

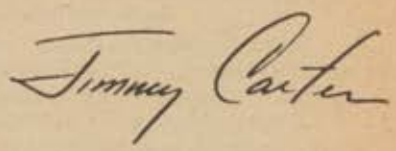
[FR Doc. 81–980
Filed 1–7–81; 3:44 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12263 of January 8, 1981

Strategic and Critical Materials Transaction Authority

By the authority vested in me as President by the Constitution and the Statutes of the United States of America, including the Strategic and Critical Materials Transaction Authorization Act of 1979 (93 Stat. 1289; Public Law 96–175) (hereinafter referred to as "the Act") and Section 301 of Title 3 of the United States Code, and in order to provide for the contribution of tin to the Tin Buffer Stock established under the Fifth International Tin Agreement, the functions vested in the President by Section 5 of the Act are hereby delegated to the United States Trade Representative.



THE WHITE HOUSE,
January 8, 1981.

[FR Doc. 81–1058
Filed 1–8–81; 11:42 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 46, No. 6
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Pay Under the General Schedule

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These regulations revise the current procedures and standards for withholding within-grade increases and granting quality step increases in accordance with the intent of the Civil Service Reform Act of 1978, and clarify and simplify the current within-grade increase regulations.

EFFECTIVE DATE: February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Jan Karicher, 202-632-4634.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management is publishing regulations to supplement and implement the Civil Service Reform Act of 1978 (Pub. L. 95-454) and to update existing provisions. Proposed regulations were published in the Federal Register on July 29, 1980 (45 FR 50336-50341). Certain changes have been made in the proposed regulations in order to clarify them, and a number of substantive changes have also been made.

Analysis of Comments. The proposed regulations provided a 60-day period for public comment which ended on September 29, 1980. The Office of Personnel Management received comments from 22 agencies, three labor organizations, and one individual. These comments, for the most part, pointed out specific provisions which need clarification. As a result of the comments, the Office has made or considered making the following changes.

Sections 531.413–531.420—Subpart E—Salary Retention is being redesignated as Subpart F. Subpart E will now be entitled "Quality Step Increases" and proposed §§ 531.413 through 531.420 can now be found under Subpart E.

2. Section 531.430—The definition of "acceptable level of competence" has been expanded in order to unify the provision relevant to the level of performance required to meet an acceptable level of competence. There is no substantive change from the proposed regulations. In response to comments about the equivalency of "fully satisfactory", to terms used in agency performance appraisal plans, two changes have been made. The term "fully acceptable" is substituted for the term "fully satisfactory", and a specific statement is added that these are equivalent to "fully successful" or other such terms in an agency appraisal system.

The definition of "equivalent increase" has been expanded in order to clarify that an equivalent increase is the amount of the increase from the step of the grade the employee holds before the increase to the next higher step of that grade.

3. Section 531.404(b)—This paragraph has been deleted since § 531.404(a) contains the eligibility requirements.

Section 531.404(c)—This paragraph has been revised in order to specify that another subordinate official may be delegated authority to establish the requirements for performance to be at an acceptable level of competence.

4. Section 531.405(b)(1)—It was suggested that this paragraph be revised to read, "on an initial appointment to a permanent position . . ." We believe that the inclusion of the word "permanent" may confuse individuals since the term "permanent position" has been redefined in § 531.403 of this subpart. We have changed the term "initial" to "the first" in order to clarify this paragraph, but have not added the term "permanent position."

5. Section 531.406(a)(2)—It was suggested that the term "military service" be changed to "uniformed service" since the Public Health Service (PHS) is considered to be a uniformed service. However, 5 U.S.C. 8331(13), the reference contained in this section, includes service with the PHS in the definition of "military service". Although this paragarph has now been renumbered as § 531.405(b)(1) because of editorial changes, no change in terminology has been made.

Section 531.406(b)—Due to editorial changes, this paragarph is now numbered § 531.406(c). It was suggested that "Otherwise creditable service during . . . " be deleted from the beginning of this paragraph, and that it begin, "A leave of absence . . . " Since not all periods of absence are creditable service, no revision has been made to the proposed terminology.

6. Section 531.407(b)(2)—This paragraph has been revised in order to clarify determinations of whether an employee has actually received an equivalent increase.

Section 531.407(c)(6)—Several comments pointed out that the guidance contained in FPM Chapter 315, which states that, when an employee is promoted into a managerial or supervisory position and during the probationary period is returned to a position at the same grade and step held prior to the promotion because of unsuccessful performance, the promotion will be considered an equivalent increase, is not in conformance with these regulations. The information provided in the FPM reflects previous policy. However, experience has shown that the previous policy resulted in inequitable treatment among affected individuals. This change more effectively carries out the "no fault" return rights by requiring return to the salary which would have been received had the promotion not occurred. It both precludes an unintended benefit under the highest previous rate rule and guarantees no financial penalty by loss of creditable service toward completion of a waiting period. The guidance contained in FPM Chapter 315 will be amended to reflect this change. Additionally, we will amend the provisions contained in 5 CFR 531.203(d), pertaining to the highest previous rate rule, to prohibit use of the rule in this situation.

Section 531.407(c)(7)—This paragraph conflicts with several long standing Comptroller General decisions. Based on a negative comment referencing these decisions, the paragraph has been deleted. We are currently reviewing the cited decisions, and if warranted, we will consult further with the Comptroller General.

7. Section 531.408—This section has been revised and reorganized as two sections. Section 531.408 is now entitled "Communication of performance requirements" and contains the provisions of proposed paragraph 531.408(b). The remainder of proposed § 531.408 "Acceptable level of competence determinations" is renumbered as § 531.409 under the final regulations.

Section 531.408(a)—This paragraph is now § 531.409(a) and it has been revised in order to clarify that the authority to determine what constitutes an acceptable level of competence may be delegated to subordinate agency officials. This incorporates into regulation a long-established practice on determinations.

Section 531.408(b)(2)—This paragraph is now § 531.408(c). We have revised it in order to specify that the agency head shall establish the most suitable procedure with which to advise employees who are not covered by an appraisal system under 5 CFR Part 430 of the specific requirements for performance at an acceptable level of competence. This paragraph covers employees under Part 430 who have not been informed of performance standards under that Part, as well as individuals occupying positions which are excluded from Part 430.

Section 531.408(c)(3)—This paragraph is now § 531.409(b)(2). It was suggested that this section be deleted from the final regulations since many agencies doubt that an employee who has been demoted for cause will perform at an acceptable level of competence immediately after placement into a new position. Section 5335 of title 5, United States Code, provides that an employee is entitled to consideration for a within-grade increase if he or she has not received an equivalent increase during the appropriate waiting period. Therefore, consideration is required by statute. Additionally, this section allows the employee to commence performance of the duties of his or her new position without being adversely affected by performance in the prior position. Therefore, this paragraph has not been deleted.

Paragraphs (1) and (2) of § 531.408(d) "Justification for determination" have been combined under paragraph (4) of § 531.409(b) "Basis for determination" and, as recommended by several comments, specific time frames for notice have been added. We have also specified that the agency will designate the appropriate official to reconsider a negative determination. However, we have not adopted suggestions that we retain the current requirement that the reconsideration decision be made by a higher level official. A decision by a higher level official is unwarranted in view of the absence of such a requirement in an adverse action.

Section 531.408(e)—This paragraph is now § 531.409(d). It was suggested that an employee who has not been in a duty status for at least 60 days prior to completion of the waiting period be required to perform for a complete 60-day period, regardless of the within-grade increase eligibility date, in order to receive a determination. This suggestion was not adopted because the employee may not return to duty for a sufficient period to make a determination based on performance. This provision was proposed to resolve a problem with current regulations when an employee has been in a duty status for such a small part of the waiting period that the agency has an insufficient basis on which to make a decision to grant or deny the within-grade increase. This section should assist agencies to avoid finding themselves in the position of making an unwarranted acceptable level of competence determination or trying to deny a within-grade increase without a sufficient basis. Additionally, this paragraph specifies that the absence must be considered creditable service. Absence which is considered creditable service should not be the result of unsatisfactory performance, and we do not believe that an employee whose absence is the result of a legitimate extended illness or whose absence benefits the Government should have his or her increase delayed. The remaining provisions are reenacted from current regulations. Therefore, this paragraph has not been revised.

8. Section 531.409—This section has now become paragraph (e), "Notice of determination," under § 531.409 "Acceptable level of competence determinations".

9. Section 531.410(b)(2)(i)—This paragraph has now become § 531.410(a)(3). As recommended by one comment it has been revised to indicate that an employee must be in a duty status in order to be allowed a reasonable amount of official time to prepare a response to a negative determination.

Section 531.410(b) (4) and (5)—These paragraphs have been combined and revised as § 531.410(d). It was suggested that the reconsideration procedures specified in 5 U.S.C. 5335(c) be made optional for a member of an exclusively recognized bargaining unit. The provisions of 5 U.S.C. 5335(c) are mandatory by law, and therefore, this paragraph has not been revised.

Section 531.410(c)—As proposed, this paragraph stated that, when the agency neglected to make a negative determination within the sixty days after completion of the waiting period, the employee would receive the within-grade increase, effective the first day of the first pay period beginning 60 days after the due date. However, many agencies and the General Accounting Office objected strongly to this proposed change because of the requirement in 5 U.S.C. 5335(a)(3)(B), which states that an employee's performance must be at an acceptable level of competence in order to receive a within-grade increase. Although the intent of the proposed provision was to develop an equitable solution when a current determination is not made, based on the strong opposition to the concept, this paragraph has been deleted from the final regulations.

Section 531.410(d)—Comments suggested that it is not necessary to establish a separate file for a negative determination when the employee does not request reconsideration. Due to the sensitivity of the documentation which may accompany a negative determination, we believe that such information should be placed in a file to which only individuals involved in the determination have access. However, at this time we have not determined the most appropriate method of record keeping to be used. Therefore, the information contained in § 531.407(d)(4), of the current regulations, has been placed under paragraph 531.410(a)(1). At such time as we have developed a new system of records keeping, we will further amend this provision. In the interim agencies are reminded that such records are considered part of OPM's Manual Personnel Records (OPM/GOVT–1, 45 FR 78415, November 25, 1980) Privacy Act System of records.

10. Section 531.411(b)(2)—This paragraph is now § 531.412(b) and has been revised to clarify that, when a within-grade increase has been denied and subsequently approved because the employee has improved performance to an acceptable level of competence, the effective date of the increase is the first day of the first pay period after approval. Paragraph (a) of this section covers the situations when (1) a negative determination is reversed on reconsideration or appeal and the increase is retroactive to the date it was originally due, or (2) for any other reason the increase is to be retroactive to the date it was originally due.

11. Section 531.415(a)(1)—This paragraph is now contained in § 531.504(a)(1) of Subpart E, Part 531. It

was suggested that performance of critical elements of a position be the basis for determining the appropriateness of granting a quality step increase. Quality step increases must be based on overall high quality performance including both critical and non-critical elements of the job. However, redesignated § 531.506(c) does specifically require that performance of all critical elements be fully satisfactory.

Section 531.415(b)—Several comments indicated that it is an agency's responsibility to establish the specific criteria which must be met in order to receive a quality step increase. Therefore this paragraph has been deleted.

12. Section 531.416(a)—This paragraph has been placed under § 531.505 of Subpart E. It has been revised in order to permit the awarding of a quality step increase on the basis of either the most recent appraisal or a written statement setting forth the reasons for the award. However, because of concern expressed about unwarranted quality step increases based on old performance appraisals, we have added a requirement that if an appraisal is more than 60 days old, it must be supplemented by a written statement setting forth the reasons for the award.

13. Section 531.417(c)—This paragraph is now § 531.506(c) of Subpart E. It has been revised to indicate that, while the decision to award a quality step increase must be based on overall performance, a quality step increase shall not be granted when performance in any critical element is less than fully satisfactory.

14. Section 531.419(d)—This paragraph is now § 531.508(d) of Subpart E. Several comments were received requesting this section be deleted from the final regulations. Agencies believe that furnishing statistical information to each employee will be administratively infeasible. We believe that publicizing the performance which merits a quality step increase will act as an incentive to agency employees. Therefore, the provision remains unchanged.

15. It was suggested that a section be added which would permit an employee covered by a collective bargaining agreement, which contains an exclusive grievance procedure, to use that procedure when the employee feels his or her level of performance warrants a quality step increase. It is inappropriate for OPM to regulate the content of a negotiated agreement.

For non-bargaining unit employees, § 771.206(c)(ix) excludes from grievable matters the receipt of or failure to receive a quality step increase under section 5336 of title 5, United States Code. Therefore, this provision has not been added.

The Office of Personnel Management has carefully examined and considered all comments made during the public comment period. The Office has attempted to address the major points organizations have made both in letters and orally. Certain other comments and suggestions were made concerning matters more properly handled in guidance and information material which OPM will be issuing at a later date.

Note.—OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM is amending 5 CFR Part 531 as follows:

Subpart E is redesignated as Subpart F, and the Table of Sections is revised, Subpart D is revised, and a new Subpart E is added to read as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

* * * * *

Subpart D—Within-Grade Increases

Sec.

Subpart E—Quality Step Increases

Subpart F—Salary Retention

Sec.

Authority: 5 U.S.C. 5335, and 5338, E.O. 11721, as amended, § 402.

Subpart D—Within-Grade Increases

§ 531.401 Applicability.

This subpart contains regulations of the Office of Personnel Management to carry out section 5335 of title 5, United States Code, which authorizes agencies to grant within-grade increases, and to carry out section 402 of Executive Order 11721, as amended, which requires the Office to issue regulations and standards to ensure that only those employees whose performance is at an acceptable level of competence receive within-grade increases. This subpart should be read together with these sections of law and Executive order.

§ 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 at less than the maximum step of their grades.

(b) This subpart does not apply to:

(1) Employees who are covered by the Merit Pay System established under chapter 54 of title 5, United States Code;

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

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

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

§ 531.403 Definitions.

In this subpart:

"Acceptable level of competence" means a level of performance identified by an employing agency at which the performance by an employee of the duties and responsibilities of his or her assigned position is fully acceptable (or

equivalent terms such as fully satisfactory or fully successful used in the agency's performance appraisal plan) and, in addition to the requirement of § 531.404 of this subpart, warrants advancement of the employee's rate of basic pay to the next higher step of the grade of his or her position. An employee whose current performance with respect to any critical element is unacceptable, as defined in § 430.101(a)(3), is not performing at an acceptable level of competence. Further, absent unusual circumstances, an employee whose overall performance during the waiting period is at the minimum level required for retention in the position but below a fully acceptable level is not performing at an acceptable level of competence.

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

"Callendar week" means a period of any seven consecutive calendar days.

"Critical element" has the meaning given that term in § 430.202(e) of this chapter.

"Employee" means an employee of an agency who is covered under § 531.402(a) of this subpart.

"Equivalent increase" means an increase or increases in an employee's rate of basic pay equal to or greater than the amount of a within-grade increase from the specific step of the grade of the position occupied by the employee before the increase to the next step of the grade of that position.

"Permanent position" means a position filled by an employee whose appointment is not designated as temporary by law and does not have a definite time limitation of one year or less. "Permanent position" includes a position to which an employee is promoted on a temporary or term basis for at least one year.

"Rate of basic pay" means the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind.

"Scheduled tour of duty" means any work schedule established for an employee in accordance with the regular procedures for the establishment of workweeks in § 610.111 of this chapter. For a full-time employee this includes the basic 40-hour workweek. For a part-time employee this is any regularly scheduled work of less than 40-hours during the administrative workweek.

"Waiting period" means the minimum time requirement of creditable service to become eligible for consideration for a within-grade increase.

"Within-grade increase" means a periodic increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step of that grade in accordance with section 5335 of title 5, United States Code, and this subpart. The term "within-grade increase" is synonymous with the term "step-increase" used in section 5335 of title 5, United States Code.

§ 531.404 Entitlement to within-grade increase.

An employee paid at less than step 10 of the grade of his or her position shall be advanced in pay to the next higher step of that grade upon meeting the three requirements established by law:

(a) The employee must have completed the required waiting period for advancement to the next higher step of the grade of his or her position;

(b) The employee must not have received an equivalent increase during the waiting period; and

(c) The employee's performance must be at an acceptable level of competence, as determined by the head of the agency or by another agency official to whom this authority has been delegated.

§ 531.405 Waiting periods for within-grade increase.

(a) Length of waiting period. (1) For an employee with a scheduled tour of duty the waiting periods for advancement to the following steps in all General Schedule grades are:

(i) Steps 2, 3, and 4—52 calendar weeks of creditable service;

(ii) Steps 5, 6 and 7—104 calendar weeks of creditable service; and

(iii) Steps 8, 9, and 10—156 calendar weeks of creditable service.

(2) For an employee without a scheduled tour of duty, the waiting periods for advancement to the following steps in all General Schedule grades are:

(i) Steps 2, 3 and 4—260 days of creditable service in a pay status over a period of not less than 52 calendar weeks;

(ii) Steps 5, 6 and 7—520 days of creditable service in a pay status over a period of not less than 104 calendar weeks; and

(iii) Steps 8, 9, and 10—780 days of creditable service in a pay status over a period of not less than 156 calendar weeks.

(b) Commencement of a waiting period. A waiting period begins:

(1) On the first appointment as an employee of the Federal Government, regardless of tenure;

(2) On receiving an equivalent increase; or

(3) After a period of nonpay status or a break in service (alone or in combination) in excess of 52 calendar weeks, unless the nonpay status or break in service is creditable service under § 531.406 of this subpart.

(c) A waiting period is not interrupted by non-workdays intervening between an employee's last scheduled workday in one position and his or her first scheduled workday in a new position.

§ 531.406 Creditable service.

(a) *General.* Depending on the specific provision of law or regulation, service may be creditable for the completion of one waiting period or for the completion of successive waiting periods. Paragraph (b) of this section identifies service which is creditable in the computation of a single waiting period. Paragraph (c) identifies service which is creditable in the computation of successive waiting periods.

(b) *Service creditable for one waiting period.* (1) Military service as defined in section 8331(13) of title 5, United States Code, is creditable service in the computation of a waiting period when an employee is reemployed with the Federal Government after expiration of the restoration or reemployment period granted by law, Executive order, or regulation, but not later than 52 calendar weeks after separation from such service or hospitalization, continuing thereafter for a period of not more than one year, which is a direct result of such service.

(2) Time in a nonpay status is creditable service in the computation of a waiting period for an employee with a scheduled tour of duty when it does not exceed an aggregate of:

(i) Two workweeks in the waiting period for steps 2, 3, and 4;

(ii) Four workweeks in the waiting period for steps 5, 6, and 7; and

(iii) Six workweeks in the waiting period for steps 8, 9, and 10.

Except as provided in paragraph (c) of this section, time in a nonpay status in excess of the allowable amount shall extend a waiting period by the excess amount.

(c) *Service creditable for successive within-grade increases.* (1) Otherwise creditable service during a leave of absence from a position in which an employee is covered by this subpart, whether the employee is on leave without pay or is considered to be on furlough, is creditable service in the computation of waiting periods for successive within-grade increases when:

(i) The employee is engaged in military service as defined in section 8331(13) of title 5, United States Code and returns to Federal employment within the restoration period granted by law, Executive order, or regulation;

(ii) The employee is receiving continuation of pay or injury compensation under subchapter I of chapter 81 of title 5, United States Code;

(iii) The employee performs service that is creditable under section 8332(b)(5) of (7) or title 5, United States Code;

(iv) The employee is temporarily employed by another agency in a position covered by this subpart; or

(v) The employee is assigned to a State or local government or institution of higher education under sections 3371–3376 of title 5, United States Code.

(2) The period from the date of an employee's separation from Federal service with a restoration or reemployment right granted by law, Executive order, or regulation to the date of restoration or reemployment with the Federal Government through the exercise of that right is creditable service in the computation of waiting periods for successive within-grade increases.

(3) The period during which a separated employee is in receipt of injury compensation under subchapter I of chapter 81 of title 5, United States Code, as a result of an injury incurred by the employee in the performance of duty is creditable service in the computation of waiting periods for successive within-grade increases when the employee is reemployed with the Federal Government.

§ 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 an adjustment required by section 5402(c)(3) of title 5, United States Code;

(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 5303 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; and

(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.

§ 531.408 Communication of performance requirements.

(a) The head of the agency or other designated agency official shall determine the specific requirements for performance at an acceptable level of competence.

(b) Employees covered by an appraisal system established under § 430.203 of this chapter shall be informed of the specific performance requirements that constitutes an acceptable level of competence within the time frame and by the means of communication of performance standards established under § 430.203 of this chapter.

(c) Employees not covered by an appraisal system established under § 430.203 of this chapter shall be informed, under procedures established by the head of the agency, of the specific requirements for performance at an acceptable level of competence within a reasonable time after initial appointment or permanent change in position.

§ 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.* An acceptable level of competence determination shall be based on an employee's performance of the duties and responsibilities of his or her assigned position or positions during the waiting period except when:

(1) An employee has not been informed of the specific requirements for performance at an acceptable level of competence at least 30 days before the end of a waiting period; or

(2) An employee is reduced in grade because of unacceptable performance to a position in which he or she is or will within 60 days become eligible for consideration for a within-grade increase.

Under these circumstances, the employee shall be informed that his or her determination is postponed and of the specific requirements for performance at an acceptable level of competence. The determination shall be based on a period during which the employee has had a reasonable opportunity (no more than the minimum period designated in the agency performance appraisal plan or 90 days if no minimum is established) to demonstrate performance at an acceptable level of competence.

(c) *Documentation.* The decision to grant or withhold a within-grade increase to an employee must be supported by the employee's most recent appraisal made pursuant to § 430.203 of this chapter. If the most recent appraisal does not support the decision, there must be a written statement setting forth the reasons for granting or withholding the within-grade increase.

(d) *Waiver of requirement for determination.* An employee shall receive a within-grade increase when he or she has been in a duty status for less than 60 days during the final 52 calendar weeks of the waiting period because of absences that are creditable service in the computation of a waiting period or periods under § 531.406 of this subpart, because of paid leave, or because the employee received service credit under the back pay provisions of Subpart H of Part 550 of this chapter. In such a situation there shall be a presumption that the employee would have performed at an acceptable levewl of competence during the waiting period had he or she been in a duty status sufficient time for a determination based on performance.

(e) *Notice of determination.* (1) A level of competence determination shall be communicated to an employee in writing as soon as possible after completion of the waiting period or other period upon which it was based.

(2) When the head of an agency or his or her designee determines that an

employee's performance is not at an acceptable level of competence, the negative determination shall be communicated to the employee in writing and shall:

(i) Set forth the reasons for the negative determination and the respects in which the employee must improve his or her performance in order to be granted a within-grade increase under section 531.411(b) of this subpart;

(ii) Inform the employee of his or her right to request that the appropriately designated agency official reconsider the determination.

§ 531.410 Reconsideration of a negative determination.

(a) When an agency head, or his or her designee, issues a negative determination the following procedures are established in accordance with section 5335(c) of title 5, United States Code for reconsideration of the negative determination:

(1) An employee or an employee's personal representative may request reconsideration of a negative determination by filing, not more than 15 days after receiving notice of determination, a written response to the negative determination setting forth the reasons the agency shall reconsider the determination;

(2) When an employee files a request for reconsideration, the agency shall establish an employee reconsideration file which shall contain all pertinent documents relating to the negative determination and the request for reconsideration, including copies of the following:

(i) the written negative determination and the basis therefore;

(ii) the employee's written request for reconsideration;

(iii) the report of investigation when an investigation is made;

(iv) the written summary or transcript of any personal presentation made; and

(v) the agency's decision on the request for reconsideration.

The file shall not contain any document that has not been made available to the employee or his or her personal representative with an opportunity to submit a written exception to any summary of the employee's personal presentation;

(3) An employee in a duty status shall be granted a reasonable amount of official time to review the material relied upon to support the negative determination and to prepare a response to the determination; and

(4) The agency shall provide the employee with a prompt written final decision.

(b) The time limit to request a reconsideration may be extended when the employee shows he or she was not notified of the time limit and was not otherwise aware of it, or that the employee was prevented by circumstances beyond his or her control from requesting reconsideration within the time limit.

(c) An agency may disallow as an employee's personal representative an individual whose activities as a representative would cause a conflict of interest of position, an employee whose release from his or her official duties and responsibilities would give rise to unreasonable costs to the Government, or an employee whose priority work assignment precludes his or her release from official duties and responsibilities. Section 7114 of title 5, United States Code, and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

(d) When a negative determination is sustained after reconsideration, an employee shall be informed in writing of the reasons for the decision and of his or her right to appeal the decision to the Merit Systems Protection Board. However, for an employee covered by a collective bargaining agreement a reconsideration decision that sustains a negative determination is only reviewable in accordance with the terms of the agreement.

§ 531.411 Withholding a within-grade increase.

Continuing evaluation following withholding. After a within-grade increase has been withheld, an agency may grant the within-grade increase at any time after it determines that the employee has demonstrated sustained performance at an acceptable level of competence. After withholding a within-grade increase, the agency, at a minimum, shall determine whether the employee's performance is at an acceptable level of competence after each 52 weeks following the original due date for the within-grade increase.

§ 531.412 Effective date of within-grade increase.

(a) Except as provided in paragraph (b) of this section, a within-grade increase shall be effective on the first day of the first pay period following completion of the required waiting period and in compliance with the conditions of eligibility. When, due to administrative error, oversight, or delay, a positive determination is made after the waiting period is completed, the effective date of the within-grade increase shall be retroactive to the original due date.

(b) When an acceptable level of competence is achieved at some time after a negative determination, the effective date is the first day of the first pay period after the acceptable determination has been made.

§ 531.413 Reports and evaluation of within-grade increase authority.

(a) *Reports.* The Office of Personnel Management may require agencies to maintain records and report on the use of the authority to grant or withhold within-grade increases.

(b) *Evaluation.* The Office of Personnel Management may evaluate an agency's use of the authority to grant or withhold within-grade increases. An agency shall take any corrective action required by the Office.

Subpart E—Quality Step Increases

§ 530.501 Applicability.

This subpart contains regulations of the Office of Personnel Management to carry out section 5336 of title 5, United States Code, which authorizes the head of an agency, or another official to whom such authority is delegated, to grant quality step increases, and to carry out section 403 of Executive Order 11721, as amended, which requires the Office to issue regulations and assist agencies in establishing plans for the administration of this section of law.

§ 531.502 Definitions.

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

"Employee" means an employee of an agency who is covered by subpart D of this part.

"Quality step increase" means an increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step of the grade in accordance with section 5336 of title 5, United States Code, and this subpart. The term "quality step increase" is synonymous with the term "step increase" used in section 5336 of title 5, United States Code.

§ 531.503 Purpose of quality step increase.

The purpose of the authority to grant quality step increases is to provide an agency with the flexibility to recognize sustained high quality performance at a level that substantially exceeds an acceptable level of competence as defined by § 531.403 of this part by authorizing faster that normal step increases.

§ 531.504 Level of performance required for quality step increase.

(a) To be considered for a quality step increase, an employee must:

(1) Perform the duties and responsibilities of his or her assigned position at a level that substantially exceeds an acceptable level of competence so that, when viewed as a whole, the employee's performance is at a high level of quality; and

(2) Sustain performance at that level for a period of time sufficient to conclude that such a level is characteristic of his or her performance and is expected to continue in the future.

§ 531.505 Justification and documentation for quality step increase.

The decision to grant a quality step increase to an employee must be supported by the employee's most recent appraisal made pursuant to § 430.203 of this chapter or, when the appraisal is more than 60 days old, by a supplemental written statement setting forth the reasons for granting the quality step increase. This documentation shall be filed in the employee's Official Personnel Folder.

§ 531.506 Restrictions on granting quality step increases.

(a) As provided by 5 U.S.C. 5336, a quality step increase may not be granted to an employeee who has received a quality step increase within the preceding 52 consecutive calendar weeks.

(b) A quality step increase may not be granted to an employee unless, at the time it becomes effective, he or she is expected to remain for at least 60 days in the same position or in a similar position at the same grade level in which his or her performance can be expected to continue at the same level of effectiveness.

(c) While overall performance must be judged, as provided in § 531.504(a)(1) of this subpart, a quality step increase may not be granted to an employee covered by an appraisal system established under § 430.203 of this chapter whose current performance with respect to any critical element is less than fully satisfactory.

§ 531.507 Effective date of quality step increase.

A quality step increase shall be effective on the first day of the first pay period following the approval date.

§ 531.508 Agency plans for granting quality step increases.

Each agency shall establish a plan for granting quality step increases. The plan shall:

(a) Be as simple as practicable;

(b) Provide for delegation of authority to grant quality step increases to the lowest practicable level of management;

(c) Include criteria and procedures to provide for the granting of quality step increases with reasonable consistency throughout the agency and with fairness to all employees;

(d) Establish a method by which employees in the agency will be informed, at least annually, of the number of quality step increases granted in the agency by grade level; and

(e) Provide for appropriate instruction, guidelines, and training for supervisors and managers on the use of the authority to recommend or grant quality step increases.

§ 531.509 Reports and evaluation of quality step increase authority.

(a) *Reports.* The Office of Personnel Management shall require agencies to maintain records and reports on the use of the authority to grant quality step increases, in accordance with established procedures.

(b) *Evaluation.* The Office of Personnel Management may evaluate an agency's use of the authority to grant quality step increases. The agency shall take any corrective action required by the Office.

Subpart F—Salary Retention

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5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This regulation liberalizes and simplifies current allotment regulations to allow for greater flexibility and discretion at the agency level in determining appropriate types of allotments which Federal employees may make from their pay. The regulations more closely reflect the original intent of the legislation governing allotment of pay by civilian employees.

EFFECTIVE DATE: These regulations are effective on February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, 202-632-4634.

SUPPLEMENTARY INFORMATION: On May 13, 1980, the Office of Personnel Management published proposed rules in the **Federal Register** (45 FR 31379-31382) with a request for comments from interested parties before publication as final regulations. Twenty-two formal responses and numerous phone calls from agencies, credit union associations, employee organizations, State welfare and insurance organizations were received, eighteen favorable and supportive of the liberalization of allotment procedures and four unfavorable.

The most frequently mentioned comment concerned allotments for child support. Six agencies and State welfare organizations recommended that agencies be required to permit allotments for child support payments if requested by the employee. The Social Services Amendments of 1974 (Pub. L. 93-647), provide, among other things, for prevention or remedy of neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families . . ." to this end, the Child Support Enforcement Program was established by Congress. In view of the above two legislative actions, we believe that there is sufficient legal authority to warrant that alimony and child support allotments be mandatory, rather than discretionary, on the part of the agency, where an employee voluntarily requests an allotment to be made. We have, accordingly, included the provision in the section of the regulations pertaining to mandatory allotments. It should be noted that this provision pertains only to voluntary alimony and child support payments. Court-ordered payments for child support are covered under 5 CFR Part 581, Processing Garnishment Orders for Child Support and/or Alimony.

Two comments from credit union associations were received requesting that OPM clarify its regulations to enable an allotment to a credit union to be directed to the payments of loans, life insurance premium payments, family members' savings accounts, etc., prior to its being sent to a share account. OPM has always taken the position that the agency is not responsible for determining the disposition of the savings once an allotment has been made. Pub. L. 90-365, approved June 29, 1968, governs allotments to financial institutions, and implementing regulations have been published by the Department of the Treasury at 31 CFR Part 209. Since the suggested procedure of permitting distribution of funds prior to deposit in a share account is not within the purview of OPM, we have taken the liberty of referring the letters received in this regard to the Department of the Treasury for response.

Two suggestions were made requesting that retirees be permitted to have allotments for union dues withheld from their annuities. Since these regulations pertain to current employees and not to annuitants, we are unable to include the recommendation in the regulations.

One request was received suggesting that the agency be responsible for terminating dues allotments to a labor organization when the allotter is placed in a supervisory or management position excluded from the bargaining unit. OPM maintains that it is the primary responsiblity of an agency to cancel allotments of union dues when an employee is no longer in the bargaining unit, but that it is the employee's duty to advise the agency promptly if allotments are being improperly withheld. This view is supported by Comptroller General Decision B–180095 dated September 8, 1980. Any disagreement or improper payment of dues to a labor organization should more appropriately be resolved by the employee and the organization in question. Accordingly, the suggestion has not been incorporated in the regulations.

One written and one oral comment were received concerning service fees for withholding dues for members of associations of management officials and/or supervisors. Since 1964, OPM regulations have contained a discretionary fee-for-service provision for organizations of management officials and/or supervisors. This provision has been deleted in the new regulations because a service fee may now be charged at the discretion of each agency for any allotment unless there are specific instructions in law, Executive order, or regulation which provide for determination or waiver of fees. For example, Part 209.8 of Title 31, CFR, states that a service charge for allotments to savings institutions shall be collected by each agency, while section 7115 of title 5, U.S.C., provides that no service charge shall be made on allotments to labor organizations. Since a discretionary fee-for-service provision for associations of supervisors and/or management officials was previously contained in the regulation for a number of years with no apparent financial burden to the associations, and in view of the fact that the actual cost of the service is the maximum amount the agency may charge, we do not foresee any problems caused by the continuation of this authority.

One written comment was received suggesting that the granting of a request for allotment for dues to an association of management officials and supervisors be voluntary on the part of the agency rather than mandatory. Dues withholding privileges for associations of managers and/or supervisors were first authorized by Executive Order 11491, as amended on October 29, 1969. Section 21(b) of this Order provided that an agency "may" deduct the dues of such an association from the pay of members of the association who make a voluntary allotment for this purpose. However, section 21(b) was revoked in 1975 by Executive Order 11838.

The reason for this revocation was explained in the Federal Labor Relations Council report explaining the amendments made. The report stated that "the implementation of agency systems for intramanagement communication and consultation with supervisors and associations of supervisors had reached the stage where they would be dealt with more appropriately" outside the Executive order system through agency regulations and the Federal Personnel Manual. The FLRC report further stated that the Civil Service Commission "should and will" continue to provide in its regulations for voluntary allotments for the dues of associations of management officials and supervisors in order to assure that the deletion of 21(b) from the Order will have no "detrimental effect" on members of such associations. Thus, it seems that the deletion of section 21(b) from Executive Order 11491 was based on an assumption that the former CSC would retain a provision in its regulations for the withholding of dues for these manager/supervisor associations.

Our original intent was to retain specific references to only those types of allotments which an agency is required by law or Executive order to permit. However, we concluded that allotments for dues to associations of managers and/or supervisors should also be mandatory based on the history of this provision. Furthermore, even if the history of this provision were different, we believe that in OPM's role as a management agency we should facilitate organizations of management officials. Elimination of this provision could also be construed as lack of OPM support of participation in such organizations. Accordingly, no change has been made in the regulations.

One oral and one written comment were received questioning the necessity of promulgating revised regulations. It is argued that existing legal and regulatory requirements provide each agency with the authority which OPM wants to delegate. While it is true that the agencies had the authority to permit allotments not inconsistent with Subchapter III, Chapter 55, title 5, United States Code, existing regulations do not offer Federal employees the variety of allotments which will be offered under new regulations in view of the previous regulatory requirement barring allotments of pay for any purpose not specifically permitted by law or Executive order. For this reason, OPM believes that a change in the regulations is appropriate.

Several questions were received concerning forms to be used for allotments for which no applicable form currently exists. OPM is in the process of devising a multi-purpose form which may be used for making allotments. This form will be provided to the agencies; however, it may not be available for some time. In the interim, a letter from the employee to the payroll office which contains the pertinent information and which has been signed by the prospective allottee will suffice.

In the final regulations, we have elaborated on the authority of the agency to permit up to two allotments for savings under Department of Treasury regulations to stress that OPM does not regulate these types of savings allotments. The head of the agency carries out such allotments in accordance with the regulations of the Department of the Treasury at 31 CFR Part 209, with the exception of those employees in Alaska and Hawaii and other employees outside the continental United States, who will continue to be covered under 5 CFR Part 550. OPM continues to defer to the Department of the Treasury's authority to regulate allotments for savings even though there is a limitation of two allotments for savings permitted under those regulations, because it is unclear how regulating additional allotments to savings under 5 CFR Part 550 would affect employees presently making allotments under Title 31. OPM's action is not intended to be a permanent solution to the problem, but is necessary until the matter is studied in more detail.

Employees assigned to duty outside the continental United States have previously been covered under 5 CFR Part 550 because they are excluded from coverage under 31 CFR Part 209. We have included a provision making it mandatory for an agency to accept requests for allotments for savings made by these employees to ensure that they do not lose any existing rights under the new regulations.

In addition to the above changes, OPM has added two paragraphs to § 550.312 "General Limitations" to protect the agencies from adverse consequences resulting from disputes

which may arise between the allottee and the allotter.

A number of questions were received concerning procedural matters, such as: the order of precedent for allotments, allotments for items such as subway passes and bus farecards, the cost of which will automatically increase each year, years with 27 pay periods, etc. Resolution of procedural matters such as these will more appropriately be left to the authority of the agencies. Consequently, we have made no changes to the regulations to accommodate them.

In addition to the changes discussed in this supplementary information, several minor changes have been made to the regulations for clarity.

The Office of Personnel Management will supplement the regulations with guidance issued through the Federal Personnel Manual System.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is amending the table of contents and revising Subpart C of Part 550 of Title 5, Code of Federal Regulations, to read as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart C—Allotments and Assignments From Federal Employees

Definitions

Sec.

General Provisions

Labor Organization

Association of Management Officials and/or Supervisors

Combined Federal Campaign

Income Tax Withholding

Allotments for Savings

Alimony and/or Child Support

Foreign Affairs Agency Organizations

Authority: 5 U.S.C. 5527, E.O. 10082, 3 CFR 1959–1963 Comp., p. 502.

Subpart C—Allotments and Assignments From Federal Employees

Definitions

§ 550.301 Definitions.

In this subpart:

"Agency" means an Executive agency as defined by section 105 of Title 5, United States Code.

"Allotment" means a recurring specified deduction for a legal purpose from pay authorized by an employee to be paid to an allottee.

"Allottee" means the person or institution to whom an allotment is made payable.

"Allotter" means the employee from whose pay an allotment is made.

"Association of management officials and/or supervisors" means an association composed of either management officials and/or supervisors with which the agency has established official relationships.

"Combined Federal Campaign" means an organization of voluntary health and welfare agencies authorized to solicit charitable contributions in a local area in accordance with arrangements prescribed by the Director of the Office of Personnel Management under Executive Order 10927.

"Continental United States" means the several States and the District of Columbia, but excluding Alaska and Hawaii.

"Dues" means the regular periodic amount specified by an allotter to be withheld from his or her pay which is required to maintain the allotter as a member in good standing in a labor organization or association of management officials and/or supervisors or other organization.

"Employee" means an employee of an agency, unless otherwise provided.

"Foreign affairs agency" means the Department of State, the International Communications Agency, the Agency for International Development and its successor agency or agencies.

"Labor organization" means a labor organization as defined by section 7103(a)(4) of Title 5, United States Code, unless specified otherwise.

"Pay" means the net pay due an employee after all deductions authorized by law (such as retirement or social security deductions, Federal withholding tax, and others, when applicable) have been made.

General Provisions

§ 550.311 Authority of agency.

(a) An agency shall permit an employee to make:

(1) An allotment for dues to a labor organization under section 7115 of Title 5, United States Code;

(2) An allotment for dues to an association of management officials and/or supervisors under § 550.331;

(3) An allotment for charitable contributions to a Combined Federal Campaign under §§ 550.341 and 550.342;

(4) An allotment for income tax withholding under § 550.351;

(5) Up to two allotments for savings under Department of Treasury regulations as codified at Part 209 of Title 31, Code of Federal Regulations;

(6) An allotment for savings for an employee assigned to a post of duty outside the continental United States under § 550.361;

(7) An allotment for child support and/or alimony payments under § 550.371.

(b) In addition to those allotments provided for in paragraph (b) of this ection, an agency may permit an employee to make an allotment for any legal purpose deemed appropriate by the head of the agency.

(c) The head of an agency may prescribe such additional regulations governing allotments as appropriate which are consistent with subchapter III of chapter 55 of Title 5, United States Code, and this subpart. Discretionary allotments under this subpart may be limited in number as determined appropriate by the head of the agency.

§ 550.312 General limitations.

(a) The allotter shall specifically designate the allottee and the amount of the allotment in writing in an allotment authorization.

(b) The total amount of allotments may not exceed the pay due the allotter for a particular period.

(c) An employee shall request in writing a change in or the revocation of an allotment.

(d) Allotters shall agree that the agency shall be held harmless for any authorized allotment disbursed by the agency in accordance with the employee's request for an allotment from pay.

(e) Allotters shall agree that disputes regarding any authorized allotment shall be a matter between the allotter and the allottee.

Labor Organization

§ 550.321 Authority.

Section 7115, Title 5, United States Code, authorizes an employee to make an allotment for dues to a labor organization as defined in subchapter 1 of chapter 71 of Title 5, United States Code. Such an allotment shall be effected in accordance with such rules

and regulations as may be prescribed by the Federal Labor Relations Authority.

§ 550.322 Saving provision.

An agency shall permit a supervisor who so desires, to continue an allotment of dues to a labor organization as defined by section 2(e) of Executive Order 11491, as amended, which was permissible when the supervisor was excluded from a formal or exclusive unit by reason of the requirements of former section 24(d) of this Order.

Association of Management Officials and/or Supervisors

§ 550.331 Scope.

An agency shall permit an employee to make an allotment for dues to an association of management officials and/or supervisors when the employee is a supervisor or management official, and the employee is a member of an association of management officials and/or supervisors with which the agency has agreed in writing to deduct allotments for the payment of dues to the association.

Combined Federal Campaign

§ 550.341 Scope.

An agency shall permit an employee to make an allotment for charitable contributions to a Combined Federal Campaign. Allotments for contributions to the Department of Defense Overseas Combined Federal Campaign shall be permitted in accordance with a special agreement between the Office of Personnel Management and the Department of Defense which may contain any necessary exceptions to these regulations.

§ 550.342. Limitation of allotment.

(a) An agency shall permit an employee to make an allotment for a charitable contribution to a Combined Federal Campaign only when the employee is employed in an area in which a Combined Federal Campaign authorized by the Office of Personnel Management is established.

(b) An allotment to a Combined Federal Campaign shall be:

(1) For a term of 1 year beginning with the first pay period which begins in January and ending with the last pay period which begins in December, and

(2) An equal amount deducted each pay period. Minimum deductions will be established by agreement between OPM and officials of the Combined Federal Campaign.

(c) The allotter may not change the amount deducted each pay period during the term of an allotment to a Combined Federal Campaign. The allotter shall be informed of this restriction before the allotment is requested.

(d) The allotter may voluntarily discontinue the allotment at any time, but a discontinued allotment may not be reinstated.

Income Tax Withholding

§ 550.351 Scope.

When an employee has a legal obligation to pay, but the agency has no legal obligation to withhold, State, District of Columbia, or local income or employment taxes, an agency shall permit an employee to make an allotment for payment of the taxes.

Allotments For Savings

§ 550.361 Scope.

An agency shall permit an employee within the continental United States to make up to two allotments of pay to a financial organization of his/her choice, for credit to his/her savings account as authorized under Department of Treasury regulations codified at Part 209 of Title 31, Code of Federal Regulations. Additional allotments to savings for these employees will not be permitted under this Part.

An employee assigned to a post of duty outside the continental United States who is not covered under Department of Treasury regulations at 31 CFR Part 209 shall be permitted to make allotments of pay to a financial organization of his/her choice for credit to his/her savings account.

Alimony and/or Child Support

§ 550.371 Scope.

An agency shall permit an employee to make an allotment for alimony and/or child support when he or she voluntarily elects to do so. However, this provision does not apply to garnishment orders issued to enforce child support and/or alimony obligations which are codified at Part 581 of this title.

Foreign Affairs Agency Organizations

§ 550.381 Scope.

If an agency permits an employee to make an allotment for dues to a foreign affairs agency organization, the agency must also provide, in accordance with Section 15 of Executive Order 11636:

(a) that the employee be allowed to revoke the authorization at least every six months; and

(b) that the allotment terminates when the dues withholding agreement between a foreign affairs agency and the organization is terminated or ceases to be applicable to the employee.

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1203

[Public Comment No. 1]

Hearing Procedures for Original Jurisdiction Cases

AGENCY: Merit Systems Protection Board.

ACTION: Interim regulations.

SUMMARY: These regulations establish interim procedures for the Board's review of the regulations of the Office of Personnel Management (OPM). The Board is authorized by statute to review OPM regulations, and to order Federal agencies to cease compliance with regulations it finds invalid or to cease implementing them in an invalid manner. Additionally, the Board seeks comments on these regulations with the intent to issue final regulations at a later date.

EFFECTIVE DATE: January 9, 1981. Comments should be submitted no later than February 13, 1981.

ADDRESS: Comments should be submitted in writing indicating the above-referenced public comment number to the Office of the Secretary, Merit Systems Protection Board, Room 220, 1717 H Street, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Deborah M. House, Executive Assistant to the Chairwoman (202) 653-7111.

SUPPLEMENTARY INFORMATION: These regulations are published pursuant to the statutory authority conferred on the Merit Systems Protection Board by the Civil Service Reform Act of 1978, authorizing the Board to review the regulations of OPM on their face and as implemented by any agency to determine whether they require any Federal employee to commit a prohibited personnel practice. This statutory provision further authorizes the Board to order Federal agencies to cease compliance with such regulations or to cease implementing them in a certain manner if a finding of invalidity is made by the Board. The Board is also authorized to take appropriate corrective action to provide relief to parties affected by the implementation of an invalid regulation or an invalidly implemented regulation (5 U.S.C. 1205(e)).