

Presidential Documents

Title 3—

The President

Proclamation 6637 of December 10, 1993

Human Rights Day, Bill of Rights Day, and Human Rights Week, 1993

By the President of the United States of America

A Proclamation

Thomas Paine once wrote that "had we a place to stand upon, we might raise the world." December marks the anniversary of two cornerstone events in the continuing struggle to guarantee the protection of human rights and to raise world awareness of these due liberties. On December 15, 1791, the American Bill of Rights was ratified. And a century and a half later, on December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. Each document has raised the sights—and elevated the lives—of countless people.

Our Bill of Rights guarantees our fundamental liberties, including freedom of religion, speech, and the press. It has been an enlightening guidepost during the more than 200 years of social change that have broadened our understanding of these basic liberties and assured these basic rights for all of our citizens. We continue to commemorate Bill of Rights Day because ensuring respect for human rights in the United States is never ending—it is a work in progress.

This year marks the 45th anniversary of the Universal Declaration of Human Rights. The universality of these rights and the common duty of all governments to uphold them—the themes embodied in the Declaration—were reaffirmed at the World Conference on Human Rights in Vienna this past June. The Declaration has been the building block for developing international consensus on human rights because it promotes common interests we share with other nations. It recognizes that all people are endowed with certain inalienable rights—the right to life, liberty, and security of person; the right to be free from arbitrary arrest and imprisonment; and the right not to be subjected to summary execution and torture. The Universal Declaration of Human Rights transcends socioeconomic conditions, as well as religious and cultural traditions, for no circumstance of birth, gender, culture, or geography can limit the yearnings of the human spirit for the right to live in freedom and dignity. These longings to improve the human condition are not a Western export. They are innate desires of humankind.

When we speak about human rights, we are talking about real people in real places. The Declaration's fundamental guarantees will ring hollow to many if the words are not converted to meaningful action. There is still much for us to do:

- we must see to it that human rights remain a high priority on the agenda of the United Nations, through the creation of a High Commissioner for Human Rights and the effective operation of the Tribunal on War Crimes in the former Yugoslavia;
- we must move promptly to obtain the consent of the Senate to ratify The International Convention on the Elimination of All Forms of Racial Discrimination;

- we must pass implementing legislation on the Convention Against Torture so that we underscore our commitment to the worldwide goal of eliminating this heinous human rights violation; and

- we must do all that is necessary to move to ratify the Convention on the Elimination of All Forms of Discrimination Against Women.

The Bill of Rights and Universal Declaration of Human Rights enshrine this timeless truth for all people and all nations: respect for human rights is the foundation of freedom, justice, and peace.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 1993, as "Human Rights Day," December 15, 1993, as "Bill of Rights Day," and the week beginning December 10, 1993, as "Human Rights Week." I call upon the people of the United States to observe these days and that week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93-30757

Filed 12-13-93; 4:41 pm]

Billing code 3195-01-P

Presidential Documents

Proclamation 6638 of December 10, 1993

Wright Brothers Day, 1993

By the President of the United States of America

A Proclamation

The modern era of aviation dawned on a wind-swept beach in North Carolina 90 years ago, when brothers Orville and Wilbur Wright achieved the unthinkable—most said impossible—sustained, powered flight in an aircraft. The "Flyer I" made its inaugural voyage on the morning of December 17, 1903. With Orville at the controls and Wilbur on the ground, the little craft stayed aloft for only 12 seconds and covered just 120 feet. But the brothers were not content to let that flight be their last; instead, they did their utmost to build and fly faster and better aircraft. The inventiveness, ingenuity, and dedication of the Wright brothers exalted the spirit of the American people.

This Nation's leadership in aviation that began with the Wright brothers continues today, as the prevailing technology has evolved from propeller power to jet engine propulsion, from supersonic transport to work on hypersonic aircraft. The National Aeronautics and Space Administration and related industry are now working together to develop the technologies for a commercial transport that will travel at more than twice the speed of sound. Continued leadership in aviation is increasingly important in today's global economy, not only to maintain America's competitive position in that economy, but also to facilitate the flow of international commerce. As the Federal Aviation Administration works to maintain and improve the world's safest and most efficient air transportation system, Americans must continue the research and development of even faster, safer, quieter, and more efficient aircraft. We must also work to advance our knowledge of air traffic structures and required technology needed for tomorrow.

When Wilbur Wright died in 1912, his father said of him that he had "an unfailing intellect, . . . great self-reliance, and as great modesty. [He saw] the right clearly, and pursu[ed] it steadily . . ." These words apply not only to both of the Wright brothers, but to all who endeavor to apply the can-do spirit, inquisitiveness, and tenacity of the Wright brothers to the ongoing exploration of new aviation horizons.

The Congress, by a joint resolution approved December 17, 1963 (77 Stat. 402; 36 U.S.C. 169), has designated the seventeenth day of December of each year as "Wright Brothers Day" and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim December 17, 1993, as Wright Brothers Day. I call upon the people of the United States to observe the occasion with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William Clinton

[FR Doc 93-30758

Filed 12-13-93; 4:42 pm]

Billing code 3195-01-P

Rules and Regulations

Federal Register

Vol. 58, No. 239

Wednesday, December 15, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 293, 351, 430, 432, 451, 511, 530, 531, 536, 540, 575, 591, 595, and 771

RIN 3206-AF69

Termination of the Performance Management and Recognition System

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the "Performance Management and Recognition System Termination Act of 1993" (Pub. L. 103-89), which provides for the temporary extension and orderly termination of the Performance Management and Recognition System (PMRS) and specifies how former PMRS employees will be paid.

DATES: These interim regulations are effective on November 1, 1993. Comments must be submitted on or before February 14, 1994.

ADDRESSES: Comments may be sent or delivered to the following:

1. Pay—Barbara L. Fiss, Assistant Director for Compensation Policy, U.S. Office of Personnel Management, room 6H31, 1900 E Street NW., Washington, DC 20415.

2. Performance Management—Allan D. Heuerman, Assistant Director for Labor Relations and Workforce Performance, U.S. Office of Personnel Management, room 7412, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: James Weddel, (202) 606-2858, concerning questions about the changes in 5 CFR parts 511, 530, 531, 536, 575, 591, and 595; and Barbara Colchao, (202) 606-2720, concerning questions

about the changes in 5 CFR parts 293, 351, 430, 432, 451, 540, and 771.

SUPPLEMENTARY INFORMATION: The "Performance Management and Recognition System Termination Act of 1993" (Pub. L. 103-89) removes the authorization for and references to the PMRS from title 5, United States Code. The PMRS Termination Act (referred to below as "the Act") also includes special provisions for adjusting the pay of former PMRS employees. Those special provisions will not be codified into title 5, United States Code. Therefore, existing pay setting regulations must be revised to include procedures that cover employees who were formerly subject to PMRS provisions and become subject to the special provisions of Public Law 103-89, effective November 1, 1993.

Section 2 of the Act extends the Performance Management and Recognition System (PMRS) by 1 month, through October 31, 1993. This extension allows agencies to pay PMRS employees merit increases and performance awards effective in October 1993 based upon their performance during fiscal year 1993.

Section 3 of the Act repeals the PMRS effective on November 1, 1993, by removing from statute section 4302a and chapter 54 of title 5, United States Code. As of November 1, 1993, all former PMRS employees will be considered GS employees for classification and pay administration purposes. All former PMRS employees become subject to the statutory requirements for performance appraisal at 5 U.S.C. 4302. All PMRS positions technically become GS positions and the GM pay plan code is redefined to mean employees covered by section 4 of the Act.

Section 4 of the Act includes special provisions that will apply to any employee who occupies a PMRS position on October 31, 1993. Under the special provisions, a rate of basic pay in effect for a PMRS employee on October 31, 1993, will continue in effect and will be treated as a General Schedule pay rate. (See § 531.204(c).) This will be true even if the employee's rate of basic pay does not equal one of the 10 steps or is below the minimum rate of the grade.

Termination of the PMRS

In title 5 of the Code of Federal Regulations (5 CFR), regulations for (1)

the PMRS (part 540), (2) performance appraisal for the PMRS (subpart D of part 430), and (3) performance-based actions for the PMRS (§§ 432.105 and 432.107) have been removed along with all references to work objectives (§ 432.103).

Performance Management Plans After October 31, 1993

Agencies may choose to keep their PMRS Performance Management Plans, formerly required under 5 CFR 540.111, as separate systems under 5 CFR 430.103(b) for supervisors and management officials in grades 13, 14, and 15, provided technical changes are made (1) to address the retention level for performance-based actions and the conversion of work objectives to elements and standards, and (2) to delete references to PMRS pay administration features such as granting performance-sensitive general increases and merit increases. Any changes made to a PMRS plan after October 31, 1993, solely to make it conform to the requirements of 5 CFR part 430, subpart B, or to remove references to PMRS pay provisions are pre-approved. Nevertheless, agencies should notify OPM and the covered employees of any such changes. Alternatively, agencies should inform OPM and former PMRS employees if they will be covered by the components of their agency Performance Management Plans used for other General Schedule employees are required by 5 CFR 430.103(b).

Employees Subject to Section 4 of the Act

The interim regulations add a definition of *GM employee* to mean an employee covered by section 4 of the Act. The interim regulations specify that any reference to employees, grades, positions, or rates of basic pay under the General Schedule shall include GM employees for pay administration purposes (subchapters I and III of chapter 53 of title 5, United States Code), even when their rates of basic pay are not equal to one of the 10 steps of a grade or are below the minimum rate of a grade. (See § 531.202.)

Under this definition, an employee remains a GM employee when detailed to any position, or reassigned to another General Schedule position in which the employee will continue to be a "supervisor" or "management official." However, an employee will no longer be

a GM employee if the employee is promoted (including a temporary promotion), reduced in grade, transferred, reassigned to a position in which the employee will no longer be a "supervisor" or "management official," or has a break in service of more than 3 days.

Coverage under the Act will not continue for an employee whose grade remains the same under grade retention provisions but who moves to a position classified at a lower grade, even if the employee continues to be a supervisor or management official. The employee's rate of basic pay will be set at the appropriate step for the retained grade. (See § 536.308.)

Rates of Basic Pay

Rates of basic pay that are not on a step of the General Schedule and are paid to GM employees are deemed to be rates of basic pay of the General Schedule for the purposes of subchapters I and III of chapter 53 of title 5, United States Code. Except when pay retention applies, rates of basic pay for GM employees may not be set above the maximum rate for the applicable General Schedule grade or special salary rate schedule.

Section 4 of the Act provides special provisions to allow for adjusting pay rates when the employee's rate is not one of the 10 steps of the grade, along with granting OPM the authority to regulate the administration of this section. (See § 531.401(d).) The interim regulations incorporate these provisions into the pertinent parts of the current GS pay administration authority citations and regulations and retain for GM employees several pay setting procedures previously applicable to PMRS employees.

Within-Grade and Quality Step Increases

The interim regulations define a within-grade increase (see § 531.403) and a quality step increase (see § 531.502). For within-grade increases, they establish waiting periods (see § 521.405(a)), creditable service (see § 531.406), and procedures (see § 531.404) for GM employees. These regulations also establish and define the term *next higher rate within the grade* (see § 531.403).

Other Revisions to Regulations

Other revisions to regulations fall into three broad categories:

Substitution refers to a revision that has been made to maintain some special PMRS procedure that will continue to apply to employees covered by section 4 of the Act, usually because they may

be paid at a rate other than one of the 10 steps of a grade. Typically, the phrase "a GM employee (as defined in § 531.202)" is substituted for "an employee covered by the Performance Management and Recognition System". Substitutions have been made at the following places:

Section title	Part/section
Determining employee rates	530.306
Effect of adjustment in scheduled pay rate ..	530.307
Definition—scheduled annual rate of pay	531.101
General provisions	531.203
Special provisions	531.204 (c) & (d)
Pay schedule conversion rules	531.205
Definition—scheduled annual rate of pay	531.301
Determination of rate of basic pay	536.205(a)

Deletion refers to a revision that has been made (1) simply to drop language that particularly referenced the PMRS or PMRS employees and where the remaining language will apply to employees covered by section 4 of the Act without further revision, or (2) to eliminate references to section 4302a and chapter 54 of title 5, United States Code, from an authority citation. Deletions have been made at the following places (after section redesignation, where applicable):

Section title	Part/section
Authority citation	293
Maintenance and content of folder	293.304
Representative rate in RIF	351.203
Authority citation	430
Authority	430.101
Performance Management Plans	430.103
Coverage	430.202
Authority and coverage	430.501
Authority citation	432
Statutory authority	432.101
Coverage	432.102
Definitions—acceptable performance	432.103(a)
Addressing unacceptable performance	432.104
Proposing and taking action	432.105
Agency records	432.107
Authority citation	451
Authority and coverage	451.101
Policy	451.104
Authority and coverage	451.201
OPM responsibilities	451.203
Authority citation	531
Definitions—employee	531.101
Applicability	531.201
Definitions—representative rate	536.102
Delegation of authority	575.102
Delegation of authority	575.202
Delegation of authority	575.302
Delegation of authority	575.402

Section title	Part/section
Agencies and employees covered	591.203
Grievance coverage	771.105

Removal refers to a revision where an entire paragraph has been dropped because it referred only to the PMRS and its complete deletion leaves employees subject to section 4 of the Act covered by other existing regulations that apply to other GS employees. Removals have been effected at the following places:

Section title	Paragraph
Performance management plans ..	430.103(b)(2)
Definition—critical work objective ..	432.103(c)
Definition—performance improvement plan ..	432.103(f)
Effective dates	511.701(a)(1)(iii)
Special provisions	531.204(a)(2)
Employee coverage	531.402(b)(1)

In addition, the regulation extending coverage of physicians' comparability allowances to SES as well as PMRS employees (see § 595.102(b)) is removed because 5 U.S.C. 5948(g)(1)(B) already provides the SES such coverage.

Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking and making these rules effective in less than 30 days. Section 3 of the Performance Management and Recognition System Termination Act of 1993 repeals the Performance Management and Recognition System (PMRS) effective on November 1, 1993. These regulations are being made effective on November 1, 1993, in order to implement the provisions of section 4 of the PMRS Termination Act which provide that the rates of basic pay in effect for PMRS employees on October 3, 1993, will continue in effect for covered employees and will be treated as General Schedule pay rates. If these regulations do not replace existing OPM regulations on November 1, 1993, OPM regulations will be inconsistent with requirements of the PMRS Termination Act.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects**5 CFR Part 293**

Archives and records, Freedom of information, Government employees, Health records, Privacy.

5 CFR Parts 351 and 432

Administrative practice and procedure, Government employees.

5 CFR Parts 430 and 451

Decorations, medals, awards, Government employees.

5 CFR Part 511

Administrative practice and procedure, Freedom of information, Government employees, Wages.

5 CFR Part 530

Government employees, Reporting and recordkeeping requirements, Wages.

5 CFR Parts 531, 540, and 575

Government employees, Wages.

5 CFR Part 536

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

5 CFR Part 595

Government employees, Health professions, Wages.

5 CFR Part 771

Administrative practice and procedure, Government employees, U.S. Office of Personnel Management, Lorraine A. Green, Deputy Director.

Accordingly, OPM is amending parts 293, 351, 430, 432, 451, 511, 530, 531, 536, 540, 575, 591, 595, and 771 of title 5, Code of Federal Regulations, as follows:

PART 293—PERSONNEL RECORDS

1. The authority citation for part 293 is revised to read as follows:

Authority: 5 U.S.C. 552 and 4315; E.O. 12107 (December 28, 1978), 3 CFR 1954-1958 Comp.; 5 U.S.C. 1103, 1104, and 1302; 5 CFR 7.2; E.O. 9830; 3 CFR 1943-1948 Comp.; 5 U.S.C. 2951(2) and 3301; and E.O. 12107.

2. Section 293.304 is revised to read as follows:

§ 293.304 Maintenance and content of folder.

The head of each agency shall maintain in the Official Personnel Folder the reports of selection and other personnel actions named in section 2951 of title 5, United States Code. The folder shall contain long-term records affecting the employee's status and service as required by OPM's instructions and as designated in the Guide to Personnel Recordkeeping.

PART 351—REDUCTION IN FORCE

3. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503.

4. In § 351.203 the definition of *representative rate* is revised to read as follows:

§ 351.203 Definitions.

Representative rate means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position.

PART 430—PERFORMANCE MANAGEMENT

5. The authority citation for part 430 is revised to read as follows:

Authority: 5 U.S.C. chapters 43, 45, and 53.

6. Section 430.101 is revised to read as follows:

§ 430.101 Authority.

Chapters 43, 45, and 53 of title 5, United States Code, provide for performance appraisal, awards, and pay for Federal employees. This subpart supplements and implements those portions of the law as well as parts 451 and 531 of this chapter.

7. In § 430.103, paragraph (b)(1) is revised, paragraph (b)(2) is removed, and paragraphs (b)(3) through (b)(6) are redesignated as paragraphs (b)(2) through (b)(5) respectively.

§ 430.103 Performance Management Plans.

(b) * * *

(1) Performance appraisal systems plans required under 5 U.S.C. 4302 and 4312 and subparts B and C of this part.

8. In § 430.202, paragraphs (a)(2) and (b)(1) are revised to read as follows:

§ 430.202 Coverage.

(a) * * *

(2) Section 4301(2) of title 5, United States Code, defines employees covered by statute by this subpart. Besides General Schedule and prevailing rate employees, coverage includes, but is not limited to, senior-level and scientific and professional employees paid under 5 U.S.C. 5376.

(b) * * *

(1) This subpart does not apply to agencies or employees excluded by 5 U.S.C. 4301 (1) and (2), the United States Postal Service, or the Postal Rate Commission.

9. Subpart D, consisting of §§ 430.401 through 430.412, is removed and reserved.

10. In § 430.501, paragraph (b) is revised to read as follows:

§ 430.501 Authority and coverage.

(b) This subpart applies to employees as defined under section 2105 of title 5, United States Code, but does not include employees in the Senior Executive Service.

PART 432—PERFORMANCE BASED REDUCTION IN GRADE AND REMOVAL ACTIONS

11. The authority citation for part 432 is revised to read as follows:

Authority: 5 U.S.C. 4303, 4305.

12. Section 432.101 is revised to read as follows:

§ 432.101 Statutory authority.

This part applies to reduction in grade and removal of employees covered by the provisions of this part based solely on performance at the unacceptable level. 5 U.S.C. 4305 authorizes the Office of Personnel Management to prescribe regulations to carry out the purposes of title 5, chapter 43, United States Code, including 5 U.S.C. 4303, which covers agency actions to reduce in grade or remove employees for unacceptable performance. (The provisions of 5 U.S.C. 7501 *et seq.*, may also be used to reduce in grade or remove employees. See part 752 of this chapter.)

13. In § 432.102, paragraph (a) is revised to read as follows:

§ 432.102 Coverage.

(a) *Actions covered.* This part covers reduction in grade and removal of employees based on unacceptable performance.

14. In § 432.103, paragraph (a) is revised, paragraph (c) is removed, paragraphs (d) and (e) are redesignated as paragraphs (c) and (d) respectively, newly redesignated paragraph (d) is revised, paragraph (f) is removed, paragraphs (g) through (j) are redesignated as paragraphs (e) through (h) respectively, and newly redesignated paragraph (h) is revised to read as follows.

§ 432.103 Definitions.

(a) *Acceptable performance* means performance that meets an employee's performance requirement(s) or standard(s) at a level of performance above "unacceptable" in the critical element(s) at issue.

(d) *Opportunity to demonstrate acceptable performance* means a reasonable chance for the employee whose performance has been determined to be unacceptable in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.

(h) *Unacceptable performance* means performance of an employee that fails to meet established performance standards in one or more critical elements of such employee's position.

15. In § 432.104, the section heading and the first sentence are revised to read as follows:

§ 432.104 Addressing unacceptable performance.

At any time during the performance appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical elements, the agency shall notify the employee of the critical element(s) for which performance is unacceptable and inform the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance in his or her position. * * *

16. Sections 432.105 and 432.107 are removed, §§ 432.106, 432.108, and 432.109 are redesignated as §§ 432.105, 432.106, and 432.107 respectively, the section heading of and paragraph (a)(4)(i)(C) in newly redesignated § 432.105 are revised to read as follows:

§ 432.105 Proposing and taking action based on unacceptable performance.

(a) * * *

(4) * * *

(i) * * *

(C) If an agency believes that an extension of the advance notice period is necessary for another reason, it may

request prior approval for such extension from the Chief, Family Programs and Employee Relations Division, Office of Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

16A. Newly designated § 432.107 is amended by revising the first sentence of paragraph (a) and paragraph (b) to read as follows:

§ 432.107 Agency records.

(a) * * * The agency shall preserve all relevant documentation concerning a reduction in grade or removal which is based on unacceptable performance and make it available for review by the affected employee or his or her representative. * * *

(b) *When the action is not affected.* As provided at 5 U.S.C. 4303(d), if, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advanced written notice provided in accordance with § 432.105(a)(4)(i), any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any agency record relating to the employee.

PART 451—INCENTIVE AWARDS

17. The authority citation for part 451 is revised to read as follows:

Authority: 5 U.S.C. 4501–4507.

18. Section 451.101 is revised to read as follows:

§ 451.101 Authority and coverage.

(a) This subpart contains the regulatory requirements of the Office of Personnel Management (OPM) for establishing and conducting the Superior Accomplishment Awards component of the Performance Management System under the authority of title 5, United States Code, chapters 43 and 45.

(b) This subpart applies to employees as defined by section 2105 of title 5, United States Code.

(c) This subpart applies to agencies as defined in section 4501 of title 5, United States Code.

(d) For the regulatory requirements for granting performance awards based on an employee's rating of record, refer to—

(1) Part 430, subpart E, of this chapter for General Schedule, prevailing rate, and certain other employees covered by 5 U.S.C. 4301–4305; and

(2) Section 534.403 of this chapter for Senior Executive Service (SES) employees.

19. In § 451.104, the introductory text of paragraph (a), and paragraph (c) are revised to read as follows:

§ 451.104 Policy.

(a) The Office of Personnel Management encourages agencies to make maximum use of their authorities under chapter 45 of title 5, United States Code, to:

(c) An award under this subpart may be granted alone or in addition to a performance award granted under part 430, subpart E of this chapter, or a quality step increase granted under part 531, subpart E of this chapter.

20. In § 451.201, the introductory text of paragraph (a), and paragraph (c) are revised to read as follows:

§ 451.201 Authority and coverage.

(a) Under chapter 45 of title 5, United States Code, the President may pay a cash award to and incur necessary expenses for the honorary recognition of an employee who:

(c) Except as provided in paragraph (b) of this section, this subpart applies to employees as defined by section 2105 of title 5, United States Code.

21. In § 451.203, paragraph (c) is revised to read as follows:

§ 451.203 Responsibilities of the Office of Personnel Management.

(c) Under Executive Order 11228, section 2, the Office of Personnel Management has the authority to determine the activity or activities primarily benefiting from any suggestion, invention, or other contribution which forms the basis for a Presidential award under 5 U.S.C. 4504.

PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

22. The authority citation for part 511 continues to read as follows:

Authority: 5 U.S.C. 5115, 5338, 5351.

23. In § 511.701, paragraph (a)(1)(iii) is removed.

PART 530—PAY RATES AND SYSTEMS (GENERAL)

24. The authority citation for part 530 is revised to read as follows:

Authority: 5 U.S.C. 5305 and 5307; E.O. 12748;

Subpart B also issued under sec. 302(c) and 404(c) of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), 104 Stat. 1462 and 1466, respectively;

Subpart C also issued under sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103-89), 107 Stat. 981.

Subpart C—Special Salary Rate Schedules for Recruitment and Retention

25. In § 530.306, paragraphs (a)(3) and (b)(2) are revised to read as follows:

§ 530.306 Determining employee rates.

(a) * * *

(3) When a special salary rate schedule becomes initially applicable to, or increased for, a position occupied by a GM employee (as defined in § 531.202 of this chapter), the employee's rate of basic pay shall be determined under § 531.205(a)(2) of this chapter.

(b) * * *

(2) If the employee is receiving a rate of basic pay applicable to a GM employee (as defined in § 531.202 of this chapter), the employee shall receive his or her existing rate. This rate may be lower than the minimum of the regular schedule as permitted by section 4 of Public Law 103-89. If the employee's existing rate exceeds the maximum rate for the regular or decreased special salary rate schedule, the employee shall be entitled to the existing rate, as provided in § 536.104(a)(3) of this chapter.

26. In § 530.307, paragraph (c) is revised to read as follows:

§ 530.307 Effect of an adjustment in scheduled rates of pay.

(c) A GM employee (as defined in § 531.202 of this chapter) receiving a special salary rate immediately before the effective date of an adjustment in scheduled rates of pay shall receive on that effective date a rate of basic pay determined under § 531.205(a)(2) of this chapter. However, in the case of an employee who becomes eligible for pay retention because the employee's pay would otherwise be reduced under § 530.304, the employee shall receive a rate of basic pay determined under § 536.205(b) of this chapter.

PART 531—PAY UNDER THE GENERAL SCHEDULE

27. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, 5338; sec. 4 of the Performance Management and Recognition System Termination Act of 1993

(Pub. L. 103-89), 107 Stat. 981; E.O. 12748, 56 FR 4521, February 4, 1991, 3 CFR 1991, Comp., p. 316;

Subpart A also issued under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), 104 Stat. 1462, and E.O. 12786, 56 FR 67453, December 30, 1991, 3 CFR 1991 Comp., p. 376;

Subpart B also issued under 5 U.S.C.

5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under section 404 of Pub. L. 101-509, 104 Stat. 1446, and section 3(7) of Pub. L. 102-378 (October 2, 1992);

Subpart D also issued under 5 U.S.C.

5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336.

Subpart A—Interim Geographic Adjustments

28. In § 531.101, the definition of *employee* and the introductory text of paragraph (b) of the definition of *scheduled annual rate of pay* are revised to read as follows:

§ 531.101 Definitions.

Employee means an employee in a position to which subchapter III of chapter 53, United States Code, applies, whose official duty station is located in an interim geographic adjustment area, including an employee in a position authorized by § 213.3102(w) of this chapter whose rate of basic pay is established under the General Schedule.

Scheduled annual rate of pay means—

(b) For a GM employee (as defined in § 531.202) who receives a local special salary rate, the rate of pay resulting from the following computation—

29. Section 531.201 is revised to read as follows:

§ 531.201 Applicability.

This subpart and sections 5333 and 5334 of title 5, United States Code, apply to employees and positions, other than Senior Executive Services positions, to which chapter 51 of title 5, United States Code, applies.

30. In § 531.202, paragraphs (e) through (m) are redesignated as paragraphs (f) through (n) respectively, and new paragraph (e) is added to read as follows:

§ 531.202 Definitions.

(e) *GM employee* means an employee who was covered by the Performance Management and Recognition System under chapter 54 of title 5, United States Code, on October 31, 1993, and who continues to occupy a position as a supervisor or management official (as

defined in paragraphs (10) and (11) of section 7103(a) of title 5, United States Code) in the same grade of the General Schedule and in the same agency without a break in service of more than 3 calendar days. Any reference to employees, grades, positions, or rates of basic pay under the General Schedule shall include GM employees for the purposes of subchapter I and III of chapter 53 of title 5, United States Code.

31. In § 531.203, the introductory text of paragraph (c)(1) and the first sentence of paragraph (c)(2) introductory text are revised to read as follows:

§ 531.203 General provisions.

(c) * * *

(1) Except as provided in paragraph (c)(2) of this section, the maximum rate of basic pay that may be paid a General Schedule employee shall be determined as follows:

(2) The maximum rate of basic pay that may be paid a GM employee shall be determined as follows.

32. In § 531.204, paragraph (a)(2) is removed, paragraph (a)(3) is redesignated as paragraph (a)(2), and paragraphs (c) and (d) introductory text, (d)(1) and (d)(2) and the introductory text of paragraph (e) are revised to read as follows:

§ 531.204 Special provisions.

(c) *Rate of basic pay when an employee becomes covered by section 4 of Public Law 103-89.* When an employee becomes covered by section 4 of Public Law 103-89, the employee will continue to receive his or her existing rate of basic pay.

(d) *Rate of basic pay when an employee loses coverage under section 4 of Public Law 103-89.* Except as provided by paragraph (e) of this section, when an employee loses coverage under section 4 of Public Law 103-89, the employee shall receive his or her existing rate of basic pay, plus any of the following adjustments that may be applicable, in the order specified:

(1) The amount of any annual adjustment under section 5303 of title 5, United States Code to which the employee would otherwise be entitled on that date, or for an employee subject to special pay rates, the amount of any pay adjustment made on that date under section 5305 of title 5, United States Code, and part 530 of this chapter;

(2) The amount of any step increase under section 5335 of title 5, United

States Code, and § 531.404 to which the employee otherwise would be entitled on that date;

(e) Paragraphs (d) (1) through (4) of this section do not apply to any employee who is no longer covered by section 4 of Public Law 103-89 as a result of—

33. In § 531.205, paragraph (a)(2) is revised to read as follows:

§ 531.205 Pay schedule conversion rules at the time of an annual pay adjustment under 5 U.S.C. 5303.

(a) * * *

(2) (i) Except as provided in paragraphs (a)(2) (ii) through (iv) of this section, an agency shall determine the annual pay adjustment under 5 U.S.C. 5303 for a GM employee as follows:

(A) Subtract the minimum rate of the range of the employee's position in effect on the day immediately preceding the pay adjustment from the employee's rate of basic pay on the day immediately preceding the pay adjustment;

(B) Subtract the minimum rate of the range in effect immediately preceding the pay adjustment from the maximum of that rate range;

(C) Divide the result of paragraph (a)(2)(i)(A) of this section by the result of paragraph (a)(2)(i)(B) of this section, carry the result to the seventh decimal place, and truncate, rather than round, the result;

(D) Subtract the minimum rate of the new rate range for the grade from the maximum rate of that range;

(E) Multiply the result of paragraph (a)(2)(i)(C) of this section by the result of paragraph (a)(2)(i)(D) of this section; and

(F) Add the result of paragraph (a)(2)(i)(E) of this section to the minimum of the new rate range and round to the next higher whole dollar amount.

(ii) The rate of basic pay of an employee which is at the minimum or maximum of the rate range in effect on the day preceding the pay adjustment will be adjusted to the minimum or maximum of the new rate range respectively.

(iii) The rate of basic pay of an employee which is less than the minimum rate of the rate range of the employee's position will be adjusted by multiplying the employee's rate of basic pay on the day immediately preceding the pay adjustment by the full amount of the annual pay adjustment under 5 U.S.C. 5303 applicable to the rate range of the grade of the employee's position.

(iv) An employee who is receiving retained pay will receive one-half of the

annual pay adjustment under 5 U.S.C. 5303, as required under 5 U.S.C. 5363(a).

34. In § 531.301, the introductory text of paragraph (b) of the definition of *scheduled annual rate of pay* is revised to read as follows:

§ 531.301 Definitions.

Scheduled annual rate of pay means—

(b) For a law enforcement officer who is a GM employee (as defined in § 531.202) and is receiving a local special salary rate under 5 U.S.C. 5305 or a similar provision of law (other than section 403 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509)), the rate of pay resulting from the following computation—

35. In § 531.401, paragraph (d) is added to read as follows:

§ 531.401 Principal authorities.

(d) Section 4 of Public Law 103-89 provides that "the Office of Personnel Management shall prescribe regulations necessary for the administration of this section."

36. In § 531.402, paragraph (b)(1) is removed, and paragraphs (b)(2) through (b)(4) are redesignated as paragraphs (b)(1) through (b)(3), respectively.

37. In § 531.403, a definition of *next higher rate within the grade* is added, and the definition of *within-grade increase* is revised to read as follows:

§ 531.403 Definitions.

Next higher rate within the grade for a GM employee (as defined in § 531.202) means the rate of basic pay which exceeds an employee's existing rate of basic pay by one-ninth of the difference between the minimum and maximum rates of pay for the applicable General Schedule grade or special salary rate schedule established under section 5305 of title 5, United States Code, not to exceed the maximum rate for the grade.

Within-grade increase is synonymous with the term "step increase" used in section 5335 of title 5, United States Code and means—

(1) 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; or

(2) For a GM employee (as defined in § 531.202), a periodic increase in an

employee's rate of basic pay from his or her current rate to the next higher rate within the grade (as defined in this section) in accordance with section 4 of Pub. L. 103-89.

38. In § 531.404, the introductory text is revised to read as follows:

§ 531.404 Earning within-grade increase.

An employee paid at less than step 10 of the grade of his or her position shall earn advancement in pay to the next higher step of the grade or the next higher rate within the grade (as defined in § 531.403) upon meeting the following three requirements established by law:

39. In § 531.405, paragraph (a) is revised to read as follows:

§ 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 next higher step in all General Schedule grades (or the next higher rate within the grade, as defined in § 531.403) are:

(i) Rate of basic pay less than the rate of basic pay at step 4-52 calendar weeks of creditable service;

(ii) Rate of basic pay equal to or greater than the rate of basic pay at step 4 and less than the rate of basic pay at step 7-104 calendar weeks of creditable service; and

(iii) Rate of basic pay equal to or greater than the rate of basic pay at step 7-156 calendar weeks of creditable service.

(2) For an employee without a scheduled tour of duty the waiting periods for advancement to the next higher step of all General Schedule grades (or the next higher rate within the grade, as defined in § 531.403) are:

(i) Rate of basic pay less than the rate of basic pay at step 4-260 days of creditable service in a pay status over a period of not less than 52 calendar weeks;

(ii) Rate of basic pay equal to or greater than the rate of basic pay at step 4 and less than the rate of basic pay at step 7-520 days of creditable service in a pay status over a period of not less than 104 calendar weeks; and

(iii) Rate of basic pay equal to or greater than the rate of basic pay at step 7-780 days of creditable service in a pay status over a period of not less than 156 calendar weeks.

40. In § 531.406, paragraphs (b)(2)(i) through (b)(2)(ii) are revised to read as follows:

§ 531.406 Creditable service.

* * *

(b) * * *

(2) * * *

(i) Two workweeks in the waiting period for steps 2, 3, and 4 or for the next higher rate within the grade (as defined in § 531.403) for a GM employee (as defined in § 531.202) whose rate of basic pay is less than the rate of basic pay for step 4 of the applicable grade;

(ii) Four workweeks in the waiting period for steps 5, 6, and 7 or for the next higher rate within the grade (as defined in § 531.403) for a GM employee (as defined in § 531.202) whose rate of basic pay is equal to or greater than the rate of basic pay for step 4 of the applicable grade, but less than the rate of basic pay for step 7 of the applicable grade; and

(iii) Six workweeks in the waiting period for steps 8, 9, and 10 or for the next higher rate within the grade (as defined in § 531.403) for a GM employee (as defined in § 531.202) whose rate of basic pay is equal to or greater than the rate of basic pay for step 7 of the applicable grade.

41. In § 531.502, the definition of *quality step increase* is revised to read as follows:

§ 531.502 Definitions.

* * *

Quality step increase is synonymous with the term "step increase" used in section 5336 of title 5, United States Code and means an increase in an employee's rate of basic pay from one step or rate of the grade of his or her position to the next higher step of that grade or next higher rate within the grade (as defined in § 531.403) in accordance with section 5336 of title 5, United States Code, section 4 of Public Law 103-89, and this subpart.

PART 536—GRADE AND PAY RETENTION

42. The authority citation for part 536 is revised to read as follows:

Authority: 5 U.S.C. 5361-5366; sec. 7202(f) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508), 104 Stat. 1338-336; sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103-89), 107 Stat. 981;

§ 536.307 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92-502.

Subpart A—Definitions; Coverage and Applicability

43. In § 536.102, paragraph (1) of the definition of *representative rate* is revised to read as follows:

§ 536.102 Definitions.

* * *

Representative rate means:

(1) The fourth step of the grade in the case of a position under the General Schedule or the individual's rate under the Senior Executive Service or a position subject to the senior-level pay authority under 5 U.S.C. 5376;

44. In § 536.205, paragraph (a)(2) is revised to read as follows:

§ 536.205 Determination of rate of basic pay.

(a) * * *

(2) The rate of basic pay from the applicable rate schedule for the grade and step (except as provided by § 531.204(d)(4) of this chapter) held by the employee before the movement, or

45. Section 536.308 is added to read as follows:

§ 536.308 Applicability of retained grade.

(a) Except as provided in paragraph (b) of this section, when an employee is entitled to grade retention, the retained grade will be treated as the employee's grade for all purposes, including pay and pay administration, retirement, life insurance, and eligibility for training.

(b) The retained grade will not be used—

(1) In any reduction-in-force procedure;

(2) To determine whether an employee has been demoted for the purpose of terminating grade or pay retention;

(3) To determine whether an employee is covered by section 4 of Public Law 103-89; or

(4) To determine whether an employee is exempt or nonexempt from the Fair Labor Standards Act of 1938 (as amended).

PART 540—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

46. Part 540 is removed.

PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

47. The authority citation for part 575 continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; sec. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509) 104 Stat. 1462 and 1466, respectively; E.O. 12748.

48. In § 575.102, paragraph (a)(1) is revised to read as follows:

§ 575.102 Delegation of authority.

(a) * * *

(1) A General Schedule position paid under 5 U.S.C. 5332;

49. In § 575.202, paragraph (a)(1) is revised to read as follows:

§ 575.202 Delegation of authority.

(a) * * *

(1) A General Schedule position paid under 5 U.S.C. 5332;

50. In § 575.302, paragraph (a)(1) is revised to read as follows:

§ 575.302 Delegation of authority.

(a) * * *

(1) A General Schedule position paid under 5 U.S.C. 5332;

51. In § 575.402, paragraph (a)(1) is revised to read as follows:

§ 575.402 Delegation of authority.

(a) * * *

(1) In a General Schedule position paid under 5 U.S.C. 5332; and

PART 591—ALLOWANCES AND DIFFERENTIALS

52. The authority citation for subpart B of part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943-1948 Comp., p. 792; E.O. 12510, 3 CFR, 1985 Comp., p. 338.

53. In § 591.203, paragraph (a)(1) is revised to read as follows:

§ 591.203 Agencies and employees covered.

(a) * * *

(1) General Schedule (including employees in positions authorized by § 213.3102(w) of this chapter whose rates of basic pay are established under the General Schedule).

PART 595—PHYSICIANS' COMPARABILITY ALLOWANCES

54. The authority citation for part 595 continues to read as follows:

Authority: 5 U.S.C. 5948; E.O. 12109, 44 FR 1067, Jan. 3, 1979.

55. In § 595.102, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

56. The authority citation for part 771 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 9830, 3 CFR 1943-1948 Comp., pp.

606-624; E.O. 11222, 3 CFR 1964-1969 Comp., p. 306.

57. In § 771.105, paragraphs (b)(7), (b)(9), and (c)(3) are revised to read as follows:

§ 771.105 Grievance coverage.

* * *

(b) * * *
(7) The substance of elements and performance standards;

* * *

(9) A decision to grant or not to grant a Senior Executive Service pay rate increase; or a decision to grant or not to grant a pay rate increase under section 5376 of title 5, United States Code, and part 534, subpart E of this chapter;

* * *

(c) * * *
(3) A matter meeting the definition of a grievance but in which the employee files a complaint or other challenge under another review procedure, reconsideration, or dispute resolution process within the agency.

[FR Doc. 93-30581 Filed 12-14-93; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV93-905-4-IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Relaxation of Gift Fruit Exemption Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes handling requirements to permit handlers to increase shipments of gift packages of Florida citrus fruit to individuals and distributors, under specific conditions. This rule will enable handlers to ship greater quantities of gift fruit to meet market needs.

DATES: Effective December 9, 1993. Comments which are received by January 14, 1994, will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular

business hours. All comments should reference the docket number, date, and page number of this issue of the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone: 202-720-5331; or William G. Pimental, Southeast Marketing Field Office, USDA/AMS, P.O. Box 2276, Winter Haven, Florida 33883; telephone: 813-299-4770.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 905 (7 CFR part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the order. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C 601-674], hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This interim final rule is not intended to have retroactive effect. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida, and about 11,000 producers of these citrus fruits in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. A minority of these handlers and a majority of the producers may be classified as small entities.

The Citrus Administrative Committee (committee) met November 16, 1993, and unanimously recommended this action. The committee meets prior to and during each season to review the rules and regulations effective on a continuous basis for citrus fruit regulated under the order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Section 905.140 (7 CFR 905.140) provides the terms and conditions under which handlers can ship fruit in gift packages exempt from handling regulations in effect under §§ 905.52 and 905.53 of the order. Certain gift fruit packages are exempted from such regulations, since they contain fruit of mixed varieties and non-fruit items, and thus, would not meet the grade and size requirements of the handling regulations. Currently, handlers may only ship one or two gift packages per day exempt from such regulations, depending on the circumstances, to individuals and distributors. This action increases the number of gift packages of fruit which handlers can ship under this exemption provision, enabling handlers to ship an unlimited number of packages of gift fruit to individuals and distributors, provided certain safeguards are met by the handler of the fruit.