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The Federal Employees Pay Comparability Act of 1990: Application in the NRC

A Guide for NRC Managers

Policy and Labor Relations
Office of Personnel

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NUREG/BR-0113, Rev. 1 THE FEDERAL EMPLOYEES PAY COMPARABILITY ACT OF 1990: APPLICATION IN THE NRC FEBRUARY 1996

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ABSTRACT

On November 5, 1990, President Bush signed into law the Federal Employees Pay Comparability Act of 1990 (FEPCA). This law makes sweeping changes in the way pay is set for most Federal employees. The law has many provisions dealing with a wide range of pay issues – from how pay rates are adjusted each year, to paying recruitment bonuses for new employees, to granting paid time off as an incentive award. Although some of the provisions of the FEPCA are not directly applicable to the U.S. Nuclear Regulatory Commission (NRC), the NRC has adopted the major provisions of FEPCA for use at the NRC.

This guide will help the Federal manager understand the FEPCA features that affect pay, such as the annual pay adjustments FEPCA authorizes that are applicable to Federal employees across the nation or to those in a particular locality.

This guide also describes the many pay-related tools that FEPCA provides to help the Federal manager; for example, tools for recruiting and retaining the best possible employees.

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ABBREVIATIONS

ECI	employment cost index
EDO	Executive Director for Operations
EEO	equal employment opportunity
FEPCA	Federal Employees Pay Comparability Act of 1990
FLSA	Fair Labor Standards Act
GG	general grade
GM	general merit
GNP	gross national product
GS	general schedule
IGA	interim geographic adjustment
MD	management directive
NRC	Nuclear Regulatory Commission (U.S.)
OPM	Office of Personnel Management (U.S.)
SES	senior executive service
SLS	senior level system

1 BASIC PAY ADJUSTMENTS

Before the Federal Employees Pay Comparability Act of 1990 (FEPCA) was passed, the law required a single adjustment to the pay grades annually. Each year the "President's Pay Agent," following an established procedure for comparing average Federal pay to average private sector pay, would recommend an adjustment to General Schedule (GS) pay to make Federal pay comparable with private sector pay. Often, the President authorized a lower increase or, in some cases, did not authorize an increase at all.

Once the President's new GS has been approved and the Office of Personnel Management (OPM) has published it, the Nuclear Regulatory Commission (NRC) determines whether to adopt it. The NRC schedule is then published in MD 10.41, "Pay Administration" (formerly Manual Chapter 4130–C, Part VIII).

The pre-1994 pay adjustment process provided a single, nationwide Federal pay scale for white collar positions. FEPCA recognizes that the national economy is made up of many different local labor markets.

FEPCA changes the way Federal officials will compare the pay of workers in the Federal Government with those in the private sector in two ways:

1. Nationwide increases to the GS payscale will generally continue each year, but these increases will be based on the national average rate of increase for the workers in the private sector rather than the amount of the difference between workers in the private sector and the Federal Government.

2. In addition, pay adjustments will be based on the principle of comparability with non-Federal salaries on the local level (locality pay adjustments) to form the second part of the pay adjustment process.

Pay adjustments under FEPCA are based on data from prior years in order to include them in the President's budget. The President's budget proposal is prepared at the end of 1993 for the 1995 fiscal year, at the end of 1994 for the 1996 fiscal year and so on.

1.1 Nationwide Adjustments

The nationwide adjustment increases pay for all GS positions (and NRC positions if NRC adopts the GS pay increases) across the country each January. These increases are based on the rate of increase in private sector salaries. The amount of the increase comes from the Employment Cost Index (ECI)—a measure of labor costs determined by Bureau of Labor Statistics surveys.

The measurement period for GS runs from September to September, as measured by the ECI. The measurement period for the Senior Executive Service (SES) runs from December to December.

Pay for NRC Administrative Judges is set following the pay rates for the SES.

Pay rates for NRC Senior Level System (SLS) employees are set following the SES for SLS pay bands SL–1C, SL–2, and SL–3. SLS employees who are paid at a rate below SL–1C are generally paid the same percentage increase as that provided to general grade (GG) employees in grades GG–15 and below.

In 1994, the generic nationwide adjustment formula changed to that of the ECI index minus one-half of one percentage point, when the locality adjustments begin. This change is subject to modification by Congress.

1.2 Locality Adjustments

Beginning in 1994, as currently provided in law, if Federal salaries in your locality lag significantly behind non-Federal salaries, you and all other NRC employees in your locality will be eligible for a locality pay adjustment in addition to the nationwide raise. The Office of Personnel Management (OPM) will provide separate guidance for SES employees and Administrative Law Judges. Pay for NRC Administrative Judges and NRC SLS employees will follow OPM guidance for SES employees in determining pay ranges and rates.

Here's how locality adjustments are supposed to work. Every employee (except those working overseas or in Hawaii, Alaska, Puerto Rico, the Virgin Islands, or Guam) will be located in one of several pay areas. Every year the Bureau of Labor Statistics will collect non-Federal salary information in each pay area. In each area where Federal salaries lag behind non-Federal salaries by more than 5 percent, Federal employees will receive pay increases called locality-based comparability payments.

Locality pay will be phased in over time. In all, it will take 9 years to bring salaries for all Federal employees to within 5 percent of non-Federal salaries in every pay area across the country. The first round of locality comparability payments were projected to eliminate two-tenths of the difference.

The next year, locality payments were supposed to eliminate an additional one-tenth of the difference each year. You will get three-tenths of the difference in that year, four-tenths of the difference in the following year, and so on.

The President has the authority to replace the comparability increases (both the ECI-based nationwide annual increase and the locality-based comparability increases) with an "alternative plan." Through 1994 however, FEPCA placed special limitations on the President's authority to do so, subject to any subsequent changes by Congress.

- If the ECI increase is below 5 percent, the President may reduce the adjustment only in the event of war or severe economic conditions, defined as two consecutive quarters of negative gross national product (GNP) growth.

- If the ECI increase is above 5 percent, the President may reduce the annual adjustment to 5 percent or more, citing a national emergency or serious economic condition affecting the general welfare. For example, the adjustments for 1994, 1995, and 1996 have been lowered due to budget restraints imposed by Congress and the President.

1.3 Interim Geographic Adjustments

Because the new locality adjustment system was not effective until 1994, the President authorized a special 8-percent "emergency" pay increase in January 1991 for Federal workers in the New York, San Francisco, and Los Angeles areas. These increases were called interim geographic adjustments or IGA's. They did apply to SES or SLS employees in those areas at the present time.

Employees already receiving local special pay rates, such as many clerical workers, are not provided the full adjustment because their special pay rate already reflects the local cost of living. They receive the difference between the level of the special pay rate and the amount of the adjustment. Employees on national special pay rates, such as those for engineers, receive the full adjustment because their special pay rate is not based on the local cost of living.

As the locality-based comparability adjustments meet or exceed the interim adjustments, they offset interim geographic adjustments.

In 1995, San Francisco rates were brought under the locality-based system.

In 1996, Los Angeles and New York rates were brought under the locality-based system. At this point, the last of the IGAs were abolished.

2 RECRUITMENT AND RETENTION TOOLS

FEPCA includes many features designed to help Federal agencies recruit and retain the employees they need. Other legislation enacted at the same time as FEPCA provides additional features.

Some of these features are entirely new, while others expand features of the current pay system. As a Federal manager, you now have a broad range of compensation tools available to help you compete with non-Federal employers for the talent you need.

Here are some examples of what's new in the Federal pay system:

- Starting pay may be set above Step 1 at all grades for appointees with superior qualifications. (This option has been available at the NRC for some time.)
- One-time bonuses may be used to recruit or relocate high-quality employees for difficult-to-fill positions.
- Federal agencies may pay for a candidate's interview travel expenses (also an option previously available at the NRC), fund a new appointee's travel and transportation expenses, and under certain circumstances, even pay for an employee's academic programs leading to a degree.

All pay actions are subject to aggregate pay limitations as discussed in Section 4.5.

This guide is designed to introduce you to the range of options. For additional information, contact your Office of Personnel representative.

2.1 *Using Recruitment and Retention Tools*

As a Federal manager, you may have to decide when to use the compensation tools FEPCA provides to solve your recruitment and retention problems. Following are some of the many factors you should consider in making these decisions.

- First, you should identify as specifically as possible the recruiting or retention problem you are facing by asking yourself—
  - Is the problem based on verifiable data or on perceptions?
  - Is the problem local or widespread?
  - Is the problem acute now? Do present conditions indicate a potential problem?
  - Is the problem temporary or permanent?
  - If the problem involves a particular candidate or employee, what is important to that person?
  - Will a compensation tool solve the problem?
- Obviously, trade-offs among the various compensation tools are available to you. Some tools, such as appointments above the minimum rate, affect an employee's base pay. Decisions that affect base pay have long-term consequences for the employee, and for the NRC. A one-time recruitment bonus or payment of travel and transportation expenses may solve the same problem at lower cost.
- When compensating new employees, you should be fair and equitable to current employees. Compensation tools may be necessary to recruit quality candidates from the available applicant pool, but they may also create morale problems among equally qualified employees already on board.
- The new flexibilities FEPCA provides are unprecedented, and you, the Federal manager, should use them prudently and sensibly. The NRC requires high-level reviews and approval to use these tools, but that shouldn't deter you from requesting them when you consider them appropriate.

Remember that the new recruitment tools are not substitutes for a sound recruitment plan and thorough recruitment efforts. They are tools to supplement your sensible and thorough recruitment efforts. Similarly, you should use the new retention tools to supplement other approaches to retaining top performers, including those that do not directly involve pay.

2.2 *Travel Expenses for Interviews and New Appointments*

Before FEPCA, most Federal agencies could pay travel expenses for pre-employment interviews only in certain exceptional situations. Similarly, agencies could pay moving expenses for new appointees only to positions in "shortage occupations." FEPCA removes the limitations on both these authorities, allowing agencies to decide when to pay. Removing these limitations have had little effect on NRC's current practices that already permitted such flexibilities when specific situations warranted them.

Governmentwide Provisions: *The changes apply only to travel for pre-employment interviews or travel and transportation to an appointee's first post of duty (including transporting and storing of household goods). Agencies can still pay moving expenses for employees who relocate in the interest of the Government.*

How to use this feature in the NRC:

- MD 10.10, "Recruitment," Part VII of the handbook, describes first post of duty travel and transportation expenses and interviews.
- The NRC authorizes travel and transportation expenses to the post of duty only when the appointee has executed an agreement to remain in Federal service for 1 year from the date of his or her appointment unless separated for reasons beyond his or her control or for reasons acceptable to the NRC.
- Use NRC Form 723, "Travel Payment Agreement," to execute the agreement.
- Consult the Office of Personnel about persons eligible for this travel payment.
- Advise each candidate for whom the NRC is willing to pay these expenses that NRC will pay these expenses when they are given information concerning employment.
- MD 14.1, "Official Temporary Duty travel," gives requirements regarding interview travel.

- None of these payments are employee entitlements. The NRC may authorize payments based upon the availability of funds and the desirability of conducting interviews for a particular job or offering a recruiting incentive to a candidate.

2.3 *Recruitment Bonuses*

Under FEPCA, agencies are authorized to pay cash bonuses of up to 25 percent of basic pay as an incentive for candidates to accept a Federal job. Recruitment bonuses are for situations in which an agency would otherwise have difficulty filling a position with a suitable candidate. A recruitment bonus is a one-time, lump-sum payment that does not affect an employee's base pay in any way.

Governmentwide Provisions: *Each bonus determination has to be made on a case-by-case basis with higher level approval, but advance approval can be given to allow timely job offers. An employee receiving a recruitment bonus must sign a service agreement of a least 1 year, and employees who leave before the agreed-upon time must pay back a prorated portion of the bonus. Each agency must establish its own plan for using this authority.*

How to use this feature in the NRC:

- MD 10.48, "Recruitment Bonus Program," describes the policies, practices, and procedures governing this provision.
- Submit a request for a recruitment bonus to the Director, Office of Personnel, who coordinates the request with the Office Director or Regional Administrator.
- The director or administrator submits each request that meets the basic legal requirements to the FEPCA Senior Management Review Panel. After the panel reviews the request, it makes a recommendation to the deciding official.
- The Chairman, Inspector General (IG), or the Executive Director for Operations (EDO), as appropriate, acts as the deciding official for a recruitment bonus request.
- The amount of the bonus granted determines the length of the service obligation.
    - Up to 8 percent of annual salary for 12 months of continued service.

  - From 9 percent to 16 percent of annual salary for 18 months of continued service.
  - From 17 percent to 25 percent of annual salary for 24 months of continued service.

- All NRC GG, SES, and SLS appointees, except Administrative Judges, are eligible for recruitment bonuses.
- Members of the Commission, the Inspector General, and Administrative Law Judges are not eligible for recruitment bonuses.

2.4 *Appointments Above the Minimum Rate (Superior Qualification Appointments)*

Before FEPCA, agencies had the authority to set a new employee's pay above Step 1 of a grade because of the candidate's superior qualifications. Use of this authority was, for most agencies, restricted to positions at or above GS–11. NRC has not been subject to this restriction. FEPCA expands this authority to positions at all grade levels, and OPM's regulations broaden the criteria for offering a higher rate of pay.

Superior qualification appointments affect basic pay, which may have a higher incentive value to candidates than a recruitment bonus. However, you should consider the additional cost to the agency of higher basic pay.

Governmentwide Provisions: *Agencies must base this pay decision on a candidate's superior qualifications or a special need for the candidate's services. Also, in deciding whether to give an employee a superior qualifications appointment, an agency is required to consider the possibility of using a recruitment bonus. Each agency must establish its own guidelines for using this feature.*

How to use this feature in the NRC:

- This feature is applicable to employees receiving their first appointment to the Federal service and to former Federal employees following a break in service of at least 90 days.
- MD 10.36, "Position Evaluation and Pay Administration," gives guidelines for using this provision under increases in hiring rates.
- Implementation of FEPCA did not result in any changes in current NRC procedures for authorizing these payments.
- Because of the new FEPCA flexibilities, you should carefully choose the pay flexibility or combination of pay flexibilities that will be most beneficial and cost effective to the NRC and ensure that high-quality candidates can be selected for NRC positions.

2.5 Reemployment of Military and Civilian Retirees

FEPCA allows OPM to waive dual compensation restrictions for those rare instances in which agencies must hire retirees to deal with special staffing needs. In other words, the new law allows agencies to hire military and Civil Service retirees without reducing either their "current" pay or their annuities or retired pay.

Governmentwide Provisions: *Military retirees hired into Federal civilian positions often receive reductions in their annuities during their civilian service. Civilian retirees reemployed by the Government receive reductions in salary based on their annuities. FEPCA now permits OPM to grant waivers of these reductions, on a case-by-case basis, for cases in which an agency has exceptional difficulty recruiting or retaining a qualified employee or for emergency situations. OPM will grant waivers only in critical situations.*

How to use this feature in the NRC:

- 5 CFR Part 553, "Reemployment of Military and Civilian Retirees To Meet Exceptional Employment Needs," describes the policies, practices, and procedures governing this provision.
- Because OPM is the approving authority for these waivers, you have to submit detailed information as part of the request package. OP can advise you on the type of information that will be needed for any of the following:
  1. Requests based on emergency situations,
  2. Requests based on exceptional recruiting needs, and
  3. Requests involving current employees.
- OPM procedures also permit delegation of authority to an agency for approving individual waivers in particular emergency situations.
  - An emergency situation must pose an immediate and direct threat to life or property. A potential or indirect threat does not constitute and emergency.

  - The emergency must be beyond the scope of NRC's normal responsibilities.

- Submit a request to the Director, Office of Personnel, who coordinates the request with the Office Director or Regional Administrator.

- The director or the administrator submits each request that meets the basic legal requirements to the FEPCA Senior Management Review Panel. After the panel reviews the request, it makes a recommendation to the EDO.

- If the EDO concurs with a request, the EDO will send it to OPM. The EDO is the deciding official for requests under OPM-delegated authority for emergency situations.

- The combination of annuity or retired pay and pay for the duration of the waiver are not subject to the aggregate pay limitation.

2.6 Advances in Pay

FEPCA authorizes agencies to give a new employee an advance in pay until the employee receives the first regular paycheck. The advance can be up to two pay periods worth of pay.

Governmentwide Provisions: *Advances can be made only to employees who have received an appointment. Before making an advance payment, the agency must provide the employee with certain information in writing and must require the employee to sign an agreement to repay the advance. Each agency must establish its own procedures for using this authority.*

How to use this feature in the NRC:

- MD 10.45, "Advances in Pay," describes the policies, practices, and procedures governing this provision.
- The advance in pay is made in one installment.
- To be eligible, the appointment must be the individual's first Federal appointment or a new appointment following a 90-day break in service.
- The NRC may not pay the employee before the day of appointment or after he or she receives the first regular paycheck.
- The Office Director or Regional Administrator has to recommend a request and the Deputy Chief Financial Officer and Controller have to review it.
- Some factors to consider in determining whether to request and advance in pay for an appointee are change in residence, prior unemployment, or other instances of financial hardship.
- The Director, office of Personnel, approves each request for an advance in pay.

2.7 Relocation Bonuses

Agencies are now authorized to pay employees bonuses of up to 25 percent of basic pay as an incentive to move to a new duty station within the agency.

Governmentwide Provisions: *A relocation bonus may only be paid when, in the absence of the bonus, it would be difficult to fill the position with a suitable employee. The bonus is paid as a lump sum. Each bonus determination must be made on a case-by-case-basis (unless a waiver is granted) with higher level review in the agency. An employee receiving a relocation bonus must sign a service agreement of at least 1 year at the duty location. An employee can receive a relocation bonus while serving under a service agreement for a recruitment bonus. Each agency must establish its own plan for using this authority.*

How to use this feature in the NRC:

- MD 10.44, "Relocation Bonus Program," describes the policies, practices, and procedures governing this provision.
- Submit a request for a relocation bonus to Director, Office of Personnel, who coordinates it with the Office Director or the Regional Administrator.
- The director or the administrator submits each request that meets the basic legal requirements to the FEPCA Senior Management Review Panel. After the panel reviews the request, it makes a recommendation to the deciding official.
- The Chairman, IG, or the EDO, as appropriate, acts as the deciding official for a relocation bonus request.
- The amount of the bonus granted determines the length of the service obligation. Service must be at the new duty location.
    - Up to 8 percent of annual salary for 12 months on continued service.
    - From 9 percent to 16 percent of annual salary for 18 months of continued service.

  - From 17 percent to 25 percent of annual salary for 24 months of continued service.

- All NRC GG, SES, and SLS employees are eligible for recruitment bonuses except Administrative Judges.

- Members of the Commission, the Inspector General, and Administrative Law Judges are not eligible for relocation bonuses.

- Exceptions to the case-by-case approvals must be approved by the EDO (or IG for OIG). To date, group exceptions have been approved for Resident Inspectors/Senior Resident Inspectors.

- Clearly document as part of the request the criticality of the position and the basis for determining that a highly qualified individual cannot be obtained without the bonus.

- Additionally, clearly document in the request the specific data used for determining the basis for the recommended amount of the bonus.

2.8 *Retention Allowances*

Under FEPCA, agencies have the authority to pay a retention allowance of up to 25 percent to an employee who would otherwise most likely leave the Federal Government.

Governmentwide provisions: *Determinations must be made on a case-by-case basis, with higher level review in the agency. A retention allowance can be up to 25 percent of basic pay and must be paid in the same manner as basic pay. This authority is only for employees who would otherwise be likely to leave the Federal Government. It cannot be used to retain an employee who is likely to leave for employment in another Federal agency. Retention allowances can be granted only to employees with at least 1 year of continuous service with the agency before the payment. They cannot be paid to employees serving under a service agreement for recruitment or relocation bonuses. Each agency must establish its own plan for using this authority.*

How to use this feature in the NRC:

- MD 10.47, "Retention Allowance Program," describes the policies, practices, and procedures governing the provision.
- Submit a retention allowance request to the Director, Office of Personnel, who coordinates it with the Office Director or the Regional Administrator.
- The director or the administrator submits each request that meets the basic legal requirements to the FEPCA Senior Management Review Panel. After the panel reviews the request, it makes a recommendation to the deciding official.
- The Chairman, IG, or the EDO, as appropriate, acts as the deciding official for a retention allowance request.
- Retention allowance requests are subject to aggregate pay limitations, currently set at Level I of the Executive Schedule. The Deputy Chief Financial Officer/Controller has to review and the Director, Office of Personnel, has to approve any automatic pay reductions resulting from retention allowances exceeding the Executive Level I aggregate pay limitation.

- Retention allowances are subject to an annual review to ensure the circumstances leading to approval of the original request are still valid. As a result of the review, allowances may be eliminated, increased, or decreased. The Chairman, IG, or the EDO, as appropriate, after a recommendation from the FEPCA Senior Management Review Panel, is the deciding official for such a change.

- To be considered for a retention allowance the individual must be leaving the Federal Government and must occupy a hard-to-fill position that is critical to accomplishing a program.

- The allowance *is not* paid in a lump sum as are the recruitment and relocation bonuses but as a percentage of basic pay added to each biweekly pay check.

2.9 *Payment for Academic Degree Training*

Previously, Federal agencies were prevented by law from paying for training to give employees the opportunity to earn academic degrees. Along with FEPCA, congress passed a law that allows Federal agencies to pay for training leading to an academic degree, in order to recruit or retain highly qualified employees for which a shortage exists, that involves skills critical to the agency's mission.

Governmentwide Provisions: *This provision may be used either to recruit new employees or to retain existing employees. It applies to positions for which a shortage of qualified personnel exists or for which the agency anticipates a shortage. Agencies must document the basis for shortage determinations. Selection of employees for academic career training must be in accordance with merit principles and Equal Employment Opportunity (EEO) considerations.*

How to use this feature in the NRC:

- MD 10.77, "Employee Development and Training," provides the basic policies, practices, and procedures governing training activities in the NRC.
- The "NRC Guide to Training Opportunities," NUREG/BR-0017, provides additional guidance and procedures. Section XI, "Agency-Sponsored Graduate-Level Programs," describes selected programs.
- The Graduate Fellowship and Senior Fellowship Programs are two current NRC degree programs.
- Identify any current or anticipated positions for which a shortage exists that involve critical skills in the NRC Human Resources Strategic Plan. Also include strategies to resolve the shortages, such as use of the Graduate Fellowship Program.
- MD 10.13, "Special Employment Programs," authorizes financial support of Student Employment Program students leading to a degree.

- Each NRC employee who receives NRC support for degree program, the terms of which are generally set at 1 month of continued service for each semester hour of course credit supported by the NRC, has to execute a Continued Service Agreement.

3 SPECIAL SALARY SCHEDULES

Special salary schedules have been in effect for many years, primarily to address extensive recruitment and retention problems affecting one or more categories of jobs in one or more geographic areas. Under the special salary schedules authority, OPM may grant higher rates of basic pay for all employees in each designated occupation and location, including those already on board.

The NRC, under the authority of Section 161d of the Atomic Energy Act of 1854, as amended, also conducts salary surveys and sets its own special salary schedules that are different from those set by OPM. The NRC special salary schedule for the Resident Inspector Program is an example. NRC may also adopt the schedules approved by OPM.

Unlike the many available compensation tools you can use on a case-by-case basis to address particular recruitment or retention problems, special salary schedules are much broader in scope and are intended for problems that affect groups of positions. The authority is intended only for those occupations in which recruitment or retention problems cannot be solved through other means. Managers should consider all the other FEPCA compensation tools before requesting the Office of Personnel to establish a special salary schedule.

For those situations in which special salary schedules are the only workable solution, FEPCA allows OPM to set a higher range of special salary rates. Under the old system, special salary rates for a grade could begin as high as 30 percent above the minimum (Step 1) pay rate for a grade. Now, however, FEPCA permits OPM to set special salary rates beginning as high as 30 percent above the maximum (Step 10) pay rate for a grade.

FEPCA also expands the range of circumstances that may justify a special salary schedule authorized by OPM. An agency may now request special salary schedules for occupations that are experiencing or are likely to experience significant recruitment or retention problems because of higher non-Federal pay, remoteness of the area, undesirable working conditions, or other circumstances that OPM determines are appropriate.

The NRC will consider any OPM activities related to special salary schedules in developing special salary schedules applicable to NRC employees.

OPM has also established a special salary schedule for Law Enforcement Officers nationwide in Grades 3 through 10 and other special salary schedules for Law Enforcement Officers in selected areas. Where appropriate, the NRC has adopted these special Law Enforcement Office salary schedules. They are published in MD 10.41, "Pay Administration."

4 OTHER FEPCA PROVISIONS

4.1 Time Off From Duty as an Incentive Award

The Federal incentive award system has been augmented by adding, as an incentive award, authority to grant employees time off without charging the time off to annual or sick leave.

Governmentwide Provisions: *Up to 80 hours of time off can be granted to an employee in a leave year. Most decisions to grant time off must be reviewed by a higher authority in the agency; however, agencies can authorize supervisors to grant up to 1 work day off without advance review.*

How to use this feature in the NRC:

- MD 10.73, "Time Off From Duty as an Incentive Award," currently describes the policies, practices, and procedures governing this provision. In line with new OPM regulations consolidating all regulations covering awards, NRC will incorporate the current MD 10.73 into a revised MD 10.72, "Incentive Awards."
- GG, SES, and SLS employees, excluding Administrative Judges, are covered by this provision.
- Administrative Law Judges and Inspector General are excluded from coverage.
- The purpose of these time-off awards is to increase the productivity and creativity of NRC employees by rewarding their contributions to the quality, efficiency, or economy of Government and NRC operations.
- Clearly document in each recommendation the superior accomplishments upon which the recommendation is based.
- Send the award recommendation to the Director, Office of Personnel, to review.

- An individual award cannot exceed 40 hours with no more than 80 hours awarded in a leave year.
- Once granted, an individual has up to 1 year to use the award. Time not used is lost.
- The employee's immediate supervisor has to approve use of the time off.
- Under no circumstances can a time-off award be converted to cash.

4.2 Hazard Pay Differentials

Under the old system, employees were entitled to receive hazard pay differentials only for hazardous duty that was "irregular or intermittent." FEPCA lifts this restriction.

Governmentwide Provisions: *The law still prohibits agencies from paying hazard pay differentials to employees when hazardous duty is taken into account in the classification of their positions. FEPCA allows OPM to regulate exceptions to this prohibition under unusual circumstances.*

NRC does not currently pay any hazard pay differentials.

4.3 *Premium Pay for Emergencies*

Under the old system, premium pay for emergency work was subject to a biweekly maximum earnings limitation of GS–15, Step 10. Under FEPCA, employees performing emergency work may be excepted from this limit.

Governmentwide Provisions: *In place of the biweekly maximum earnings limitation, Federal agencies may now apply an annual maximum earnings limitation of GS–15, Step 10, to employees performing emergency work as determined by the head of the agency or his/her designee. This does not require OPM approval.*

A law enforcement officer may be paid premium pay only to the extent that the payment does not cause the officer's aggregate rate of pay for any pay period to exceed the lesser of (1) 150 percent of the minimum rate payable for GS-15 (including any applicable locality-based comparability payment or special rate of pay) or (2) the rate payable for Level V of the Executive Schedule.

How to use this feature in the NRC:

- The biweekly earnings limitation on premium pay, which is the rate for GG–15, Step 10, may be lifted for work directly related to resolving emergencies threatening life or property. Even when the biweekly limitation is waived, however, the annual cap of GG–15, Step 10, remains in effect.
- MD 10.42, "Hours of Work and Premium Pay," defines premium pay within the NRC.

4.4 Positions Above General Grade 15

FEPCA introduces other changes to the Federal pay system, some of which are as follows:

New pay systems for administrative law judges and contract appeals board members. OPM maintains the regulatory requirements and procedures for these systems.

Abolishment of the supergrades (GS–16,–17, and –18) and the creation of a single pay band covering senior level positions other than SES (including scientific or professional positions). The pay band goes band goes from 120 percent of Grade 15, Step 1, to Executive Level IV. Agencies are free to design pay systems within that band that best accommodate their requirements.

How to use this feature in the NRC:

- The NRC has adopted the OPM system and has implemented two systems that now cover employees formerly in GG–16, –17, and –18 and in comparable administratively determined pay situations.
- MD 10.145, "Senior Level System," describes the policies, practices, and procedures governing the NRC Senior Level System.
- MD 10.148, "Senior Level Performance Appraisal System," describes performance management practices governing the NRC Senior Level System.
- MD 10.153, "Administrative Judge Compensation and Staffing," describes the policies, practices, and procedures governing NRC Administrative Judges.

4.5 Miscellaneous Provisions

- *OPM regulations established an aggregate limitation on pay. The aggregate limitation applies to the total of basic pay plus (1) premium pay and most other payments except for back pay for unjustified personnel actions, severance pay, and lump-sum payments for annual pay; (2) recruitment and relocation bonuses, supervisory and post differentials, retention allowances, danger pay allowances, physician's comparability allowances, and environmental allowances for employees outside the continental United States; and (3) continuation of pay under the Federal Employees' Compensation Act. This restriction primarily, but not exclusively, affects employees in positions above GS–15, such as SES, SLS, and Executive Schedule employees.*

  During a calendar year, an employee's aggregate compensation cannot exceed the rate for Executive Level I. The new aggregate limitation supersedes the fiscal year maximum that formerly limited pay for SES employees. SES employees are now covered by the new calendar year limitation. Both discretionary (optional) and nondiscretionary (payments to which an employee is entitled) forms of compensation are included in the aggregate limitation. A few types of payments are excluded when computing aggregate compensation. Currently, these include premium pay, overtime pay, and severance pay.

  Nondiscretionary compensation that was not paid during a calendar year because of the aggregate limitation must be paid in a lump sum at the beginning of the next calendar year. Certain discretionary payments withheld because of the limitation may also be deferred and paid in a lump sum. This includes SES Presidential rank awards and SES bonuses, recruitment or relocation bonuses, and retention allowances.

- *FEPCA eliminates the requirement to compute overtime pay for employees covered by the Fair Labor Standards Act*

(FLSA) under both Title 5, U.S. Code, and FLSA provisions. Now, overtime pay for employees covered by FLSA is computed only under FLSA. Also, for the purpose of calculating overtime pay under FLSA, hours in a paid nonwork status (such as annual leave) are now considered to be hours of work.

- *FEPCA revised the method of computing overtime pay and computing annual premium pay for regularly scheduled standby duty. The maximum overtime rate that may be paid (equivalent to the rate for GG-10, Step 1) now includes any applicable locality-based comparability payment for GG-10 Step 1, and any applicable special pay rate for GG-10, Step 1. The method of computing compensatory time off has also been changed to including applicable locality payment or special pay rate for GG-10, Step 10, in order to be included in computing either overtime pay or compensatory time off, a special pay rate for GG-10 (Step 1 or 10, as applicable) must appear in a published special pay rate schedule.*

All NRC employees are subject to the aggregate limitation on pay and the other OPM miscellaneous provisions previously discussed.