

90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-702, title I, § 109, Nov. 19, 1988, 102 Stat. 4645, provided that: "This title [amending this section] shall become effective on January 1, 1989."

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96-191.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of Title 12, Banks and Banking.

Amendment by Pub. L. 95-612 effective Oct. 1, 1978, or some later date related to availability of funds under appropriation acts authorized by appropriations authorization, see section 7 of Pub. L. 95-612, set out as a note under section 276c-2 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2391.

Amendment by Pub. L. 95-454 effective 180 days after Oct. 13, 1978, see section 415(a)(3) of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-233 effective on sixtieth day following Mar. 15, 1976, see section 16(b) of Pub. L. 94-233, set out as an Effective Date note under section 4201 of Title 18, Crimes and Criminal Procedure.

#### EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-415 effective Sept. 7, 1974, see section 263(a) of Pub. L. 93-415, set out as an Effective Date note under section 5601 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93-406, § 1051(b)(2), effective on 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L. 93-406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 93-406, § 4002(c), effective Sept. 2, 1974, see section 4082(a) of Pub. L. 93-406, which is classified to section 1461(a) of Title 29, Labor.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment by Pub. L. 93-83, prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83.

#### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

#### REPEALS

Pub. L. 95-612, § 3(b), Nov. 8, 1978, 92 Stat. 3091, cited as a credit to this section, was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

ADDITIONAL GS-16, GS-17, AND GS-18 POSITIONS; SOURCE FOR APPOINTMENTS; ELIGIBILITY OF APPOINTEES; TERMINATION OF AUTHORITY ON LEAVING POSITIONS; DETERMINATION OF AGGREGATE NUMBER OF POSITIONS AUTHORIZED FOR PLACEMENT IN SUCH GRADES

Pub. L. 95-612, § 3(a), (c), Nov. 8, 1978, 92 Stat. 3091, 3092, relating to the appointment of GS-16, GS-17, and GS-18 positions, was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

#### TERMINATION OF AUTHORITY TO PLACE POSITIONS IN GS-16, 17, OR 18 OF THE GENERAL SCHEDULE

Pub. L. 95-454, title IV, § 414(a)(1)(B), Oct. 13, 1978, 92 Stat. 1177, provided that: "Notwithstanding any other provision of law (other than section 5108 of such title 5), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5 under any such provision to place one or more positions in GS-16, 17, or 18 of the General Schedule, is hereby terminated."

#### LIMITATIONS ON EXECUTIVE POSITIONS NOT TO APPLY TO INDIVIDUALS OCCUPYING THOSE POSITIONS ON OCTOBER 12, 1978

Pub. L. 95-454, title IV, § 414(a)(3), Oct. 13, 1978, 92 Stat. 1178, provided that:

"(A) The provisions of paragraphs (1) and (2) of this subsection [amending sections 3104 and 5108 of this title] shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act [Oct. 13, 1978] continues to occupy such position.

"(B) The Director—

"(i) in establishing under section 5108 of title 5, United States Code, the maximum number of positions which may be placed in GS-16, 17, and 18 of the General Schedule, and

"(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established, shall take into account positions to which subparagraph (A) of this paragraph applies."

[References in laws to rates of pay for GS-16, 17, or 18, or to maximum rates of pay under General Schedule, to be considered references to rates payable under specified sections of this title, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of this title.]

#### ADDITIONAL POSITIONS IN OFFICE OF MANAGEMENT AND BUDGET

Pub. L. 95-26, title I, May 4, 1977, 91 Stat. 94, authorizing the Director of the Office of Management and Budget to place a total of five positions on GS-16, 17, and 18 in addition to the positions authorized by section 5108 of this title, was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

#### PREFERENCE TO BLIND IN SELECTION OF PERSONNEL

Preference to be given to blind individuals in selection of additional personnel under subsec. (c)(12) of this section, see section 208(c) of Pub. L. 93-516, set out as a note under section 702 of Title 29, Labor.

#### § 5109. Positions classified by statute

(a) The position held by an employee of the Department of Agriculture while he, under section 450d of title 7, is designated and vested with a delegated regulatory function or part thereof shall be classified in accordance with this chapter, but not lower than GS-14.

(b)(1) The position held by a fully experienced and qualified railroad safety inspector of the De-

partment of Transportation shall be classified in accordance with this chapter, but not lower than GS-12.

(2) The position held by a railroad safety specialist of the Department shall be classified in accordance with this chapter, but not lower than GS-13.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 455; Pub. L. 91-34, §2(b), June 30, 1969, 83 Stat. 41; Pub. L. 93-406, title II, §1051(b)(1), Sept. 2, 1974, 88 Stat. 951; Pub. L. 95-454, title IX, §906(b), Oct. 13, 1978, 92 Stat. 1226; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-509, title V, §529 [title I, §101(b)(9)(G)], Nov. 5, 1990, 104 Stat. 1427, 1441; Pub. L. 103-272, §4(b)(1), July 5, 1994, 108 Stat. 1361; Pub. L. 105-206, title I, §1102(e)(2), July 22, 1998, 112 Stat. 704.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	5 U.S.C. 516b (3d sentence).	Apr. 4, 1940, ch. 75, §2 (3d sentence), 54 Stat. 81.
(b) .....	5 U.S.C. 3013(a) (10th through 24th words of 1st sentence, and 2d sentence).	Sept. 28, 1959, Pub. L. 86-382, §14(a) (10th through 24th words of 1st sentence, and 2d sentence), 73 Stat. 716.
(c) .....	40 U.S.C. 193w.	Sept. 23, 1959, Pub. L. 86-379, §1, 73 Stat. 702.

In subsection (a), the words “section 450d of title 7” are substituted for “this section” to reflect the scheduled transfer of former section 516b to title 7.

In subsection (c), the words “Notwithstanding any other law” were omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105-206 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1986 shall be considered a position classified above GS-15 pursuant to section 5108.”

1994—Subsec. (c). Pub. L. 103-272 added subsec. (c).

1990—Subsec. (b). Pub. L. 101-509 substituted “shall be considered a position classified above GS-15 pursuant to section 5108” for “is classified at GS-18, and is in addition to the number of positions authorized by section 5108(a) of this title”.

1986—Subsec. (b). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1978—Subsecs. (b), (c). Pub. L. 95-454, §906(b), redesignated subsec. (c) as (b). Former subsec. (b), which related to classification of position held by an employee appointed under section 1104(a)(2) of this title, was struck out.

1974—Subsec. (c). Pub. L. 93-406 added subsec. (c). A prior subsec. (c) was repealed by Pub. L. 91-34.

1969—Subsec. (c). Pub. L. 91-34 repealed subsec. (c) provisions classifying positions on National Zoological Park police force authorized pursuant to section 193n of title 40.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective on 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L. 93-406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-34 effective at beginning of first pay period which commences on or after June 30, 1969, see section 3(a) of Pub. L. 91-34, set out as an Effective Date note under section 5375 of this title.

#### REDUCTION OF BASIC PAY RATE

Rate of basic pay not to be reduced by reason of enactment of Pub. L. 91-34, which amended this section, see section 3(b) of Pub. L. 91-34, set out as a note under section 5365 of this title.

### § 5110. Review of classification of positions

(a) The Office of Personnel Management, from time to time, shall review such number of positions in each agency as will enable the Office to determine whether the agency is placing positions in classes and grades in conformance with or consistently with published standards.

(b) When the Office finds under subsection (a) of this section that a position is not placed in its proper class and grade in conformance with published standards or that a position for which there is no published standard is not placed in the class and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate class and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 455; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	5 U.S.C. 1102(b).	Oct. 28, 1949, ch. 782, §502(b), 63 Stat. 958.
(b) .....	5 U.S.C. 1103.	Oct. 28, 1949, ch. 782, §503, 63 Stat. 958.

In subsection (b), the words “to which this chapter applies” are omitted as unnecessary in view of section 5102. The words “appropriate officials” and “administrative, certifying, payroll, disbursing, and accounting officials” are substituted for “appropriate officers and employees” and “administrative, certifying, payroll, disbursing, and accounting officers”, respectively, to preserve the application to members of the uniformed services who are excluded from the definition of “officer” and “employee”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95-454 substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.