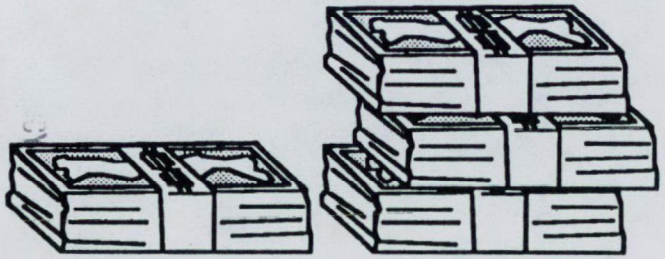
The Pay Reform Act of 1990 and its Impact on EPA



Goal:

Achievement of Pay Parity with the Private Sector for GS/GM Employees through:

- Annual nationwide pay adjustments based on salaries paid by business;

- Locality pay differentials based on wage surveys in the local area;

- New compensation tools for recruitment and retention.

(Notes)

The Act Includes:

- Provisions effective in 1991;

- Intermediate provisions (effective 1992 - 1994);

- Longer-range provisions (effective after 1994).

(Implementation strategy and details to be determined by OPM / Agency workgroups.)

(Notes)

Interim Geographic Adjustments

... These provisions have increased the pay of EPA's New York and San Francisco employees. Employees in other geographic areas may be affected later.

... EPA payroll for New York and San Francisco has increased by $4.4 million.

Presidential Authority to Establish Staffing Differentials of up to 5%

- Impact on EPA:

  ... Depending on the criteria to be developed, EPA could request differentials for occupations such as Attorneys, Computer Specialists, Chemists, etc.

(Notes)

Special Pay Rate Changes: Additional 30 Percent and More Flexible Criteria

- Impact on EPA:

... Special rates for EPA clerical occupations, Engineers, Accountants, Industrial Hygienists, and Medical Officers may potentially be paid at higher rates.

... OPM denied EPA request for special rates for OSCs and RPMs. A new request might be granted based on revised criteria. Other groups might be added.

(Notes)

Pay up to Executive Level I for up to 800 Critical Positions Governmentwide

- Critical positions require an extremely high level of scientific, technical, professional or managerial expertise.

- Impact on EPA:

  ... Since our mission requires highly specialized scientific expertise, we could ask that some EPA positions be included.

(Notes)

Revised Pay for Senior Positions

Administrative Law Judges

GS-16 through 18 Non-SES Positions

- Impact on EPA:

...Seven ALJ's and four supergrades may receive pay increases. Their pay cap has been raised from Executive Level 5 to Executive Level 4.

Appointments Above the Minimum Rates for New Employees at all Grade Levels

- Formerly restricted to GS-11 or above.

- May now be provided at all grade levels for superior candidates.

- Impact on EPA:

... EPA will have the flexibility to offer new appointees higher starting salaries, making recruiting easier.

(Notes)

Recruitment and Relocation Bonuses, up to 25 Percent of Basic Pay for Hard-to-Fill Positions

- Applicant must sign an agreement for continued service.

- Impact on EPA:

... Such bonuses would enhance recruitment, especially in high-cost areas.

(Notes)

Retention Bonuses, up to 25 Percent, for Employees with Unusually High Qualifications, to be Paid each Pay Period

- Criteria for payment to be established by OPM.

- Impact on EPA:

... Such bonuses would enhance retention, especially in high-cost areas.

(Notes)

Interview, Travel and Transportation Expenses for Candidates and New Appointees

- Impact on EPA:

... This new authority could enhance recruitment at the entry levels.

(Notes)

Time off duty as an incentive award, (likely to be limited to 5 days per year)

- Impact on EPA:

... This would give EPA another way of rewarding employees. It would provide a new way of rewarding employees required to spend relatively long periods at sites outside their home commuting areas, e.g., OSCs.

(Notes)

Reemployment of Retirees without Reduction of Annuity

- OPM approval normally required
- Impact on EPA:

... 646 EPA employees were eligible for optional retirement on November 1, 1990. We also have 211 Commissioned Corps employees, many of whom will be eligible for retirement soon.

Annual Adjustment to Pay Schedules

- 1992 - 1993: Employment Cost Index (ECI)

- For 1994, ECI minus 0.5 %

- Limited Presidential discretion (1992-1994)

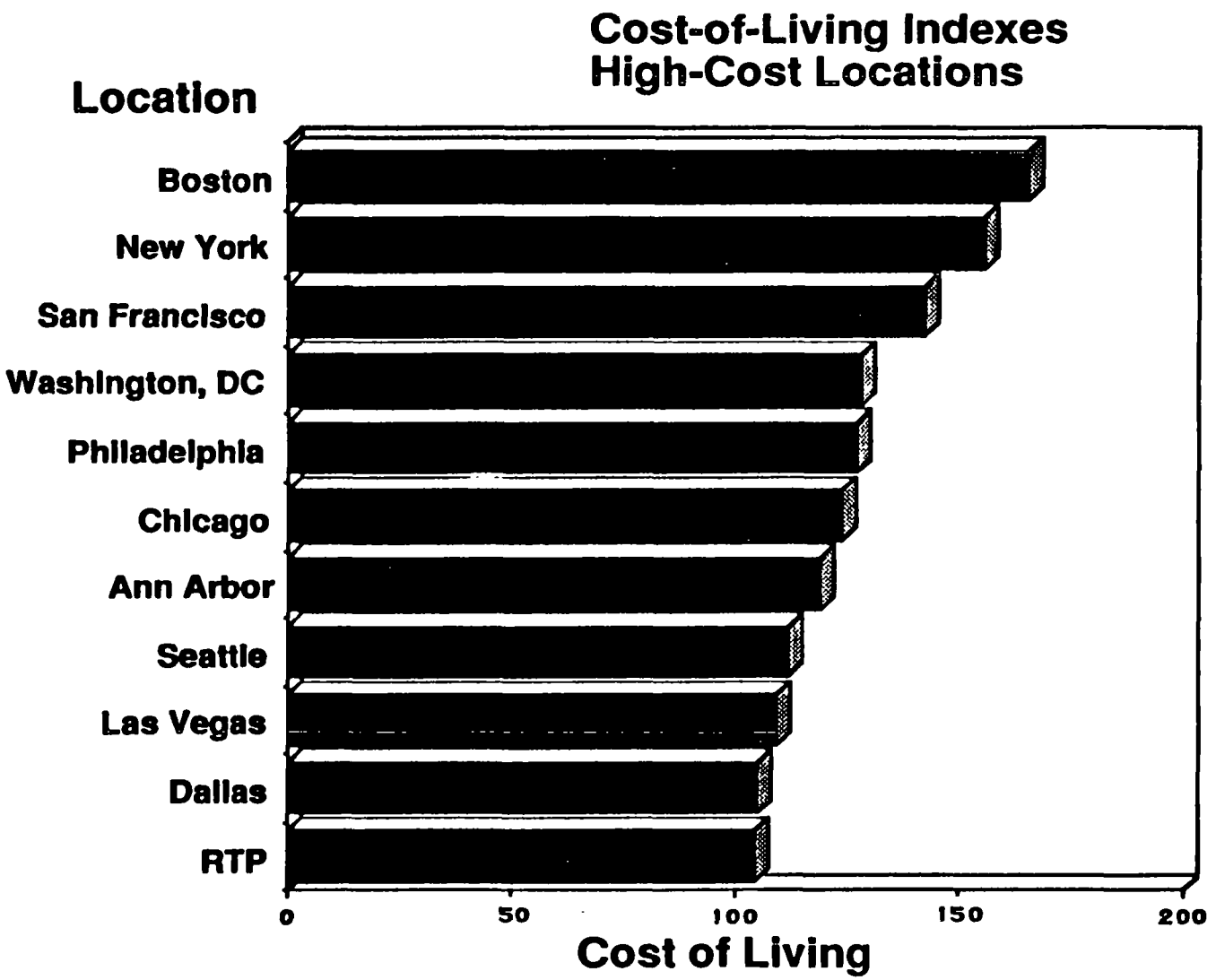
- Full Presidential discretion 1995-on

(Notes)

Locality-Based Comparability Adjustments

- Adjustments 1994 - 2003 to reduce gap
- 1994 adjustments of 20% of local gaps; 1995-on 10% per year
- Limited Presidential discretion (1994)
- Full Presidential discretion 1995-on
- Impact on EPA: Six regional offices, 2 labs, and HQ are in metro areas with high costs (Boston, NY, San Francisco, DC, Philadelphia, Chicago, Ann Arbor, Seattle, & Las Vegas).

(Notes)


Cost-of-Living Indexes
High-Cost Locations
Location
Boston
New York
San Francisco
Washington, DC
Philadelphia
Chicago
Ann Arbor
Seattle
Las Vegas
Dallas
RTP
0
50
100
150
200
Cost of Living

(Notes)

Pay-for Performance -- OPM, in Conjunction with a Labor-Management Committee, Will Design a System which Will Increase the Link between Pay and Performance

- Impact on EPA:

... Agencies will be asked to provide comments and other input to the Pay-for-Performance Committee.

(Notes)

What Next ?

(Notes)

Revised 1/15/91

Federal Employees Pay Comparability Act of 1990 - Preliminary Analysis

I. PROVISIONS EFFECTIVE IN 1991 (90 - 180 DAYS AFTER ENACTMENT)

1. Interim Geographic Adjustments

2. Staffing Differentials

3. Special Pay Rates

4. Special Occupational Pay Systems

5. Pay Authority for Critical Positions

6. Pay Structure for Administrative Law Judges

7. Senior Level Pay

8. Appointments above the Minimum Rates

9. Allowances, Awards, and Differentials

   Recruitment and Relocation Bonuses
   Retention Bonuses
   Interview, Travel and Transportation Expenses for Job Candidates and New Appointees
   Advances of Pay
   Time Off Duty as an Incentive Award

10. Miscellaneous Pay Provisions

    Exception from Limitation on Premium Pay
    Premium Pay for FLSA Non-Exempt Personnel
    Differential for Physical Hardship or Hazard
    Supervisory Differential
    Reemployment of Uniformed Services and Civil Service Retirees

1. **Interim Geographic Adjustments**

- President has authority to pay interim geographic adjustments of up to 8 percent from FY 1990 until FY 1994.

- President must consider interim geographic adjustments for any area which has a significant pay disparity, 5,000 or more GS employees, and a significant recruitment and retention problem.

Impact on EPA:

- Current opinion is that the only EPA offices impacted will be those in the New York, San Francisco, and Los Angeles metropolitan areas. Other geographic areas may be considered for coverage later. The cost impact would be between $4.5 and $5 million, depending on whether our clerical occupations covered by special rates are included.

2. **Staffing Differentials**

- President has authority to establish staffing differentials of 5 percent of basic pay for GS-5 and GS-7 employees and for employees in those two-grade-interval series to be determined by OPM.

- OPM will have discretion to reduce or eliminate these differentials as the provisions of the Act take effect.

Impact on EPA:

- Impact on EPA depends on which groups may be designated for this differential. Conceivably, EPA could request staffing differentials for selected occupational categories, e.g., Attorneys, Scientists, Computer Specialists, etc.

3. **Special Pay Rates**

- The Act retains the special pay rate authority in current law and increases the maximum amount payable. The minimum rate may be as much as 30 percent of the maximum statutory rate for a grade; in effect, pay at the first step may now be as much as 60 percent higher than the statutory rate for that step.

Key changes:

- As in current law, occupational categories eligible for special pay rates are those for which the Government's recruitment and retention efforts are handicapped. Special pay rates may now also be approved for categories for which the Government's recruitment and retention efforts "are likely to become" handicapped.

- Conditions listed as handicapping recruitment/retention have been expanded to include not only a significant pay disparity with non-Federal employers (as in current law), but also remote work locations, undesirable working conditions (including exposure to toxic substances and occupational hazards), or any other appropriate circumstances.

Impact on EPA:

- More EPA occupations will now be eligible to receive special salary rates. OPM previously denied EPA's request for special salary rates for OSC and RPM positions because they used turnover rates as the sole criterion. The expanded criteria may make it possible to build a case for special rates for these jobs based on the argument that recruitment/retention problems are likely to become more severe, due to the growing pay disparity and hazardous working conditions.

- Special rates for EPA's Engineers, Accountants, Industrial Hygienists, Medical Officers, and clerical occupations could potentially be paid at a newly authorized higher rate.

4. **Special Occupational Pay Systems**

- Pay Agent may establish special occupational pay systems for groups for which the regular Title V provisions are not "functioning adequately," such as fire-fighters, law enforcement officers, and health care employees.

- Agency views will be considered in identifying groups for special systems and in designing their pay systems.

Impact on EPA:

- We could initiate requests to OPM to develop special occupational pay systems for OSCs/RPMs and other critical groups.

- Perhaps multi-agency (EPA, Energy, COE, Justice) requests could be generated for some occupational categories, such as hazardous waste management.

5. **Pay Authority for Critical Positions**

- The Act provides special pay authority for up to 800 critical positions (those requiring extremely high-level expertise in a scientific, technical, professional, or administrative field) to be allocated Government-wide; these positions could be paid up to Executive Level I. OMB has approval authority.

Impact on EPA

- Since our mission requires highly specialized scientific expertise, we could initiate a request for an allocation of these critical positions.

6. **Pay Structure for Administrative Law Judges**

- Three levels of basic pay are established for administrative law judges; their pay levels will be various percentages of the pay rate for level IV of the Executive Schedule. The pay cap for these positions is increased from Executive Level 5 to Level 4.

Impact On EPA

- We currently have 7 Administrative Law Judges covered by these provisions.

7. **Senior-Level Pay**

- A new pay system for senior level non-SES positions replaces the GS-16 through 18 supergrade structure. Agency heads may set pay rates for these positions between 120 percent of the minimum pay rate for GS-15 and level IV of the Executive Schedule. The pay cap for these positions is increased from Executive Level 5 to Level 4.

Impact on EPA

- We have 4 supergrades (in the 1515, 801, 403, 601 series) who will be covered by this provision.

8. **Appointments above the Minimum Rates**

- This provision eliminates the GS-11 threshold for payment above the minimum step of a grade for new employees.

Impact on EPA

- EPA will have flexibility to offer new appointees more than the rate for Step 1 of a grade, enhancing recruitment efforts.

9. **Allowances, Awards, and Differentials**

OPM has indicated plans to delegate many of the following special compensation authorities to agencies. These would enhance our ability to recruit and retain quality employees.

Recruitment and Relocation Bonuses

- A bonus of 25 percent of basic pay may be provided as a lump sum to new appointees or relocated employees in exchange for a continued service agreement.

Impact on EPA

- Flexibility in granting these bonuses could enhance recruitment, especially in high-cost areas.

Retention Bonuses

- A bonus of 25 percent may be provided to retain employees with unusually high or unique qualifications, to be paid in segments at each pay period rather than as a lump sum.

Impact on EPA

- Flexibility in granting these bonuses could enhance retention of employees whose skills are in demand.

Interview, Travel and Transportation Expenses for Candidates and New Appointees

- Agencies may pay travel and transportation expenses for job applicants and new hires.

Impact on EPA

- This new authority could enhance recruitment at the entry levels.

Advances of Pay

- Advanced pay of up to 2 pay periods may be provided to new employees.

Impact on EPA

- This provision might enhance recruitment at the entry level.

Time Off Duty as an Incentive Award

- Agencies may provide time off as an incentive award. (OPM has indicated it may limit this authority to 5 days per year).

Impact on EPA

- This would give EPA another way of rewarding employees, especially those required to spend long hours at sites outside their home commuting areas.

10. **Miscellaneous Pay Provisions**

Exception from Limitation on Premium Pay

- Payment of overtime is currently limited to GS-15, step 10, calculated on both an annual and pro-rated biweekly basis. The yearly maximum cap for premium pay is retained, but the pay period premium pay cap is removed for work in emergencies involving direct threats to life or property.

Impact on EPA

- Many of our positions, such as OSCs, work considerable overtime in connection with environmental hazards. This provision will allow us to pay them for all overtime hours worked in a pay period in connection with emergencies, within the limit of the annual cap.

Premium Pay for FLSA Non-Exempt Employees

- This eliminates the requirement to compute overtime entitlements for FLSA non-exempt employees under provisions of both Title 5 and the FLSA, as FLSA overtime pay will now always be equal to, or more than, Title 5 overtime pay.

- Regulations will provide for compensatory time off for FLSA nonexempt employees.

- FLSA non-exempt employees are now to be paid overtime for work in excess of an 8-hour day and 40-hour week; also, time spent in a paid non-work status, such as annual leave, now counts toward the 8-hour day and 40-hour week.

Impact on EPA

- This will simplify the administrative process, but will not raise overtime pay.

Differential for Physical Hardship or Hazard

- Hazardous duty pay may now be given not only to employees for whom hazardous work is irregular and intermittent, but also to employees for whom it is a regular and recurring part of the job, even if continually hazardous working conditions have been factored into the classification of the position.

Impact on EPA

- This allows EPA to provide hazardous duty pay to employees formerly ineligible because of the continuous hazards inherent in their positions, such as Criminal Investigators.

Supervisory Differential

- Employees supervising 1 or more employees not under the General Schedule may receive a supervisory differential, which may exceed the pay of the highest paid non-GS civil servant subordinate by as much as 3 percent.

Impact on EPA

- We anticipate very few situations which will be covered by this provision.

Reemployment of Uniformed Services and Civil Service Retirees

- OPM may approve agency requests to reemploy retired members of the uniformed services without reduction of annuity in positions for which there is exceptional difficulty in recruiting or retaining employees.

- Agencies may hire these retirees without approval on a temporary basis to work in emergencies involving threats to life or property.

Impact on EPA

- In EPA, we have 646 civil service employees eligible for retirement, as of November 1, 1990. We have 211 Commissioned Corps employees in EPA, many of whom are eligible for retirement shortly. This may provide a useful mechanism for employment of these and other retirees.

II. INTERMEDIATE PROVISIONS (1-92 - 1/94)

1. Annual Adjustment to Pay Schedules Equal to Increase in ECI for Wages and Salaries (Minus .5 in 1994), with Limited Presidential Discretion

2. Locality-Based Comparability Increases, with Limited Presidential Discretion

3. New Rule for Pay Fixed by Administrative Action

4. Pay-for-Performance System

1. **Annual Adjustment to Pay Schedules**

- The Act contains a special rule for annual pay adjustments for FY 1992 through FY 1994. In 1992 and 1993, the adjustment will equal the national Employment Cost Index (ECI) for wages and salaries. In 1994, the adjustment will equal the ECI minus .5.

- Presidential discretion is limited during this period. If the ECI increase is below 5 percent, the President may reduce this adjustment only in the event of war or severe economic conditions, defined as two consecutive quarters of negative GNP growth.

- If the ECI increase exceeds 5 percent, the President may use his regular discretion to reduce the adjustment to 5 percent, citing a national emergency or serious economic conditions affecting the general welfare.

Impact on EPA

- These provisions apply to EPA's GS and GM employees.

2. **Locality-Based Comparability Adjustments**

- Locality - based comparability payments will begin in 1994 to reduce, over a nine - year period, the pay disparity with the non-Federal sector to 5 percent. These are based on annual surveys by the Bureau of Labor Statistics (BLS). Localities with a pay disparity of 5 percent or less are not eligible for locality-based adjustments.

- In 1994, locality increases are to reduce the disparity by 20 percent. This amount may be lowered only in the event of war or severe economic conditions, defined as two consecutive quarters of negative GNP growth.

- There is a special funding cap for 1994. The President may reduce total locality pay under his regular discretionary authority, citing a national emergency or serious economic conditions affecting the general welfare. To lower locality pay below $1.8 billion, however, the President must cite war or severe economic conditions, defined as two quarters of negative GNP growth.

Impact on EPA

- Based on the Chamber of Commerce's cost-of-living data for the most recent quarter, 6 regional offices, 2 laboratories, and headquarters are in high-cost metropolitan areas (Boston, New York, San Francisco, Washington, Philadelphia, Chicago, Ann Arbor, Seattle, and Las Vegas); these 9 metropolitan areas exceed the median by more than 5 percent. Although ECI wage and salary survey information is not yet available, this cost-of-living data is a predictor of areas that may be eligible for locality increases in 1994.

- The cost-of-living indexes for metropolitan areas where headquarters, regional offices, and laboratories are located are currently:

Boston	164.1
New York	155.7
San Francisco	144.5
Washington, D.C.	128.4
Philadelphia	127.8
Chicago	124.0
Ann Arbor	118.5
Seattle	112.3
Las Vegas	108.9
Dallas	104.6
Durham (Research Triangle Park)	104.4
Cincinnati	103.1
Atlanta	101.4
Denver	100.5
Kansas City	93.1

3. **Pay Fixed by Administrative Action**

- Employees whose pay is fixed by administrative action will have their pay adjusted annually by an amount not to exceed the amount of the increase for GS employees.

Impact on EPA

- EPA has approximately 20 employees who are in this pay category.

4. **Pay-for-Performance Pay System**

- A pay-for-performance pay system is to be implemented by October, 1993. OPM, in conjunction with a Pay-for-Performance Labor-Management Committee, is to design the system, which is intended to strengthen the link between pay and performance. The Committee is to submit its recommendations to OPM within one year of enactment of the Act (around the beginning of FY 1992).

Impact on EPA

- Agencies will be asked to provide comments and other input to the Pay-for-Performance Committee.

III. LONGER-RANGE PROVISIONS (AFTER 1994)

1. Annual Adjustment to Pay Schedules Based on Increase in ECI for Wages and Salaries, Minus .5, with Full Presidential Discretion

2. Locality-Based Comparability Increases, with Full Presidential Discretion

1. **Annual Adjustment to Pay Schedules**

- Annual adjustments, effective each January, will equal the national ECI for wages and salaries, minus .5 percent.

- The base quarter used to determine the increase will be the quarter ending in September of the year before the calendar year preceding the adjustment; for example, the January, 1995, increase will be based on the ECI for the quarter ending September, 1993.

- The President will have full discretion (after the January, 1994 adjustment) to provide a different increase than the one indicated by this measurement, citing national emergency or serious economic conditions affecting the general welfare.

Impact on EPA

- The annual adjustment of all GS/GM employees, as well as other employees whose increases are based on the general increase, will be determined by this formula.

2. **Locality Increases**

- Following the first locality increase (in 1994), local pay disparities are to be reduced by 10 percent annually, until the disparity is lowered to 5 percent (in the year 2003).

- After the 5 percent disparity is attained, increases are to be sufficient to maintain the disparity at no more than 5 percent.

- After 1994, the President will have discretion to cite national emergency or serious economic condition to reduce recommended locality increases. The President may also increase locality payments above the amount resulting from this formula.

Impact on EPA

- EPA's GS/GM employees in high-cost areas will receive locality increases as determined by this formula, subject to Presidential discretion.

IV. LAW ENFORCEMENT PAY REFORM (EFFECTIVE JANUARY, 1992)

1. Special Pay Rates
2. Locality Adjustments
3. Relocation Bonuses
4. Foreign Language Capability Bonuses
5. Change in Overtime Pay Computation
6. Rise in Mandatory Retirement Age

Provisions

- Pay for grades 3 through 10 is increased through special pay rates. For grades 3 through 7, the increases will be phased in during a two-year period. For grades 8 through 10, the total increase will occur in 1992.

- Locality adjustments of between 4 and 16 percent (depending on the area) will be paid in 8 metropolitan areas: Los Angeles, New York, San Francisco, Boston, San Diego, Washington, Chicago, and Philadelphia. These increases will remain in effect until OPM establishes a separate Law Enforcement Pay System.

- Agencies will have discretion to pay up to 25 percent of base pay (with a limit of $15,000) as a relocation bonus for moving to a high-cost area.

- Agencies will have discretion to pay bonuses of up to 5 percent of base pay for foreign language proficiency.

- Scheduled overtime will be paid at the rate of time and one-half of GS-10, Step 1, or the straight hourly rate of the employee, whichever is higher.

- Employees may not receive biweekly compensation exceeding 150 percent of GS-15, step 1. The annual pay limitation equals the rate of Executive Level I.

- The mandatory retirement age is changed from 55 to 57.

Impact on EPA

- Currently, EPA has 112 employees who will be covered by these provisions.