



EPA TITLE 42 OPERATIONS MANUAL

Table of Contents

Subject	Page Number
1. Introduction	3
2. Responsibilities	3
3. Authorities	4
4. Duration of Appointments	4
5. Allocation of Positions	4
6. Duty Assignments and the Position Description	4
7. Eligibility	5
8. Recruitment and Selection Requirements	6
9. Compensation	8
10. Ethics	13
11. Benefits	14
12. Training	15
13. Travel	15
14. Performance Management	15
15. Awards and Recognition	17
16. Extension of Appointments	18
17. Conduct/Performance Actions	18
18. Termination of Appointments	18
19. Subsequent Federal Employment	18
20. Reports and Records	18
Appendix 1 — Position Description Template	
Appendix 2 — Title 42 Recruitment-Selection Process	
Appendix 3 — Sample Title 42 Candidate Evaluation Framework	
Appendix 4 — Title 42 Initial Total Compensation Form	
Appendix 5 — Performance Ratings and Changes in Pay	
Appendix 6 — Title 42 Voluntary Conversion and Employment Notice	

1. **INTRODUCTION.**

- a. **General.** Under an administrative provision in Title II of the Interior, Environment, and Related Agencies Appropriations Act of 2006 (Pub.L.109-54), the Agency is authorized under 42 U.S.C. §209(f) - (g) (“Title 42”) to make up to 5 appointments per fiscal year from 2006 to 2011.

This is a flexible hiring mechanism for securing the services of experienced and talented scientists for renewable appointments where the nature of the work or the character of the individual’s services render customary employing methods impractical or less effective, or where a scientist would be otherwise reluctant to leave his or her current position because of an inability to meet individual salary needs under other personnel systems. Title 42 scientists will work toward meeting the Agency’s current critical research needs.

In addition, this is a direct hiring authority separate and distinct from Title 5 of the U.S. Code. A majority of Agency employees are hired under Title 5, the traditional civil service appointing authority. Appointments under Title 42 are different in that they are not generally governed by federal statute and corresponding regulations in Title 5 of the U.S. Code and Title 5 of the Code of Federal Regulations regarding areas such as appointment, qualifications, staffing, classification, and compensation. In each of these areas, the Agency under Title 42 has discretion to set internal policy and guidelines.

- b. **Purpose of this document.** EPA Order 3110.22 articulates the Agency’s policy on the use of Title 42 hiring authority. This document provides operating guidance for managers, supervisors, human resources specialists, and other parties interested in information on the implementation of Title 42.

2. **RESPONSIBILITIES.**

- a. **Assistant Administrator for Research and Development (AA-ORD).** The AA-ORD or designee will:
- (1) Allocate positions to be filled through Title 42 authority,
 - (2) Establish a process for conducting a professional and fitness review and examination of applicant qualifications,
 - (3) Establish the salary range and level of Title 42 compensation, including non-pay components,
 - (4) Establish a process for developing compensation goals,
 - (5) Finalize the selection of candidates to receive Title 42 appointments, including the period of each appointment,
 - (6) Approve/disapprove appointment and post-appointment compensation targets, and
 - (7) Approve/disapprove requests for renewal of appointments.

- b. Assistant Administrator for Administration and Resources Management (AA-OARM). This official will provide oversight, advice, and support for Title 42-related human resources administrative actions, issues, and programs. The AA-OARM may delegate to the Director, Office of Human Resources (OHR), the authority to approve personnel actions for Title 42 appointees and provide or obtain all support required for human resources management of Title 42 appointees. The Director, OHR may redelegate certain personnel action authority and functions to a Human Resources Officer where such delegation includes, but is not limited to, personnel action authority in the areas of recruitment, appointment, compensation, and reassignment.
- c. Human Resources Officer. As designated and defined by the delegation of the Director, OHR, the Human Resources Officer directs the appropriate human resources services and staff (“Title 42 Servicing Human Resources Office”) in support of Title 42 actions.
- d. Joint Responsibility for the AA-ORD and AA-OARM. At least annually, the AAs for ORD and OARM shall review the Title 42 pay band, top-to-bottom, and make adjustments, as appropriate.

3. **AUTHORITIES.**

- a. 42 United States Code, Section 209(f) - (g)
- b. Title II of the Interior, Environment, and Related Agencies Appropriations Act of 2006 (Pub.L.109-54)
- c. 40 Code of Federal Regulations Part 18 (40 C.F.R. 18)
- d. U.S. EPA Order 3110.22
- e. Reorganization Plan No. 3 of 1970 (July 9, 1970)

4. **DURATION OF APPOINTMENTS.**

Appointments are to be made initially for a period ranging from one year and one day to five years. Such an appointment may be extended for varying periods, but not in excess of five years for each period. Upon a written request by the Title 42 appointee’s immediate supervisor, the AA-ORD or designee may extend the appointment.

5. **ALLOCATION OF POSITIONS.**

The AA-ORD or designee will establish and oversee the process for developing recommendations for allocating Title 42 positions for each fiscal year and will approve final allocation recommendations. The form and format of the process will take into account the office’s programmatic and workforce priorities.

6. **DUTY ASSIGNMENTS AND THE POSITION DESCRIPTION.**

- a. General. Employees appointed under Title 42 will be assigned duties in major or significant areas of scientific inquiry in support of environmental protection.
- b. Required documentation (position description). Each Title 42 appointee will have a written position description which describes principal duties. Appendix 1 to this document contains guidance information and a template for preparing a Title 42 position description.
- c. Position titles. Title 42 appointees will have their positions titled consistent with the basic guidance used for General Schedule occupational series. A parenthetical title may be added to reflect a more narrow area of specialization, as appropriate, such as in the following examples:
 - 0401 Biologist (Systems Biology)
 - 1310 Physicist (Quantum Mechanics)

7. **ELIGIBILITY.**

- a. General. Eligibility for a Title 42 appointment will be determined by the Title 42 Servicing Human Resources Office (Title 42 Servicing HRO) in accordance with applicable Federal laws and Agency policy and guidance. Agency qualification requirements will assure the appointment of scientists and special consultants who have demonstrated the highest levels of achievement in education, training, publications, research, and/or career development. The qualification standards issued by the Office of Personnel Management for General Schedule positions under Title 5 will be used as a general basis to determine the actual set of qualification requirements for a particular Title 42 position.
- b. Basic requirements.
 - (1) Education

Appointees must meet the education requirements for a specific Title 42 position outlined in the vacancy announcement. A doctoral-level degree from an accredited institution of higher learning is required and may include the following: Ph.D., M.D., D.V.M., Sc.D., or other earned research doctoral degree recognized in United States academic circles as equivalent to the Ph.D. Foreign education will be evaluated in accordance with OPM's Operating Manual for Qualification Standards for General Schedule Positions.

(2) Experience

Appointees must meet the experience requirements for a specific Title 42 position outlined in the vacancy announcement. These individuals must have conducted outstanding research in a field of environmental science or engineering that is related to the mission of the Office of Research and Development (ORD).

“Outstanding research in a field of environmental science or engineering” means that an individual is actively engaged in peer-reviewed original research and his/her work in this area is considered by national/international peers to be outstanding. Evidence is provided of the candidate’s primary technical knowledge and expertise as reflected in requests for advice and consultation, receipt of scientific awards, serving in a leadership role on workgroups and committees, research publications, research reports or other scholarly works, and invitations to chair and/or present in national/international forums.

(3) Citizenship

A non-United States citizen appointee must be a citizen of a nation with a treaty aligned with the United States or a nation that has a legal employment arrangement with the United States. All non-U.S. citizens must have the appropriate employment visa. Appointments of non-U.S. citizens may not exceed the expiration date of the employment visa and must be in accordance with applicable Agency guidance. The Office of Research and Development reserves the option to consider only those applicants who are U.S. citizens and will indicate such on the vacancy announcement.

8. **RECRUITMENT AND SELECTION REQUIREMENTS.**

- a. Determination of recruitment method. The ORD selecting official and/or other officials as appropriate will determine in consultation with the Title 42 Servicing HRO, the most effective recruitment method, which may include advertised competition, direct-hire, or conversion of a Title 5 appointee. Appendix 2 provides the Title 42 recruitment and selection process in tabular format with a listing of the documents that should be produced and maintained for each step when using these various recruitment methods.
- b. Advertised competition. The ORD selecting official and/or other officials as appropriate will determine in consultation with the Title 42 Servicing HRO, the most appropriate means for an advertised competition, including the type, extent, length of advertising, placement of notices, and use of paid and unpaid sources. The Title 42 Servicing HRO will post advertised positions on USAJOBS.

- c. Direct-hire. The ORD selecting official may choose to pursue appointment of a candidate that is identified without the use of advertised competition.
- d. Conversion of a Title 5 appointee. The ORD selecting official may choose to pursue appointment of a current Title 5 appointee via conversion from the Title 5 appointment to a Title 42 appointment. The Title 5 appointee may be identified with or without the use of advertised competition.
- e. Documentation for Title 42 positions. All candidates for Title 42 appointments will be requested to submit the following, at a minimum:
 - Curriculum vitae,
 - Bibliography, and
 - Cover letter providing citizenship status.

Additional documentation may be requested from candidates as specified in the vacancy announcement and/or during the selection process, such as:

- Compensation requirements,
- List of the types and amount of resources anticipated to perform the job (e.g., staff, equipment, supplies, software, space),
- Vision statement,
- Names of references,
- Letters of reference,
- Copy of transcripts, and
- Degree (or equivalent) certification information (if providing a copy of a doctoral-level degree written in a foreign language, it must be accompanied by a certified translation from the foreign language into English).

Prior to entry on duty, appointees must provide:

- Job offer acceptance letter;
- Completed background investigation form (based on the security clearance level for the position) in accordance with applicable Agency personnel security policy and guidance;
- Completed Public Financial Disclosure Report (SF-278), as indicated in Section 10, “Ethics and Financial Disclosure;”
- Written acknowledgement of Ethics Agreement (a proposal to resolve any identified conflicts or issues, described in Section 10, “Ethics and Financial Disclosure), if applicable; and
- Proof of appropriate employment visa, if applicable (for information regarding visa requirements, please contact the Title 42 Servicing HRO).

- f. Eligibility determination. The Title 42 Servicing HRO will perform the basic screening of applications as indicated in Section 7, “Eligibility.”
- g. Candidate evaluation. In consultation with the Title 42 Servicing HRO, the ORD selecting official and/or other officials as appropriate will use an evaluation

process to distinguish the candidates identified via advertised competition that at a minimum will incorporate:

- (1) Criteria/factors that will be used to evaluate the candidate and descriptive information for each;
- (2) Rating levels to signify how well the candidate meets each of the evaluation criteria/factors;
- (3) Explanatory narrative and points associated with each of the rating levels for each criteria/factor; and
- (4) Use of weights if one or more criteria/factors are more important than the others.

The ORD selecting official or designee has discretion to:

- (1) Designate any criteria/factor as "mandatory" (if the applicant scores a 0 for any mandatory criteria/factor, the applicant will be rated as not qualified for the position);
- (2) Designate non-mandatory criteria/factors (if the applicant scores a 0 for any non-mandatory criteria/factor, the applicant will not be rated as not qualified for the position);
- (3) Provide details on using the results of the evaluation process to decide, for example, which candidates will be granted interviews (e.g., classifying applicants into groups based on final scores); and
- (4) Utilize an individual subject matter expert or a panel of experts to evaluate, rank, and make recommendations regarding candidates.

Appendix 3 contains a sample candidate evaluation framework and process that uses a panel of experts to conduct the evaluation.

- h. Determining compensation. Refer to Section 9, "Compensation," for process information on determining initial pay.
- i. Selecting official. This official will be the immediate supervisor of the Title 42 position unless otherwise designated. If advertised competition is used, the selecting official will review and select from the candidates forwarded by the Title 42 Servicing Human Resources Office. Prior to a final offer being made to the selected candidate, the selecting official is responsible for assuring that the appointee will have all necessary space, equipment, and support staff to accomplish the assigned duties and responsibilities.
- j. Appointment. The AA-ORD or designee will approve or disapprove recommendations for appointment and compensation. The Title 42 Servicing Human Resources Office will review all documents and recommendations, and as appropriate, make the official offer of appointment to the candidate.

9. COMPENSATION.

a. Determining the initial total compensation target. The purpose of this section is to define the requirements for determining an initial total compensation target to recommend to the approving official for the initial appointment. Compensation for the initial appointment will include identification of the annual pay target and the annual leave accrual rate target, and it may also include incentive payments, such as recruitment and relocation incentives. This section will cover the requirements for each of these elements and will provide instruction for obtaining approval.

(1) Compensation nomenclature and definitions.

(a) Total compensation: This is a combination of all compensation categories, pay and non-pay. Those that are represented by a dollar figure cannot exceed a ceiling or maximum of \$275,000 per annum. Total compensation comprises the following compensation categories:

(i) Annual pay (initial and pay-for-performance adjusted)

(ii) Benefits

- Annual and sick leave
- Health insurance
- Life insurance
- Retirement plan participation

(iii) Awards

- Monetary (cash awards, suggestion awards, patent and invention)
- Non-monetary (formal honor, informal non-monetary, career service recognition, time off)

(iv) Incentive payments

- Recruitment incentive payment
- Relocation incentive payment
- Retention incentive payment

(b) Annual pay: A dollar figure in a single pay band consisting of a floor equivalent to the maximum pay rate of GS-15, step 10, including locality pay, and a ceiling or maximum of \$250,000 per annum. Initial annual pay is set based on the candidate's current or most recent compensation package and subsequent adjustments to the annual pay, either increases or decreases, are a product of the pay-for-performance evaluation of the employee's performance.

(c) Benefits: The group of four non-pay categories of compensation, listed above.

(d) Incentive payments: Additional money that may be given to an

employee as a one-time payment (i.e., recruitment and relocation incentives), or via periodic payments (i.e., retention incentive). The one-time payment of a recruitment or relocation incentive requires that the employee commit to a one-year service agreement.

(Note: Travel, transportation and relocation allowance payments are stipulated by Federal travel regulations and are therefore not included in the total compensation maximum or ceiling.)

- (e) Candidate's current or most recent compensation: The combination of an employment candidate's monetary and non-monetary compensation generated by either the candidate's current employment, or that is reflective of the most recent compensation profile in the candidate's most recent employment history.
- (f) Candidate's current or most recent benefits: The candidate's current or most recent annual leave entitlement, health insurance benefit, life insurance benefit, retirement benefit, and any other benefit that may or may not be reflected as a Federal employee benefit, such as investment subsidies, profit sharing, travel, housing, representational funds, or tenure benefits.
- (g) Total compensation target: Selected annual pay and incentive payments that the lead official recommends to the AA-ORD as the remuneration package necessary to attract a selected employment candidate.
- (h) Annual pay target: The dollar figure representing the initial annual pay that the lead official recommends to the AA-ORD as the annual pay necessary to attract a selected employment candidate.
- (i) Total compensation offer: A total compensation target that is approved by the AA-ORD which becomes the total compensation offer that will be tendered to the selected candidate.
- (j) Annual pay offer/initial annual pay: The dollar figure that is approved by the AA-ORD that constitutes the initial annual pay offer that will be tendered to the selected candidate.
- (k) Pay-for-performance pay adjustment: An adjustment of the employee's initial or subsequent annual pay that may be either an increase in that pay or a decrease in that pay depending upon evaluation of the employee's performance under the Agency's Performance Appraisal and Recognition System.

- (l) Pay band: The range of permissible annual pay consisting of a floor equivalent to the rate of pay for GS-15, step 10, including locality pay, and a maximum or ceiling of \$250,000.
 - (m) Pay range: A dollar range within the pay band that will be used to determine the annual pay target.
- (2) Responsibilities and compensation relationship summaries.
- (a) Total compensation consists of the following components: annual pay, benefits, incentive payments, and cash awards.
 - (b) The minimum annual pay for a Title 42 appointee is the dollar figure equivalent to the rate of pay of the current General Schedule grade 15 step 10, including locality pay. The annual pay cannot exceed \$250,000 per annum.
 - (c) Initial annual pay offered to an individual appointed on a full-time schedule will be set on a per annum basis commensurate with the applicant's qualifications and experience.
 - (d) The lead official of the organization (e.g., Laboratory Director) where the Title 42 position in question will be housed is responsible for (1) implementing a sound (i.e., justifiable and defensible) process for development of a total compensation target to include annual pay, the leave accrual rate and appropriate incentive payments for the initial appointment based on the parameters defined in this section and (2) for the submission of a written recommendation to the AA-ORD for approval.
 - (e) The AA-ORD or designee is responsible for overseeing the process for developing total compensation targets and will be the approving official on all total compensation targets.
 - (f) Total compensation cannot exceed \$275,000 per annum. Reimbursement payments for authorized travel and transportation are not included in the calculation of total compensation.
 - (g) Employees appointed under Title 42 will not receive locality-based annual comparability pay increases applicable to Title 5 employees, nor a statutory pay increase comparable to the annual General Schedule increase, nor any form of a cost-of-living increase such as pertains to non-foreign COLA areas or Federal retirees, nor periodic or longevity increases such as apply to General Schedule employees who are eligible for within-grade or quality step increases.
- (3) Determining annual pay targets. The annual pay target should be set at a rate necessary to recruit the candidate and it should also recognize the individual's scientific contributions as well as the duties, responsibilities, and complexity of the position. The annual pay target should be set not only on the basis of the candidate's credentials or what he or she might

command at other academic or private sector institutions, but should also reflect the position's responsibilities.

- (a) Establishing a specific pay range. The pay band for Title 42 appointees is the figure beginning at equivalent to the current General Schedule grade 15, step 10 basic pay, including locality pay, up to \$250,000. To arrive at an annual pay target for a new appointee, a specific pay range within the pay band (i.e., GS-15, step 10 rate of basic pay to the \$250,000 ceiling) must first be established.
- (i) Establishing the bottom of the pay range. This should be a representative pay figure based, at a minimum, on the following information:
- Candidate's compensation and pay demands for the position, and
 - Candidate's current or most recent pay and non-pay compensation in a comparable position.
- The following additional data, if available, can also be used for arriving at a representative pay figure:
- Competing offers of employment, written or verbal; and
 - Average pay for similar positions taken from salary surveys of pertinent markets in academia and industry.
- In the event the candidate's pay demand figure is below the representative pay figure, the candidate's pay demand figure can be used as the bottom of the pay range.
- (ii) Establishing the top of the pay range. The top of the pay range is the amount equal to 6% above the bottom of the pay range indicated in paragraph (i) above. The representative pay figure can be used as the annual pay target. However, the decision to recommend a figure above this amount within the established pay range must be justified. The following are examples of criteria that can be used to determine and justify an amount above the representative pay figure:
- Position-related (attributes and challenges of the position being recruited for)*
- Criticality of the program to the mission of ORD and the Agency;
 - Complexity of programs or projects, problems to be solved, difficulty and originality in work to be performed;
 - Decision-making authority, independence, or freedom to act;

- Resource management, including responsibility for human, financial, space, facilities, and material resources;
- Scope of impact that the individual will exercise at varying levels across the organization, when impact relates to how influential the position is within ORD based on the importance of decisions or final recommendations rendered;
- Importance or frequency of interactions with various individuals or groups within or outside of ORD and the effect of these interactions on accomplishing the ORD mission.

Candidate-related (personal and professional attributes essential for effective performance and other elements required to recruit outstanding candidates)

- Recognition of the individual within the scientific community;
- Specific skills, knowledge, and expertise that benefits ORD and the Agency;
- Productivity and impact of the individual on the scientific field;
- Level of originality and quality of the individual's past and current ideas and work products; and
- Potential impact of anticipated scientific findings.

- (b) Ensuring pay equity. The lead official (e.g., Laboratory Director), in partnership with the Title 42 Servicing Human Resources Office, is responsible for setting initial annual pay consistently so that employees occupying the same type of positions with equivalent or similar education, experience, and accomplishments are compensated equitably.
- (4) Determining annual leave accrual rate. The lead official has discretion to offer either a 6 or an 8 hour annual leave accrual rate per pay period. The recommended annual leave accrual rate should be based on the candidate's current leave accrual rate and annual leave entitlement (or a rate at a most recent comparable position); accrual rates from competing offers of employment, if available; and the total number of years of Federal service or comparable non-Federal service experience.
- (5) Adjustment to a leave accrual rate of 8 hours. Appointees hired with a leave accrual rate of 6 hours per pay period will have that accrual rate increased to 8 hours per pay period upon attainment of three years of service with EPA.

- (6) Determining incentive payments. The lead official has discretion to offer a one-time incentive payment in the form of a recruitment or relocation incentive. The decision to offer this payment and the sum of the payment will be based on information such as moving expenses, the figure for income or benefits lost, and other relevant information collected as part of the recruitment process (e.g., compensation demands of the candidate). Implementation of an incentive payment requires the Agency and the candidate to enter into a one-year service agreement, found in Appendix 4, Initial Total Compensation Form. The service agreement will prescribe the terms under which the agreement may be terminated and the sum of the incentive, if any, required to be refunded by the appointee.
- (7) Presentation of the total compensation target for approval. Once an agreement on compensation is reached with the candidate, the lead official is responsible for initiating and overseeing the development of the signature package for approval of the total compensation target, which will contain not only a recommendation on the initial annual pay, annual leave accrual rate, and desired incentive payments, but also a justification of the recommended compensation, a copy of the service agreement, if applicable, and other supporting documentation. Appendix 4, Initial Total Compensation Form, should be used to summarize critical elements of the justification. The lead official will also be responsible for consolidating the recommendation with documentation that justifies the selection, and submitting the consolidated package to the AA-ORD or designee for approval.
- b. Determining pay for performance-based pay adjustments. A Title 42 appointee's annual pay will be reviewed periodically throughout the appointment, but at least annually, in conjunction with an appointee's annual performance review, in accordance with Section 14, "Performance Management." In order to be eligible for an increase to their annual pay, the Title 42 appointee's performance must be at least fully successful. Pay increases will be determined by, among other things, performance, the total compensation ceiling, and the availability of funds.
- (1) Adjustments based on ratings of fully successful and higher. The range of an annual pay adjustment is determined by the employee's overall rating of record. Within the given range for a rating of record, the adjustment should be based on factors including the value of the employee's contributions during the performance period and the extent of the impact of their contributions. The ranges are as follows:
- Outstanding Up to 25% of annual pay
 - Exceeds expectations Up to 15% of annual pay
 - Fully successful Up to 5% of annual pay

If an annual pay adjustment will exceed 20%, the AA-ORD must approve the increase. Annual pay adjustments may not cause total compensation to exceed the ceiling identified above in Section 9a(1)(a).

- (2) Adjustments based on ratings of minimally satisfactory or unsatisfactory. As detailed in Section 14, “Performance Management,” if the employee is at a minimally satisfactory or unsatisfactory level, see Section 17, “Conduct/Performance Actions.” If the performance continues at the minimally satisfactory or unsatisfactory level, action may be initiated to reduce the employee’s pay. The employee’s first-level supervisor may initiate a recommendation to reduce the pay, including the proposed extent of the reduction. The figure of the reduction may not exceed 20% of the annual pay. Documentation and notification of the decision to reduce pay are handled in accordance with the process described in Section 14, “Performance Management.” See also Appendix 5.

Appendix 5 provides several examples of how pay would be adjusted depending on a Title 42 employee’s current rate of pay, rating of record, and a form, “Adjustment to Base Salary for Title 42 Employee,” on which to document the pay change.

10. **ETHICS AND FINANCIAL DISCLOSURE.**

- a. **Coverage.** Title 42 appointees are subject to the same laws, regulations, and policies as Title 5 appointees regarding ethics and financial disclosure at the time of appointment, during appointment, and after separating from the Agency.
- b. **Procedures.** The following pre-employment ethics clearance procedures will be observed:
 - (1) The Title 42 Servicing HRO will indicate in relevant job announcements that the position requires the selectee to submit a Public Financial Disclosure Report (SF-278) as part of the appointment process.
 - (2) Once the AA-ORD or designee approves the final selection and compensation of a candidate, the Title 42 Servicing HRO will make a tentative job offer. The job offer discussion should convey that the final offer and start date are contingent upon ethics clearance, in addition to any other approvals or negotiations.
 - (3) The Title 42 Servicing HRO notifies the Designated Agency Ethics Official (DAEO) or the Alternate Agency Ethics Official (AAEO) in the Office of General Counsel (OGC) Ethics Office and the appropriate ORD Laboratory, Center or Office (L/C/O) Deputy Ethics Official (DEO) that a candidate has been selected to fill a position that requires filing the SF-278 prior to a final selection being made. The Title 42 Servicing HRO provides the DAEO/AAEO and the DEO with the name of the candidate, position description, and tentative start date.

- (4) Upon receiving notification from the Title 42 Servicing HRO, the DAEO/AAEO will immediately provide the candidate with either a hard copy SF-278 form or a link to the fillable SF-278 form on the EPA OGC/Ethics Program website.
- (5) The DAEO/AAEO will complete the process of collecting and reviewing the draft SF-278 within 15 business days following the receipt of the necessary information from the potential candidate or Title 42 Servicing HRO, unless another reasonable timeframe is agreed upon by the Title 42 Servicing HRO, DAEO/AAEO and the appropriate L/C/O DEO.
- (6) The DAEO/AAEO will work with the candidate to ensure that all required information is reported and to develop a proposal for the resolution of any identified conflicts or issues (i.e. an “ethics agreement”). Written acknowledgement of the agreement must be obtained from the candidate. Once the agreement is finalized, the DAEO/AAEO will sign the SF-278 and provide the Title 42 Servicing HRO with a written ethics clearance via e-mail.
- (7) Once the DAEO/AAEO provides the ethics clearance, the Title 42 Servicing HRO can give the candidate the official job offer. If there is a delay in starting that is longer than 30 days, the DAEO/AAEO may require an e-mail from the candidate confirming there has been no change to the financial disclosures on the SF-278.
- (8) If the candidate is assigned to the Washington, D.C. metropolitan area, the DAEO/AAEO will provide the one-hour ethics training during the Headquarters New Employee Orientation. The appropriate ORD L/C/O DEO will ensure that candidates assigned to other locations receive the necessary ethics training.

11. **BENEFITS.**

- a. **General.** Prior to entry on duty, applicants will be informed by the Title 42 Servicing HRO on entitlement to benefits. Benefits include but may not be limited to the following: annual and sick leave, health insurance, life insurance, and participation in the retirement system.
- b. **Retirement system.** Appointees who are converted from a Title 5 appointment directly to a Title 42 appointment will continue to be covered by the retirement system in which they were participating immediately prior to their appointment [i.e., Federal Employees Retirement System (FERS) or Civil Service Retirement System (CSRS)]. Applicable regulations will govern the retirement system coverage of appointees with prior Federal service. All other appointees must participate in FERS.

12. **TRAINING.**

Title 42 appointees are eligible for training on the same basis as Title 5 appointees.

13. **TRAVEL.**

A Title 42 appointee may be authorized travel and transportation or relocation allowances (in contrast to a relocation incentive payment) for travel (1) from place of residence within or outside the continental United States to the first duty station, (2) for any change of duty station during employment, and (3) from last duty station to the place of residence which the individual left to accept employment or to some other place at no greater cost to the Government, as described in Section 9, "Compensation." A Title 42 appointee shall be entitled to travel allowances or transportation and per diem while traveling on official business away from his or her permanent duty station during the period of the appointment. A Title 42 appointee shall be entitled to travel and transportation allowances at the same rates as may be authorized by law and regulations for other civilian EPA employees.

14. **PERFORMANCE MANAGEMENT.**

- a. In general. Title 42 appointees will generally follow the requirements of the Agency's Performance Appraisal and Recognition System (PARS), including annual performance period, performance plans, performance appraisal and rating levels, and salary adjustments.
- b. Annual performance period. The annual performance period will be in accordance with the PARS requirements, as will the performance reviews, including the mid-year and final reviews.
- c. Performance plans. The first-level supervisor works with the Title 42 appointee to develop the performance plan, which consists of two to five critical elements. These elements must be linked to the Agency's Strategic Plan. Any applicable elements required by the AA-ORD or the Laboratory, Center, or Office Director should be included in the performance plan. Performance plans must be put in place within 30 days of appointment or any other personnel action that results in a change to position duties.

Performance on each critical element will be rated at one of five levels: outstanding, exceeds expectations, fully successful, minimally satisfactory, or unsatisfactory. The first-level supervisor must provide written narratives for each critical element that describe or explain the basis for the rating. At a minimum, a performance standard that describes fully successful performance must be developed for each critical element. Any requirements developed by the AA-ORD or by the Laboratory, Center, or Office Director for defining other levels must also be met.

- d. Performance appraisals. In order to be eligible for a rating of record, a Title 42 employee must be under an established performance plan for a minimum of 90 days. The employee's first-level supervisor of record conducts the annual performance appraisal and other performance reviews, including the mid-year. The supervisor should conduct the appraisal within 30 days of the end of the rating period. Summary ratings of minimally satisfactory or unsatisfactory must be reviewed and initialed by a higher level supervisor.
- (1) The rating levels are defined as follows:
- (a) Outstanding: This level is reserved for the truly exemplary employee who demonstrates the highest degree of achievement in his/her area(s) of work. This employee demonstrates an extraordinary degree of initiative and self-reliance in identifying and resolving problems or requirements of the work situation, and in developing, recommending or executing innovative solutions successfully to accomplish tasks ahead of target. The employee is extremely adaptable in adjusting to, and resolving, new, unusual, difficult or complex situations or problems in order to successfully accomplish program objectives. The employee's performance and contributions are of such a high level that they produce a significant and positive impact on the performance of others and the operations or reputation of the work unit.
 - (b) Exceeds expectations: This level signifies that the results achieved are clearly beyond what could be reasonably expected of any employee.
 - (c) Fully successful: This level signifies the employee's performance results achieved are those that can be reasonably expected of any employee on the job in order to fully and adequately achieve assigned responsibilities.
 - (d) Minimally satisfactory: This level signifies that there is a significant performance-related problem(s) although the performance has not reached "unsatisfactory" in any critical element. The employee demonstrates limited ability in producing work of acceptable volume and/or quality within established timeframes, exhibits limited sense of personal responsibility and accountability in work assignments, experiences difficulty in addressing new or unusual work situations under normal pressure, or requires frequent guidance and assistance from supervisor or others. When performance is rated at this level, see Section 17, "Conduct/Performance Actions."
 - (e) Unsatisfactory: This level signifies the performance of the employee consistently fails to meet the established performance standards in one or more critical elements of the employee's position. When performance is rated at this level, see Section 17, "Conduct/Performance Actions."

- (2) The employee's overall rating of record is determined as follows:
 - (a) Outstanding: At least 50% of the elements are rated outstanding, and none are rated below exceeds expectations.
 - (b) Exceeds expectations: At least 50% of the elements are rated exceeds expectations or outstanding, and none are rated lower than fully successful.
 - (c) Fully successful: At least 50% of the elements are rated at this level or higher, and none are rated lower than this level.
 - (d) Minimally satisfactory: One or more elements are rated at this level, and none are rated unsatisfactory.
 - (e) Unsatisfactory: One or more elements are rated unsatisfactory.
- e. Salary adjustments. As detailed in Section 9, "Compensation," a Title 42 appointee's annual pay will be reviewed periodically throughout the appointment, but at least annually, in conjunction with an appointee's annual performance review. In order to be eligible for an increase to their annual pay, the Title 42 appointee's performance must be at least fully successful.
- f. Minimally satisfactory and unsatisfactory performance. If at any time during the rating period the employee's performance on one or more critical elements is determined to be below fully successful, that is, at either minimally satisfactory or unsatisfactory, the first-level supervisor should see Section 17, "Conduct/Performance Actions."

15. AWARDS AND RECOGNITION.

- a. Eligibility. Title 42 appointees are eligible, as appropriate, for the awards outlined in the Agency's Recognition Policy and Procedures Manual, 3130-A2 (RPPM). This includes: formal honor awards, informal non-monetary awards, monetary awards, career service recognition, time-off awards, and suggestion, patent, and invention awards. The eligibility and criteria for these awards are described in the RPPM, as well as, the procedures for nominating or recommending an employee for the awards. A Title 42 appointee must meet the eligibility and other criteria in order to be eligible for nomination. Because the EPA Title 42 pay band does not include grades or longevity steps, such as those that apply to General Schedule employees, EPA Title 42 employees are not eligible for automatic annual pay increases.

In addition to cash awards for contributions or special acts, a Title 42 appointee may also receive one-time pay for performance bonuses in recognition of outstanding performance and the employee's contribution to meeting the goals and objectives of the organization.

- b. Recommending and Approving Officials. The delegations of authority for the recommendation and approval of awards outlined in the RPPM and by each

Laboratory, Center, or Office apply to awards for Title 42 appointees. For performance-based cash awards, the first-level supervisor may recommend an award up to 10% of annual pay; the award must be approved by the second-level supervisor. If the performance-based cash award exceeds 10% of annual pay, it must also be approved by the AA-ORD. In accordance with the RPPM, any award that results in a payment of more than \$10,000 must be forwarded by the EPA Administrator for approval by OPM.

- c. Awards from Other Organizations. A Title 42 appointee may receive an award from another office or laboratory; however, it must be coordinated with the appointee's first-level supervisor in order to ensure that the appointee will not exceed the total annual compensation ceiling.
- d. Limitations. The total compensation, including annual pay, cash awards, pay for performance annual pay increases, and incentive payments, of a Title 42 appointee cannot exceed the total compensation ceiling defined in Section 9a(1)(a), "Total compensation." Therefore, total monetary awards per annum may not cause the total compensation to exceed the specified limit. The only exception to this limitation is an award for an invention or patent that will cause the cap to be exceeded. Therefore, if an employee has already reached the maximum pay cap for the year, and the employee has either an invention that has been favorably evaluated by the Patent Counsel and that meets the other criteria outlined in the RPPM or a patent issued by the U.S. Patent and Trademark Office that meets the other criteria outlined in the RPPM, the employee may receive the filing award (currently \$100) and the patent issuance award (currently \$300) upon written approval from the AA-ORD. Royalties are not included in the calculation of total compensation.

16. **EXTENSION OF APPOINTMENTS.**

See Section 4, "Duration of Appointments," for information on the process for extending appointments.

17. **CONDUCT/PERFORMANCE ACTIONS.**

Refer all misconduct and performance issues to the Title 42 Servicing HRO and OGC on a case by case basis.

18. **TERMINATION OF APPOINTMENTS.**

Appointments may be terminated prior to expiration for any lawful reason. Refer all termination issues to the Title 42 Servicing HRO and OGC on a case by case basis.

19. **SUBSEQUENT FEDERAL EMPLOYMENT.**

- a. Appointees with Title 5 permanent competitive status. A Title 42 appointee with

Title 5 permanent competitive status based on prior employment retains reinstatement eligibility but has no guarantee of return to a Title 5 position. If the appointee desires to return to a Title 5 civil service position following the Title 42 position, he/she must locate and be selected for such a position. These conditions are acknowledged by the appointee via signature on the Voluntary Conversion and Employment Notice, found in Appendix 6.

- b. Appointees without Title 5 permanent competitive status. A Title 42 appointee who did not have Title 5 permanent competitive status based on prior employment obtains no reinstatement eligibility due to service in a Title 42 position. If the appointee is interested in a Title 5 civil service position following the Title 42 position, he/she must apply and be selected for such a position.

20. **REPORTS AND RECORDS.**

The Title 42 Servicing Human Resources Office is the custodian for all Title 42 appointee records. Information regarding the number of appointments, the source of the appointees, and compensation prior to and at appointment will be maintained. All records pertaining to Title 42 appointees will be maintained in accordance with applicable National Archives and Records Administration records schedules.