# **Rules and Regulations**

#### **Federal Register**

Vol. 60, No. 36

Thursday, February 23, 1995

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

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

# OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 302

RIN 3206-AF53

Temporary, Seasonal, and Intermittent Employment in the Excepted Service

**AGENCY:** Office of Personnel

Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations to consolidate excepted service authorities for filling temporary, intermittent, and seasonal jobs, to remove coverage for appointments that no longer meet the criteria for exception, and to establish a new excepted service authority which could be used by agencies to meet urgent, short-term hiring needs.

**EFFECTIVE DATE:** March 27, 1995. **FOR FURTHER INFORMATION CONTACT:** Tracy E. Spencer, (202) 606–0830, or fax (202) 606–2329.

SUPPLEMENTARY INFORMATION: These regulations implement the National Performance Review's recommendations to reduce the number of Federal hiring authorities and decentralize many personnel decisions. The regulations eliminate overlapping and obsolete appointing authorities and establish two authorities to meet common needs that may be used by any agency without obtaining specific OPM approval.

On September 26, 1994 (59 FR 49034), OPM published proposed regulations to revise and consolidate paragraphs (i) and (m) of section 213.3102, which both cover temporary, intermittent, and seasonal employment in the excepted service. We proposed to establish Governmentwide Schedule A authorities for temporary and less-thanfull-time positions in remote or isolated locations involving no more than 1,040

working hours of employment in a service year and for short-term appointments to meet special hiring needs that would not exceed 30 days, plus one 30-day extension. We also proposed to allow OPM to authorize Schedule A appointments in other circumstances and requested comments on the need to include authority to make Schedule A temporary appointments (i.e., appointments limited to 1 year or less) in connection with post-doctoral fellowships, internships, and similar programs.

We received comments from six Federal agencies. All six supported the proposed Schedule A authority, although one suggested additional exceptions and two made technical and editorial suggestions.

### **Comments on Coverage**

With regard to fellowship programs, the agencies indicated that such appointments are usually made for periods longer than 1 year and that an authority limited to temporary employment would have little use. We have, therefore, decided not to include a specific provision for fellowship appointments in the Schedule A authority for temporary, intermittent, and seasonal employment. Any agencies that wish to make temporary appointments in connection with postdoctoral fellowship programs may, however, request OPM's approval to use the Schedule A authority for that

One agency suggested that Schedule A appointments should be permitted for short-term work lasting up to 90 days (instead of 30 days as proposed), with an additional 30-day extension, and for all nonsupervisory temporary and seasonal laborer positions at WG–3 and below. We did not adopt those suggestions because we cannot find that use of competitive hiring procedures to fill the jobs would be impracticable.

Agencies may make temporary appointments in the competitive service using the applicant supply file procedures set out in 5 CFR part 333. Those procedures are very similar to the procedures for making temporary Schedule A appointments set out in 5 CFR part 302. The only differences are qualification requirements and public notice.

Agencies making temporary appointments under part 333 must apply competitive qualification standards. However, those standards contain only basic generic requirements, to which agencies may add specific requirements related to their jobs. For most jobs, there is little practical difference between the competitive standards and the standards agencies would develop under part 302.

Agencies making competitive temporary appointments must also notify OPM and State Employment Service offices of the vacancies. However, there are no mandatory minimum publicity requirements.

The agencies decide how widely to distribute notices and how long the

notices will remain open.

We believe that the competitive hiring procedures are flexible enough to meet all but the most urgent staffing needs. We also believe that exceptions to basic hiring procedures should be authorized only when clearly necessary. Competitive hiring is not impracticable in all cases for temporary laborer jobs or for project jobs involving 3 or 4 months of work. Therefore, we are not establishing a general Schedule A authority for such positions. Any agency that needs to fill particular jobs more quickly than the competitive process would permit may, of course, request OPM's approval to make Schedule A appointments to those jobs.

### **Technical and Editorial Comments**

With regard to procedural requirements, one agency asked whether the ranking and referral requirements of 5 CFR part 302 will apply to 30-day special need appointments under the new Schedule A authority. Formal ranking and referral procedures have not previously been required for 30-day special need appointments because the time needed for that process is not commensurate with the extremely short period of employment. That is still true. Accordingly, as provided in 5 CFR 302.101(c), we are granting an exception from the procedural requirements of part 302 for appointments made under the new Schedule A special need authority. Agencies must, however, apply veterans' preference to the extent administratively feasible.

The same agency also asked why the service limitation in the proposed Schedule A authority for positions in remote or isolated locations should apply to all employment in the same agency. The agency suggested that the limit should apply only to excepted