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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 211, 230, 300, 301, 307, 310, 316, 330, 333, 339, 340, 351, 353, and 930

RIN 3206-AG18

Federal Staffing Provisions Supporting Sunset of the Federal Personnel Manual

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This rule places into regulation a limited number of Federal staffing provisions that were formerly in the Federal Personnel Manual (FPM). The remaining "provisionally retained" portions of the FPM were abolished on December 31, 1994. This rule deletes or replaces regulatory language which references the FPM. Its provisions also define or clarify terms and describe procedures used in veterans' preference, reductions in force, veterans' readjustment appointments, term appointments, seasonal and intermittent employment, noncompetitive term appointments based on Peace Corps service, exemption of certain employees from coverage of the Part-time Career Employment Act, physical requirements for employment, and actions taken during a national emergency (including the possible appointment of relatives). They extend delegations to agencies for assigning persons serving under excepted appointments to the work of positions in the competitive service; making temporary appointments of worker trainees pending establishment of a register (TAPER); and extending time limits for overseas temporary appointments. The provisions also delete requirements for a number of regular reports. In the case of part 351, Reduction in Force, and part 353, Restoration to Duty From Military

Service or Compensable Injury, sections are reworded for clarity and consistency with decisions of the Merit Systems Protection Board.

EFFECTIVE DATE: January 13, 1995.

FOR FURTHER INFORMATION CONTACT:

Diane Bohling, (202) 606-0960 with questions concerning the changes in 5 CFR 330; Thomas Glennon, (202) 606-0960 concerning the changes in 5 CFR 351; Raleigh Neville, (202) 606-0830 concerning the changes in 5 CFR 340, 5 CFR 353 and 5 CFR 930; and Mike Carmichael or Karen Jacobs, (202) 606-0830, concerning the other changes.

SUPPLEMENTARY INFORMATION: The Vice President's National Performance Review (NPR) recommended that the Office of Personnel Management (OPM) "phase out the entire 10,000 page Federal Personnel Manual (FPM)." The President endorsed the NPR recommendations.

In planning to abolish the FPM, OPM met over an extended period with representatives of agencies and employee unions to identify which FPM policies should be dropped, which should be continued in regulation, and which should be available as a helpful reference in an alternative format. The resulting recommendations were reviewed and endorsed by the Interagency Advisory Group of agency personnel directors and by the National Partnership Council.

This rule carries out the recommendations of those groups to retain selected current policies in the area of staffing. Regulations to establish new policies, including implementation of P.L. 103-353 (veterans' reemployment rights), will be proposed separately.

The proposed rule was published in the **Federal Register** at 59 FR 55212 on November 4, 1994, with a request for comments on or before December 5, 1994. A copy of the proposed rule (including a line that was inadvertently dropped in printing) was posted on November 3, 1994, on OPM's computer bulletin board, Mainstreet. At the same time, all personnel directors of departments and agencies were notified by fax of the posting on Mainstreet and of the pending **Federal Register** publication. The publication of the proposed rule was also announced in a meeting of the Interagency Advisory Group of personnel directors.

Comments on the proposed rule were received from three departments, two components of departments that had commented separately, one independent agency, and one employee union.

We did not adopt suggestions for new policies not previously in regulation or in the Federal Personnel Manual. Specifically, that included suggestions to drop excepted service temporary employees from reduction-in-force tenure group III and to deregulate the reemployment priority list program. Although such suggestions will be considered for future program improvements, they would have violated the consensus gained for this particular rule from the long, collaborative review process with agencies and unions. The consensus was to continue, through this rule, a limited number of existing staffing policies that would have ended with the sunset of the FPM. There was particular agreement not to change current policies in the sensitive area of reductions-in-force (RIF) and related reemployment priority lists (RPL). That consensus was also likely the reason that few made comments on the proposed rule and that comments sought clarification rather than change.

We also did not adopt recommendations to delete references to the FPM in sections of the Code of Federal Regulations outside the scope of this rule. Those deletions will be proposed with other regulatory changes.

A department recommended amending § 301.203 to delegate authority directly to agencies to approve time-limit exceptions for overseas limited appointments. We prefer to maintain OPM's role in approving such delegations until agencies have more experience with the recent regulatory changes for temporary employment.

We also did not conclude that epidemics warrant emergency-indefinite appointment authority in § 230.402(b).

Questions about terminology in the proposed rule are addressed here: "Equivalent grades in the Federal Wage System" are mentioned in § 316.201(b) because there technically could be grades in the Federal Wage System other than just "WG." Subpart D of § 340 eliminates reference to "on-call" employment as redundant; there is no substantive difference between seasonal and on-call. The change in terms from "physically qualified" to "medically