

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 213

RIN 3206-AJ06

#### Excepted Service—Schedule A Authority for Nontemporary Part-Time or Intermittent Positions

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed regulations.

**SUMMARY:** The Office of Personnel Management (OPM) proposes to revoke the Schedule A excepted service appointing authority for nontemporary part-time or intermittent positions for which total annual compensation does not exceed 40 percent of GS-3, step 1, because the conditions justifying the original exception no longer exist. Revocation would bring the positions filled under this Schedule A authority into the competitive service and permit noncompetitive conversion of position incumbents to competitive appointments.

**DATES:** Comments must be received on or before November 9, 2001.

**ADDRESSES:** Send or deliver written comments to Richard A. Whitford, Acting Associate Director for Employment, Office of Personnel Management, 1900 E Street, NW., Room 6566, Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Janice Domke Reid or Christina Vay on 202-606-0960 or FAX 202-606-0390.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Schedule A authority, 5 CFR 213.3102(g), was established in 1903 for use by all agencies to meet their continuing part-time, intermittent or seasonal needs for lower graded positions. These positions were excepted from the competitive service because there were too few candidates for standing registers, not due to the nature of their duties or qualifications.

The authority originally contained a dollar limitation on total compensation to assure that the positions filled were menial, not full-time, and were of the type for which the authority was intended. In 1958, this was changed to 40 percent of GS-3, step 1, to avoid having to amend the authority with each Federal pay raise. The authority was amended in 1977 to clarify that it could not be used for temporary project employment to meet a one-time need. It has not been amended since.

In the past, complexities in the examining system necessitated excepted authorities on the basis that examining was impracticable. This was especially true for this Schedule A authority where employment was expected to be sporadic, totaling less than 6 months a year, and competitive examination with the establishment of standing registers would not have been able to produce enough candidates to fill the positions. The authority has been used relatively little on a Government-wide basis.

#### Current Staffing Flexibilities

Competitive examining has changed drastically since the day when this Schedule A authority was established. Today agencies have more choices and flexibility for filling continuing positions that are not full-time. They routinely appoint employees with part-time or intermittent work schedules under career appointments in the competitive service.

Seasonal employees are also appointed under career appointments in the competitive service when they perform recurring work that is expected to last at least 6 months during a calendar year. Work lasting less than 6 months a year is usually performed by temporary employees, and agencies can appoint them under 5 CFR 316.401. When employment totals less than 1,040 hours a service year, there is no limit on the number of times temporary employees may be reappointed.

#### Conversion of Employees

The revocation brings the positions into the competitive service as provided in 5 CFR 316.701 and 316.702. Before the effective date of these regulations, positions for which examining is still impracticable may be placed under other appropriate excepted appointing authorities and the employees converted to excepted appointments under those authorities.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

#### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### List of Subjects in 5 CFR Part 213

Government employees. Reporting and recordkeeping requirements.

**Kay Coles James,**  
*Director.*

Accordingly, OPM proposes to amend 5 CFR part 213 as follows:

#### PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 is revised to read as follows:

**Authority:** 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 et seq.; and Pub. L. 106-117 (113 Stat. 1545).

#### § 213.3102 [Amended]

2. Paragraph (g) of § 213.3102 is removed and reserved.

[FR Doc. 01-22563 Filed 9-7-01; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-41-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 727-100 and 727-200 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727-100 and 727-