

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

RIN 3206-AH91

Fellowship and Similar Appointments in the Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) proposes to consolidate single-agency excepted service authorities for filling positions associated with fellowships, internships, residencies, student-stipend, and similar programs by establishing two Governmentwide authorities in their place. This will reduce the number of appointing authorities. One authority would cover fellowship-type programs, while the other would apply to student employees who are paid stipends under special statutory provisions.

DATES: Comments must be received on or before September 10, 1997.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole on (202) 606-0830, TDD (202) 606-0023, or FAX (202) 606-2329.

SUPPLEMENTARY INFORMATION: In OPM's continuing efforts to simplify the Federal appointment system, we are reducing the overall number of excepted service authorities. As part of this initiative we are reviewing all appointing authorities that were established to meet specific agency needs, to determine if exception is still appropriate. Where it is, we hope to identify the situations where individual agency authorities share enough of a common basis that they could be consolidated into a single

Governmentwide appointing authority that would apply to all agencies.

Fellowship and Similar Programs

Over the years OPM has granted numerous excepted authorities to individual agencies to cover a variety of fellowship, internship and similar programs. These regulations propose a consolidated Schedule A authority for these types of programs. Positions are placed in Schedule A when it is impracticable to examine for them.

The term "fellowship" covers a variety of non-permanent employment situations, usually associated with specific programs. They can be in the form of internship or training programs that provide developmental work opportunities and learning experiences to individuals who have completed their education, for instance in the area of science and engineering. Many are at the postgraduate or postdoctoral level, though they can occur at any level. Other programs are designed to increase the pool of candidates in a particular specialty for all employers, not just the Federal Government, such as in health care, or to bring highly specialized private sector expertise to an agency.

They can also be in the form of industry exchange programs that are intended to foster mutual understanding and cooperation between an agency and its customer group, or a particular profession, such as public accounting. They are designed to give program participants a better understanding of how Federal policies are formulated, while they, in turn, bring new ideas and perspectives from outside government to the agency. Some programs provide scholarships or other educational assistance to individuals and, in turn, require a period of obligated service with the Federal Government.

All these programs operate under specific parameters set by the employing agency or a non-Federal entity, such as a professional association. Most fellowship-type appointments last from one to three years and are not usually intended to recruit candidates for permanent Federal employment. We are proposing a 4-year employment limit to cover the occasional program that has unique requirements and any unforeseen agency needs.

None of the above employment situations is covered under an existing Governmentwide excepted authority.

While agencies have available to them appointing authorities for students, they do not cover individuals who have completed their education. The existing Presidential Management Intern Program, established by Executive order, is also very narrow in scope and not compatible with the multitude of fellowship-type situations that exist in agencies.

OPM finds that it is impracticable to examine for fellowship and similar programs because they represent non-traditional employment situations. There is no open competition because only applicants from targeted academic or professional disciplines are considered for the positions, and they must meet previously agreed upon qualification criteria. Often they are ranked and recommended by a third party, such as a non-Federal organization. Other times selections are based solely on a candidate's interest in the agency's programs.

The proposed appointing authority will cover a small but important employment need of agencies that have unique fellowship and similar programs. It is designed to encompass existing programs that currently operate under individual agency appointing authorities.

Student-Stipend Programs

Under 5 U.S.C. 5351-5356, agencies may pay stipends and provide certain services to student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. These positions are excluded from the provisions of law relating to classification and General Schedule pay. We propose to establish a separate Schedule A authority for these positions because of their unique compensation and classification aspects.

As with the fellowship positions, numerous single-agency authorities have been established for student-stipend programs. The positions typically covered by these programs include student practical nurses, student dental assistants, medical interns, and student pharmacists, which are located in agencies operating hospitals, clinics, medical centers or laboratories. The programs usually provide training opportunities or clinical experiences to students from an academic institution, or to residents from a non-Federal hospital.

It is impracticable to examine for positions associated with student-stipend programs because position incumbents are selected by the school where they are enrolled. When a non-Federal organization controls the selection process, there is no examination by a Federal agency.

Conforming Amendment

In 5 CFR 213.104, positions filled under single-agency authorities for fellowship and related programs are exempt from the service limits for making temporary appointments and the refilling of these positions by temporary appointment. We are adding the new appointing authorities to the list of exceptions cited in 5 CFR 213.104(b)(3)(ii).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

James B. King,

Director, Office of Personnel Management.

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

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues 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; and 38 U.S.C. 4301 *et seq.*

2. In § 213.104 paragraph (b)(3)(ii) is revised to read as follows:

§ 213.104 Special provisions for temporary, intermittent, or seasonal appointments in Schedule A, B, or C.

* * * * *

- (b) * * *
- (3) * * *

(ii) Positions are filled under an authority established for the purpose of enabling the appointees to continue or enhance their education, or to meet academic or professional qualification requirements. These include the authorities set out in paragraphs (r) and (s) of § 213.3102 and paragraph (c) of § 213.3202, and authorities granted to

individual agencies for use in connection with internship, fellowship, residency, or student programs.

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3. In § 213.3102, paragraphs (r) and (s) are added to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(r) Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization. These programs may include: internship or fellowship programs that provide developmental or professional experiences to individuals who have completed their formal education; training and associateship programs designed to increase the pool of qualified candidates in a particular occupational specialty; professional/industry exchange programs that provide for a cross-fertilization between the agency and the private sector to foster mutual understanding, an exchange of ideas, or to bring experienced practitioners to the agency; residency programs through which participants gain experience in a Federal clinical environment; and programs that require a period of Government service in exchange for educational, financial or other assistance. Appointments under this authority may not exceed 4 years.

(s) Positions with compensation fixed under 5 U.S.C. 5351-5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. Employment under this authority may not exceed 4 years.

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[FR Doc. 97-21048 Filed 8-8-97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY-97-003]

Voluntary Shell Egg Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend the regulations governing the voluntary shell egg grading program. The proposed revisions would require electronic digital-display scales be

provided to the grader; provide an alternative grademark for shell eggs; provide for the use of a "Produced From" grademark to officially identify products that originate from officially graded shell eggs; and remove the requirement for continuous overflow of water during the egg washing process. From time to time, sections in the regulations are affected by changes in egg processing technology. This rule updates the regulations to reflect these changes.

DATES: Comments must be received on or before October 10, 1997.

ADDRESSES: Send written comments to Douglas C. Bailey, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0259, 1400 Independence Avenue, SW, Washington, D.C. 20250-0259. Comments received may be inspected at this location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays. State that your comments refer to Docket No. PY-97-003.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, 202-720-3271.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities as defined in the RFA (5 U.S.C. 601). There are almost 200 plants using the Agency's shell egg grading services and many of them are small entities.

The proposal to require electronic digital-display scales will affect some processors by requiring the purchase of one or more scales that cost from \$150 to \$1,000 each. This equipment will improve the accuracy of egg weight determinations, allowing processors to avoid the expense incurred when product is unnecessarily retained and re-processed.

One proposal to establish an alternative form of the USDA grademark