

# 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-AJ53

#### Excepted Service—Schedule A Authority for Chinese, Japanese, and Hindu Interpreters

**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 Chinese, Japanese and Hindu interpreters 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 persons serving under the authority to either competitive or excepted service appointments.

**DATES:** Comments must be received on or before March 25, 2002.

**ADDRESSES:** Send or deliver written comments to Ellen E. Tunstall, Assistant Director for Employment Policy, Office of Personnel Management, 1900 E Street, NW., Room 6551, Washington, DC 20415.

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

**SUPPLEMENTARY INFORMATION:** The Schedule A authority, 5 CFR 213.3102(f), was established in 1903 for use by all agencies. In the past, complexities in the examining system necessitated excepted service authorities on the basis that examining was impracticable. In 1903, this was true for Chinese, Japanese, and Hindu languages.

Competitive examining has changed drastically in the almost 100 years since this authority's creation. Today, agencies successfully examine for positions with specific language

requirements. Because agencies can examine for all other languages, we see no reason to continue this authority.

#### Conversion of Employees

The revocation of this authority would bring the positions into the competitive service as provided in 5 CFR 316.701 and 316.702. If this regulation becomes final, persons serving under 5 CFR 213.3102(f) and who are citizens would be noncompetitively converted to the competitive service. If there are positions for which examining is still impracticable, or there are noncitizens serving under the authority, they will be placed under other appropriate excepted appointing 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 (f) of § 213.3102 is removed and reserved.

[FR Doc. 02-1603 Filed 1-22-02; 8:45 am]

**BILLING CODE 6325-38-U**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Parts 1703

RIN 0572-AB70

#### Distance Learning and Telemedicine Loan and Grant Program

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Utilities Service (RUS) is amending its regulations for the Distance Learning and Telemedicine (DLT) Loan and Grant Program. This proposed rule addresses the amendments affecting the grant program. These amendments will clarify eligibility; change the grant minimum matching contribution; clarify that only loan funds will be used to finance transmission facilities; modify financial information requirements; adjust the leveraging scoring criterion; clarify financial information to be submitted; and make other minor changes and corrections.

In the final rule section of this **Federal Register**, RUS is publishing this action as a direct final rule without prior proposal because RUS views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If RUS receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action.

**DATES:** Comments on this proposed action must be received by RUS via facsimile transmission or carry a postmark or equivalent no later than February 22, 2002.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments to Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1590, Room 4056, South Building, Washington, DC 20250-1590 or via facsimile transmission to (202)

720-0810. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4056, South Building, Washington, DC, between 8:00 a.m. and 4:00 p.m. (7 CFR part 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:**

Marilyn J. Morgan, Chief, DLT Branch, Advanced Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1550, Washington, DC 20250-1550. Telephone: 202-720-0413; e-mail at [mmorgan@rus.usda.gov](mailto:mmorgan@rus.usda.gov); or, Fax: 202-720-1051.

**SUPPLEMENTARY INFORMATION:** See the Supplementary Information provided in the direct final rule located in the Rules and Regulations direct final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: December 28, 2001.

**Roberta D. Purcell,**

*Acting Administrator, Rural Utilities Service.*  
[FR Doc. 02-1538 Filed 1-22-02; 8:45 am]

**BILLING CODE 3410-15-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 388

[Docket Nos. RM02-4-000 and PL02-1-000]

#### Notice of Inquiry and Guidance for Filings in the Interim

January 16, 2002.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Inquiry.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is considering whether to revise its rules to address public availability of critical energy infrastructure information. The Commission issued a policy statement in Docket No. PL02-1-000 on October 11, 2001 (66 FR 52917, October 18, 2001), removing from easy public access previously public documents that detail the specifications of energy facilities licensed or certificated by the Commission. The policy statement directed requesters seeking this information to follow the Freedom of Information Act procedures found at 18 CFR 388.108. This Notice of Inquiry will assist the Commission in determining what changes, if any, should be made to its regulations to restrict unfettered general public access to critical energy

infrastructure information, but still permit those with a need for the information to obtain it in an efficient manner.

**EFFECTIVE DATES:** Responses must be submitted on or before March 11, 2002. Requests for copies of the non-public appendix must be filed on or before February 7, 2002.

**ADDRESSES:** Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:** Carol C. Johnson, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-0457.

**SUPPLEMENTARY INFORMATION:**

#### I. Introduction

The Federal Energy Regulatory Commission is initiating an inquiry into the appropriate treatment of previously public documents in the aftermath of the September 11, 2001 terrorist attacks on the United States of America. Accordingly, this Notice sets forth the Commission's general views on how it intends to treat those documents, and asks specific questions on the scope and implications of maintaining the confidentiality of certain documents that previously had been made public but removed from easy public access under the Policy Statement issued in Docket No. PL02-1-000 on October 11, 2001 (Policy Statement). See 97 FERC ¶ 61,030. The major matter that this Notice addresses is the reconciliation of the Commission's regulatory responsibilities under its enabling statutes and Federal environmental laws and the need to protect the safety and well being of American citizens from attacks on our nation's energy infrastructure.

By definition, this Notice does not propose any specific changes to the Commission's regulations, but it does reflect what the Commission may consider doing in the future. As an initial matter, the Commission believes that the process under the Freedom of Information Act, 5 U.S.C. 552 (FOIA), which the Policy Statement established as the means for requesting previously public documents in the short run, is not well suited in the long run for handling most requests for this critical energy infrastructure information (CEII).<sup>1</sup> Therefore, the questions posed

<sup>1</sup> Assuming that much of the information identified as CEII will be exempt from mandatory disclosure under FOIA, using FOIA as the exclusive mechanism for determining release would mean that people with a need for the information might be denied access to exempt information. In any

in the Notice are premised on the Commission's processing most CEII requests outside of the FOIA procedures. The Commission also believes that the scope of the Policy Statement should probably be maintained, viz., that limiting access to CEII should be confined to certificated, licensed, or constructed projects. Put another way, the Commission currently intends that information contained in or related to proposed projects should be available as before October 11, 2001. (Care would have to be taken to the extent the information detailed existing facilities.) Otherwise, the implementation of the environmental laws may be impeded or the processing of certificate or license applications may be unduly complicated. Nevertheless, the Notice asks specific questions as to the correctness of this approach. The Commission emphasizes that its intention here is to address how the public with a need for certain documents obtains access to those documents, not whether they should have access to them.

As a separate matter, the Commission is using this opportunity to provide guidance on making filings with the Commission to the companies whose facilities could be the targets of terrorist attacks. Between now and the effective date of a final decision in Docket No. RM02-4-000, these companies may seek confidential treatment of filings or parts of filings which in their opinion contain CEII. For this purpose, they are directed to follow the procedures in 18 CFR 388.112, and also clearly note "PL02-1" on the first page of the document.

#### II. Background

The September 11, 2001 terrorist attacks prompted the Commission to issue a policy statement on October 11, 2001, in PL02-1-000, addressing the treatment of previously public documents. See 97 FERC ¶61,030.<sup>2</sup> The

event, under FOIA, the agency may not consider a requester's particular need for the information. Moreover, once release is made to one requester under FOIA, release is generally available to all requesters, and if information is released pursuant to FOIA, the agency may not restrict the recipient's use or dissemination of that information. Therefore, if the Commission wishes to make otherwise exempt information available to a requester based on the requester's need for the information, or wishes to limit the recipient's use and dissemination of the information, it must do so outside of the confines of the FOIA.

<sup>2</sup> Shortly after the attacks, the Commission issued another policy statement in Docket No. PL01-6-000, in which it provided guidance to regulated companies regarding extraordinary expenditures necessary to safeguard national energy supplies. See 96 FERC ¶61,299 (2001). The Commission recognized there that electric, gas, and oil