

# 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 307

RIN 3206-AJ90

### Veterans Readjustment Appointments

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) proposes to revise its regulations regarding Veterans Readjustment Appointments to implement the provisions of the Jobs for Veterans Act, signed into law on November 7, 2002. We are also using this opportunity to propose a plain language rewrite of these regulations as part of a broader review of OPM's regulations, the purpose of which is to make the regulations more readable.

**DATES:** We will consider comments received on or before January 4, 2005.

**ADDRESSES:** Send or deliver written comments to Mark Doboga, Deputy Associate Director for Talent and Capacity Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415-9700; e-mail [employ@opm.gov](mailto:employ@opm.gov); fax: (202) 606-2329.

**FOR FURTHER INFORMATION CONTACT:** Ms. Pam Galemore, by telephone at (202) 606-0830; by TTY at (202) 606-3134; by fax at (202) 606-0390; or by e-mail at [pamela.galemore@opm.gov](mailto:pamela.galemore@opm.gov).

**SUPPLEMENTARY INFORMATION:** The Jobs for Veterans Act (Public Law 107-288), among other things, amends 38 U.S.C. 4214 to make a major change in the eligibility criteria for obtaining what previously was called a Veterans Readjustment Appointment and will now be called a Veterans Recruitment Appointment (VRA). Under the revised law, the following veterans are eligible for a noncompetitive VRA:

- Disabled veterans;
- Veterans who served on active duty in the Armed Forces during a war, or in

a campaign or expedition for which a campaign badge has been authorized;

- Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded; and
- Recently separated veterans.

The law removes the requirement that an eligible veteran must be appointed within 10 years of his or her last separation from active duty. In addition, in accordance with the Act's definition of "recently separated," a veteran is now considered to be "recently separated" during the 3-year period beginning on the date of such veteran's discharge or release from active duty. The law also removes the requirement that an eligible veteran's last discharge must have been from active duty lasting 90 days or more. As noted above, the Act also changes the name of such appointments from Veterans Readjustment Appointments to Veterans Recruitment Appointments.

The Jobs for Veterans Act makes no mention of the character of service needed to obtain a VRA. OPM, however, has the authority to regulate the conditions under which a VRA may be issued. Exercising this authority, OPM proposes to establish as an eligibility requirement that a veteran's release or separation from active duty must be under honorable conditions. Such a requirement is consistent with the spirit and principle of veterans' preference, which also requires that military service be under honorable conditions.

We are also proposing to re-establish in regulation that a veteran's military service is considered qualifying for a VRA at the GS-3 level or equivalent, regardless of the position held by the veteran in the military. In 1971, pursuant to Executive Order 11521, OPM promulgated regulations specifying that a veteran's military experience, whatever its nature, could meet the qualification standards for positions at the GS-3 level. In light of the sacrifices that each and every veteran makes for our country, as well as the experience gained by individuals who serve in the military, this policy was designed to ensure that any veteran would be eligible for appointment to a GS-3 position. Over the years, Executive Order 11521 was amended several times. To eliminate the need for revising our regulations each time an

amendment to the executive order was made, we began to publish updated policy and guidance in the Federal Personnel Manual (FPM). Because the FPM has since been abolished, however, we have decided to re-establish this long-standing policy in regulation.

The following aspects of the VRA authority remain the same: the maximum grade level at which such appointments may be made remains GS-11 or equivalent; veterans must be "qualified"—i.e., able to perform the essential functions of the position (with or without reasonable accommodation, for a person with a disability); veterans who have completed less than 15 years of education must still receive training or education; and veterans who satisfactorily complete 2 years of employment under a VRA must have their appointments converted to career conditional.

The eligibility criteria established by law for obtaining Veterans Recruitment Appointments are effective as of the date the law was signed.

To enhance readability, the proposed regulations revise the existing sections of part 307 as follows:

#### Purpose

OPM has added a "purpose" section to explain the purpose of these regulations.

#### Definitions

Although many of the terms defined in this section are defined in title 38, United States Code, OPM has included the definitions in this section for the convenience of the reader.

In addition, OPM is adding a definition of the term "substantially continuous service" because OPM uses this term to describe the circumstances under which agencies must convert individuals serving under VRAs to competitive appointments. Until now, OPM has not defined that term with respect to this part.

#### Coverage and General Responsibilities

OPM is incorporating the pertinent provisions into a revised section 307.103, entitled "Nature of VRAs." This section explains what VRAs are, how they are to be used, and what limitations apply to these appointments.

#### Appointing Authority

OPM is incorporating the pertinent provisions into a revised section

307.104, entitled "Treatment of Individuals Serving Under VRAs." This new section explains the relationship between those serving under VRAs and the competitive service, as well as the conditions under which these individuals may be promoted or moved to other positions. This section also provides that an individual who receives a VRA and has less than 15 years of education must receive training or education prescribed by the agency.

#### Appeal Rights

OPM has not made any substantive revisions to this part. To enhance the readability of the regulations, however, OPM has amended this section to refer readers to the appropriate sections of this chapter pertaining to appeal rights.

OPM believes that this revised organization of the regulations makes the information clearer and more understandable. OPM will consider comments on these aspects of this proposal, as indicated above.

#### *E.O. 12866, Regulatory Review*

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

#### *Regulatory Flexibility Act*

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it would apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 307

Government employees, Veterans.

#### Kay Coles James,

Director, Office of Personnel Management.

Accordingly, OPM proposes to revise 5 CFR part 307 as follows:

### PART 307—VETERANS RECRUITMENT APPOINTMENTS

Sec.

- 307.101 Purpose.
- 307.102 Definitions.
- 307.103 Nature of VRAs.
- 307.104 Treatment of individuals serving under VRAs.
- 307.105 Appeal rights.

**Authority:** 5 U.S.C. 3301, 3302; E.O. 11521, 3 CFR, 1970 Comp., p. 912; 38 U.S.C. 4214.

#### § 307.101 Purpose.

This part implements 38 U.S.C. 4214 and Executive Order 11521, which authorize agencies to appoint qualified covered veterans to positions in the competitive service under Veterans Recruitment Appointments (VRAs) without regard to the competitive examining system.

#### § 307.102 Definitions.

For purposes of this part—  
*Agency*, as defined in 38 U.S.C. 4211(5), means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and Postal Rate Commission.

*Covered veteran*, as defined in 38 U.S.C. 4212(a)(3), means any of the following:

- (1) Disabled veterans;
- (2) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized;
- (3) Veterans who, while serving on active duty with the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded pursuant to Executive Order 12985 (61 FR 1209); and

(4) Recently separated veterans.  
*Disabled veteran*, as defined in 38 U.S.C. 4211, means:

- (1) A veteran who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or
- (2) A person who was discharged or released from active duty because of a service-connected disability.

*Qualified*, as defined in 38 U.S.C. 4212(a)(3), with respect to employment in a position, means having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.

*Recently separated veteran*, as defined in 38 U.S.C. 4211(6), means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty.

*Substantially continuous service* is defined in 5 CFR 315.201(b)(3).

#### § 307.103 Nature of VRAs.

VRAs are excepted appointments, made without competition, to positions otherwise in the competitive service. The veterans' preference procedures of part 302 of this chapter apply when there are preference eligible candidates being considered for a VRA. Qualified covered veterans who were separated under honorable conditions may be appointed to any position in the competitive service for which the individual is qualified, at grade levels up to and including GS-11 or equivalent. For purposes of a VRA, any military service is qualifying at the GS-3 level or equivalent. Upon satisfactory

completion of 2 years of substantially continuous service, the incumbent's VRA must be converted to a career or career conditional appointment.

#### § 307.104 Treatment of individuals serving under VRAs.

(a) Because VRAs are made to positions otherwise in the competitive service, the incumbents, like competitive service employees, may be reassigned, promoted, demoted, or transferred in accordance with the provisions of part 335 of this chapter.

(b) A veteran with less than 15 years of education must receive training or education prescribed by the agency.

(c) Appointments are subject to investigation by OPM. A law, Executive order, or regulation that disqualifies a person for appointment in the competitive service also disqualifies a person for a VRA.

#### § 307.105 Appeal rights.

Individuals serving under VRAs have the same appeal rights as excepted service employees under parts 432 and 752 of this chapter. In addition, as established in section 315.806, any individual serving under a VRA, whose employment under the appointment is terminated within 1 year after the date of such appointment, has the same right to appeal that termination as a career or career-conditional employee has during the first year of employment.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-19542; Directorate Identifier 2003-NM-282-AD]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Model A300 B4-622R and A300 F4-622R Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A300 B4-622R and A300 F4-622R airplanes. This proposed AD would require doing a one-time inspection to determine if lower guide fittings for the forward doors are installed in the correct positions, and corrective action if