

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 Parts 3, 213, and 315

RIN 3206-A194

Appointments of Persons With Psychiatric Disabilities

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to create a new Governmentwide excepted appointing authority, with noncompetitive conversion to the competitive service authorized by Executive Order 13124, for persons with psychiatric disabilities. The proposed regulations also abolish two excepted service appointing authorities that relate to persons with psychiatric disabilities, and make technical corrections to reflect the proposed changes.

DATES: Written comments will be considered if received on or before May 16, 2000.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6500, 1900 E Street, NW., Washington, DC 20415-9000.

FOR FURTHER INFORMATION CONTACT: John Riedel-Alvarez or Paul Robinson on (202) 606-1059, TTY (202) 606-0023, or FAX (202) 606-0927.

SUPPLEMENTARY INFORMATION: On March 13, 1998, the President addressed the underemployment of people with disabilities by signing Executive Order 13078 establishing the Presidential Task Force on Employment of Adults with Disabilities. The Task Force's mission is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate as close as possible to that of the general adult population.

The Task Force issued their first report, "Recharting the Course," on

November 15, 1998. The report recommended that OPM explore paralleling the excepted service "hiring standards" of adults with psychiatric disabilities with the excepted service "hiring standards" of individuals with mental retardation and severe physical disabilities. After reviewing, we agree that the "hiring standards" for employing individuals with severe physical disabilities, mental retardation, and psychiatric disabilities should be the same.

The first step is amending the Civil Service Rules to broaden the category of people who may noncompetitively convert from the excepted service to the competitive service. Currently under the Governmentwide Schedule A excepted service authorities 5 CFR 213.3102(t) and (u), employees with mental retardation and severe physical disabilities are able to acquire competitive status after two years of satisfactory service. Executive Order 13124, signed June 4, 1999, now permits adults with psychiatric disabilities the same opportunity for noncompetitive conversion. In order for agencies to appoint adults with psychiatric disabilities, we are proposing the following.

Creating a New Governmentwide Schedule A Excepted Appointing Authority

By way of background, OPM has authority to except some positions from competitive examining procedures under Schedules A and B when it is determined that examining is impracticable for those positions, or that open competition cannot take place. Excepted authorities listed in 5 CFR part 213 under Schedules A and B (§ 213.3102 or 3202) may be used by any agency covered under title 5 appointing procedures to appoint individuals based on the criteria outlined in the authority. Agencies may also obtain specific Schedule A and B authorities for their own use. To do so, the agency must demonstrate to OPM that the competitive examining process cannot be used for the position(s) the agency wishes to place in Schedule A or B.

Employment of individuals under Schedules A and B follows the guidelines in 5 CFR part 302. Those appointed under Schedule A do not have to meet OPM qualification standards; agencies may develop their

own standards. Those appointed under Schedule B must meet OPM qualification standards for the positions in question.

Currently, there are two Governmentwide excepted appointing authorities for specific categories of individuals with psychiatric disabilities. Schedule A excepted appointing authority 213.3102(h) is used to appoint former patients of Federal mental institutions who are partially recovered. Appointments are made to positions at Federal mental institutions only, because the persons still need the support and structure that the institutions provide.

Schedule B excepted appointing authority 213.3202(k) is used to update the job skills of individuals whose psychiatric disabilities are severe enough to cause significant disruption to their employment. The appointments help establish a successful performance record to counteract employer prejudice.

In order to parallel employment opportunities for all individuals with psychiatric disabilities with those appointed under 5 CFR 213.3102(t) and (u) (the appointing authorities for those with severe physical disabilities and mental retardation), Executive Order 13124 was signed June 4, 1999. The Executive Order amended the Civil Service Rules to permit noncompetitive conversion of persons with psychiatric disabilities in the excepted service to the competitive service.

After evaluating the two current excepted appointing authorities for persons with psychiatric disabilities, we felt they were not defined broadly enough to encompass all persons with psychiatric disabilities. Therefore, we are proposing a new Governmentwide Schedule A excepted appointing authority 213.3102(gg). The authority would permit a person with a psychiatric disability who either served under a competitive service temporary appointment, or is certified by a State vocational rehabilitation office or the U.S. Department of Veterans Affairs, to be appointed for any job for which they qualify and meet suitability requirements. After two years of satisfactory job performance under the (gg) authority, agencies may noncompetitively convert them to the competitive service.

Because the new Governmentwide authority is broad enough to encompass those individuals who may currently qualify for appointments under 5 CFR 213.3102(h) and 213.3202(k), we propose abolishing these two appointing authorities. Individuals currently appointed to these authorities would be given new appointments under 213.3102(gg). Current service under 5 CFR 213.3102(h) and 213.3202(k) would count toward the two-year service requirement of the new (gg) authority. Individuals would be eligible for noncompetitive conversion after serving two years total under the old (h) and (k) authorities and the new (gg) authority combined. Agencies may not require individuals to serve under a competitive temporary appointment, or begin new two-year service periods under the (gg) authority, if individuals are currently serving under the (h) and (k) authorities and are moved to the new authority.

Amending Civil Service Rule III

To reflect the Executive Order permitting noncompetitive conversion of adults with psychiatric disabilities, we are amending § 3.1 to add these employees to the list of individuals who may noncompetitively acquire status.

Amend Part 315

We propose amending § 315.709 to reflect the addition of those with psychiatric disabilities to the list of employees who may be noncompetitively converted to the competitive service.

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 for certain employees in Federal agencies.

E.O. 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 Parts 3, 213, and 315

Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,
Director.

Accordingly, OPM is proposing to amend parts 3, 213, and 315 of title 5, Code of Federal Regulations, as follows:

PART 3—NONCOMPETITIVE ACQUISITION OF STATUS (RULE III)

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302.

2. In § 3.1, paragraph (b)(3) is added to read as follows:

§ 3.1 Classes of persons who may noncompetitively acquire status.

* * * * *

(b) * * *

(3) An employee with a psychiatric disability who completes at least 2 years of satisfactory service in a position excepted from the competitive service.

PART 213—EXCEPTED SERVICE

3. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 195401958 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. 105–339.

4. In § 213.3102, paragraph (h) is removed and reserved.

5. In § 213.3102, paragraph (gg) is added to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(gg) Positions when filled by persons with psychiatric disabilities who:

- (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or
- (2) Are certified by a State vocational rehabilitation counselor, or a U.S. Department of Veterans Affairs Veterans Benefits Administration or Veterans Health Administration psychologist, vocational rehabilitation counselor, or psychiatrist, as likely to succeed in the performance of the duties of the position. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 as amended by Executive Order 13124.

* * * * *

6. In § 213.3202, paragraph (k) is removed and reserved.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

7. The authority citation for part 315 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218, unless otherwise noted.

Secs. 315.601 and 315.609 also issued under 5 U.S.C. 3651 and 3652.

Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104.

Sec. 315.603 also issued under 5 U.S.C. 3151.

Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp., p. 111.

Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp., p. 303.

Sec. 315.607 also issued under 22 U.S.C. 2506.

Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp., p. 293.

Sec. 315.610 also issued under 5 U.S.C. 3304(d).

Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1987 Comp., p. 229.

Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp., p. 264.

8. Section 315.709 is amended by revising the section heading, the introductory text of paragraphs (a), (a)(1), and (b)(2) to read as follows:

§ 315.709 Employees who are mentally retarded, severely physically handicapped, or have psychiatric disabilities serving under Schedule A appointments.

(a) *Coverage.* Employees appointed under §§ 213.3102(t), (u), and (gg) of this chapter may have their appointments converted to career or career-conditional appointments when they:

(1) Complete 2 or more years of satisfactory service, without a break of more than 30 days, under nontemporary Schedule A appointments.

* * * * *

(b) * * *

(2) A career employee if he or she has completed 3 years of substantially continuous service in nontemporary appointments under §§ 213.3102(t), (u), or (gg) of this chapter, or has otherwise completed the service requirement for career tenure, or is excepted from it by § 315.201(c).

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[FR Doc. 00–6625 Filed 3–16–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

RIN 0551-AA59

Licensing for Certain Sugar-Containing Products Under Tariff-Rate Quota

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule provides for licensing of imports of sugar-containing products which enter under the tariff-rate quota (TRQ) provided for in Additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS).