

§ 330.102 also issued under 5 U.S.C 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310, subpart I also issued under sec. 4432 of Pub. L. 102-484, 106 Stat. 2315; subpart K also issued under sec. 11203 of Pub. L. 105-33, 111 Stat. 738; subpart L also issued under sec. 1232 of Pub. L. 96-70, 93 Stat. 452.

2. Subpart D of part 330 is revised to read as follows:

Subpart D—Positions Restricted to Preference Eligibles

Sec.

- 330.401 Competitive examination.
- 330.402 Direct recruitment.
- 330.403 Noncompetitive actions.
- 330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.
- 330.405 Agency placement assistance.
- 330.406 OPM placement assistance.
- 330.407 Eligibility for the Interagency Career Transition Assistance Plan.

Subpart D—Positions Restricted To Preference Eligibles

§ 330.401 Competitive examination.

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger (referred to in this subpart as *restricted positions*), OPM shall restrict competition to preference eligibles as long as preference eligibles are available.

§ 330.402 Direct recruitment.

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

§ 330.403 Noncompetitive actions.

An agency may fill a restricted position by the appointment by noncompetitive action of a nonpreference eligible only when authorized by OPM.

§ 330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.

An individual agency and OPM both have additional responsibilities when the agency decides, in accordance with the Office of Management and Budget (OMB) Circular A-76, to contract out the work of a preference eligible who holds a restricted position. These additional responsibilities are applicable if a preference eligible holds a competitive service position that is:

- (a) A restricted position as designated in 5 U.S.C. 3310 and § 330.401; and
- (b) In retention tenure group tenure I or II, as defined in §§ 351.501(b) (1) and (2) of this chapter.

§ 330.405 Agency placement assistance.

An agency that separates a preference eligible from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 must, consistent with § 330.602, advise the employee of the opportunity to participate in available career transition programs. The agency is also responsible for:

(a) Applying OMB's policy directives on the preference eligibles' right of first refusal for positions that are contracted out to the private sector; and

(b) Cooperating with State dislocated worker units, as designated or created under title III of the Job Training Partnership Act, to retrain displaced preference eligibles for other continuing positions.

§ 330.406 OPM placement assistance.

OPM's responsibilities include:

(a) Assisting agencies in operating positive placement programs, such as the Career Transition Assistance Plan, which is authorized by subpart F of this part;

(b) Providing interagency selection priority through the Interagency Career Transition Assistance Plan, which is authorized by subpart G of this part; and

(c) Encouraging cooperation between local Federal activities to assist these displaced preference eligibles in applying for other Federal positions, including positions with the U.S. Postal Service.

§ 330.407 Eligibility for the Interagency Career Transition Assistance Plan.

(a) A preference eligible who is separated from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 has interagency selection priority under the Interagency Career Transition Assistance Plan, which is authorized by subpart G of this part. Section 330.704 covers the general eligibility requirements for the Interagency Career Transition Assistance Plan.

(b) A preference eligible covered by this subpart is eligible for the Interagency Career Transition Assistance Plan for 2 years following separation by reduction in force from a restricted position.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206-A139

Career Transition Assistance for Surplus and Displaced Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to extend current career transition assistance programs which assist Federal employees displaced from their jobs by downsizing. In 1995 these programs were implemented as a temporary replacement for the Interagency Placement Program, with a sunset date of September 30, 1999. These interim regulations extend the sunset date for an additional 2 years. These regulations also make several technical changes and clarifications in the career transition programs.

DATES: Interim rule effective July 27, 1999; comments must be received on or before September 27, 1999.

ADDRESSES: Comments may be mailed to the Workforce Restructuring Office, Employment Service, Room 6500, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-9700, or delivered to Room 6500, U.S. Office of Personnel Management, Washington, DC, between 8 a.m. and 4:30 p.m., or faxed to (202) 606-2329.

FOR FURTHER INFORMATION, CONTACT: Jacqueline Yeatman on (202) 606-0960, FAX (202) 606-2329, TDD (202) 606-0023, email: jryeatma@opm.gov .

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1995, the President issued a memorandum entitled, "Career Transition Assistance for Federal Employees," that directs Federal Executive agencies to establish career transition assistance programs to help surplus and displaced workers find other jobs as the Federal Government undergoes downsizing and restructuring. As set forth in the memorandum, such programs are to be developed in partnership with labor and management, in accordance with guidance and regulations provided by the Office of Personnel Management (OPM).

OPM issued interim regulations on December 29, 1995, at 60 FR 67281, which were developed in cooperation

with representatives from the Interagency Advisory Group of Personnel Directors and employee unions. Those regulations provided the framework for implementing the President's directive, the purpose of which is to maximize employment opportunities for displaced workers, both within and outside the Federal Government. Those regulations also suspended, through September 30, 1999, the operation of the Interagency Placement Program, the then-existing program to assist displaced workers.

In place of 5 CFR part 330 subpart C, Interagency Placement Program, OPM established subpart F in part 330, Agency Career Transition Assistance Plans (CTAP) for Local Surplus and Displaced Employees, and subpart G in part 330, Interagency Career Transition Assistance Plan (ICTAP) for Displaced Employees.

Career Transition Assistance

The programs set up in 1995 under these regulations incorporated a new concept in career transition assistance for displaced workers. Instead of having OPM attempt to place surplus workers in new jobs from a centralized inventory (the traditional government-wide approach used to assist displaced Federal employees under the old Interagency Placement Program in subpart C of part 330), the new career transition program empowers individual workers to find, apply for, and exercise selection priority for specific vacancies in which they are interested. It seeks to motivate and reinforce an employee's self-interest in finding work opportunities by giving displaced workers the resources and hiring priority necessary to support their transition to other employment.

Career transition assistance consists of four components:

- Programs to provide career transition services to the agency's surplus and displaced employees;
- Policies for retraining displaced employees for new career opportunities;
- Policies that require the selection of a well-qualified surplus or displaced internal agency employee who applies for a vacant position in the commuting area, before selecting any other candidate from either within or outside the agency; and
- Policies that require the selection of a well-qualified displaced employee from another agency who applies for a vacant position in the commuting area before selecting any other candidate from outside the agency.

Federal agencies are required to implement Career Transition Assistance Plans to provide career transition

services to their surplus and displaced employees, and give special selection priority to these workers. These regulations set minimum standards for the plans, which can be supplemented at the agency's discretion.

At the time of the issuance of the President's directive, the Department of Defense (DOD) already operated an effective program, the Priority Placement Program, which provides selection priority to surplus and displaced employees within the Department. This continuing program is not subject to the special selection requirement affecting employees under the Career Transition Assistance Plan. The Department of Defense is subject to the other elements of these regulations and its employees are eligible for the benefits provided by these programs.

Program Results to Date

The interim regulations implementing the President's instructions were effective on February 29, 1996, at 60 FR 67281, and were issued in final form on June 9, 1997, at 62 FR 31315, with a minor correction issued on June 26, 1997, at 62 FR 34385. Under those regulations, each Executive Branch agency has established and maintains a Career Transition Assistance Plan for its surplus and displaced employees and accords selection priority for vacancies to those employees—first to its own surplus and displaced employees and then to displaced employees from other Federal agencies. During FY 1998, 909 non-Defense employees and 8,554 Defense employees facing possible reductions in force (RIF) were given career transition assistance. A total of 222 non-Defense and 4,050 surplus and displaced employees from Defense agencies were selected for other jobs within their agencies. A total of 183 displaced employees were rehired through their agency's reemployment priority list, another 273 displaced employees who were RIF-separated by one agency were selected for vacancies in different Federal agencies through the Interagency Career Transition Assistance Program.

The net result of the President's program in the past three years has been that 52,803 displaced employees facing RIF-separations have been given career transition assistance and selection priority for other jobs; 21,892 surplus and displaced Federal employees have been placed into other positions within their agencies; 1,921 displaced Federal employees have been rehired through the Reemployment Priority List by the agency from which they were separated; 1,066 displaced Federal employees who were RIF-separated by one agency have

been selected for positions in other agencies. The latter figure, a result of the "employee empowerment" concept embodied in the Presidential directive, is over five times as many interagency selections as were made during the last three years that the old Interagency Placement Program was in operation, prior to the adoption of the career transition program.

During the same period, two Internet websites were set up to assist surplus and displaced Federal employees in finding other employment. OPM's USAJOBS Internet site (<http://www.usajobs.opm.gov>) provides information on Federal employment and complete vacancy listings which are updated daily. A joint website operated by the U.S. Department of Labor in partnership with the U.S. Office of Personnel Management, entitled "Planning Your Future—A Federal Employee's Survival Guide" (<http://safetynet.doleta.gov>), provides a wide range of critical information to Federal employees who are affected by downsizing and are attempting to make successful career transitions, especially to occupations in the private sector. (Additional information on these sites and other career transition resources is available from OPM's Workforce Restructuring Office at (202) 606-0960; (202) 606-2329, FAX.)

New Interim Regulations To Extend Career Transition Programs

The career transition regulations were originally scheduled to be in effect through September 30, 1999, as a temporary replacement for the Interagency Placement Program (IPP). Because of the success of the career transition program, general support for extending the current program rather than returning to the less successful IPP, and the continuing need for effective assistance programs during ongoing restructuring, OPM is now issuing interim regulations that extend the September 30, 1999, sunset date that is found in §§ 330.603 and 330.702, for an additional 2 years, through September 30, 2001. At the same time, the Interagency Placement Program (subpart C of part 330) will remain suspended for this 2-year period. This 2-year extension will allow agencies and employees to continue benefitting from these successful placement programs during what we expect will be a period of continued restructuring, while also allowing OPM to gather additional data and input from stakeholders on the current career transition programs and determine if they should be made permanent, replaced, or modified in the future.

Technical Changes to the Career Transition Regulations

Major changes will not be made to these programs without consultation with management and labor. However, OPM is incorporating a number of technical changes to clarify the existing career transition program:

Eligibility for Special Selection Priority Under the Career Transition Assistance Program (CTAP)

Revised § 330.605(b) makes the criteria for eligibility for special selection priority as a surplus employee consistent with the definition of a surplus employee in § 330.604(i)(1).

Expiration of Special Selection Priority Under CTAP

This section clarifies under what conditions a surplus employee may lose his or her eligibility under § 330.605(c)(1).

Clarification of Posting Requirements Under CTAP

Section 330.607(b) clarifies long-standing policy that agencies need not post internal vacancies if they are able to determine and document that there are no agency CTAP eligibles in the particular local commuting area where the vacancy is located. Since most agencies track the number and locations of their CTAP eligibles, this allows them to continue this practice with appropriate documentation rather than posting vacancies for surplus or displaced employees in locations where they have no employees in this category.

Definition of a Displaced Employee Under the Interagency Career Transition Assistance Program (ICTAP)

This section adds a specific reference from § 353.110(b) to the definition of a displaced employee under § 330.703(b)(3).

Order of Selection for Filling Vacancies From Outside the Agency's Workforce Under ICTAP

Revised § 330.705(a)(3) clarifies that two groups of employees with statutory rights to selection priority are entitled to selection for Federal vacancies on the same basis as ICTAP eligible candidates: (1) Employees of the District of Columbia Department of Corrections who are separated from service as a result of the closure of the Lorton Correctional Complex and are eligible for selection priority under subpart K of part 330; and (2) displaced Panama Canal Zone employees eligible under subpart L of part 330.

Exceptions From CTAP and/or ICTAP When Filling Vacancies From Outside the Agency's Workforce

Revised §§ 330.606(d)(27) and 330.705(c)(8) clarify that situations may arise in which agencies are required to carry out certain movements of employees to one or more other agencies as a result of an interagency (1) Transfer of function; (2) mass transfer; or (3) reorganization. Because such actions are mandated by statute and do not involve creation of new vacancies, such actions can be carried out without regard to CTAP or ICTAP restrictions.

The new § 330.705(c)(17) clarifies that interagency details are not subject to ICTAP.

New § 330.705(c)(18) clarifies that the exception of job swaps from CTAP in § 330.606(d)(5) also applies to ICTAP under interagency job swap programs individually approved by OPM.

New § 330.705(c)(19) makes clear that persons who are fully eligible for ICTAP coverage may be selected by an agency without announcing or reporting the vacancy, generally as long as the new position has promotion potential no greater than the potential of the position the employee is leaving or previously held on a permanent basis in the competitive service. This policy was previously implied but was not explicit. This new section is consistent with the provisions and underlying intent of § 330.707(a) of this title which addresses reporting vacancies and parallels the discretionary actions provisions of § 335.103(c)(3)(v) of this title.

New § 330.606(d)(29) and § 330.705(c)(20) allow for the voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the arrangement.

New § 330.606(d)(30) allows agencies to move employees who are under established mobility agreements as part of a planned rotational program within the agency without regard to CTAP eligibles in the new location.

Waiver of Notice of Proposed Rulemaking

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Extending these career transition programs will provide continuity of the special selection programs for surplus and displaced Federal employees beyond the present expiration date of September 30, 1999. This change is necessary and critical to assist agencies' restructuring efforts

through the remainder FY 1999 and beyond. Immediate elimination of the program's current September 30, 1999, expiration date will ensure that employees affected by reductions in force will receive the full year of career transition benefits, following separation, that they are entitled to under the regulations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Government employees.

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 330

Armed forces reserves, Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 330 of title 5, Code of Federal Regulations, as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218; § 330.102 also issued under 5 U.S.C. 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310; subparts F-G also issued under Presidential memorandum dated September 12, 1995, entitled 'Career Transition Assistance for Federal Employees'; subpart H also issued under 5 U.S.C. 8337(h) and 8457(b); subpart I also issued under 106 Stat. 2720, 5 U.S.C. 3301 note and sec. 4432 of Pub. L. 102-484, 106 Stat. 2315; subpart K also issued under sec. 11203 of Pub. L. 105-33, 111 Stat. 251.

Subpart C—Placement Assistance Programs for Displaced Employees

2. In § 330.301, paragraph (b) is revised to read as follows:

§ 330.301 Coverage.

* * * * *

(b) The operation of this subpart will be suspended from February 29, 1996 through September 30, 2001. In the interim, placement assistance will be provided in accordance with subparts B, F, and G of this part. OPM may extend this date if it determines that the Federal Government is still

experiencing an emergency downsizing situation.

Subpart F—Agency Career Transition Assistance Plans (CTAP) for Local Surplus and Displaced Employees

3. Section 330.603 is revised to read as follows:

§ 330.603 Duration.

This subpart will expire on September 30, 2001, unless the Office of Personnel Management extends the program based on its determination that the Federal Government is still experiencing an emergency downsizing situation.

4. In § 330.605, paragraphs (b) and (c)(1) are revised to read as follows.

§ 330.605 Eligibility.

* * * * *

(b) *Eligibility for special selection priority begins on the date the agency issues the employee a reduction in force separation notice, certificate of expected separation, notice of proposed separation for declining a directed reassignment or transfer of function outside of the local commuting area, or other official agency certification.*

(c) * * *

(1) The RIF separation date, the date of the employee's resignation, retirement, or separation from the agency (including separation under adverse action procedures for declining a directed reassignment or transfer of function or similar relocation to another local commuting area).

* * * * *

5. In § 330.606, paragraph (d)(27) is revised to read as follows and paragraphs (d) (29) and (30) are added.

§ 330.606 Order of selection for filling vacancies from within the agency.

* * * * *

(d) * * *

(27) Noncompetitive movement of employees between agencies as a result of interagency reorganization, interagency transfer of function, or interagency mass transfer; and

* * * * *

(29) The voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the transfer.

(30) The reassignment of an employee whose position description or other written mobility agreement provides for reassignments outside the commuting area as part of a planned rotational program within the agency.

6. In § 330.607, paragraph (b) is revised to read as follows.

§ 330.607 Notification of surplus and displaced employees.

* * * * *

(b) Agencies must take reasonable steps to ensure eligible employees are notified of all vacancies the agency is filling in locations where there are CTAP eligibles, and what is required for them to be determined well-qualified for the vacancies. If there are no CTAP eligibles in a local commuting area, the agency may document this fact as an alternative to posting the vacancy under the CTAP program.

* * * * *

Subpart G—Interagency Career Transition Assistance Plan for Displaced Employees

7. Section 330.702 is revised to read as follows:

§ 330.702 Duration.

This subpart will expire on September 30, 2001, unless the Office of Personnel Management extends the program based on its determination that the Federal Government is still experiencing an emergency downsizing situation.

8. In § 330.703, paragraph (b)(3) is revised to read as follows:

§ 330.703 Definitions.

* * * * *

(b) * * *

(3) A former career or career-conditional employee who was separated because of a compensable injury or illness as provided under the provisions of subchapter I of chapter 81 of title 5, United States Code, whose compensation has been terminated and whose former agency is unable to place the individual as required by § 353.110(b) of this chapter;

* * * * *

9. In § 330.705, paragraph (a)(3) is revised, paragraph (c)(8) is revised, and paragraphs (c)(17), (c)(18), (c)(19) and (c)(20) are added to read as follows:

§ 330.705 Order of selection in filling vacancies from outside the agency's workforce.

* * * * *

(a) * * *

(3) Any of the following three conditions:
(i) Current or former Federal employees displaced from other agencies under this subpart;

(ii) Current or former employees displaced from the District of Columbia Department of Corrections eligible under subpart K of this part, or

(iii) Displaced Panama Canal Zone employees eligible under subpart L of this part.

* * * * *

(c) * * *

(8) Noncompetitive movement of employees between agencies as a result of interagency reorganization, interagency transfer of function, or interagency mass transfer;

* * * * *

(17) Interagency details;

(18) Exchange of employees between agencies to avoid involuntary separations, under plans approved by OPM (i.e., interagency job swaps); and

(19) Transfer, reassignment, or reinstatement of an individual who meets the eligibility requirements of § 330.704 to a position having promotion potential no greater than the potential of a position the individual currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.

(20) The voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the transfer.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99-042-1]

Gypsy Moth Generally Infested Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the gypsy moth regulations by adding 4 counties in Indiana, 6 counties in Michigan, 11 counties in Ohio, 4 cities and 3 counties in Virginia, and 2 counties in Wisconsin to the list of generally infested areas. As a result of this action, the interstate movement of certain articles from those areas will be restricted. This action is necessary to prevent the artificial spread of the gypsy moth to noninfested States. **DATES:** This interim rule is effective July 27, 1999. We invite you to comment on this docket. We will consider all comments that we receive by September 27, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-042-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.