

Proposed Rules

Federal Register

Vol. 60, No. 163

Wednesday, August 23, 1995

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 315

RIN 3206-AG81

Career and Career-Conditional Employment; Noncompetitive Appointment of Certain Former Overseas Employees

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) proposes to issue regulations implementing Executive Order 12721. That order authorizes OPM to set the conditions under which Federal agencies can noncompetitively appoint certain former overseas employees, i.e., family members who accompanied their sponsors on official assignment overseas. Among the conditions for noncompetitive appointment in the United States is the requirement that the former overseas employee have 52 weeks of service. Under the current regulations, up to 26 weeks of the 52-week service requirement can be waived for a family member whose expected 52 weeks of employment were cut short because of an emergency situation which necessitated the family member's relocation to the United States. An emergency situation includes conflict, terrorism, or the threat of terrorism but does not include a personal situation such as ill health.

This proposal would permit the agency that employed the individual overseas to waive a portion of the 52-week overseas service requirement for family members forced to return to the United States because of military drawdowns or other management-initiated decisions not personal to the individual. In addition, the proposal would streamline the entire regulation by removing duplication and adding clarifying information.

DATES: Comments must be received on or before October 23, 1995.

ADDRESSES: Send or deliver written comments to Leonard R. Klein, Associate Director for Employment, U.S. Office of Personnel Management, 1900 E Street NW., Room 6F08, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ellen Russell on 202-606-0830, FAX 202-606-2329, or TDD 202-606-0023.

SUPPLEMENTARY INFORMATION: Executive Order 12362, dated May 12, 1982, first demonstrated the U.S. Government's interest in enhancing the well-being of U.S. Government families by improving career employment opportunities for family members of civilian and military employees assigned abroad. By providing family members with access to career positions in the United States based on their nonpermanent service overseas, the Executive order helped Government families cope with the disruption resulting from assignments to overseas locations where career jobs for family members typically do not exist. Executive Order 12362 permitted these family members to qualify for noncompetitive appointment in the United States after 24 months of overseas service under nonpermanent appointment. Executive Order 12585 of March 3, 1987, reduced the 24-month service requirement to 18 months. Executive Order 12721, dated July 30, 1990, revoked the two previous Orders and authorized the Office of Personnel Management to establish requirements under which family members could qualify for noncompetitive appointment. OPM regulations issued on April 3, 1991 (56 FR 13575) then reduced the service requirement to 52 weeks and also permitted OPM or agencies under delegated agreement to waive up to 26 weeks of the service requirement in emergency situations as defined in the regulations, for example, conflict or terrorism.

Since 1991, many changes have occurred in the United States military presence overseas.

As a result of the end of the Cold War, the U.S. Government is reducing (drawing down) the number of personnel (civilian and military) assigned overseas. As a result, family members of these returning personnel are relocating to the United States before they have worked the full 52 weeks, the amount of time necessary to qualify for

noncompetitive appointment. The Department of Defense recommends, and we concur, that these family members should not be penalized by the service drawdowns. Consequently, the proposed regulation would delegate to agencies the authority to waive up to 26 weeks of service in nonpersonal situations that necessitate the relocation of family members out of the overseas area.

Section Analysis

Following is a summary of the changes we would make; section numbers refer to the proposed regulation.

A. § 315.608(a)(1): Clarifies that an appointee under this section receives a career rather than a career-conditional appointment when the individual has already satisfied requirements for career tenure or is appointed to a position that requires career tenure upon appointment.

B. § 315.608(a): Clarifies that the *United States* includes Guam, Puerto Rico, and Virgin Islands for purpose of Stateside appointment.

C. § 315.608(b)(1): Drops the requirement that an individual meet the overseas service requirement *in a 10-year period beginning after January 1, 1980*. We see no need for this requirement.

D. § 315.608(b)(2): Drops the reference to performance ratings earned after January 1, 1984. We see no need for this requirement.

E. § 315.608(c): To include military drawdowns, broadens the conditions under which agencies are allowed to waive up to 26 weeks of the 52-week overseas service requirement. (We explained our rationale for this change in the Supplementary Information.) Also, delegates the waiver authority to agencies in keeping with the National Performance Review (NPR) recommendation to give agencies more flexibility.

F. § 315.608(d): Clarifies when the 3-year period of eligibility begins, i.e., when a family member returns to the United States to resume residence as opposed to returning for vacation, training, etc.

G. § 315.608(d): Removes reference to Stateside appointment before January 1, 1994. Changes the authority to extend an individual's period of employment eligibility beyond the 3-year period in two specific circumstances from the

Office of Personnel Management to the hiring agency.

H. § 315.608(e)(4)(ii): Defines local hire appointments to include overseas limited appointments when made on a temporary or term basis.

I. § 315.608(e)(4)(v): Removes reference to the Federal Personnel Manual. That document was abolished on December 31, 1994.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulation pertains 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 315

Government employees.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend part 315 of title 5, Code of Federal Regulations, as follows:

PART 315—CAREER AND CAREER-CONDITIONAL APPOINTMENT

1. 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., page 218, unless otherwise noted.

Secs. 315.601 and 315.609 also issued under 22 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. 8151.

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.

2. Section 315.608 is revised to read as follows:

§ 315.608 Noncompetitive appointment of certain former overseas employees.

(a) An executive branch agency may noncompetitively appoint, to a competitive service position within the United States (including Guam, Puerto

Rico, and the Virgin Islands) an individual who has completed 52 weeks of creditable overseas service as defined in paragraph (b) of this section and is appointed within the time limits in paragraph (d) of this section. Any law, Executive order, or regulation that disqualifies an applicant for appointment, such as the citizenship requirement, also disqualifies the applicant for appointment under this section.

(1) *Tenure.* A person appointed under this section becomes a career-conditional employee unless he or she has already satisfied the requirements for career tenure or is exempt from the service requirements in 5 CFR 315.201.

(2) *Competitive status.* A person appointed under this section acquires competitive status automatically upon completion of probation.

(b) Creditable overseas service for purposes of this section only, is service in an appropriated fund position(s) performed by a family member under a local hire appointment(s) overseas:

(1) During the time the family member was accompanying a sponsor officially assigned to an overseas area; and

(2) For which the family member received a fully successful or better (or equivalent) performance rating.

(3) Computation of creditable overseas service is in accordance with the service computation procedures in the Guide to Processing Personnel Actions. Leave without pay (LWOP) taken during the time an individual is in the overseas area is credited on the same basis as time worked.

(c) *Exception.* Up to 26 weeks of the 52-week service requirement is waived when the head of an agency (or designee) that employed the family member overseas certifies that the family member's expected 52 weeks of employment were cut short because of a nonpersonal situation that necessitated the relocation of the family member from the overseas area. For this purpose, a nonpersonal situation includes disaster, conflict, terrorism or the threat of terrorism, and the deployment of the family member's sponsor from the overseas area. A nonpersonal situation does not include circumstances that specifically relate to a particular individual, for example, ill health or personal interest in relocating.

(d) An individual is eligible for appointment(s) under this authority only within 3 years of returning from overseas to the United States to resume residence. The hiring agency may extend an individual's appointment eligibility beyond 3 years for periods equivalent to—

(1) The time the individual was accompanying a sponsor on official assignment to an area of the United States with no significant opportunities for Federal employment as determined by the hiring agency; or

(2) The time the hiring agency determines an eligible individual was incapacitated for employment.

(e) *Definitions.* In this section—

(1) *Family member.* An unmarried child under age 23 or a spouse.

(2) *Sponsor.* A Federal civilian employee, a Federal nonappropriated fund employee, or a member of a uniformed service who is officially assigned to an overseas area.

(i) *Officially assigned.* Under active orders issued by the United States Government.

(ii) *Federal civilian employee.* An employee of the executive, judicial, or legislative branch of the United States Government who serves in an appropriated fund position.

(iii) *Nonappropriated fund employee.* An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Navy Ship's Stores Ashore, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or other instrumentalities of the United States.

(iv) *Member of a uniformed service.* Personnel of the U.S. Armed Forces (including the Coast Guard), the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(3) *Accompanying.* The family member resided in the overseas area while the sponsor was officially assigned to an overseas post of duty. The family member need not have physically resided with the sponsor at all times or have traveled with the sponsor to or from the overseas area.

(4) *Local hire appointment.* An appointment that is not actually or potentially permanent and that is made from among individuals residing in the overseas area. In this section only, a local hire appointment includes nonpermanent employment under:

(i) Overseas limited appointment under 5 CFR 301.203(b) or (c);

(ii) Excepted appointment under Schedule A 213.3106(b)(1), 213.3106(b)(6), or 213.3106(d)(1) when the duration of the appointment is tied to the sponsor's rotation date or when the appointment is made on a not-to-exceed (NTE) basis;

(iii) An "American family member" or "part-time intermittent temporary (PIT)" appointment in U.S. diplomatic establishments;

(iv) 50 U.S.C. 403j; Public Law 86-36 (50 U.S.C. 403, note); the Berlin Tariff Agreement; or as a local national employee paid from appropriated funds; or

(v) Any other nonpermanent appointment in the competitive or excepted service approved by OPM.

(5) *Overseas*. A location outside: the 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(6) *Qualified*. Meeting all qualification requirements for a position in the United States, except that an agency may waive any requirement for a written test after determining that the duties and responsibilities of the applicant's overseas position were similar enough to make the written test unnecessary.

[FR Doc. 95-20881 Filed 8-22-95; 8:45 am]

BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52 and 100

Nuclear Energy Institute

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission staff will meet with the staff of the Nuclear Energy Institute (NEI) and other industry representatives to hear a clarification of industry comments on the non-seismic aspects of the proposed revision of 10 CFR Parts 50, 52 and 100 and associated guidance documents.

DATES: September 13, 1995, 9 a.m.

ADDRESSES: Two White Flint North, 11145 Rockville Pike, Conference Rooms T-9A1 and T-9F5, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard Soffer, Accident Evaluation Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-6574.

SUPPLEMENTARY INFORMATION: Proposed revisions to 10 CFR 50, 52, and 100 were published for public comment on October 17, 1994 (59 FR 52225). The availability of draft guidance documents was published on February 28, 1995 (60 FR 10810). The public comment period ended May 12, 1995. The proposed revision to 10 CFR 100 primarily consists of two separate changes, namely, the source term and dose considerations, and the seismic and

earthquake engineering considerations of reactor siting. The purpose of this meeting is for the NRC staff to hear, at the industry's request, a clarification of industry comments on the source term and dose consideration aspects of the proposed rule.

Dated at Rockville, Maryland, this 16th day of August, 1995, for the Nuclear Regulatory Commission.

M. Wayne Hodges,

Director, Division of Systems Technology, Office of Nuclear Regulatory Research.

[FR Doc. 95-20867 Filed 8-22-95; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. R-0772]

RIN 7100-AB28

Securities Credit Transactions; Review of Regulation T, "Credit by Brokers and Dealers"; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 29, 1995, the Board requested comment on a proposal to amend Regulation T (Credit by Brokers and Dealers) (60 FR 33763). The Secretary of the Board, acting pursuant to delegated authority, has extended the comment period to September 29, 1995, to give the public additional time to provide comments.

DATES: Comments must be received on or before September 29, 1995.

ADDRESSES: Comments should refer to Docket R-0772, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW. (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP-500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Scott Holz, Senior Attorney or Angela Desmond, Senior Counsel, Division of Banking Supervision and Regulation

(202) 452-2781, Board of Governors of the Federal Reserve System. For users of Telecommunications Device for the Deaf (TDD) only, contact Dorothea Thompson at (202) 452-3544.

SUPPLEMENTARY INFORMATION: The Board is extending the comment period on the proposed amendments to Regulation T (Credit to Brokers and Dealers) until September 29, 1995, to give the public additional time to comment on the proposal.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, August 17, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-20864 Filed 8-22-95; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-95-3]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received October 23, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No.