

nate offices” in item 3346, “Exclusivity” for “Details; Presidential authority” in item 3347, “Vacant office” for “Details; limited in time” in item 3348, and “Reporting of vacancies” for “Details; to fill vacancies; restrictions” in item 3349 and added items 3349a to 3349d.

1996—Pub. L. 104-197, title III, §315(b)(1), Sept. 16, 1996, 110 Stat. 2416, substituted “Competitive service; recommendations of Senators or Representatives” for “Political recommendations” in item 3303.

Pub. L. 104-106, div. A, title X, §1037(b)(2), Feb. 10, 1996, 110 Stat. 432, which directed substitution of “3330. Government-wide list of vacant positions” for the item relating to section 3329, as added by section 4431(b) of Pub. L. 102-484, could not be executed because of the intervening amendment by Pub. L. 104-52, §4(2). See 1995 Amendment note below.

1995—Pub. L. 104-52, title IV, §4(2), Nov. 19, 1995, 109 Stat. 490, redesignated item 3329 “Government-wide list of vacant positions” as item 3330.

1993—Pub. L. 103-94, §8(b), Oct. 6, 1993, 107 Stat. 1007, substituted “Political recommendations” for “Competitive service; recommendations of Senators or Representatives” in item 3303.

1992—Pub. L. 102-484, div. A, title V, §544(b), div. D, title XLIV, §4431(b), Oct. 23, 1992, 106 Stat. 2415, 2720, added two items 3329.

Pub. L. 102-378, §2(13)(B), Oct. 2, 1992, 106 Stat. 1347, struck out item 3342 “Federal participants in executive exchange programs”.

1990—Pub. L. 101-509, title V, §529 [title I, §101(b)(9)(C)(iii)], Nov. 5, 1990, 104 Stat. 1427, 1441, substituted “Appointments to positions classified above GS-15” for “Appointments at GS-16, 17, and 18” in item 3324.

Pub. L. 101-416, §2(a)(2), Oct. 12, 1990, 104 Stat. 903, added item 3342.

1989—Pub. L. 101-194, title V, §506(a)(2), Nov. 30, 1989, 103 Stat. 1758, added item 3393a.

Pub. L. 101-12, §5(b), Apr. 10, 1989, 103 Stat. 33, added item 3352.

1988—Pub. L. 100-398, §7(a)(3), Aug. 17, 1988, 102 Stat. 988, inserted “agency” after “Executive” in item 3345.

1985—Pub. L. 99-145, title XVI, §1622(a)(2), Nov. 8, 1985, 99 Stat. 777, added item 3328.

1979—Pub. L. 96-54, §2(a)(13), Aug. 14, 1979, 93 Stat. 382, struck out item 3315a “Registers; individuals receiving compensation for work injuries”.

1978—Pub. L. 95-454, title III, §§303(b), 307(h)(2), 309(b), title IV, §403(b), title IX, §906(c)(4), Oct. 13, 1978, 92 Stat. 1146, 1149, 1152, 1165, 1227, substituted “probationary period” for “probation; period of” in item 3321, struck out item 3319 “Competitive service; selection; members of family restriction”, added items 3327 and 3391 to 3397, and struck out items 3391 to 3398.

Pub. L. 95-437, §3(b), Oct. 10, 1978, 92 Stat. 1058, added heading for subchapter VII and items 3391 to 3398.

Pub. L. 95-256, §5(b)(2), Apr. 6, 1978, 92 Stat. 191, struck out item 3322 “Competitive service; temporary appointments after age 70”.

Pub. L. 95-251, §2(c)(3), Mar. 27, 1978, 92 Stat. 184, substituted “administrative law judges” for “hearing examiners” in item 3344.

Pub. L. 95-228, §2(a), Feb. 10, 1978, 92 Stat. 25, struck out item 3306 “Competitive service; departmental service; apportionment”.

1975—Pub. L. 94-183, §2(7), Dec. 31, 1975, 89 Stat. 1057, struck out item 3364 “Promotion; substitute employees in the postal field service”.

1972—Pub. L. 92-297, §§2(b), 3(b), May 16, 1972, 86 Stat. 142, 144, substituted “maximum age entrance requirements, exceptions” for “maximum age requirement; restriction on use of appropriated funds” in item 3307, and added subchapter VII and items 3381 to 3385.

1971—Pub. L. 91-648, title IV, §402(b), Jan. 5, 1971, 84 Stat. 1925, added heading for subchapter VI and items 3371 to 3376.

1970—Pub. L. 91-375, §6(c)(7)(B), Aug. 12, 1970, 84 Stat. 776, struck out item 3327 “Postmasters; standards for determination of qualifications”.

1967—Pub. L. 90-105, §1(b), Oct. 11, 1967, 81 Stat. 273, added item 3304a.

Pub. L. 90-83, §1(9)(B), Sept. 11, 1967, 81 Stat. 197, added item 3315a.

1966—Pub. L. 89-762, §1(b), Nov. 5, 1966, 80 Stat. 1312, struck out item 3342 “Details; field to departmental service prohibited”.

SUBCHAPTER I—EXAMINATION, CERTIFICATION, AND APPOINTMENT

§ 3301. Civil service; generally

The President may—

(1) prescribe such regulations for the admission of individuals into the civil service in the executive branch as will best promote the efficiency of that service;

(2) ascertain the fitness of applicants as to age, health, character, knowledge, and ability for the employment sought; and

(3) appoint and prescribe the duties of individuals to make inquiries for the purpose of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 417.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 631 (less last 16 words).	R.S. §1753 (less last 16 words).

The words “civil service in the executive branch” are substituted for “civil service of the United States” to confirm the grant of authority in view of the definition of “civil service” in section 2101. The word “will” is substituted for “may”. The words “for the employment sought” are substituted for “for the branch of service into which he seeks to enter” as the latter are archaic since there are no “branches” within the executive branch. The word “applicant” is substituted for “candidate”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-277, div. C, title I, §151(a), Oct. 21, 1998, 112 Stat. 2681-611, provided that: “This section [enacting sections 3345 to 3349d of this title, repealing former sections 3345 to 3349 of this title, and enacting provisions set out as a note under section 3345 of this title] may be cited as the ‘Federal Vacancies Reform Act of 1998’.”

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-175, §1, Dec. 2, 1991, 105 Stat. 1222, provided that: “This Act [amending sections 3395, 3396, 5383, and 7701 of this title] may be cited as the ‘Senior Executive Service Improvements Act’.”

MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM

Pub. L. 107-296, title XIII, §1332(a), Nov. 25, 2002, 116 Stat. 2299, provided that:

“(a) FINDINGS AND POLICIES.—

“(1) FINDINGS.—Congress finds that—

“(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

“(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

“(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

“(2) POLICY.—It shall be the policy of the United States Government to—

“(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

“(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.”

TEMPORARY MEASURES TO FACILITATE REEMPLOYMENT OF CERTAIN DISPLACED FEDERAL EMPLOYEES

Pub. L. 102-484, div. D, title XLIV, §4432, Oct. 23, 1992, 106 Stat. 2720, directed executive agencies and the Department of Defense, in filling vacant positions, to give full consideration to the applications of certain individuals who became displaced employees before Oct. 1, 1997, before selecting any candidate from outside the agency for the position.

NATIONAL ADVISORY COUNCIL ON THE PUBLIC SERVICE

Pub. L. 101-363, Aug. 14, 1990, 104 Stat. 424, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘National Advisory Council on the Public Service Act of 1990’.

“SEC. 2. FINDINGS.

“The Congress finds that—

“(1) recognition of the services rendered by Federal employees (hereinafter in this Act referred to as ‘national public service’) should be accorded a high and continuing place on the national agenda;

“(2) the National Commission on the Public Service, through its good works, has documented the need for greater advocacy on behalf of those performing national public service;

“(3) although public service is an honorable profession, members of the public do not always perceive it favorably;

“(4) serious obstacles often hinder the Government’s efforts to recruit and retain the best and the brightest for national public service;

“(5) just as the public has a right to expect Federal employees to adhere to the highest standards of excellence and ethicality, so Federal employees have a right to expect an atmosphere of trust and respect, and a sense of accomplishment from their work; and

“(6) an advisory council is needed to provide the President and the Congress with bipartisan, objective assessments of, and recommendations concerning, the Federal workforce.

“SEC. 3. ESTABLISHMENT.

“There shall be established a council to be known as the National Advisory Council on the Public Service (hereinafter in this Act referred to as the ‘Council’).

“SEC. 4. FUNCTIONS.

“The Council shall—

“(1) regularly assess the state of the Federal workforce;

“(2) in conjunction with the President, the Congress, and the Judiciary, seek to attract individuals of the highest caliber to careers involving national public service, and encourage them and others of similar distinction who are already part of the Federal workforce to make a continuing commitment to national public service;

“(3) promote better public understanding of the role of Federal employees in implementing Government programs and policies, and otherwise seek to improve the public perception of Federal employees;

“(4) encourage efforts to build student interest in performing national public service (whether those efforts are undertaken at the community level, in the classroom, or otherwise); and

“(5) develop methods for improving motivation and excellence among Federal employees.

“SEC. 5. MEMBERSHIP.

“(a) NUMBER AND APPOINTMENT.—The Council shall be composed of 15 members as follows:

“(1) 2 Members of the Senate, 1 of whom shall be appointed by the majority leader of the Senate and the other of whom shall be appointed by the minority leader of the Senate.

“(2) 2 Members of the House of Representatives, 1 of whom shall be appointed by the Speaker of the House of Representatives and the other of whom shall be appointed by the minority leader of the House of Representatives.

“(3) The Director of the Administrative Office of the United States Courts (or his delegate).

“(4) 10 individuals appointed by the President—

“(A) 4 of whom shall be chosen from among officers serving in the executive branch;

“(B) 1 of whom shall be chosen from among career employees in the civil service;

“(C) 1 of whom shall be a Federal employee who is a member of a labor organization (as defined by section 7103(a)(4) of title 5, United States Code); and

“(D) 4 of whom shall be chosen from among members of the public who do not hold any Government office or position.

“(b) CONTINUATION OF MEMBERSHIP.—If any member of the Council whose appointment is based on that individual’s holding a Government office or position leaves such office or position, or if any member of the Council under subsection (a)(4)(D) is appointed or elected to a Government office or position, that individual may continue to serve as such a member for not longer than the 90-day period beginning on the date of leaving that office or position, or entering into that office or position, as the case may be.

“(c) TERMS.—Members of the Council shall be appointed for the life of the Council.

“(d) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

“(e) COMPENSATION.—(1) Members of the Council shall not be entitled to pay (or, in the case of members holding any Government office or position, pay in addition to any to which they are otherwise entitled for service in such office or position) by virtue of membership on the Council.

“(2) While serving away from their homes or regular places of business in the performance of duties for the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

“(f) QUORUM.—Eight members of the Council shall constitute a quorum.

“(g) CHAIRMAN.—The Chairman of the Council shall be designated by the President from among the members appointed under subsection (a)(4)(D).

“(h) MEETINGS.—The Council shall meet at the call of the Chairman or a majority of its members, and shall meet on at least a quarterly basis.

“SEC. 6. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

“(a) DIRECTOR.—With the approval of the Council, the Chairman may appoint a Director and fix the pay of such Director at a rate not to exceed the rate for level IV of the Executive Schedule [5 U.S.C. 5315]. The Director shall be a person who, by reason of demonstrated ability in the area of management, government, or public administration, is especially well qualified to serve.

“(b) STAFF.—With the approval of the Chairman, the Director may appoint and fix the pay of such personnel as may be necessary to carry out the functions of the

Council. The staff of the Council shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate payable under the General Schedule.

“(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Chairman, the head of a Federal agency may detail, on a reimbursable or nonreimbursable basis, any personnel of such agency to the Council to assist the Council in carrying out its functions under this Act.

“SEC. 7. POWERS.

“(a) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

“(b) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request.

“(c) OFFICIAL DATA.—The Council may secure directly from any Federal agency information necessary to carry out its functions under this Act. Each such agency is authorized and directed to furnish, to the extent permitted by law, any information requested by the Council.

“(d) GIFTS.—The Council—

“(1) may accept money and other property donated, bequeathed, or devised to the Council without condition or restriction (other than that it be used to carry out the work of the Council); and

“(2) may use, sell, or otherwise dispose of any such property to carry out its functions under this Act, except that, upon the termination of the Council, any such property shall be disposed of in accordance with applicable provisions of law governing the disposal of Federal property.

“SEC. 8. REPORTS.

“The Council shall transmit to the President and each House of the Congress—

“(1) within 1 and 2 years, respectively, after the date on which the Council first meets, reports containing its preliminary findings and recommendations; and

“(2) within 3 years after the date on which the Council first meets, a final report containing a detailed statement of the findings and conclusions of the Council, together with its recommendations for such legislation or administrative actions as it considers appropriate.

“SEC. 9. COMMENCEMENT; TERMINATION.

“(a) COMMENCEMENT.—Appointments under section 5 shall be made, and the Council shall first meet, within 90 days after the date of the enactment of this Act [Aug. 14, 1990].

“(b) TERMINATION.—The Council shall cease to exist upon transmitting its final report under section 8(2).

“SEC. 10. AUTHORIZATION.

“There is authorized to be appropriated such sums as may be necessary to carry out this Act.”

EX. ORD. NO. 8743. EXTENDING THE CLASSIFIED CIVIL SERVICE

Ex. Ord. No. 8743, Apr. 23, 1941, as amended by Ex. Ord. No. 9230, Aug. 20, 1942; Ex. Ord. No. 9678, Jan. 14, 1946; Ex. Ord. No. 9712, Apr. 13, 1946; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 1 of the act of November 26, 1940, entitled “Extending the Classified Executive Civil Service of the United States” (54 Stat. 1211), by the Civil Service Act (22 Stat. 403), and by section 1753 of the Revised Statutes of the United States [sections 3301 and 7301 of this title], it is hereby ordered as follows:

SECTION 1. All offices and positions in the executive civil service of the United States except (1) those that are temporary, (2) those expressly excepted from the provisions of section 1 of the said act of November 26, 1940, (3) those excepted from the classified service under Schedules A and B of the Civil Service Rules, and (4) those which now have a classified status, are hereby covered into the classified civil service of the Government.

SECTION 2. Section 1 of this order shall become effective on January 1, 1942, except that as to positions affected thereby which are vacant at any time after June 30, 1941, and before January 1, 1942, it shall become effective when the vacancies first exist during such period, and appointments to such vacant positions shall be made in accordance with the Civil Service Rules as amended by section 3 of this order, unless prior express permission is given by the Office of Personnel Management for appointment without regard thereto.

SECTION 3. (a) Upon consideration of the report of the Committee on Civil Service Improvement (House Document No. 118, 77th Congress) appointed by Executive Order No. 8044 of January 31, 1939, it is hereby found and determined that the regulations and procedures hereinafter prescribed in this section with respect to attorney positions in the classified civil service are required by the conditions of good administration.

(b) There is hereby created in the Office of Personnel Management (hereinafter referred to as the Office) a board to be known as the Board of Legal Examiners (hereinafter referred to as the Board). The Board shall consist of the Solicitor General of the United States and the chief law officer of the Office of Personnel Management, as members *ex officio*, and nine members to be appointed by the President, four of whom shall be attorneys chosen from the chief officers of the Executive departments, agencies or corporate instrumentalities of the Government, two from the law-teaching profession, and three from attorneys engaged in private practice. The President shall designate the chairman of the Board. Five members shall constitute a quorum, and the Board may transact business notwithstanding vacancies thereon. Members of the Board shall receive no salary as such, but shall be entitled to necessary expenses incurred in the performance of their duties hereunder.

(c) It shall be the duty of the Board to promote the development of a merit system for the recruitment, selection, appointment, promotion, and transfer of attorneys in the classified civil service in accordance with the general procedures outlined in Plan A of the report of the Committee on Civil Service Improvement, appointed by Executive Order No. 8044 of January 31, 1939.

(d) The Board, in consultation with the Office, shall determine the regulations and procedures under this section governing the recruitment and examination of applicants for attorney positions, and the selection, appointment, promotion and transfer of attorneys, in the classified service.

(e) The Office shall in the manner determined by the Board establish a register or registers for attorney positions in the classified service and such positions shall thereafter be filled from such registers as are designated by the Board. Unless otherwise determined by the Board, any register so established shall not be in effect for a period longer than one year from the date of its establishment. Upon request of the Board, the Office shall appoint regional or local boards of examiners composed of persons approved by the Board, within or without the Federal service, to interview and examine applicants as the Board shall direct.

(f) The number of names to be placed upon any register of eligibles for attorney positions shall be limited to the number recommended by the Board; and such registers shall not be ranked according to the ratings received by the eligibles, except that persons entitled to veterans' preference as defined in section 1 of Civil Service Rule VI shall be appropriately designated thereon.

(g) Any person whose name has been placed upon three registers of eligibles covering positions of the

same grade, and who has not been appointed therefrom, shall not thereafter be eligible for placement upon any subsequently established register covering positions of such grade.

(h) So far as practicable and consistent with good administration, the eligibles on any register for attorney positions and appointments for such register shall be apportioned among the several States and Territories and the District of Columbia upon the basis of population as ascertained in the last preceding census. The Office shall certify to the appointing officer for each vacancy all the eligibles on the appropriate register except those whose appointment would, in the determination of the Board, be inconsistent with the apportionment policy herein prescribed. The appointing officer shall make selections for any vacancy or vacancies in attorney positions from the register so certified, with sole reference to merit and fitness.

(i) Any position affected by this section may be filled before appropriate registers have been established pursuant to this section only by a person whose appointment is approved by the Board. The Board may require as a condition of its approval that persons thus proposed for appointment pass a noncompetitive examination and may designate examining committees composed of persons within or without the Federal service to conduct such examinations. Persons whose appointment was approved by the Board prior to March 16, 1942, and who pass a noncompetitive examination prescribed by the Board shall be eligible for a classified civil-service status after the expiration of six months from the date of appointment upon compliance with the provisions of Section 6 of Civil Service Rule II other than those provisions relating to examination. Effective March 16, 1942, all appointments to attorney and law clerk (trainee) positions shall be for the duration of the present war and for six months thereafter unless specifically limited to a shorter period.

(j) The incumbent of any attorney position covered into the classified service by section 1 of this order may acquire a classified civil-service status in accordance with the provisions of Section 2(a) of the act of November 26, 1940 (54 Stat. 1211) or, in the discretion of the Board and when applicable, Section 6, of Civil Service Rule II: *Provided*, That the noncompetitive examination required thereunder shall be prescribed by the Office with the approval of the Board.

(k) The Office with the approval of the Board shall appoint a competent person to act as Executive Secretary to the Board; and the Office shall furnish such further professionals, clerical, stenographic, and other assistants as may be necessary to carry out the provisions of this section.

(l) The Civil Service Rules are hereby amended to the extent necessary to give effect to the provisions of this section.

SECTION 4. The noncompetitive examinations prescribed pursuant to sections 3 and 6 of this order and section 2(a) of the said act of November 26, 1940, shall, among other things, require any person taking such examination to meet such reasonable standards of physical fitness and personal suitability as the Office of Personnel Management may prescribe.

SECTION 5. Persons who on the effective date of section 1 of this order are on furlough or leave without pay from any position covered into the classified service by that section may be recalled to duty within one year of the date that they are furloughed or given leave without pay, and may be continued in such positions thereafter but shall not thereby acquire a classified civil-service status. If they are not recalled to duty within the time specified herein, they shall be separated from the service.

SECTION 6. (a) Any person who, in order to perform active service with the military or naval forces of the United States, has left a position (other than a temporary position) which is covered into the classified civil service under section 1 of this order, shall be reinstated in such position or to a position of like seniority, status, and pay in the same department or agency,

and may, upon reinstatement, acquire a classified civil-service status: *Provided*, (1) that he has been honorably discharged from the military or naval service, (2) that he makes application for reinstatement within 90 days after termination of his service with the armed forces or of hospitalization continuing after discharge for a period of not more than one year, and (3) that he qualifies in such suitable noncompetitive examination as the Office may prescribe.

(b) Any person who, in order to perform active service with the military or naval forces of the United States, has left a position in any department or agency (other than a temporary position) which is covered into the classified civil service under section 1 of this order, may, upon his applications and upon the request of the head of the same or any other department or agency, be reinstated in any position for which the Office finds he is qualified, and upon reinstatement shall acquire a classified civil-service status: *Provided*, (1) that he has been honorably discharged from the military or naval service, and (2) that he qualifies in such suitable noncompetitive examination as the Office may prescribe.

SECTION 7. Executive Order No. 8044 of January 31, 1939, is hereby revoked so far as it applies to positions covered into the classified civil service by this order.

EXECUTIVE ORDER No. 9367

Ex. Ord. No. 9367, Aug. 4, 1943, 8 F.R. 11017, which prohibited, with certain exceptions, instructions of applicants for civil service and foreign service examinations by officers or employees of the government, was revoked by Ex. Ord. No. 11408, Apr. 25, 1968, 33 F.R. 6459.

EX. ORD. NO. 10577. CIVIL SERVICE RULES

Ex. Ord. No. 10577, Nov. 22, 1954, 19 F.R. 7521, eff. Jan. 23, 1955, as amended by Ex. Ord. No. 10641, Oct. 26, 1955, 20 F.R. 8137; Ex. Ord. No. 10675, Aug. 21, 1956, 21 F.R. 6327 Jan. 23, 1956; Ex. Ord. No. 10745, Dec. 12, 1957, 22 F.R. 10025; Ex. Ord. No. 10869, Mar. 9, 1960, 25 F.R. 2073; Ex. Ord. No. 11315, Nov. 17, 1966, 31 F.R. 14729; Ex. Ord. No. 11839, Feb. 15, 1975, 40 F.R. 7351; Ex. Ord. No. 11856, May 7, 1975, 40 F.R. 20259; Ex. Ord. No. 11887, Nov. 4, 1975, 40 F.R. 51411; Ex. Ord. No. 11935; Sept. 2, 1976, 41 F.R. 37301; Ex. Ord. No. 12021, Nov. 30, 1977, 42 F.R. 61237; Ex. Ord. No. 12043, Mar. 7, 1978, 43 F.R. 9773; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12125, Mar. 15, 1979, 44 F.R. 16879; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12300, Mar. 23, 1981, 46 F.R. 18683; Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521; Ex. Ord. No. 12896, Feb. 3, 1994, 59 F.R. 5515; Ex. Ord. No. 12940, Nov. 28, 1994, 59 F.R. 61519; Ex. Ord. No. 13124, §2(b), June 4, 1999, 64 F.R. 31103; Ex. Ord. No. 13197, Jan. 18, 2001, 66 F.R. 7853; provided:

PART I—CIVIL SERVICE RULES

SECTION 101. The Civil Service Rules are hereby amended to read as follows:

RULE I—COVERAGE AND DEFINITIONS

§1.1. POSITIONS AND EMPLOYEES AFFECTED BY THESE RULES

These Rules shall apply to all positions in the competitive service and to all incumbents of such positions. Except as expressly provided in the Rule concerned, these Rules shall not apply to positions and employees in the excepted service.

§1.2. EXTENT OF THE COMPETITIVE SERVICE

The competitive service shall include: (a) All civilian positions in the executive branch of the Government unless specifically excepted therefrom by or pursuant to statute or by the Office of Personnel Management (hereafter referred to in these Rules as the Office) under section 6.1 of Rule VI; and (b) all positions in the legislative and judicial branches of the Federal Government and in the Government of the District of Columbia which are specifically made subject to the civil-service laws by statute. The Office is authorized and di-

rected to determine finally whether a position is in the competitive service.

§ 1.3. DEFINITIONS

As used in these Rules:

(a) "Competitive service" shall have the same meaning as the words "classified service", or "classified (competitive) service", or "classified civil service" as defined in existing statutes and executive orders.

(b) "Competitive position" shall mean a position in the competitive service.

(c) "Competitive status" shall mean basic eligibility to be noncompetitively selected to fill a vacancy in a competitive position. A competitive status shall be acquired by career-conditional or career appointment through open competitive examination upon satisfactory completion of a probationary period, or may be granted by statute, executive order, or the Civil Service Rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted without taking an open competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations.

(d) An employee shall be considered as being in the competitive service when he has a competitive status and occupies a competitive position unless he is serving under a temporary appointment: *Provided*, That an employee who is in the competitive service at the time his position is first listed under Schedule A, B, or C shall be considered as continuing in the competitive service as long as he continues to occupy such position.

(e) "Tenure" shall mean the period of time an employee may reasonably expect to serve under his current appointment. Tenure shall be granted and governed by the type of appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is to a competitive position or an excepted position.

§ 1.4. EXTENT OF THE EXCEPTED SERVICE

(a) The excepted service shall include all civilian positions in the executive branch of the Government which are specifically excepted from the requirements of the Civil Service Act or from the competitive service by or pursuant to statute or by the Office under section 6.1 of Rule VI.

(b) "Excepted service" shall have the same meaning as the words "unclassified service", or "unclassified civil service", or "positions outside the competitive civil service" as used in existing statutes and executive orders.

(c) "Excepted position" shall have the same meaning as "unclassified position", or "position excepted by law", or "position excepted by executive order", or "position excepted by Civil Service Rule", or "position outside the competitive service" as used in existing statutes and executive orders.

RULE II—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

§ 2.1. COMPETITIVE EXAMINATIONS AND ELIGIBLE REGISTERS

(a) The Office shall be responsible for open competitive examinations for admission to the competitive service which will fairly test the relative capacity and fitness of the persons examined for the position to be filled. The Office is authorized to establish standards with respect to citizenship, age, education, training and experience, suitability, and physical and mental fitness, and for residence or other requirements which applicants must meet to be admitted to or rated in examinations.

(b) In addition to the names of persons who qualify in competitive examinations, the names of persons who have lost eligibility on a career or career-conditional register because of service in the armed forces, and the

names of persons who lost opportunity for certification or who have served under career or career-conditional appointment when the Office determines that they should be given certification, may also be entered at such places on appropriate registers and under such conditions as the Office may prescribe.

(c) Whenever the Office of Personnel Management (1) is unable to certify a sufficient number of names to permit the appointing officer to consider three eligibles for appointment to a fourth-class postmaster position in accordance with the regular procedure, or (2) finds that a particular rate of compensation for fourth-class postmaster positions is too low to warrant regular competitive examinations for such positions, it may authorize appointment to any such position or positions in accordance with such procedure as may be prescribed by the Office. Persons appointed under this subsection may acquire competitive status subject to satisfactory completion of a probationary period prescribed by the Office.

§ 2.2. APPOINTMENTS

(a) The Office shall establish and administer a career-conditional appointment system for positions subject to competitive examination which will permit adjustment of the career service to necessary fluctuations in Federal employment, and provide an equitable and orderly system for stabilizing the Federal work force. A competitive status shall be acquired by a career-conditional appointee upon satisfactory completion of a probationary period, but the appointee shall have career-conditional tenure for a period of service to be prescribed by regulation of the Office. When an employee has completed the required period of service his appointment shall be converted to a career appointment without time limitation: *Provided*, That his career-conditional appointment shall not be converted to a career appointment if the limitation on the number of permanent employees in the Federal civil service established under subsection (b) of this section would be exceeded thereby. Persons selected from competitive civil service registers for other than temporary appointment shall be given career-conditional appointments: *Provided*, That career appointments shall be given to the following classes of eligibles: (1) Persons whose appointments are required by statute to be made on a permanent basis; (2) employees serving under career appointments at the time of selections from such registers; (3) former employees who have eligibility for career appointments upon reinstatement; and (4) to the extent permitted by law, persons appointed to positions in the field service of the Post Office Department for which salary rates are fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented.

(b) Under the career-conditional appointment system there shall be a limit on the number of permanent employees in the Federal civil service which shall be the ceiling established by section 1310 of the Supplemental Appropriation Act, 1952 (65 Stat. 757), as amended [set out as a note under section 3101 of this title]. In the event section 1310, supra, is repealed, the Office is authorized to fix such limitation on the number of permanent employees in the Federal civil service as it finds necessary to meet the needs of the service.

(c) The Office may determine the types, duration, and conditions of indefinite and temporary appointments, and may prescribe the method for replacing persons holding such appointments.

§ 2.3. APPORTIONMENT

Subject to such modifications as the Office finds to be necessary in the interest of good administration, appointments to positions in agencies' headquarters offices which are located within the metropolitan area of Washington, D.C., shall be made so as to maintain the apportionment of appointments among the several States, Territories, and the District of Columbia upon the basis of population.

§2.4. PROBATIONARY PERIOD

Persons selected from registers of eligibles for career or career-conditional appointment and employees promoted, transferred, or otherwise assigned, for the first time, to supervisory or managerial positions shall be required to serve a probationary period under terms and conditions prescribed by the Office.

RULE III—NONCOMPETITIVE ACQUISITION OF STATUS

§3.1. CLASSES OF PERSONS WHO MAY NONCOMPETITIVELY ACQUIRE STATUS

(a) Upon recommendation by the agency concerned, and subject to such noncompetitive examination, time limits, or other requirements as the Office may prescribe, the following classes of persons may acquire a competitive status without competitive examination:

(1) A person holding a permanent position when it is placed in the competitive service by statute or executive order or is otherwise made subject to competitive examination.

(2) A disabled veteran who, in a manner satisfactory to the Office, has completed a course of training in the executive branch of the Government prescribed by the Administrator of Veterans' Affairs in accordance with the act of March 24, 1943, 57 Stat. 43.

(3) An employee who has served at least two years in the immediate office of the President or on the White House Staff and who is transferred to a competitive position at the request of an agency.

(4) An employee who was serving when his name was reached for certification on a civil-service register appropriate for the position in which he was serving: *Provided*, That the recommendation for competitive status is made prior to expiration of the register on which his name appears or is made during a period of continuous service since his name was reached: *Provided further*, That the register was being used for appointments conferring competitive status at the time his name was reached.

(b) Upon recommendation by the employing agency, and subject to such requirements as the Office of Personnel Management may prescribe, the following classes of handicapped employees may acquire competitive status without competitive examination:

(1) A severely physically handicapped employee who completes at least two years of satisfactory service in a position excepted from the competitive service.

(2) A mentally retarded employee who completes at least two years of satisfactory service in a position excepted from the competitive service.

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

§3.2. APPOINTMENTS WITHOUT COMPETITIVE EXAMINATION IN RARE CASES

Subject to receipt of satisfactory evidence of the qualifications of the person to be appointed, the Office may authorize an appointment in the competitive service without competitive examination whenever it finds that the duties or compensation of the position are such, or that qualified persons are so rare, that, in the interest of good civil-service administration, the position cannot be filled through open competitive examination. Any person heretofore or hereafter appointed under this section shall acquire a competitive status upon completion of at least one year of satisfactory service and compliance with such requirements as the Office may prescribe. Detailed statements of the reasons for the noncompetitive appointments made under this section shall be published in the Office's annual reports.

§3.3. CONVERSION OF APPOINTMENTS

Any person who acquires a competitive status under this Rule shall have his appointment converted to career-conditional appointment unless he meets the service requirement for career appointment prescribed under section 2.2 (a) of Rule II.

RULE IV—PROHIBITED PRACTICES

§4.1. [Revoked by Ex. Ord. No. 12896, Feb. 3, 1994, 59 F.R. 5515.]

§4.2. PROHIBITION AGAINST RACIAL, POLITICAL OR RELIGIOUS DISCRIMINATION

No person employed in the executive branch of the Federal Government who has authority to take or recommend any personnel action with respect to any person who is an employee in the competitive service or any eligible or applicant for a position in the competitive service shall make any inquiry concerning the race, political affiliation or religious beliefs of any such employee, eligible, or applicant. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any employee in the competitive service, or any eligible or applicant for a position in the competitive service because of his race, political affiliation or religious beliefs, except as may be authorized or required by law.

§4.3. PROHIBITION AGAINST SECURING WITHDRAWAL FROM COMPETITION

No person shall influence another person to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment.

RULE V—REGULATIONS, INVESTIGATIONS, EVALUATION, AND ENFORCEMENT

§5.1. CIVIL SERVICE REGULATIONS

The Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code [now covered by this chapter and chapter 35 of this title], the Civil Service Rules, and all other statutes and Executive orders imposing responsibilities on the Office. The Director is authorized, whenever there are practical difficulties and unnecessary hardships in complying with the strict letter of the regulation, to grant a variation from the strict letter of the regulation if such a variation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the competitive service are protected and promoted. Whenever a variation is granted the Director shall note the official record to show: (1) the particular practical difficulty or hardship involved, (2) what is permitted in place of what is required by regulation, (3) the circumstances which protect or promote the efficiency of the Government and the integrity of the competitive service, and (4) a statement limiting the application of the variation to the continuation of the conditions which gave rise to it. Like variations shall be granted whenever like conditions exist. All such decisions and information concerning variations noted in the official record shall be published promptly in a Federal Personnel Manual, Letter or Bulletin and in the Director's next annual report.

§5.2. INVESTIGATION AND EVALUATIONS

The Director may secure effective implementation of the civil service laws, rules, and regulations, and all Executive orders imposing responsibilities on the Office by:

(a) Investigating the qualifications and suitability of applicants for positions in the competitive service. The Director may require appointments to be made subject to investigation to enable the Director to determine, after appointment, that the requirements of law or the civil service rules and regulations have been met.

(b) Evaluating the effectiveness of: (1) personnel policies, programs, and operations of Executive and other

Federal agencies subject to the jurisdiction of the Office, including their effectiveness with regard to merit selection and employee development; (2) agency compliance with and enforcement of applicable laws, rules, regulations and office directives; and (3) agency personnel management evaluation systems.

(c) Investigating, or directing an agency to investigate and report on, apparent violations of applicable laws, rules, regulations, or directives requiring corrective action, found in the course of an evaluation.

§ 5.3. ENFORCEMENT

(a) The Director is authorized to ensure enforcement of the civil service laws, rules, and regulations, and all applicable Executive orders, by:

(1) Instructing an agency to separate or take other action against an employee serving an appointment subject to investigation when the Director finds that the employee is disqualified for Federal employment. Where the employee or the agency appeals the Director's finding that a separation or other action is necessary, the Director may instruct the agency as to whether or not the employee should remain on duty and continue to receive pay pending adjudication of the appeal: *Provided*, That when an agency separates or takes other action against an employee pursuant to the Director's instructions, and the Director, on the basis of new evidence, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Director, restore the employee to duty or otherwise reverse any action taken.

(2) Reporting the results of evaluation or investigations to the head of the agency concerned with instructions for any corrective action necessary, including cancellation of personnel actions where appropriate. The Director's findings resulting from evaluations or investigations are binding unless changed as a result of agency evidence and arguments against them. If, during the course of any evaluation or investigation under this Section, the Director finds evidence of matters which come within the investigative and prosecutorial jurisdiction of the Special Counsel of the Merit Systems Protection Board, the Director shall refer this evidence to the Special Counsel for appropriate disposition.

(b) Whenever the Director issues specific instructions as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the head of the agency concerned shall comply with the Director's instructions.

(c) If the agency head fails to comply with the specific instructions of the Director as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the Director may certify to the Comptroller General of the United States the agency's failure to act together with such additional information as the Comptroller General may require, and shall furnish a copy of such certification to the head of the agency concerned. The individual with respect to whom such separation or other corrective action was instructed shall be entitled thereafter to no pay or only to such pay as appropriate to effectuate the Director's instructions.

§ 5.4. INFORMATION AND TESTIMONY

When required by the Office, the Merit Systems Protection Board, or the Special Counsel of the Merit Systems Protection Board, or by authorized representatives of these bodies, agencies shall make available to them, or to their authorized representatives, employees to testify in regard to matters inquired of under the civil service laws, rules, and regulations, and records pertinent to these matters. All such employees, and all applicants or eligibles for positions covered by these rules, shall give to the Office, the Merit Systems Protection Board, the Special Counsel, or to their authorized representatives, all information, testimony, documents, and material in regard to the above matters,

the disclosure of which is not otherwise prohibited by law or regulation. These employees, applicants, and eligibles shall sign testimony given under oath or affirmation before an officer authorized by law to administer oaths. Employees are performing official duty when testifying or providing evidence pursuant to this section.

RULE VI—EXCEPTIONS FROM THE COMPETITIVE SERVICE

§ 6.1. AUTHORITY TO EXCEPT POSITIONS FROM THE COMPETITIVE SERVICE

(a) The Office may except positions from the competitive service when it determines that appointments thereto through competitive examination are not practicable. These positions shall be listed in the Office's annual report for the fiscal year in which the exceptions are made.

(b) The Office shall decide whether the duties of any particular position are such that it may be filled as an excepted position under the appropriate schedule.

(c) Notice of the Office's decision granting authority to make appointments to an excepted position under the appropriate schedule shall be published in the FEDERAL REGISTER.

§ 6.2. SCHEDULES OF EXCEPTED POSITIONS

The Office shall list positions that it excepts from the competitive service in Schedules A, B, and C, which schedules shall constitute parts of this Rule, as follows:

SCHEDULE A

Positions other than those of a confidential or policy-determining character for which it is not practicable to examine shall be listed in Schedule A.

SCHEDULE B

Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examinations as may be prescribed by the Office.

SCHEDULE C

Positions of a confidential or policy-determining character shall be listed in Schedule C.

§ 6.3. METHOD OF FILLING EXCEPTED POSITIONS AND STATUS OF INCUMBENTS

(a) The head of an agency may fill excepted positions by the appointment of persons without civil service eligibility or competitive status and such persons shall not acquire competitive status by reason of such appointment: *Provided*, That the Office, in its discretion, may by regulation prescribe conditions under which excepted positions may be filled in the same manner as competitive positions are filled and conditions under which persons so appointed may acquire a competitive status in accordance with the Civil Service Rules and Regulations.

(b) To the extent permitted by law and the provisions of this Rule, appointments and position changes in the excepted service shall be made in accordance with such regulations and practices as the head of the agency concerned finds necessary.

§ 6.4. REMOVAL OF INCUMBENTS OF EXCEPTED POSITIONS

Except as may be required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A and C or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.

§ 6.5. ASSIGNMENT OF EXCEPTED EMPLOYEES

No person who is serving under an excepted appointment shall be assigned to the work of a position in the

competitive service without prior approval of the Office.

§ 6.6. REVOCATION OF EXCEPTIONS

The Office may remove any position from or may revoke in whole or in part any provision of Schedule A, B, or C. Notice of the Office's decision making these changes shall be published in the FEDERAL REGISTER.

§ 6.7. MOVEMENT OF PERSONS BETWEEN THE CIVIL-SERVICE SYSTEM AND OTHER MERIT SYSTEMS

Whenever the Office and any Federal agency having an established merit system determine it to be in the interest of good administration and consistent with the intent of the civil-service laws and any other applicable laws, they may enter into an agreement prescribing conditions under which persons may be moved from one system to the other and defining the status and tenure that the persons affected shall acquire upon such movement.

§ 6.8. SPECIFIED EXCEPTIONS

(a) Positions in the Department of the Interior and in the Department of Commerce whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS-15 of the General Schedule, and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section.

(b) Positions in the Community Services Administration and ACTION [now Corporation for National and Community Service] whose incumbents serve as regional director or regional administrator shall be listed in Schedule C for grades not exceeding GS-15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on November 29, 1977, in the competitive service shall not be affected by the foregoing provisions of this subsection.

(c) Within the Department of Agriculture, positions the incumbents of which serve as State Executive Directors of the Consolidated Farm Service Agency and positions the incumbents of which serve as State Directors or State Directors-at-Large for Rural Economic and Community Development shall be listed in Schedule C for all grades of the General Schedule.

RULE VII—GENERAL PROVISIONS

§ 7.1. DISCRETION IN FILLING VACANCIES

In his discretion, an appointing officer may fill any position in the competitive service either by competitive appointment from a civil-service register or by noncompetitive selection of a present or former Federal employee, in accordance with the Civil Service Regulations. He shall exercise his discretion in all personnel actions solely on the basis of merit and fitness and without regard to political or religious affiliations, marital status, or race.

§ 7.2. REEMPLOYMENT RIGHTS

The Office, whenever it determines it to be necessary, shall prescribe regulations governing the release of employees (both within the competitive service and the excepted service) by any agency in the executive branch of the Government for employment in any other agency, and governing the establishment, granting, and exercise of rights to reemployment in the agencies from which employees are released.

§ 7.3. CITIZENSHIP

(a) No person shall be admitted to competitive examination unless such person is a citizen or national of the United States.

(b) No person shall be given any appointment in the competitive service unless such person is a citizen or national of the United States.

(c) The Office may, as an exception to this rule and to the extent permitted by law, authorize the appointment of aliens to positions in the competitive service when necessary to promote the efficiency of the service in specific cases or for temporary appointments.

RULE VIII—APPOINTMENTS TO OVERSEAS POSITIONS

§ 8.1. ADDITIONAL AUTHORITY OF THE OFFICE

In addition to authorizing the recruitment and appointment of persons to overseas positions under regulations issued under the preceding Rules, the Office may, by the regulations prescribed by it, authorize the recruitment and appointment of persons to such positions as provided in section 2 of this Rule. As used in this Rule, "overseas positions" means positions in foreign countries and in other areas beyond the continental limits of the United States, except as provided in section 8.4 hereof.

§ 8.2. APPOINTMENT OF UNITED STATES CITIZENS

United States citizens may be recruited overseas for appointment to overseas positions in the competitive service without regard to the competitive requirements of the Civil Service Act. Persons so recruited who meet the qualification standards and other requirements of the Office for overseas positions may be given appointments to be known as "overseas limited appointments." Such appointments shall be of temporary or indefinite duration, and shall not confer the right to acquire a competitive status. The Office may authorize overseas limited appointments for United States citizens recruited within the continental limits of the United States whenever it determines that it is not feasible to appoint from a civil-service register. Persons serving under appointments made pursuant to this section are hereby excluded from the operation of the Civil Service Retirement Act of May 29, 1930, as amended [section 8301 et seq. of this title], unless eligible for retirement benefits by continuity of service or otherwise.

§ 8.3. APPOINTMENT OF PERSONS NOT CITIZENS OF THE UNITED STATES

Persons who are not citizens of the United States may be recruited overseas and appointed to overseas positions without regard to the Civil Service Act.

§ 8.4. POSITIONS EXCEPTED FROM THE APPLICATION OF THIS RULE

This Rule shall not apply to positions in Hawaii, Puerto Rico, the Virgin Islands, and Alaska, and on the Isthmus of Panama.

RULE IX—WORKFORCE INFORMATION

9.1 DEFINITION

As used in this rule, "Executive agency" means an Executive department, a Government corporation, and an independent establishment, as those terms are defined in chapter 1 of title 5, United States Code, but does not include the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency], the National Security Agency, and, as determined by the President, any Executive agency or unit within an Executive agency which has as its principal function the conduct of foreign intelligence or counterintelligence activities.

9.2 REPORTING WORKFORCE INFORMATION

The Director of the Office of Personnel Management may require all Executive agencies to report information relating to civilian employees, including positions and employees in the competitive, excepted, and Senior Executive services, in a manner and at times prescribed by the Director. The Director shall establish standards for workforce information submissions under this sec-

tion, and agencies shall ensure that their submissions meet these standards consistent with the Privacy Act [5 U.S.C. 552a]. The Director may exempt from this section a specific agency or group of employees when the Director determines that an exemption is appropriate because of special circumstances.

RULE X—AGENCY ACCOUNTABILITY SYSTEMS; OPM AUTHORITY TO REVIEW PERSONNEL MANAGEMENT PROGRAMS

10.1 DEFINITIONS

For purposes of this rule—

(a) “agency” means an Executive agency as defined in Rule IX, but does not include a Government corporation or the General Accounting Office [now Government Accountability Office]; and

(b) “merit system principles” means the principles for Federal personnel management that are set forth in section 2301(b) of title 5, United States Code.

10.2. ACCOUNTABILITY SYSTEMS

The Director of the Office of Personnel Management may require an agency to establish and maintain a system of accountability for merit system principles that (1) sets standards for applying the merit system principles, (2) measures the agency’s effectiveness in meeting these standards, and (3) corrects any deficiencies in meeting these standards.

10.3. OPM AUTHORITY TO REVIEW PERSONNEL MANAGEMENT PROGRAMS AND PRACTICES

The Office of Personnel Management may review the human resources management programs and practices of any agency and report to the head of the agency and the President on the effectiveness of these programs and practices, including whether they are consistent with the merit system principles.

[Revoked by Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521.]

PART II—SPECIAL PROVISIONS FOR TRANSITION FROM INDEFINITE APPOINTMENT SYSTEM TO CAREER-CONDITIONAL APPOINTMENT SYSTEM

§ 201

(a) Under such conditions as the Office of Personnel Management may prescribe, all employees serving under indefinite appointments in the competitive service on the effective date of this order who were appointed by selection in regular order from appropriate competitive civil-service registers established subsequent to February 4, 1946, shall, as of the effective date of this order, have their appointments converted to career-conditional appointments if they have had less than three years of creditable service, and to career appointments if they have had three or more years of such service since they were appointed: *Provided*, That any such employees who left their positions prior to the effective date of this order to enter the armed forces of the United States and are reemployed in the competitive service after the effective date of this order pursuant to application for employment made within ninety days after honorable discharge, or after hospitalization continuing after discharge for not more than one year, shall have their former indefinite appointments converted to career-conditional or career appointments in accordance with this section: *Provided further*, That employees serving in excepted positions who would meet the conditions for career-conditional or career appointments if they were serving in competitive positions shall be granted competitive status upon completion of a probationary period.

(b) The Office may prescribe the conditions under which employees who are serving under indefinite appointments in the competitive service on the effective date of this order and who were not appointed by selection in regular order from competitive civil-service registers may be examined and have their names entered

on existing competitive civil-service registers. When such employees are within reach for appointment from such registers they shall be eligible for career-conditional appointments if, since they were given indefinite appointments, they have had less than three years of creditable service, and for career appointments if they have had three or more years of such service.

(c) All employees in the competitive service who on the effective date of this order are serving under indefinite appointments made noncompetitively based upon prior service with a competitive status shall, as of the effective date of this order, have their appointments converted to career-conditional appointments if they have had less than three years of creditable service and to career appointments if they have had three or more years of such service under either permanent or indefinite appointment: *Provided*, That any such employees who left their positions prior to the effective date of this order to enter the armed forces of the United States and are reemployed in the competitive service after the effective date of this order pursuant to application for employment made within ninety days after honorable discharge, or after hospitalization continuing after discharge for not more than one year, shall have their former indefinite appointments converted to career-conditional or career appointments in accordance with this section: *Provided further*, That any such employees in the field service of the Post Office Department whose salary rates are fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented, shall have their appointments converted to career appointments if they are serving in positions in the authorized complement of permanent positions (consisting of regular positions and positions within the authorized quota of substitutes).

(d) The Office shall define “creditable service” and shall prescribe the conditions for completion of the period of creditable service required for career appointment.

(e) Except as provided in section 201(c) hereof, this section shall not apply to employees serving under indefinite appointments in the field service of the Post Office Department whose salary rates are fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented.

§ 202

(a) Notwithstanding the provisions of section 201(a) of this order, and subject to such noncompetitive examination or other requirements as the Office may prescribe, any employee entitled to veteran preference who has a compensable service-connected disability of ten per centum or more may, upon recommendation of the agency concerned, noncompetitively acquire a competitive status subject to completion of a probationary period: *Provided*, That he is serving under an indefinite appointment, a temporary appointment pending establishment of a register, or a temporary appointment for job employment which has been continuous for more than one year: *Provided further*, That recommendation for acquisition of status under this section is made not later than December 31, 1957.

(b) Any employee who is recommended for noncompetitive acquisition of competitive status under section 202(a) hereof and who satisfies the noncompetitive examination and other requirements of the Office shall have the appointment under which he is serving converted to a career appointment if he has completed a probationary period or to a career-conditional appointment if he has not completed a probationary period. The career-conditional appointment of such an employee shall be converted to a career appointment upon completion of probation.

(c) An employee in the field service of the Post Office Department whose salary rate is fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented, may not be recommended for competitive status under section 202(a) hereof unless he can be appointed to a vacancy in the authorized

complement of permanent positions (consisting of regular positions and positions within the authorized quota of substitutes). When such an employee is recommended for noncompetitive acquisition of competitive status and satisfies the noncompetitive examination and other requirements of the Office, his appointment shall be converted to a career appointment subject to satisfactory completion of a probationary period.

§ 203

The career-conditional appointment of any employee entitled to veteran preference who has a compensable service-connected disability of ten per centum or more may be converted to a career appointment: *Provided*, That he received his career-conditional appointment prior to January 1, 1958, and that, not later than December 31, 1958, the agency in which he is employed recommends such conversion and certifies to the Office that he has satisfactorily completed a one-year probationary period: *Provided further*, That any such employee who is not certified for career appointment under this section shall have his career-conditional appointment converted to a career appointment when he has completed the service requirement for such appointment prescribed under section 2.2(a) of Civil Service Rule II.

§ 204

In order to effectuate the purposes of section 1310 of the Supplemental Appropriations Act, 1952 (65 Stat. 757), as amended [set out as a note under section 3101 of this title], the Office shall, after consultation with the agencies concerned, determine the division of allowable permanent appointments within and between the expected service and the competitive service.

§ 205

The Office shall issue such regulations and instructions as may be necessary to effectuate the purposes of this part.

PART III

§ 301

The following-described executive orders and parts of executive orders are hereby revoked:

Part II of Executive Order No. 9830 of February 24, 1947, amending the Civil Service Rules: *Provided*, That the positions listed in Schedules A, B, and C as provided for in Civil Service Rule VI of that order, as amended, shall be considered as being listed in Schedules A, B, and C, respectively, as provided for in Civil Service Rule VI of this order, unless and until they are removed therefrom by the Office.

Executive Orders No. 9973 of June 28, 1948, No. 10440 of March 31, 1953, and No. 10463 of June 25, 1953, amending Civil Service Rule VI.

Executive Order No. 10180 of November 13, 1950, establishing special personnel procedures in the interest of national defense.

PART IV

§ 401

This order shall become effective on the first Sunday after the sixtieth day after the date hereof.

EXECUTIVE ORDER NO. 10590

Ex. Ord. No. 10590, Jan. 18, 1955, 20 F.R. 409, as amended by Ex. Ord. No. 10722, Aug. 7, 1957, 22 F.R. 6287; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971, which established the President's Committee on Government Employment Policy, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10880

Ex. Ord. No. 10880, June 7, 1960, 25 F.R. 5131, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055,

which provided for conversion of indefinite or temporary appointments to career or career-conditional appointments, was revoked by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617.

EXECUTIVE ORDER NO. 10925

Ex. Ord. No. 10925, Mar. 7, 1961, 26 F.R. 1977, as amended by Ex. Ord. No. 11114, June 24, 1963, 28 F.R. 6485; Ex. Ord. No. 11162, July 28, 1964, 29 F.R. 10563, which established the President's Committee on Equal Employment Opportunity, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11114

Ex. Ord. No. 11114, June 24, 1963, 28 F.R. 6485, as amended by Ex. Ord. No. 11162, July 28, 1964, 29 F.R. 10563, which extended the authority of the President's Committee on Equal Employment Opportunity, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EX. ORD. NO. 11141. DISCRIMINATION ON THE BASIS OF AGE

Ex. Ord. No. 11141, Feb. 12, 1964, 29 F.R. 2477, provided: WHEREAS the principle of equal employment opportunity is now an established policy of our Government and applies equally to all who wish to work and are capable of doing so; and

WHEREAS discrimination in employment because of age, except upon the basis of a *bona fide* occupational qualification, retirement plan, or statutory requirement, is inconsistent with that principle and with the social and economic objectives of our society; and

WHEREAS older workers are an indispensable source of productivity and experience which our Nation can ill afford to lose; and

WHEREAS President Kennedy, mindful that maximum national growth depends on the utilization of all manpower resources, issued a memorandum on March 14, 1963, reaffirming the policy of the Executive Branch of the Government of hiring and promoting employees on the basis of merit alone and emphasizing the need to assure that older people are not discriminated against because of their age and receive fair and full consideration for employment and advancement in Federal employment; and

WHEREAS, to encourage and hasten the acceptance of the principle of equal employment opportunity for older persons by all sectors of the economy, private and public, the Federal Government can and should provide maximum leadership in this regard by adopting that principle as an express policy of the Federal Government not only with respect to Federal employees but also with respect to persons employed by contractors and subcontractors engaged in the performance of Federal contracts:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States and as President of the United States, I hereby declare that it is the policy of the Executive Branch of the Government that (1) contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees, or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a *bona fide* occupational qualification, retirement plan, or statutory requirement, and (2) that contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a *bona fide* occupational qualification, retirement plan, or statutory requirement. The head of each department and agency shall take appropriate action to enunciate this policy, and to this end the Fed-

eral Procurement Regulations and the Armed Services Procurement Regulation shall be amended by the insertion therein of a statement giving continuous notice of the existence of the policy declared by this order.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 11162

Ex. Ord. No. 11162, July 28, 1964, 29 F.R. 10563, which related to membership of the President's Committee on Equal Employment Opportunity, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11202

Ex. Ord. No. 11202, Mar. 5, 1965, 30 F.R. 3185, which established career or career-conditional appointments for student trainees, was revoked by Ex. Ord. No. 11813, Oct. 7, 1974, 39 F.R. 36317, formerly set out below.

EX. ORD. NO. 11203. CAREER APPOINTMENTS TO CERTAIN QUALIFIED EMPLOYEES OF TREASURY DEPARTMENT

Ex. Ord. No. 11203, Mar. 12, 1965; 30 F.R. 3417, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by Section 2 of the Civil Service Act (22 Stat. 403) and Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) [sections 3301 and 7301 of this title] and as President of the United States, it is hereby ordered as follows—

SECTION 1. Any employee of the Treasury Department serving under an appointment under Schedule B of the Civil Service Rules in a position concerned with the protection of the life and safety of the President, members of his immediate family, or other persons for whom similar protective services are provided by law (which responsibility is hereinafter referred to as the protective function) may have his appointment converted to a career appointment if:

(1) he has completed at least three years of full-time continuous service in a position concerned with the protective function;

(2) The Secretary of the Treasury, or his designee, recommends the conversion of the employee's appointment within 90 days after the employee meets the service requirements of this section, or within 90 days after the date of this Order, whichever is later;

(3) he shall have passed a competitive examination appropriate for the position he is occupying or meets noncompetitive examination standards the Office of Personnel Management prescribes for his position; and

(4) he meets all other requirements prescribed by the Office pursuant to Section 5 of this Order.

SEC. 2. For the purposes of Section 1—

(1) "full-time continuous service" means service without a break of more than 30 calendar days;

(2) except as provided in paragraph (3) of this section, active service in the Armed Forces of the United States shall be deemed to be full-time continuous service in a position concerned with the protective function if the employee concerned shall have left a position concerned with the protective function to enter the Armed Forces and shall have been re-employed in a position concerned with the protective function within 120 days after he shall have been discharged from the Armed Forces under honorable conditions; and

(3) active service in the Armed Forces shall not be deemed to be full-time continuous service in a position concerned with the protective function if such active service exceeds a total of four years plus any period of additional service imposed pursuant to law.

SEC. 3. Any employee who shall have left a position concerned with the protective function to enter active service in the Armed Forces of the United States, who is re-employed in such a position within 120 days after his discharge under honorable conditions from such service, and who meets the requirements of Section 1 as the result of being credited with his period of active

service in the Armed Forces pursuant to Section 2(2), may have his appointment converted if the Secretary of the Treasury or his designee, recommends that conversion within 90 days after his re-employment.

SEC. 4. Whenever the Secretary of the Treasury, or his designee, decides not to recommend conversion of the appointment of an employee under this Order or whenever the Secretary, or his designee, recommends conversion and the employee fails to qualify, the employee shall be separated by the date on which his current Schedule B appointment expires.

SEC. 5. The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purposes of this Order.

EX. ORD. NO. 11219. APPOINTMENT IN COMPETITIVE SERVICE OF FOREIGN SERVICE OFFICERS AND EMPLOYEES

Ex. Ord. No. 11219, May 6, 1965, 30 F.R. 6381, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, provided:

By virtue of the authority vested in me by section 1753 of the Revised Statutes [sections 3301 and 7301 of this title] and the Civil Service Act (22 Stat. 403), and as President of the United States, it is hereby ordered as follows:

SECTION 1. Under regulations and conditions prescribed by the Office of Personnel Management, a present or former member of the Foreign Service may be appointed in the competitive service if he:

(a) Is qualified for the position in the competitive service;

(b) Was appointed in the Foreign Service under authority of the Foreign Service Act of 1946 as amended [former section 801 et seq. of Title 22, Foreign Relations and Intercourse], the Foreign Service Act of 1980 [section 3901 et seq. of Title 22], or legislation that supplements or replaces the latter Act;

(c) Served in the Foreign Service under an unlimited, career-type appointment and, immediately before his separation from that appointment, he completed at least one year of continuous service under one or more nontemporary appointments in the Foreign Service which may include the service that made him eligible for his career-type appointment; and

(d) Is appointed within 3 years after his separation from the Foreign Service, or he completed at least 3 years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in that Service which may include the service that made him eligible for such appointment, or he is entitled to preference under section 2 of the Veterans' Preference Act of 1944, as amended [sections 1302 and 2108 of this title].

SEC. 2. (a) Except as provided in paragraph (b) of this section, a person appointed under Section 1 of this Order becomes a career conditional employee.

(b) A person appointed under Section 1 of this Order becomes a career employee when he:

(1) Has completed at least 3 years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in that Service which may include the service that made him eligible for such appointment;

(2) Is appointed to a position in the competitive service required by law or Executive order to be filled on a permanent or career basis; or

(3) Has completed the service requirement for career tenure in the competitive service.

For the purpose of subparagraph (3) of this paragraph, service in the Foreign Service is creditable in meeting the service requirement only if the person concerned is appointed to a nontemporary position in the competitive service under Section 1 of this Order within 30 days after his separation from the Foreign Service.

SEC. 3. A person appointed to a nontemporary position in the competitive service under Section 1 of this Order acquires a competitive status automatically on appointment.

SEC. 4. Any law, Executive order, or regulation that would disqualify an applicant for appointment in the competitive service shall also disqualify a person for appointment under Section 1 of this Order.

SEC. 5. For the purpose of this Order, a person is deemed to be a member of the "Foreign Service" if he was appointed in any agency under authority of the Foreign Service Act of 1946, as amended [former section 801 et seq. of Title 22, Foreign Relations and Intercourse], the Foreign Service Act of 1980 [section 3901 et seq. of Title 22], or legislation that supplements or replaces the latter Act.

EX. ORD. NO. 11315. AMENDING THE CIVIL SERVICE RULES TO AUTHORIZE AN EXECUTIVE ASSIGNMENT SYSTEM FOR POSITIONS IN GRADES 16, 17, AND 18 OF THE GENERAL SCHEDULE

Ex. Ord. No. 11315, Nov. 17, 1966, 31 F.R. 14729, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

WHEREAS, the increasing complexities of Government require personnel of the highest attainable qualifications who are capable of assuming and discharging efficiently major and varied duties and responsibilities in the Executive Branch in response to present and future needs; and

WHEREAS, this need for high quality can best be met by the establishment of an executive assignment system for the top three grades of the General Schedule, extending and adapting merit principles in recruitment, selection, and development, combined with improvements in the identification, assignment and utilization of key personnel:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States, by 5 U.S.C. 3301 and 3302, and as President of the United States, it is ordered as follows:

PART I. CIVIL SERVICE RULES

SECTION 1. The Civil Service Rules are amended by the addition of Civil Service Rule IX reading as follows: [Civil Service Rule IX, as established by Ex. Ord. No. 11315, as amended, was revoked by Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521. See Ex. Ord. No. 10577, as amended, set out above.]

CIVIL SERVICE RULE VI

SEC. 2. Civil Service Rule VI is amended in pertinent part as follows:

(a) Section 6.1(a) is amended to read as follows:

"(a) The Office may except positions from the competitive service when it determines that appointments thereto through competitive examination are not practicable. These positions shall be listed in the Office's annual report for the fiscal year in which the exceptions are made. The exception from the competitive service is effective on publication in the Federal Register."

(b) Section 6.6 is amended to read as follows:

"Section 6.6 *Revocation of exceptions*. The Office may remove any position from or may revoke in whole or in part any provision of Schedule A, B, or C. These changes are effective on publication in the Federal Register."

PART II. SPECIAL PROVISIONS FOR TRANSITION TO THE FULL ESTABLISHMENT OF EXECUTIVE ASSIGNMENTS UNDER RULE IX

SEC. 3. *Effective dates*. This order, except section 1, is effective upon filing for publication in the Federal Register. Section 1 of this order is effective not later than one year from the date of this order, or at such earlier dates as the Office of Personnel Management may specify for individual agencies or positions.

SEC. 4. *Interim appointments*. After the date of this order and before Civil Service Rule IX has become effective as to a position, an appointing officer may fill the position in accordance with the appointment system in effect on the day of the appointment.

SEC. 5. *Conversion of incumbents*. On the day Civil Service Rule IX becomes effective as to a position, the appointment of the incumbent of that position shall be changed as follows:

(a) If he is serving under a career or career-conditional appointment in the competitive service, he shall be converted to a Career Executive Assignment;

(b) If he is serving in the excepted service under a nontemporary appointment, he shall be converted to a Noncareer Executive Assignment;

(c) If he is serving in the competitive service under an indefinite or temporary appointment without definite time limit and:

(1) if he has served under this type of appointment for at least five years, he shall be:

(i) converted to a Career Executive Assignment, or appointed to a continuing position in the competitive service in grade GS-15, or below;

(ii) converted to a Noncareer Executive Assignment; or

(iii) separated from the service; or

(2) if he has served under this type of appointment for less than five years, he shall be:

(i) converted to a Noncareer Executive Assignment;

(ii) separated from the service; or

(iii) allowed to continue to serve until he has served five years, at which time the appointing officer shall take one of the actions provided for in subparagraph (1) of this paragraph.

An incumbent who is serving under any other type of appointment shall continue under that appointment until it is terminated.

PART III. ADMINISTRATION

SEC. 6. *Office responsibilities*. The Office of Personnel Management is responsible to the President for the effective implementation and administration of the executive assignment system established by this Order. The Office shall continuously review operations under this system, shall recommend promptly to the President any changes that are necessary to improve this system, and shall report periodically to the President any significant developments in the operation of the system. The Office shall recommend to the President a program of special honors and awards for the recognition of persons assigned to Career Executive Assignments and a program for the development and training of persons assigned to Career Executive Assignments. The training program shall include the establishment of special training and educational facilities, and provide for the relevant use of outside training facilities.

SEC. 7. *Responsibilities of the agencies*. The head of each agency in which there are positions covered by Civil Service Rule IX shall periodically review with the Office of Personnel Management his plans for staffing. The head of a newly established agency shall initially review with the Office his plans for staffing as soon as practicable after the establishment of the agency. The head of each agency shall cooperate fully with the Office in the establishment of special facilities and special boards and panels that are required under Civil Service Rule IX as a means of recruiting persons of the highest quality.

SEC. 8. *Regulations*. The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose and intent of this Order.

EXECUTIVE ORDER NO. 11598

Ex. Ord. No. 11598, June 16, 1971, 36 F.R. 11711, formerly set out as a note under this section, which related to the listing of certain job vacancies by federal agencies and government contractors and subcontractors, was superseded by Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, set out as a note under section 4212 of Title 38, Veterans' Benefits.

EXECUTIVE ORDER NO. 11813

Ex. Ord. No. 11813, Oct. 7, 1974, 39 F.R. 36317, which related to career or career-conditional appointments for

cooperative education students, was revoked by Ex. Ord. No. 12015, Oct. 26, 1977, 42 F.R. 56947, set out below.

EX. ORD. NO. 11839. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS IN REGIONAL OFFICES FROM THE CAREER SERVICE

Ex. Ord. No. 11839, Feb. 15, 1975, 40 F.R. 7351, provided: The program to decentralize Federal policy and decision making and to involve local governments and other interested parties in Federal, State, and local policy and program development requires a capability for deep involvement in the development and advocacy of Administration proposals and policies, and support of their controversial aspects, on the part of certain senior regional officials.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Civil Service Rule VI is amended by adding the following Section:

“SECTION 6.8. SPECIFIED EXCEPTIONS

“Positions in the Department of the Interior whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS-15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section.”

SEC. 2. Civil Service Rule IX is amended by adding the following:

“SEC. 9.11. SPECIFIED NONCAREER EXECUTIVE ASSIGNMENTS

“The regional director, regional administrator, or the Secretary’s principal regional representative positions in the Department of Health, Education, and Welfare, Housing and Urban Development, Transportation and Labor, and those positions in the Environmental Protection Agency shall be designated Noncareer Executive Assignments; and, the Limited Executive Assignments of any incumbents of these positions on February 15, 1975, are converted to Noncareer Executive Assignments. Incumbents of these positions serving in Career Executive Assignments on February 15, 1975, shall not be affected by the foregoing provisions of this Section.”

GERALD R. FORD.

EX. ORD. NO. 11856. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS IN REGIONAL OFFICES FROM THE CAREER SERVICE

Ex. Ord. No. 11856, May 7, 1975, 40 F.R. 20259, provided: By virtue of the authority vested in me by the Constitution of the United States of America and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Section 9.11 of Civil Service Rule IX is amended by adding “and the Small Business Administration” after “Environmental Protection Agency.”

GERALD R. FORD.

EX. ORD. NO. 11887. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS FROM THE CAREER SERVICE

Ex. Ord. No. 11887, Nov. 4, 1975, 40 F.R. 51411, provided: By virtue of the authority vested in me by the Constitution of the United States of America and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Section 6.8 of Civil Service Rule VI is amended by adding “and in the Department of Commerce” after “Department of the Interior”.

GERALD R. FORD.

EX. ORD. NO. 11935. AMENDING THE CIVIL SERVICE RULES CONCERNING CITIZENSHIP REQUIREMENTS FOR FEDERAL EMPLOYMENT

Ex. Ord. No. 11935, Sept. 2, 1976, 41 F.R. 37301, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Civil Service Rule VII (5 CFR Part 7) is hereby amended by adding thereto the following new section:

“SECTION 7.4. CITIZENSHIP

“(a) No person shall be admitted to competitive examination unless such person is a citizen or national of the United States.

“(b) No person shall be given any appointment in the competitive service unless such person is a citizen or national of the United States.

“(c) The Office may, as an exception to this rule and to the extent permitted by law, authorize the appointment of aliens to positions in the competitive service when necessary to promote the efficiency of the service in specific cases or for temporary appointments.”

EX. ORD. NO. 11955. CAREER OR CAREER-CONDITIONAL APPOINTMENT TO CERTAIN QUALIFIED EMPLOYEES OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Ex. Ord. No. 11955, Jan. 10, 1977, 42 F.R. 2499, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 3301 of title 5 of the United States Code [this section], and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The appointment of a Command Pilot, Pilot or Mission Specialist candidate to a position in the Space Shuttle Astronaut Program of the National Aeronautics and Space Administration, which is listed under Schedule B of the Schedule of Excepted Positions, may be converted to career or career-conditional appointment if:

(a) the candidate has successfully completed two years of service as a candidate in an appropriate training program;

(b) the Administrator of the National Aeronautics and Space Administration, or the Administrator’s designee, recommends the conversion of the candidate’s appointment within ninety days of completion of the requirements of section 1(a);

(c) the candidate meets noncompetitive examination standards prescribed by the Office of Personnel Management; and

(d) the candidate meets all other requirements prescribed by the Office of Personnel Management pursuant to section 3 of this order.

SEC. 2. Whenever the Administrator of the National Aeronautics and Space Administration, or the Administrator’s designee, decides not to recommend conversion of an appointment under this order or whenever the Administrator, or the Administrator’s designee, recommends conversion and the candidate fails to qualify, the candidate shall be separated not later than the date of expiration of the current Schedule B appointment, unless the appointment can be converted through appropriate competitive examination or the candidate can be assigned to a suitable position under another excepted authority prior to the expiration date.

SEC. 3. The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this order.

EXECUTIVE ORDER NO. 12008

Ex. Ord. No. 12008, Aug. 25, 1977, 42 F.R. 43373, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which established a Presidential Management Intern Program, was revoked by Ex. Ord. No. 12364, May 24, 1982, 47 F.R. 22931, formerly set out below.

EX. ORD. NO. 12015. CAREER OR CAREER-CONDITIONAL APPOINTMENTS IN COMPETITIVE SERVICE FOR STUDENTS COMPLETING APPROVED CAREER-RELATED WORK-STUDY PROGRAMS

Ex. Ord. No. 12015, Oct. 26, 1977, 42 F.R. 56947, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 13024, Nov. 7, 1996, 61 F.R. 58125, provided:

By virtue of the authority vested in me by Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. As used in this order "career-related work-study programs" are those programs established by the Office of Personnel Management which provide for a formally-arranged schedule of periods of attendance at an accredited school combined with periods of career-related work in a Federal agency under a Schedule B appointment.

SEC. 2. The appointment of a student to a position in a career-related work-study program may be converted noncompetitively to a term, career, or career-conditional appointment if the student:

(a) has completed within the preceding 120 days an educational program that meets the provisions established by the Office of Personnel Management;

(b) has satisfied all course requirements leading to completion of the related curriculum at an accredited school;

(c) is recommended for such an appointment by the employing agency in which the career-related work was performed; and,

(d) satisfies such other requirements and conditions as the Office of Personnel Management may prescribe for term, career, or career-conditional appointment of an individual in career-related work-study programs.

SEC. 3. The Office of Personnel Management shall prescribe such regulations as it deems necessary to carry out the provisions of this order and to provide for the continuation of planning, implementation and evaluation of employment programs for students throughout the Government. These regulations shall provide for the periodic evaluation of the work of each student and require that each student's continuation in the program shall be dependent upon a finding of satisfactory performance.

SEC. 4. Students converted to term appointment under section 2 may subsequently be converted noncompetitively to a career or career-conditional appointment before the term appointment expires.

SEC. 5. Executive Order No. 11813 of October 7, 1974, is hereby revoked.

EX. ORD. NO. 12021. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS FROM THE CAREER SERVICE

Ex. Ord. No. 12021, Nov. 30, 1977, 42 F.R. 61237, provided:

By virtue of the authority vested in me by the Constitution of the United States of America, and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. That portion of Section 6.8 of Civil Service Rule VI following the heading "Specified Exceptions." (5 C.F.R. 6.8) is designated subsection (a) and a new subsection (b) is added as follows:

"(b) Positions in the Community Services Administration and ACTION [now Corporation for National and Community Service] whose incumbents serve as regional director or regional administrator shall be listed in Schedule C for grades not exceeding GS-15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on November 29, 1977, in the competitive service shall not be affected by the foregoing provisions of this subsection."

SEC. 2. That portion of Section 9.11 of Civil Service Rule IX following the heading "Career Executive As-

signments; selection and assignment." (5 C.F.R. 9.11) is designated subsection (a) and a new subsection (b) is added as follows:

"(b) The regional director or regional administrator positions in the Defense Civil Preparedness Agency and the General Services Administration shall be designated as Noncareer Executive Assignments and the Limited Executive Assignments of any incumbents of these positions on November 29, 1977, are converted to Noncareer Executive Assignments. Incumbents of these positions who are, on November 29, 1977, serving in Career Executive Assignments shall not be affected by the foregoing provisions of this subsection."

JIMMY CARTER.

EXECUTIVE ORDER NO. 12026

For provisions relating to eligibility for reinstatement in the competitive civil service of certain employees of the Energy Department, see Ex. Ord. No. 12026, Dec. 5, 1977, 42 F.R. 61849, set out as a note under section 7292 of Title 42, The Public Health and Welfare.

EX. ORD. NO. 12043. AMENDING THE CIVIL SERVICE RULES REGARDING NOTICE OF EXEMPTIONS FROM THE COMPETITIVE SERVICE

Ex. Ord. No. 12043, Mar. 7, 1978, 43 F.R. 9773, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by the Constitution of the United States of America, and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 6.1 of Civil Service Rule VI (5 CFR 6.1) is amended by deleting the third sentence in subsection (a) thereof and by adding a new subsection (c) as follows:

"(c) Notice of the Office's decision granting authority to make appointments to an excepted position under the appropriate schedule shall be published in the FEDERAL REGISTER."

SEC. 2. Section 6.6 of the Civil Service Rule VI (5 CFR 6.6) is amended by deleting the second sentence thereof and substituting "Notice of the Office's decision making these changes shall be published in the FEDERAL REGISTER."

SEC. 3. Section 9.6 of the Civil Service Rule IX (5 CFR 9.6) is amended by adding a new subsection (c) as follows:

"(c) The Office shall include in its annual report a current listing, by agency, of all positions authorized to be filled by Limited Executive Assignment."

SEC. 4. Section 9.20 of Civil Service Rule IX (5 CFR 9.20) is amended by adding a new subsection (f) as follows:

"(f) The Office shall include in its annual report a current listing, by agency, of all positions authorized to be filled by Noncareer Executive Assignment."

JIMMY CARTER.

EX. ORD. NO. 12125. AMENDING THE CIVIL SERVICE RULES RELATING TO COMPETITIVE STATUS FOR HANDICAPPED FEDERAL EMPLOYEES

Ex. Ord. No. 12125, Mar. 15, 1979, 44 F.R. 16879, provided:

By the authority vested in me as President of the United States of America by Sections 3301 and 3302 of Title 5 of the United States Code, and in order to permit severely physically handicapped and mentally retarded individuals to obtain civil service competitive status, Civil Service Rule 3.1 (5 CFR 3.1) is hereby amended by adding the following new subsection:

"(b) Upon recommendation by the employing agency, and subject to such requirements as the Office of Personnel Management may prescribe, the following classes of handicapped employees may acquire competitive status without competitive examination:

"(1) A severely physically handicapped employee who completes at least two years of satisfactory service in a position excepted from the competitive service.

“(2) A mentally retarded employee who completes at least two years of satisfactory service in a position excepted from the competitive service.”.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12257

Ex. Ord. No. 12257, Dec. 18, 1980, 45 F.R. 84005, which provided for noncompetitive conversion of participants in the Comprehensive Employment and Training Act program to career or career-conditional Civil Service status, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 12300

Ex. Ord. No. 12300, Mar. 23, 1981, 46 F.R. 18683, which amended section 6.8 of Civil Service Rule VI by adding subsec. (c), excepting certain positions in Department of Agriculture from the competitive service, was superseded by Ex. Ord. No. 12940, Nov. 28, 1994, 59 F.R. 61519, set out below.

EXECUTIVE ORDER NO. 12362

Ex. Ord. No. 12362, May 12, 1982, 47 F.R. 21231, as amended by Ex. Ord. No. 12585, Mar. 3, 1987, 52 F.R. 6773, which related to appointment to competitive status of certain overseas employees upon return to the United States, was revoked by Ex. Ord. No. 12721, July 30, 1990, 55 F.R. 31349, set out below.

EXECUTIVE ORDER NO. 12364

Ex. Ord. No. 12364, May 24, 1982, 47 F.R. 22931, as amended by Ex. Ord. No. 12645, July 12, 1988, 53 F.R. 26750, which related to the Presidential Management Intern Program, was superseded by Ex. Ord. No. 13318, Nov. 21, 2003, 68 F.R. 66317, set out below.

EX. ORD. NO. 12505. CAREER APPOINTMENTS TO CERTAIN OFFICE OF MANAGEMENT AND BUDGET EMPLOYEES

Ex. Ord. No. 12505, Feb. 12, 1985, 50 F.R. 6151, provided: By the authority vested in me as President by the laws of the United States of America, including Section 3301 and 3302 of Title 5, and Section 521 of Title 31 of the United States Code, it is hereby ordered as follows:

SECTION 1. No later than April 1, 1985, any employee of the Office of Management and Budget serving under an appointment under Schedule A in a position not limited to one year or less, concerned with implementation of the President's paperwork reduction and regulatory review and planning programs, may have his or her appointment converted to a career or career-conditional appointment if the Director of the Office of Management and Budget determines that:

(a) The employee has completed at least one year of full-time continuous service in a position concerned with the paperwork reduction and regulatory program;

(b) There is a continuing need for the position filled by the employee;

(c) The employee's past performance has been satisfactory and the employee possesses the qualifications necessary to continue in the position; and

(d) The employee meets the citizenship requirements and qualification standards appropriate for the position.

SEC. 2. If the Director determines not to convert an employee's appointment to career or career-conditional status under the preceding Section, the employee shall be separated not later than the date of expiration of the current appointment.

SEC. 3. Employees whose appointments are converted under this Order shall become career-conditional employees, or career employees if they have completed the service requirements for career tenure, and all converted employees shall acquire a competitive status.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12596

Ex. Ord. No. 12596, May 7, 1987, 52 F.R. 17537, which provided for noncompetitive conversion to career sta-

tus of certain employees in professional and administrative career positions, was revoked by Ex. Ord. No. 13162, July 6, 2000, 65 F.R. 43212, set out as a note below.

EX. ORD. NO. 12685. NONCOMPETITIVE CONVERSION OF PERSONAL ASSISTANTS TO EMPLOYEES WITH DISABILITIES

Ex. Ord. No. 12685, July 28, 1989, 54 F.R. 31796, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. Upon recommendation by the employing agency, and subject to qualifications and other requirements prescribed by the Office of Personnel Management, an employee in a position in the excepted service under 5 C.F.R. 213.3102(11) as a reader, interpreter, or personal assistant for a handicapped employee, whose employment in such position is no longer necessary and who has completed at least 1 year of satisfactory service in such position under a non-temporary appointment, may be converted noncompetitively to a career or career-conditional appointment.

SEC. 2. This order shall be effective upon publication in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12718. PRESIDENT'S ADVISORY COMMISSION ON THE PUBLIC SERVICE

Ex. Ord. No. 12718, June 29, 1990, 55 F.R. 27451, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to provide a continuing source of advice on the public service from outstanding leaders in various walks of private life, it is hereby ordered as follows:

SECTION 1. *Establishment.* The President's Advisory Commission on the Public Service ("Commission") is hereby established. The Commission shall be comprised of 13 members to be appointed by the President from among leading citizens in private life. The members shall be appointed for 2-year terms, except that initial appointments shall include six members appointed to serve 1-year terms. Any vacancy in the Commission shall be filled by an appointment for the remainder of the term for which the original appointment was made, and a member whose term has expired may serve until his or her successor has been appointed. The President shall designate one of the members of the Commission to serve as Chairperson.

SEC. 2. *Functions.* (a) The Commission shall meet from time to time at the request of the Chairperson and shall consider ways to enhance the public service in American life, including:

(1) improving the efficiency and attractiveness of the Federal civil service;

(2) increasing the interest among American students in pursuing careers in the public service; and

(3) strengthening the image of the public service in American life.

(b) The Commission shall submit a report on its activities to the Director of the Office of Personnel Management and the President each year.

SEC. 3. *Administrative Provisions.* (a) The members of the Commission shall serve without compensation, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(b) All executive agencies are directed, to the extent permitted by law, to provide such information, advice, and assistance to the Commission as the Commission may request.

(c) The Director of the Office of Personnel Management shall, to the extent permitted by law and subject to the availability of funds, provide the Commission with administrative services, staff support, and necessary expenses.

SEC. 4. *General.* Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended [5 U.S.C. App.], except that of reporting to the Congress, which are applicable to the Commission, shall be performed by the Office of Personnel Management in accordance with the guidelines and procedures established by the Administrator of General Services.

GEORGE BUSH.

EX. ORD. NO. 12721. ELIGIBILITY OF OVERSEAS
EMPLOYEES FOR NONCOMPETITIVE APPOINTMENTS

Ex. Ord. No. 12721, July 30, 1990, 55 F.R. 31349, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including sections 3301 and 3302 of title 5 and section 301 of title 3 of the United States Code, and in order to permit certain overseas employees to acquire competitive status upon returning to the United States, it is hereby ordered as follows:

SECTION 1. A United States citizen who is a family member of a Federal civilian employee, of a non-appropriated fund employee, or of a member of a uniformed service and who meets the qualifications and other requirements established by the Director of the Office of Personnel Management, including an appropriate period of satisfactory service under one or more overseas appointments in the excepted or competitive civil service, may be appointed noncompetitively to a competitive service position in the executive branch within the United States (including Guam, Puerto Rico, and the Virgin Islands). The employing agency in the United States may waive a requirement for a written test for an individual appointed under this order if the agency determines that the duties and responsibilities of the position occupied overseas were similar enough to those of the position to which the individual is being appointed under this order to make the written test unnecessary.

SEC. 2. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this order.

SEC. 3. To the extent there is any conflict between this order and Civil Service Rule 8.2 (5 CFR 8.2) [set out above], the provisions of this order shall control.

SEC. 4. (a) Executive Order No. 12362 of May 12, 1982, as amended, and Executive Order No. 12585 of March 3, 1987, are revoked.

(b) Existing regulations prescribed by the Director of the Office of Personnel Management under Executive Order No. 12362, as amended, shall continue in effect until modified or superseded by the Director of the Office of Personnel Management.

SEC. 5. This order shall be effective upon publication in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12940. AMENDMENT TO CIVIL SERVICE RULE
VI

Ex. Ord. No. 12940, Nov. 28, 1994, 59 F.R. 61519, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and having determined that it is necessary and warranted by conditions of good administration that certain positions in the Department of Agriculture continue to be excluded from the coverage of section 2302 of title 5, United States Code, and excepted from the competitive service because of their confidential, policy-determining, policy-making, or policy-advocating character, in order to ensure their deep involvement in the development and advocacy of Administration proposals and policies and to ensure their effective and vigorous implementation, and as a result of a reorganization of the Department of Agriculture carried out pursuant to Public Law 103-354 [7 U.S.C. 6901 et seq.], it is hereby ordered that subsection

(c) of section 6.8 of Civil Service Rule VI (5 C.F.R. 6.8) is revised to read as follows:

“(c) Within the Department of Agriculture, positions the incumbents of which serve as State Executive Directors of the Consolidated Farm Service Agency and positions the incumbents of which serve as State Directors or State Directors-at-Large for Rural Economic and Community Development shall be listed in Schedule C for all grades of the General Schedule.”

This order supersedes Executive Order No. 12300.

WILLIAM J. CLINTON.

EX. ORD. NO. 13124. AMENDING THE CIVIL SERVICE RULES
RELATING TO FEDERAL EMPLOYEES WITH PSYCHIATRIC
DISABILITIES

Ex. Ord. No. 13124, June 4, 1999, 64 F.R. 31103, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to give individuals with psychiatric disabilities the same hiring opportunities as persons with severe physical disabilities or mental retardation under the Civil Service Rules, and to permit individuals with psychiatric disabilities to obtain Civil Service competitive status, it is hereby ordered as follows:

SECTION 1. *Policy.*

(a) It is the policy of the United States to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities. The Federal Government as an employer should serve as a model for the employment of persons with disabilities and utilize the full potential of these talented citizens.

(b) The Civil Service Rules governing appointment of persons with psychiatric disabilities were adopted years ago when attitudes about mental illness were different than they are today, which led to stricter standards for hiring persons with psychiatric disabilities than for persons with mental retardation or severe physical disabilities. The Civil Service Rules provide that persons with mental retardation, severe physical disabilities, or psychiatric disabilities may be hired under excepted appointing authorities. While persons with mental retardation or severe physical disabilities may be appointed for more than 2 years and may convert to competitive status after completion of 2 years of satisfactory service in their excepted position, people with psychiatric disabilities may not.

(c) The Office of Personnel Management (OPM) and the President's Task Force on Employment of Adults with Disabilities believe that the Federal Government could better benefit from the contributions of persons with psychiatric disabilities if they were given the same opportunities available to people with mental retardation or severe physical disabilities.

SEC. 2. *Implementation.*

(a) The Director of the Office of Personnel Management shall, consistent with OPM authority, provide that persons with psychiatric disabilities are subject to the same hiring rules as persons with mental retardation or severe physical disabilities.

(b) Civil Service Rule III (5 CFR Part 3) is amended by adding the following new paragraph to subsection (b) of section 3.1:

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

SEC. 3. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this order.

WILLIAM J. CLINTON.

EX. ORD. NO. 13162. FEDERAL CAREER INTERN PROGRAM

Ex. Ord. No. 13162, July 6, 2000, 65 F.R. 43211, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to provide for the re-

recruitment and selection of exceptional employees for careers in the public sector, it is hereby ordered as follows:

SECTION 1. There is hereby constituted the Federal Career Intern Program (Program). The purpose of the Program is to attract exceptional men and women to the Federal workforce who have diverse professional experiences, academic training, and competencies, and to prepare them for careers in analyzing and implementing public programs. "Career Intern" is a generic term, and agencies may use occupational titles as appropriate.

SEC. 2. The Program is another step in the Administration's effort to recruit the highest caliber people to the Federal Government, develop their professional abilities, and retain them in Federal departments and agencies. Cabinet secretaries and agency administrators should view the Program as complementary to existing programs that provide career enhancement opportunities for Federal employees, and departments and agencies are encouraged to identify and make use of those programs, as well as the new Program, to meet department and agency needs.

SEC. 3. (a) The Office of Personnel Management (OPM) shall develop appropriate merit-based procedures for the recruitment, screening, placement, and continuing career development of Career Interns.

(b) In developing those procedures, the OPM shall provide for such actions as deemed appropriate to assure equal employment opportunity and the application of appropriate veterans' preference criteria.

SEC. 4. (a) A successful candidate shall be appointed to a position in Schedule B of the excepted service at the GS-5, 7, or 9 (and equivalent) or other trainee level appropriate for the Program, unless otherwise approved by the OPM. The appointment shall not exceed 2 years unless extended by the Federal department or agency, with the concurrence of the OPM, for up to 1 additional year.

(b) Tenure for a Career Intern shall be governed by the following principles and policies:

(1) Assigned responsibilities shall be consistent with a Career Intern's competencies and career interests, and the purposes of the Program.

(2) Continuation in the Program shall be contingent upon satisfactory performance by the Career Intern throughout the internship period.

(3) Except as provided in subsections (4) and (5) of this section, service as a Career Intern confers no rights to further Federal employment in either the competitive or excepted service upon the expiration of the internship period.

(4) Competitive civil service status may be granted to a Career Intern who satisfactorily completes the internship and meets all other requirements prescribed by the OPM.

(5) Within an agency, an employee who formerly held a career or career-conditional appointment immediately before entering the Career Intern Program, and who fails to complete the Career Intern Program for reasons unrelated to misconduct or suitability, shall be placed in a career or career-conditional position in the current agency at no lower grade or pay than the one the employee left to accept the position in the Career Intern Program.

SEC. 5. A Career Intern shall participate in a formal program of training and job assignments to develop competencies that the OPM identifies as core to the Program, and the employing agency identifies as appropriate to the agency's mission and needs.

SEC. 6. The OPM shall prescribe such regulations as it determines necessary to carry out the purpose of this order.

SEC. 7. The OPM shall provide oversight of the Program.

SEC. 8. Executive Order 12596 of May 7, 1987, is revoked.

SEC. 9. *Judicial Review.* This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, sub-

stantive or procedural, enforceable in law or equity, by a party against the United States, its agencies, its officers or employees, or any other person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13318. PRESIDENTIAL MANAGEMENT FELLOWS PROGRAM

Ex. Ord. No. 13318, Nov. 21, 2003, 68 F.R. 66317, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to provide for the recruitment and selection of outstanding employees for service in public sector management, it is hereby ordered as follows:

SECTION 1. There is hereby constituted the Presidential Management Fellows Program. The purpose of the Program is to attract to the Federal service outstanding men and women from a variety of academic disciplines and career paths who have a clear interest in, and commitment to, excellence in the leadership and management of public policies and programs. Individuals selected for the Program shall be known as Presidential Management Fellows (PMFs) or Senior Presidential Management Fellows (Senior PMFs).

SEC. 2. (a) Individuals eligible for appointment as a PMF under this order are those who, in pursuing a course of study at the graduate level, have demonstrated both exceptional ability and the commitment to which section 1 refers. Such individuals at the time of application must have received, or must expect to receive soon thereafter, an appropriate advanced degree as defined by the Director of the Office of Personnel Management (OPM).

(b) Individuals eligible for appointment as a Senior PMF under this order are those who have, through extensive work experience, demonstrated both exceptional leadership or analytical ability and the commitment to which section 1 refers.

SEC. 3. The Director of OPM shall prescribe appropriate merit-based rules for the recruitment, nomination, assessment, selection, appointment, placement, and continuing career development of fellows, including rules that:

(a) reserve to the head of a department or agency or component within the Executive Office of the President (EOP) the authority to appoint a fellow who is to be employed in that department, agency, or component;

(b) provide for nomination by universities and colleges, through competitive selection processes, of eligible individuals for consideration for appointment as PMFs;

(c) carry out the policy of the United States to ensure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin; and

(d) ensure the application of appropriate veterans' preference criteria.

SEC. 4. (a) Fellows shall be appointed to positions in either:

(1) Schedule A of the excepted service; or

(2) an agency or component within the EOP excepted from the competitive service.

(b) Appointments under subsection (a) shall not exceed 2 years in duration unless extended by the head of the department or agency or component within the EOP, with the concurrence of the Director of OPM, for a period not to exceed 1 additional year.

(c) The following principles and policies shall govern service and tenure by fellows:

(1) responsibilities assigned to a PMF shall be consistent with the PMF's educational background and career interests, and the purposes of the Program; and responsibilities assigned to a Senior PMF shall be consistent with the Senior PMF's experience and career interests, and the purposes of the Program;

(2) continuation of a fellow's appointment shall be contingent upon satisfactory performance by the fellow throughout the fellowship appointment;

(3) except as provided in paragraph (4) of this subsection, service as a fellow shall confer no right to further Federal employment in either the competitive or excepted service upon the expiration of the fellow's appointment; and

(4) competitive civil service status may be granted to a fellow who satisfactorily completes the Program and meets such other requirements as the Director of OPM may prescribe. A fellow appointed by an agency excepted from the competitive service may also be appointed to a permanent position in an excepted service agency without further competition.

SEC. 5. The Director of OPM shall provide for an orderly transition, including with respect to nominations, selection processes, and appointments, from the Presidential Management Intern Program established by Executive Order 12364 [formerly set out above] of May 24, 1982, to the Presidential Management Fellows Program established by this order. Until that transition is provided for, individuals who were selected or appointed under the provisions of Executive Order 12364 and who have not completed their scheduled periods of excepted service are hereby redesignated as Presidential Management Fellows, and continue their internships under the terms of Executive Order 12364.

SEC. 6. The Director of OPM shall prescribe such regulations as may be necessary to carry out the purposes of this order.

SEC. 7. Executive Order 12364 [formerly set out above] is superseded, except as provided in section 5 of this order.

SEC. 8. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 3302. Competitive service; rules

The President may prescribe rules governing the competitive service. The rules shall provide, as nearly as conditions of good administration warrant, for—

- (1) necessary exceptions of positions from the competitive service; and
(2) necessary exceptions from the provisions of sections 2951, 3304(a), 3321, 7202, and 7203 of this title.

Each officer and individual employed in an agency to which the rules apply shall aid in carrying out the rules.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 417; Pub. L. 95-228, §2(b), Feb. 10, 1978, 92 Stat. 25; Pub. L. 95-454, title VII, §703(c)(1), Oct. 13, 1978, 92 Stat. 1217; Pub. L. 96-54, §2(a)(16), Aug. 14, 1979, 93 Stat. 382; Pub. L. 103-94, §2(b)(1), Oct. 6, 1993, 107 Stat. 1004.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 633(1) (less function of Civil Service Commission), (2)8 (last sentence). Jan. 16, 1883, ch. 27, §2(1) (less function of Civil Service Commission), (2) 8 (last sentence), 22 Stat. 403, 404.

The reference to the competitive service is substituted for the reference to the Act creating that service. The reference to reasons for the exceptions is omitted as covered by section 1308 of this title. The words "provide for" are substituted for "provide and declare". Paragraph (1) is supplied to preserve the President's power to except positions from the competitive service,

previously implied from the power to except from the first rule in former section 633(2). Authority to make exceptions to so much of former section 633(2) as is restated in this section and section 1302(a) is omitted as meaningless. Authority to make exceptions to so much of former section 633(2) as is restated in section 3318(a) is omitted as superseded by former section 857, which is carried into section 3318(a). In the last sentence, the words "Each officer and individual employed in an agency" are substituted for "officers of the United States in the departments and offices" because of the restrictive definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1993—Par. (2). Pub. L. 103-94 substituted "and 7203" for "7203, 7321, and 7322".

1979—Par. (2). Pub. L. 96-54 amended par. (2) in same manner as amendment by section 703(c)(1) of Pub. L. 95-454. See 1978 Amendment note below.

1978—Par. (2). Pub. L. 95-454 substituted "7202, 7203" for "7152, 7153".

Pub. L. 95-228 struck out reference to section 3306(a)(1) of this title. Amendments by section 703(c)(1) and (c)(2) of Pub. L. 95-454 appear to have been inadvertently reversed. Subsec. (c)(1) purported to amend subsec. (c)(1) of section 2105 of this title, and subsec. (c)(2) purported to amend par. (2) of this section. However, the amendments specified by Pub. L. 95-454, §703(c)(1) and (2), were impossible to execute literally. Thus, amendment by Pub. L. 95-454, §703(c)(2) was executed to section 2105 of this title, and amendment by section 703(c)(1) was executed to this section as the probable intent of Congress.

EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 103-94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103-94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103-94 had not been enacted, see section 12 of Pub. L. 103-94, set out as an Effective Date; Savings Provision note under section 7321 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

EX. ORD. NO. 11521. VETERANS READJUSTMENT APPOINTMENT FOR VETERANS OF VIETNAM ERA

Ex. Ord. No. 11521, Mar. 26, 1970, 35 F.R. 5311, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

WHEREAS this Nation has an obligation to assist veterans of the armed forces in readjusting to civilian life;

WHEREAS the Federal Government, as an employer, should reflect its recognition of this obligation in its personnel policies and practices;

WHEREAS veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers;

WHEREAS the Federal Government is continuously concerned with building an effective workforce, and veterans constitute a major recruiting source; and