

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 330

RIN 3206-AI28

#### Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections

**AGENCY:** Office of Personnel  
Management.

**ACTION:** Interim regulations with request  
for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing interim regulations to implement a provision of recent law which requires the establishment of a priority consideration program to facilitate employment placement in Federal positions (other than Federal Bureau of Prisons positions) for employees of the District of Columbia Department of Corrections who are scheduled to be separated from service as a result of the closure of certain prison facilities. A separate priority consideration program for placement of displaced Department of Corrections employees in Federal Bureau of Prisons positions is being established by the Department of Justice.

**DATES:** This interim regulation is effective August 4, 1998. Written comments will be considered if received no later than October 5, 1998.

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

**FOR FURTHER INFORMATION CONTACT:** Tim Firlie, Ed McHugh, or C.C. Christakos, 202-606-0960, FAX 202-606-2329.

**SUPPLEMENTARY INFORMATION:** The National Capital Revitalization and Self-

Government Improvement Act (part of the Balanced Budget Act of 1997, Sec. 11203, Pub. L. 105-33, 111 Stat. 738, enacted August 5, 1997) provides that the Lorton Correctional Complex shall be closed and the sentenced felony population residing at the Lorton Correctional Complex shall be transferred to a penal or correctional facility operated or contracted for by the Federal Bureau of Prisons (BOP) by December 31, 2001. As part of this law, section 11203 establishes a Priority Consideration Program for employees of the District of Columbia (D.C.) Department of Corrections (DOC) who are scheduled to be displaced as a result of this closure. The law provides for two Priority Consideration Programs—one for vacant BOP law enforcement positions for employees who meet the qualification and suitability requirements for the position; and the other, for vacancies in any Federal agencies outside the BOP, if the DC DOC employee does not meet the qualification and suitability requirements for a BOP law enforcement position. These regulations cover the portion of the Priority Consideration Program dealing with jobs in other Federal agencies. Under this subpart, present and former DOC employees in receipt of a RIF separation notice, issued after August 5, 1997, who have not been appointed to a Bureau of Prisons position after that date, will receive priority consideration for vacant competitive service positions in Federal Executive Branch agencies when they apply and are determined to be well qualified. Priority consideration will be accorded to eligible Department of Corrections employees on a similar basis as that accorded to federal employees displaced by reduction in force under 5 CFR 330, subpart G—Interagency Career Transition Assistance Plan for Displaced Employees. By law, this priority consideration program will terminate 1 year after the closing of the correctional complex.

#### Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553 (b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest to delay access to benefits provided by law. Also,

pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the delay in the effective date and make this amendment effective in less than 30 days. The delay in the effective date is being waived to give effect to the benefits extended by the amended provisions at the earliest practicable date.

#### Regulatory Flexibility Act

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

#### Executive Order 12866, Regulatory Review

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

#### List of Subjects in 5 CFR Part 330

Armed forces reserves, Government employees.

U.S. Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

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

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

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

**Authority:** 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218; § 330.102 also issued under 5 U.S.C. 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310; subpart I also issued under sec. 4432 of Pub. Law 102-484; subpart K also issued under sec. 11203 of Pub. Law 105-33.

2. Subpart K of part 330 is added to read as follows:

#### Subpart K—Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections

Sec.  
330.1101 Purpose.  
330.1102 Duration.  
330.1103 Definitions.  
330.1104 Eligibility.  
330.1105 Selection.

330.1106 Appointment of certain present and former employees of the District of Columbia Department of Corrections to vacancies in other Federal agencies

**Subpart K—Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections**

**§ 330.1101 Purpose.**

A displaced employee of the District of Columbia (DC) Department of Corrections (DOC) who is separated from his/her position as a result of the closure of the Lorton Correctional Complex, and who does not meet the qualifications and suitability requirements for Federal Bureau of Prisons law enforcement positions, is entitled to priority consideration for other Federal vacancies when he/she applies and is determined to be well-qualified.

**§ 330.1102 Duration.**

This program shall terminate one year after the closing of the Lorton Correctional Complex or December 31, 2002, whichever is later.

**§ 330.1103 Definitions.**

For purposes of this subpart:

(a) *Displaced employee* means a current or former employee of the District of Columbia Department of Corrections who has received a specific reduction in force (RIF) separation notice as a result of the closure of the Lorton Correctional Complex.

(b) *Does not meet the qualifications and suitability requirements for Bureau of Prisons law enforcement positions* means a DC DOC employee who has not been appointed to a Federal Bureau of Prisons law enforcement position.

(c) *Non-Bureau of Prisons positions in the Federal Government* means any competitive service positions (other than positions covered by the Federal Bureau of Prisons Priority Consideration Program).

(d) *Priority consideration* means a displaced DC DOC employee eligible under this subpart who applies for a vacancy and is determined to be well-qualified is accorded similar priority and order of selection as an eligible current or former displaced Federal employee under 5 CFR 330, subpart G—Interagency Career Transition Assistance Plan for Displaced Employees. In addition, DC DOC employees are eligible for this priority consideration without regard to any geographical restrictions.

(e) *Well-qualified employee* means an eligible employee who possesses the knowledge, skills, and abilities which clearly exceed the minimum

qualification requirements for the position. A well-qualified employee will not necessarily meet the agency's definition of "highly or best qualified," when evaluated against other candidates who apply for a particular vacancy, but must satisfy the following criteria, as determined and consistently applied by the agency.

(1) Meets the basic qualification standards and eligibility requirements for the position, including any medical qualifications, suitability, citizenship, and minimum educational and experience requirements;

(2) Satisfies one of the following qualifications requirements:

(i) Meets all selective factors where applicable. Meets appropriate quality rating factor levels as determined by the agency. Selective and quality ranking factors cannot be so restrictive that they run counter to the goal of placing displaced employees. In the absence of selective and quality ranking factors, selecting officials will document the job-related reason(s) the eligible employee is or is not considered to be well qualified; or

(ii) Is rated by the agency to be above minimally qualified in accordance with the agency's specific rating and ranking process. Generally, this means that the individual may or may not meet the agency's test for "highly qualified," but would in fact, exceed the minimum qualifications for the position;

(3) Is physically qualified, with reasonable accommodation where appropriate, to perform the essential duties of the position;

(4) Meets any special qualifying condition(s) that OPM has approved for the position; and

(5) Is able to satisfactorily perform the duties of the position upon entry.

**§ 330.1104 Eligibility.**

(a) To be eligible for priority consideration, an employee of the DC DOC must:

(1) Be in receipt of a RIF separation notice from the DC Department of Corrections in connection with the closure of the Lorton Correctional Complex.

(2) Have not been appointed to a Federal Bureau of Prisons law enforcement position.

(3) Apply for a vacancy within the time frames established by the agency;

(4) Be determined by the agency as well-qualified for the specific vacancy.

(b) *Eligibility for priority consideration begins:* on the date the DC DOC employee receives or is issued a specific RIF separation notice by the DC DOC.

(c) *Eligibility expires:*

(1) One year after the closing of the Lorton Correctional Complex;

(2) When the DC DOC employee is no longer being separated by RIF;

(3) When the DC DOC employee receives a career, career-conditional, or excepted appointment without time limit in any Federal agency at any grade level;

(4) When the DC DOC employee voluntarily separates by resignation or retirement prior to the RIF effective date; or

(5) When the DC DOC employee is separated involuntarily other than by RIF prior to the RIF effective date.

**§ 330.1105 Selection.**

If two or more individuals apply for a vacancy and are determined to be well-qualified, and meet the eligibility requirements under § 330.704(a) or § 330.1104(a), the agency would have the discretion of selecting any of these eligible employees.

**§ 330.1106 Appointment of certain present and former employees of the District of Columbia Department of Corrections to vacancies in other Federal agencies.**

(a) Appointments made under this section are excepted appointments to positions in the competitive service.

(b) Eligibility for appointment under this subpart expires 1 year after the closing of the Lorton Correctional Complex or December 31, 2002, whichever is later.

[FR Doc. 98-20779 Filed 8-3-98; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**7 CFR Part 301**

[Docket No. 97-073-6]

**Oriental Fruit Fly; Removal of Quarantined Areas**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rules as final rule.

**SUMMARY:** We are adopting as a final rule, without change, two interim rules that amended the Oriental fruit fly regulations by removing the quarantine on portions of Los Angeles County, CA, and by removing the restrictions on the interstate movement of regulated articles from those areas. The interim rules were necessary to relieve restrictions that are no longer needed to prevent the spread of the Oriental fruit