A. Background

The conventional 1-year probationary period does not allow supervisors an adequate period of time to fully evaluate the contribution and conduct of newly hired personnel. STRLs have included flexibilities allowing up to a 3 year probationary period. These flexibilities were fully utilized until the United States Court of Appeals for the Federal Circuit decided two cases, Van Wersch v. Department of Health & Human Services, 197 F.3d 1144 (Fed. Cir. 1999), and McCormick v. Department of the Air Force, 307 F.3d 1339 (Fed. Cir. 2002), which affected the STRL’s ability to fully utilize their extended probationary periods.

B. Modifications

The following FRNs are amended under the authority of section 1114 of the NDAA for Fiscal Year 2001:

1. ARL (63 FR 10680–10711, March 4, 1998)

   a. Add the following to section IX. Required Waivers to Law and Regulation, A. Waivers to Title 5, U. S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions—Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

   b. Add the following as the final paragraph to section IX. Required Waivers to Law and Regulation, B. Waivers to Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

2. AMRDEC (62 FR 34876–34903, June 27, 1997)

   a. Add the following to section IX. Required Waivers to Law and Regulation, 1. Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions—Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”
b. Add the following as the final paragraph to section IX. Required Waivers to Law and Regulation, 2. Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

3. ERDC (63 FR 14580–14599, March 25, 1998)

a. Add the following to section IX. Required Waivers to Law and Regulation, A. Waivers to Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)[A][ii], and 7511(a)(1)[C][ii]; Adverse Actions—Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

b. Add the following to section IX. Required Waivers to Law and Regulation, B. Waivers to Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”


a. Add the following to section IX. Required Waivers to Law and Regulation, 1. Waivers to Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)[A][ii], and 7511(a)(1)[C][ii]; Adverse Actions—Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

b. Add the following as the final paragraph to section IX. Required Waivers to Law and Regulation, 2. Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

5. CERDEC (66 FR 54872–54899, October 30, 2001)

a. Add the following to section IX. Required Waivers to Law and Regulation, A. Waivers to Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)[A][ii], and 7511(a)(1)[C][ii]; Adverse Actions—Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

b. Add the following to section IX. Required Waivers to Law and Regulation, B. Waivers to Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

6. NRL (64 FR 33970–34046, June 24, 1999)

a. Add the following as the final box on the left side of Appendix A: Required Waivers to Law and Regulation chart, Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)[A][ii], and 7511(a)(1)[C][ii]; Adverse Actions—Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

b. Add the following on the right side of the information entered in 6.a. above to Appendix A: Required Waivers to Law and Regulation chart, Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”


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DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for Arctic Deep Draft Ports Navigation Improvements Feasibility Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE) announces its intention to prepare an Environmental Impact Statement (EIS) to study the feasibility of improving the navigation infrastructure in the vicinity of Norton Sound and the Bering Strait with a focus on existing infrastructure at Nome, possible infrastructure at Cape Riley near Teller, and improved infrastructure at Point Spencer at Port Clarence, Alaska. This study will be performed through a partnership between USACE and the State of Alaska, Department of Transportation. The existing infrastructure in this region of Alaska is presently not capable of meeting existing or anticipated navigation demands for multimodal, Federal, state, and local interests. Of particular concern in this region is the ability to provide a systematic approach to meeting navigation requirements in this region in response to a changing climate and thus an increasing need for environmentally and responsibly planned infrastructure. The EIS will address the potential for positive and negative environmental impacts of construction, operation, and maintenance of marine infrastructure serving the Norton Sound and Bering Strait region. USACE will hold scoping meetings in Nome and Teller, Alaska, in an effort to better define the issues associated with navigation in this region of Alaska. Teleconferencing or VTC will be set up as available to accommodate stakeholders unable to be present at the scoping meetings. Scoping will be