

Proposed Rules

Federal Register

Vol. 69, No. 16

Monday, January 26, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213, 297, 315, 334, 362, 537, and 550

RIN 3206-AK27

Excepted Service, Privacy Procedures for Personnel Records, Career and Career-Conditional Employment, Temporary Assignment of Employees Between Federal Agencies and State, Local, and Indian Tribal Governments, Institutions of Higher Education, and Other Eligible Organizations, Presidential Management Fellows Program, Repayment of Student Loans, and Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations modifying the Presidential Management Intern (PMI) Program. The regulations implement Executive Order 13318, which renames the PMI Program as the Presidential Management Fellows Program, with two components: Presidential Management Fellows (Fellows) and Senior Presidential Management Fellows (Senior Fellows). The regulations outline OPM and agency responsibilities with respect to administration of the Program, and amend other regulations to reflect the changes prescribed by the Executive Order.

DATES: Comments must be received by March 26, 2004.

ADDRESSES: Send, fax, or deliver written comments to Ms. Leah M. Meisel, Deputy Associate Director, Center for Talent and Capacity Policy, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6500, Washington, DC 20415, e-mail employ@opm.gov, FAX: 202-606-2329.

FOR FURTHER INFORMATION CONTACT: Ms. Christina Vay by phone on 202-606-

0960, by FAX on (202) 606-2329, or by TTY on (202) 418-3134.

SUPPLEMENTARY INFORMATION: The Presidential Management Intern (PMI) Program was established by Executive Order in 1977 to attract highly qualified persons with graduate degrees from a variety of academic disciplines who demonstrated an interest in, and commitment to, leadership in the Federal service. PMI candidates were nominated by their graduate schools, and, after a rigorous assessment process conducted by OPM, the best qualified finalists were identified as eligible for excepted appointments by Federal departments and agencies. Following successful completion of a 2-year internship that included formal training and rotational assignments, PMIs could be appointed without further competition to positions in the competitive service.

Recently the President signed Executive Order 13318 "modernizing" the PMI Program, in keeping with his emphasis on the strategic management of the Federal Government's human capital. Renamed the Presidential Management Fellows Program to better reflect its high standards, rigor, and prestige, it now consists of two components: Presidential Management Fellows (generally comparable to Presidential Management Interns and hereafter referred to as Fellows), and the new Senior Presidential Management Fellows (hereafter referred to as Senior Fellows). The Executive Order charges the Director of OPM with developing, managing, and evaluating the Program.

Renaming the Program

As noted above, the PMI Program's modernization includes a change in its name. Over the years, the term "intern" has been applied to numerous Federal employment programs that cover all levels and types of employees and appointments, including part-time high school and college students and recent college graduates, as well as PMIs. Some of these programs are designed to lead to a career in the Federal service and others are not. While these programs have been very successful, they do not reflect the degree of rigor and academic achievement required of the original PMI Program. Accordingly, to clearly distinguish what is now (and will continue to be) the Federal Government's premier leadership

development program, the President has re-designated it as the Presidential Management Fellows Program. To reflect the name change, we are making conforming amendments to Title 5, Code of Federal Regulations, part 297 (Privacy Procedures for Personnel Records), part 334 (Temporary Assignment of Employees Between Federal Agencies and State, Local, and Indian Tribal Governments, Institutions of Higher Education, and Other Eligible Organizations), part 537 (Repayment of Student Loans), and part 550 (Pay Administration (General)).

Introducing New Senior Fellows

As noted, the Executive order also introduces a new component of the Program: Senior Fellows. Designed to complement Presidential Management Fellows, Senior Fellow appointments are reserved for those outstanding individuals who also have a demonstrated commitment to Federal service, but who already possess outstanding leadership, managerial, and/or professional/technical experience. The proposed regulations will allow OPM to recruit these highly talented individuals from within and outside Government; evaluate and appoint them at a more senior level; and, after a period of intensive OPM and agency development that will prepare them for senior executive or senior level technical/professional responsibilities, deploy them to meet critical agency leadership succession requirements.

To this end, the Executive order authorizes all agencies in the executive branch to appoint Senior Fellows, and the proposed regulations authorize appointment at grade GS-13, GS-14, or GS-15 (or their equivalents), depending on the candidate's qualifications. The proposed regulations also set forth rigorous assessment, appointment, training, development, evaluation, promotion, conversion, and placement requirements for Senior Fellows. These requirements are as arduous as those established for Fellows (described below). In this regard, the proposed regulations authorize OPM to conduct a rigorous centralized announcement and assessment process, with Senior Fellow finalists determined by the OPM Director based on the recommendations of a review committee appointed by the Director. Upon selection, Senior Fellow finalists may be appointed by agencies

under a new Schedule A excepted appointing authority designated as 5 CFR 213.3102(jj); if the appointing agencies' positions are excepted from the competitive service, the agencies appoint the Senior Fellows under an appropriate, similar agency hiring authority.

The proposed regulations include mandatory training and developmental assignments for Senior Fellows designed to prepare them for senior positions in the career Federal service and require periodic performance evaluations to ensure that the Senior Fellows are meeting the Program's high expectations in this regard. The proposed regulations also require that an agency's Executive Resources Board (ERB) certify that Senior Fellows have successfully met all Program requirements; upon such certification, Senior Fellows become eligible for non-competitive placement in career Senior Executive Service (SES) or equivalent positions in the same manner and subject to the same Qualifications Review Board review as graduates of an OPM-approved SES candidate development program (CDP).

Determining the Number of Fellows and Senior Fellows

In addition to the change in the Program's name, the President's Executive order also eliminates previous limits on the number of Fellows that agencies may appoint in any given year. Although the Executive order is silent as to the number of Senior Fellow appointments, the proposed regulations would authorize the Director of OPM to determine the number of Fellow and Senior Fellow appointments to the Program each year, based on recommendations from the new Chief Human Capital Officers Council, as well as input from other agencies. This approach will ensure maximum flexibility without diluting the extensive selection requirements.

Expanding the Program to Excepted Service Agencies

The Executive order expands the Program to permit agencies with positions that are excepted from the competitive service to appoint Fellows and Senior Fellows. This provision will allow those agencies to fully participate in this prestigious Program and provide greater opportunities to Fellow and Senior Fellow candidates. As explained below, those Fellows and Senior Fellows who are appointed to positions in excepted service agencies may also be appointed without further competition to permanent positions for which they qualify in the competitive service, upon

their successful completion of the Program.

Providing Greater Flexibility in Entry Level

The proposed regulations permit agencies to appoint Fellows at grades up to GS-12 (or its equivalent), depending on the candidate's qualifications, as described below. They also provide for the appointment of Senior Fellows at grades GS-13 through GS-15 (or their equivalents), depending on the candidate's qualifications. An increasing number of Program candidates have extensive professional and post-graduate academic qualifications, as well as substantial prior work experience, often in very senior positions. Accordingly, the proposed regulations authorize agencies to appoint Fellows and Senior Fellows at higher entry grades.

Moreover, to ensure that the Federal Government can compete on an individual basis for the very best candidates, agencies may continue to use the range of recruiting incentives ordinarily available to agencies in other contexts, including the use of student loan repayments under 5 CFR part 537 and other incentives such as superior qualifications appointments under 5 CFR 531.203(b).

Establishing Rigorous Training and Development Requirements

The proposed regulations establish rigorous training and development requirements for Fellows and Senior Fellows, including rotational and/or developmental assignments of varying duration and at least 80 hours each year of formal classroom training. As was the case before with the previous PMI Program, OPM will continue to serve as a clearinghouse by identifying and disseminating appropriate training opportunities to program participants.

Agencies are required to work closely with OPM to provide Senior Fellows with training and development activities. In addition, Senior Fellows must complete the 80 hours of formal classroom training provided through an OPM-approved SES CDP; the OPM Director or designate may approve an exception for formal classroom training to be provided by a source other than the CDP.

Eliminating Time-in-Grade Requirements for Promotion

As part of the effort to modernize the Program, the proposed regulations give agencies the flexibility to promote Fellows and Senior Fellows without regard to time-in-grade (TIG) requirements established by 5 CFR part

300. Even though OPM does not require TIG for other excepted service appointments, these requirements were imposed on PMI Program participants. Thus, agencies were not permitted to consider PMIs for "career ladder" and competitive promotions to higher grades for at least 52 weeks, even though the PMIs might have already demonstrated the ability to perform (and excel) at that higher grade.

Under the proposed regulations, agencies would be required to establish promotion policies for Fellows and Senior Fellows; in addition, both Fellows and Senior Fellows would still have to meet qualification requirements for promotion. Note that the proposed regulations would limit the promotion of a Fellow to a grade no higher than GS-13 or its equivalent while in the Program; a Senior Fellow would be limited to GS-15 or its equivalent while in the Program.

Assuring Conversion to Competitive Status

The proposed regulations require that Fellows and Senior Fellows must be certified by the agency's ERB before being appointed, because of the Board's succession planning and leadership development responsibilities. If the ERB does not certify a Fellow or Senior Fellow, the Fellow or Senior Fellow may request reconsideration of that determination by OPM. OPM will normally respond within 60 days of receipt of the request.

After certification, an agency shall appoint a Fellow or Senior Fellow to a full-time, permanent position in the agency upon successful completion of the Program. If the agency is in the competitive service, the Fellow or Senior Fellow is appointed to a full-time, permanent position in the competitive service without further competition. If the agency is in the excepted service, the Fellow or Senior Fellow is appointed to a full-time, permanent position in that agency under an appropriate authority. However, in order to facilitate the mobility of Program graduates between the excepted and the competitive services, the proposed regulations provide that a Fellow or Senior Fellow who is initially appointed to a full-time, permanent position in an excepted service agency upon completion of the Program may, at a later date, be appointed to a position in the competitive or, in the case of a Senior Fellow, to the executive service without further competition. This flexibility may be utilized on a one time only basis, but does not have a time limitation.

Simplifying Language

As part of OPM's on-going efforts to simplify our regulations, the proposed regulations revise part 362 to make it easier to read and understand, and rename it the Presidential Management Fellows Program.

Regulatory Flexibility Act

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

Executive Order 12866, Regulatory Review

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

List of Subjects in 5 CFR Parts 213, 297, 315, 334, 362, 537, and 550

Administrative practice and procedure, Claims, Colleges and Universities, Government employees, Indians, Intergovernmental relations, Privacy, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM proposes to amend 5 CFR parts 213, 297, 315, 334, 362, 537, and 550 as follows:

PART 213—EXCEPTED SERVICE

1. Revise the authority citation for part 213 to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; Sec. 213.101 also issued under 5 U.S.C. 2103; Sec. 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 13318; 38 U.S.C. 4301 *et seq.*; Pub. L. 105–339, 112 STAT 3182–83; and E.O. 13162.

2. Revise paragraph (ii) of § 213.3102 and add paragraph (jj) to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(ii) Positions of Fellows in the Presidential Management Fellows Program. Initial appointments of Fellows are made at either the GS–9, GS–11, or GS–12 level (or their equivalents), depending on the candidate's qualifications. Appointments are made under this authority for 2 years; however, upon approval of OPM, the head of the department, agency, or component within the Executive Office of the President may extend the appointment for up to one additional year. Upon the Fellow's satisfactory completion of the Program, the employing agency shall

noncompetitively appoint the Fellow to a full-time, permanent position in the competitive service, or in the excepted service if the employing agency's position is excepted from the competitive service, in accordance with the provisions of Executive Order 13318 and the requirements prescribed in § 315.708 and part 362 of this chapter. A Fellow appointed to a position in the excepted service upon successful completion of the Program may be appointed immediately after completion of the Program or at a later date, without further competition and only one time, if selected for a full-time, permanent position in the competitive service by an agency, in accordance with the provisions of Executive Order 13318 and the requirements prescribed in § 315.708 and part 362 of this chapter.

(jj) Positions of Senior Fellows in the Presidential Management Fellows Program. Initial appointments are made at the GS–13, GS–14, or GS–15 level (or their equivalents), depending on the candidate's qualifications. Appointments may be made under this authority for up to 2 years; however, upon approval of OPM, the head of the department, agency, or component within the Executive Office of the President may extend the Senior Fellow's appointment for up to one additional year. Upon the Senior Fellow's satisfactory completion of the Program, the employing agency shall non-competitively appoint the Senior Fellow to a full-time, permanent position in the competitive service, or in the excepted service if the employing agency's position is excepted from the competitive service, in accordance with the provisions of Executive Order 13318 and the requirements prescribed in § 315.708 and part 362 of this chapter. A Senior Fellow appointed to a position in an excepted service agency upon successful completion of the Program may be appointed immediately after completion of the Program or at a later date, without further competition and only one time, if selected for a full-time, permanent position in the competitive service by an agency, in accordance with the provisions of Executive Order 13318 and the requirements prescribed in § 315.708 and part 362 of this chapter. If a Senior Fellow successfully completes the Program, as certified by the appointing agency's Executive Resources Board (pursuant to § 362.204(c) of this chapter), he/she may be appointed to a position in the Senior Executive Service (SES) (or the equivalent) without further competition and only one time, in the same manner, and subject to the same Qualifications

Review Board review, as an individual who has successfully completed an OPM-approved SES candidate development program under parts 317 and 412 of this chapter.

* * * * *

PART 297—PRIVACY PROCEDURES FOR PERSONNEL RECORDS

3. The authority citation for part 297 continues to read as follows:

Authority: Sec. 3, Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

Subpart E—Exempt Records

4. Revise paragraph (b)(6) of § 297.501 to read as follows:

§ 297.501 Exemptions.

* * * * *

(b) * * *

(6) *Presidential Management Fellows Program Records (OPM/CENTRAL–11)*. All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

* * * * *

PART 315—CAREER OR CAREER-CONDITIONAL EMPLOYMENT

5. Revise the authority citation for part 315 to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp. P. 218, unless otherwise noted; and E.O. 13162. Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp. p. 111. Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp. p. 303. Sec. 315.607 also issued under 22 U.S.C. 2506. Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp., p. 293. Sec. 315.610 also issued under 5 U.S.C. 3304(d). Sec. 315.611 also issued under Section 511, Pub. L. 106–117, 113 STAT. 1575–76. Sec. 315.708 also issued under E.O. 13318. Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1987, Comp., p. 229. Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp., p. 264.

Subpart B—The Career-Conditional Employment System

6. Revise paragraph (b)(1)(xiii) of § 315.201 to read as follows:

§ 315.201 Service requirement for career tenure.

* * * * *

(b) * * *

(1) * * *

(xiii) The date of appointment as a participant in the Presidential Management Fellows Program under Schedule A, § 213.3102(ii) and (jj) of this chapter, provided the employee's appointment is converted to career or career-conditional appointment under § 315.708;

* * * * *

Subpart G—Conversion to Career or Career-Conditional Employment From Other Types of Employment

7. Revise § 315.708 to read as follows:

§ 315.708 Conversion based on service as a Fellow or Senior Fellow in the Presidential Management Fellows Program.

(a) *Agency authority.* An agency shall appoint a Fellow or Senior Fellow to a full-time, permanent position in the competitive or excepted service, as applicable, without further competition when the Fellow or Senior Fellow:

(1) Has satisfactorily completed the Program as outlined in part 362 of this chapter; and

(2) Meets the citizenship requirement.

(b) *Tenure upon conversion.* (1) Except as provided in paragraph (b)(2) of this section, a Fellow or Senior Fellow appointed under paragraph (a) of this section becomes a career-conditional employee.

(2) A Fellow or Senior Fellow appointed under paragraph (a) of this section becomes a career employee when he or she has completed the service requirement for career tenure or is excepted from it under § 315.201(c).

(c) *Career Status.* A Fellow or Senior Fellow appointed to a full-time, permanent position in the competitive service under this section does not serve a probationary period and acquires career or career-conditional status immediately upon appointment to the competitive service.

PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER ELIGIBLE ORGANIZATIONS

8. The authority citation for part 334 continues to read as follows:

Authority: 5 U.S.C. 3376; E.O. 11589, 3 CFR 557 (1971–1975).

9. Revise the definition of *Employee* in § 334.102 to read as follows:

* * * * *

Employee means an individual serving in a Federal agency under a career or career-conditional appointment including career appointees in the Senior Executive Service, individuals under appointments of equivalent tenure in excepted service positions, and Fellows and Senior Fellows in the Presidential Management Fellows Program; or an individual employed for at least 90 days in a career position with a State, local, or Indian tribal government, institution of higher education, or other eligible organization;

* * * * *

10. Revise part 362 to read as follows:

PART 362—PRESIDENTIAL MANAGEMENT FELLOWS PROGRAM**Subpart A—Definitions**

Sec.

362.101 Definitions.

Subpart B—Program Administration

362.201 Agency programs.

362.202 Announcement, nomination and selection.

362.203 Appointment and extensions.

362.204 Development, evaluation, promotion, and certification.

362.205 Waiver.

362.206 Movement between departments or agencies.

362.207 Withdrawal and readmission.

362.208 Resignation, termination, reduction in force, and appeal rights.

362.209 Placement upon completion.

Authority: E.O. 13318.

Subpart A—Definitions**§ 362.101 Definitions.**

For purposes of this part,

(a) An *agency* means a component within the Executive Office of the President, or an Executive department, Government corporation, or independent establishment as defined in 5 U.S.C. 101, 103, and 104, respectively.

(b) An *Executive Resources Board (ERB)* has the same meaning as specified in § 317.501(a) of this chapter.

(c) A *Presidential Management Fellow* or *Fellow* is an individual appointed, at the GS–9, GS–11, or GS–12 level (or equivalent), in the excepted service under § 213.3102(ii) of this chapter, or under an appropriate agency hiring authority if the agency's position is in the excepted service (referred to in this part as an excepted service agency). The individual must have completed a

graduate course of study at a qualifying college or university, received the nomination of the dean or academic director, successfully completed an Office of Personnel Management (OPM) administered assessment process, been selected as a finalist, and been appointed by an agency as a Presidential Management Fellow.

(d) A *Qualifications Review Board (QRB)* has the same meaning as specified in § 317.502(a) of this chapter.

(e) A *qualifying college or university* is an academic institution formally accredited by an organization that accredits colleges and universities and that is recognized by the Secretary of the U.S. Department of Education (34 CFR part 602).

(f) A *Senior Presidential Management Fellow* or *Senior Fellow* is an individual appointed, at the GS–13, GS–14, or GS–15 level (or equivalent), in the excepted service under § 213.3102(jj) of this chapter, or other appropriate agency hiring authority if the agency's position is in the excepted service (referred to in this part as an excepted service agency). The individual must have completed a graduate course of study at a qualifying college or university; have an outstanding record of achievement in an applicable leadership, policy, managerial, professional, or technical position or area; have successfully completed an OPM-administered assessment process; been selected as a finalist by the OPM Director; and been appointed by an agency as a Senior Fellow. The candidate may request a waiver from the OPM Director on the requirement for completing a graduate course of study.

Subpart B—Program Administration**§ 362.201 Agency programs.**

(a) Annually, on or about October 1 of each year, OPM will determine the total number of Fellows or Senior Fellows that may be appointed during that fiscal year (FY). That determination shall be based on input from the Chief Human Capital Officers Council, as well as input from agencies not represented on the Council.

(b) Thereafter, subject to the provisions and requirements of this chapter, an agency may appoint individuals selected by the OPM Director as Fellows and/or Senior Fellows according to its short-, medium-, and long-term senior leadership and related (senior policy, professional, technical, and equivalent) recruitment, development, and succession requirements, as set forth in 5 U.S.C. 1103(c)(2)(C).

§ 362.202 Announcement, nomination and selection.

(a) At least once each year, OPM shall announce the availability of Fellow and Senior Fellow appointments and conduct a competition for those finalist selections as set forth below.

(b) *Fellows.* (1) Graduate students from all academic disciplines who complete or expect to complete, by August 31 of the academic year, an advanced degree from a qualifying college or university are eligible to become Fellows. These individuals must demonstrate an exceptional ability for, as well as a clear interest in and commitment to, leadership in the analysis and management of public policies and programs.

(2) For an individual to apply to become a Fellow:

(i) His/her school must first establish a competitive nomination process to ensure that all eligible graduate students are aware of the Presidential Management Fellows Program and know how to apply for nomination. The school must establish procedures to ensure that each candidate receives careful and thorough review and receives equal opportunity for nomination.

(ii) He/she must compete in the school's nomination process.

(iii) His/her school must rate those who want to be considered for nomination either qualified or not qualified. The school shall determine preliminary eligibility for veterans' preference, and must nominate any student who is eligible for veterans' preference and is found qualified for nomination. Students eligible for veterans' preference who believe they met the school's nomination qualification requirements, but were not nominated, may obtain a review by OPM by requesting it in writing.

(iv) He/she must be officially nominated by the dean, chairperson, or academic program director using an OPM-provided application form.

(3) OPM will select Fellow finalists based on an OPM evaluation of each candidate's experience and accomplishments as provided by the application via the application process and the results of a rigorous structured assessment process.

(4) OPM will notify individual candidates of their selection as a Fellow finalist. OPM will send all participating agencies the list of Fellows finalists for consideration. Agencies may select and appoint a finalist as a Fellow, subject to the application of veterans' preference requirements.

(c) *Senior Fellows.* (1) Any individual with an exceptional record of

experience and achievement in a leadership (supervisory or managerial), policy, professional, or technical position below the executive level, in an area relevant to the appointing agency's mission or succession requirements, and (unless waived by OPM) have completed a graduate course of study from a qualifying college or university, may apply for appointment as a Senior Fellow. Candidates should evidence a strong commitment to public service and be able to clearly demonstrate that, by virtue of their competencies and accomplishments to date, they have the potential to assume a senior executive or senior level policy, professional, or technical position in the Federal Government after a relatively brief but intensive period of training and development.

(2) The Director of OPM will select Senior Fellow finalists based on an evaluation of each candidate's experience and accomplishments as indicated in the application and the results of a structured assessment process.

(i) The OPM Director will appoint a Senior Presidential Management Fellows Selection Committee to oversee the evaluation of Senior Fellow candidates and recommend finalists; the Committee may also recommend, on a case-by-case basis, that the graduate degree requirement be waived by the OPM Director for an exceptional Senior Fellow candidate, in accordance with § 362.203(a)(3)(ii)(C).

(ii) The Selection Committee will be chaired by a career member of the Senior Executive Service (SES) and will comprise individuals (including those from within the Federal Government, such as members of the Chief Human Capital Officers Council, as appropriate, and/or others deemed appropriate by the Director of OPM who are not Federal employees) of high stature and accomplishment who are committed to excellence in the public service.

(3) OPM will notify each individual candidate of his/her selection as a Senior Fellow finalist. OPM will send all participating agencies the list of Senior Fellow finalists for consideration. Agencies may select and appoint a finalist as a Senior Fellow, subject to the application of veterans' preference requirements.

§ 362.203 Appointment and extensions.

(a) *Appointment.* (1) An agency must appoint Fellows and Senior Fellows using the excepted service appointing authority provided by 5 CFR 213.3102(ii) or (jj) of this chapter or other appropriate authority if applicable.

(2)(i) Fellows are appointed for a initial period of 2 years.

(ii) Upon approval of the agency's Executive Resources Board (ERB), Senior Fellows are appointed for an initial period of up to 2 years, depending on individual qualifications and competencies.

(iii) The OPM Director may approve an extension of a Fellow's or Senior Fellow's appointment for up to one additional year upon written request by the head of an agency; such requests must be received at least 90 days before the end of the initial appointment.

(3) An agency may appoint a Fellow or Senior Fellow any time after the individual has been notified that he/she has been selected as a finalist, but not more than 12 months after the Fellow or Senior Fellow was so selected.

However, the OPM Director may approve a written agency request to appoint a Fellow or Senior Fellow after that deadline, so long as the agency request is submitted no later than 30 days prior to the end of the 12-month period.

(4)(i) An agency may not appoint a Fellow or Senior Fellow unless and until he or she has met all graduate degree requirements.

(ii) If a Fellow or Senior Fellow does not complete all degree requirements by August 31 of the year in which the Fellow or Senior Fellow was selected as a finalist, the Fellow's or Senior Fellow's finalist status is terminated. The OPM Director may grant exceptions on a case-by-case basis.

(iii) The OPM Director may waive the graduate degree requirement for a Senior Fellow on a case-by-case basis. The Senior Presidential Management Fellows Selection Committee may recommend, on a case-by-case basis, that the OPM Director waive graduate degree requirements for an exceptional Senior Fellow candidate.

(b) *Citizenship.* (1) United States citizenship is not required of Fellows and Senior Fellows because their appointments are in the excepted service.

(2) An agency is only authorized to appoint a Fellow or Senior Fellow who is not a citizen under the following conditions:

(i) The individual is lawfully admitted to the United States as a permanent resident or is otherwise authorized by the Bureau of Immigration and Citizenship Services to be employed;

(ii) The agency is authorized to pay the noncitizen under the annual appropriations Act or any agency-specific enabling statute; and

(iii) The individual will acquire United States citizenship before appointment to the competitive service under part 315 of this chapter.

(c) *Grade.* (1) An agency must appoint a Fellow at the grade GS–9 level, or its equivalent, at a minimum. However, if the agency determines that a Fellow meets the requisite qualification requirements (general or specialized experience, academic credentials, professional certifications, etc.), the agency may appoint the Fellow at the grade GS–11 or GS–12 level, or their equivalents.

(2) An agency must appoint a Senior Fellow at the grade GS–13 level, or its equivalent, at a minimum. However, if the agency determines that a Senior Fellow meets the requisite qualification requirements (general leadership, managerial, or specialized experience, academic credentials, professional certifications, etc.), the agency may appoint the Senior Fellow at the grade GS–14 or GS–15 level, or their equivalents.

§ 362.204 Development, evaluation, promotion, and certification.

(a) *Individual development plans.* The appointing agency will approve an individual development plan (IDP) for its Fellows and Senior Fellows that sets forth the specific developmental activities (training courses, developmental assignments, rotations, etc.) designed to impart the competencies of the occupation or functional discipline in which the Fellow or Senior Fellow is most likely to be placed. The IDP of a Senior Fellow must be approved by the appointing agency's ERB.

(b) *Required developmental activities.* (1) OPM will provide orientation and graduation programs for each class or cohort of Fellows and Senior Fellows, and will serve as a clearinghouse for available training opportunities.

(2) The appointing agency will provide each Fellow and Senior Fellow with formal classroom training during the Program:

(i) For each Fellow, the appointing agency will provide a minimum of 80 hours per year of formal classroom training that addresses the core competencies required of the occupation or functional discipline in which the Fellow will most likely be placed upon completion of the Program and conversion to a full-time, permanent position.

(ii) For each Senior Fellow, the appointing agency will make sure that each Senior Fellow will complete the 80 hours of formal classroom training provided through the OPM-approved

SES candidate development program. The OPM Director or designate may approve an exception for formal classroom training to be provided by a source other than the CDP.

(3) The appointing agency will assign each Senior Fellow a mentor, who shall be a member of the SES (or equivalent). The mentor will assist the Senior Fellow in the development of his/her IDP. The ERB may consult with the mentor in evaluating the candidate.

(4) The appointing agency will provide each Fellow and Senior Fellow with at least one rotational or developmental assignment with full-time management and/or technical responsibilities consistent with the Fellow or Senior Fellow's IDP. With respect to this requirement:

(i)(A) Each Fellow must receive at least one developmental assignment of 4–6 months in duration in the occupation or functional discipline in which the Fellow will most likely be placed, with full-time management and/or technical responsibilities consistent with the Fellow's IDP.

(B) In addition, the Fellow may receive at least one other short-term rotational assignment of 4 to 6 months in duration, at the appointing agency's discretion, to an occupation or functional area different from the one in which the Fellow will most likely be placed; and

(ii) Each Senior Fellow will receive at least one long-term developmental assignment of at least 12 months in duration (including classroom training required by the Program), during which time the Senior Fellow will serve with full responsibilities for accomplishing the duties of that position.

(c) *Performance and progress evaluation.* (1) Each Fellow and Senior Fellow will be placed on a performance plan, as prescribed by part 430 of this chapter or other applicable law or regulation, establishing performance elements and standards that are directly related to acquiring and demonstrating the various leadership, technical, and/or general competencies expected of the Fellow or Senior Fellow as well as the elements and standards established for the duties assigned.

(2) Each Fellow and Senior Fellow must receive an annual performance evaluation (rating of record), in accordance with the agency's performance management program. The rating is derived from an evaluation of the Fellow's or Senior Fellow's success in completing developmental activities designed to prepare the Fellow or Senior Fellow to meet the developmental and performance expectations described in his or her

performance plan (*i.e.*, elements and standards).

(3) If a Fellow or Senior Fellow does not meet expectations (set forth in the performance plan) with regard to his or her developmental progress or assignments, the agency may take appropriate corrective action. Fellows and Senior Fellows with previous competitive status are covered by parts 432 and 752 of this chapter.

(d) *Promotion.* (1) An agency must establish policies and criteria for the promotion of Fellows and Senior Fellows. A Fellow may be promoted up to the GS–13 level or its equivalent. A Senior Fellow may be promoted up to the GS–15 level or its equivalent.

(2) Time-in-grade requirements in part 300 of this chapter do not apply to the promotion of Fellows or Senior Fellows while they are appointed under § 213.3102(ii) or (jj) of this chapter.

(e) *Certification of completion.* (1)(i) Upon a Fellow's or Senior Fellow's completion of the Program, the appointing agency's ERB must evaluate each Fellow or Senior Fellow, as applicable, and determine whether it can certify in writing that he/she has met all of the requirements thereof, including the performance and developmental expectations set forth in the individual's performance plan and IDP, as established by this regulation, and, if so, make that certification or state that the OPM Director has approved a waiver of one or more of those requirements in a particular case under paragraph (f) of this section. Any certifications are forwarded to OPM.

(ii) In addition, for each Senior Fellow to be eligible for appointment to a position in the SES, or equivalent, without further competition, in the same manner and subject to the same QRB review as a graduate of an OPM-approved SES candidate development program, the ERB must certify that the Senior Fellow possesses the various leadership and management competencies required of successful SES candidates.

(iii) The agency must complete its evaluation and any certification, and notify the Fellow or Senior Fellow, no later than 30 calendar days prior to the expiration of the Fellow or Senior Fellow's appointment in the Program.

(2)(i) If the ERB does not certify a Fellow or Senior Fellow, the Fellow or Senior Fellow may request reconsideration of that determination by OPM. Such reconsideration must be requested in writing, with appropriate documentation and justification, within 15 calendar days of the date of the agency's certification decision.

(ii) The Fellow or Senior Fellow may continue in the Program pending the outcome of his/her request for reconsideration. The agency must continue to provide appropriate developmental activities during this period.

(iii) OPM's determination in this regard shall be final and not subject to further review or appeal.

§ 362.205 Waiver.

Under limited circumstances, the OPM Director may approve a written agency request for a waiver of any of the requirements enumerated in this section, upon a showing that the Fellow or Senior Fellow has participated in developmental activities prior to the Program that meet such requirements, in terms of both quantity and rigor. For example, successful completion of an appointment as a White House Fellow would normally satisfy the requirement that a Senior Fellow complete a long-term developmental assignment.

§ 362.206 Movement between departments or agencies.

(a) A Fellow or Senior Fellow may move to another agency at any time during his/her appointment in the Program. To move from one agency to another during the Program, the Fellow or Senior Fellow must separate from the current agency. The new employing agency must reappoint the participant under the appropriate Fellow or Senior Fellow appointment without a break in service.

(b) The Fellow or Senior Fellow does not begin a new period in the Program upon appointment by the new employing agency. Since there is no break in service, time served under the previous Program appointment will apply towards the completion of the Program with the new employing agency.

(c) The new appointing agency must notify OPM when a Fellow or Senior Fellow moves to that agency from another agency.

§ 362.207 Withdrawal and readmission.

(a) *Withdrawal.* (1) A Fellow or Senior Fellow may withdraw from the Program at any time by resigning from his/her appointment as a Fellow or Senior Fellow. Such withdrawal shall be treated as a resignation from the Federal service; however, any obligations established upon admission and appointment (for example, as a result of accepting a recruitment bonus under 5 CFR part 575, subpart A of this chapter) still apply.

(2) A Fellow or Senior Fellow who held a career or career-conditional

appointment in an agency immediately before entering the Program, and who withdraws from the Program for reasons that are not related to misconduct, poor performance, or suitability, may, at the employing agency's discretion, be placed in a career or career-conditional position, as appropriate, in that agency. The employing agency's determination in this regard is not subject to appeal.

(3) An agency must notify OPM when a Fellow or Senior Fellow withdraws from the Program.

(b) *Readmission.* (1) If a Fellow or Senior Fellow withdraws from the Program for reasons that are related to misconduct, poor performance, or suitability, as determined by the agency, he/she shall not be readmitted to the Program at any time.

(2) If a Fellow or Senior Fellow withdraws from the Program for reasons that are not related to misconduct, poor performance, or suitability, he/she may petition the employing agency for readmission and reappointment to the Program; such a petition must be in writing and include appropriate justification. Upon consideration of that petition, the agency may, at its discretion, submit a written request seeking the OPM Director's approval to readmit and reappoint the individual to the Program; the individual's status in the Program upon readmission and reappointment shall be addressed as part of the agency's submission. OPM's final determination in this regard is not subject to appeal.

§ 362.208 Resignation, termination, reduction in force, and appeal rights.

(a) *Resignation.* A Fellow or Senior Fellow who resigns at any time prior to completion of the Program does not have reinstatement eligibility for competitive service positions based on his/her Fellow or Senior Fellow appointment.

(b) *Termination.* If an agency does not appoint a Fellow or Senior Fellow at the end of the Program, as provided in § 362.209, or extend the individual's initial appointment, the appointment expires when certification for program completion is denied or when the OPM Director denies the agency requested extension. The agency must provide written notification to OPM when a Fellow or Senior Fellow is terminated for this or any reason.

(c) *Reduction in force.* Fellows and Senior Fellows are in the excepted service Tenure Group II for purposes of § 351.502 of this chapter.

(d) *Appeal rights.* Fellows and Senior Fellows have appeal rights as provided for excepted service employees in parts 432 and 752 of this chapter.

§ 362.209 Placement upon completion.

(a) A Fellow or Senior Fellow must complete the Program within the time limits prescribed in § 362.204, including any extensions approved by OPM. At the conclusion of that time period, the Fellow or Senior Fellow must be appointed or separated, as provided below.

(b)(1) As provided in Executive Order 13318 and part 315 of this chapter, an agency must appoint a Fellow or Senior Fellow who has been certified as having successfully completed the Presidential Management Fellows Program and who is a United States citizen, without further competition, in a full-time, permanent position, in the competitive or excepted service, effective on the date that the Fellow or Senior Fellow is certified.

(2) Fellows and Senior Fellows who successfully complete the Program, who are United States citizens, and who are appointed by an excepted service agency may be appointed at a later date, without further competition and only one time, to a position in the competitive service for which they are qualified, if selected for such position.

(c) As provided for in part 317 of this chapter, an agency may appoint a Senior Fellow who is a United States citizen and who has been certified as having successfully completed the Presidential Management Fellows Program to a position in the SES, without further competition, but only one time, in the same manner and subject to the same QRB review as a graduate of an OPM-approved SES candidate development program.

PART 537—REPAYMENT OF STUDENT LOANS

11. The authority citation for part 537 continues to read as follows:

Authority: 5 U.S.C. 5379.

12. In § 537.104, revise paragraph (d) to read as follows:

§ 537.104 Employee eligibility.

* * * * *

(d) Employees serving on excepted appointments who are eligible for non-competitive conversion to a term, career, or career-conditional appointment (including, but not limited to, Career Interns, Presidential Management Fellows, or Senior Presidential Management Fellows).

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart G—Severance Pay

13. The authority citation for subpart G continues to read as follows:

Authority: 5 U.S.C. 5595; E.O. 11257, 3 CFR 1964–1965 Comp., p. 357.

14. Revise paragraph (f)(6) of the definition of “nonqualifying appointment” in § 550.703 to read as follows:

§ 550.703 Definitions.

* * * * *

Nonqualifying appointment * * *
(f) * * *

(6) A Presidential Management Fellow or Senior Presidential Management Fellow appointment under part 362 of this chapter.

* * * * *

[FR Doc. 04–1589 Filed 1–21–04; 4:54 pm]

BILLING CODE 6325–38–P

DEPARTMENT OF AGRICULTURE

Office of Energy Policy and New Uses

7 CFR Part 2902

RIN 0503–AA26

Guidelines for Designating Biobased Products for Federal Procurement

AGENCY: Office of Energy Policy and New Uses, USDA.

ACTION: Notification of public meeting.

SUMMARY: The Office of Energy Policy and New Uses is announcing a public meeting to discuss the proposed rule entitled “Guidelines for Designating Biobased Products for Federal Procurement” published in the **Federal Register** of December 19, 2003 (68 FR 70730). This meeting is intended to provide stakeholders and interested parties with a briefing on the proposed rule and an opportunity to ask questions and make comments on the proposed rule.

DATES: The public meeting will be held on Thursday, January 29, 2004, from 9 a.m. to noon and 1 p.m. to 4:30 p.m., Eastern Standard Time. Registration will occur on site on Thursday, January 29, 2004, beginning at 8 a.m.

ADDRESSES: The meeting will be held in the Jefferson Auditorium of the U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

A written transcript of the meeting and submitted comments will be available for viewing at the USDA Office of Energy Policy and New Uses, Reporters Building, Room 361, 300 7th Street, SW., Washington, DC, 20024, between the hours of 8 a.m. and 4 p.m., Eastern Standard Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Marvin Duncan, Office of Energy Policy and New Uses, U.S. Department of Agriculture, Reporters Building, Room 361, 300 7th Street SW., Washington, DC 20024, 202–401–0532, FAX: 202–401–0533, or e-mail; fb4p@oce.usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 9002 of the Farm security and Rural Investment Act (FSRIA) of 2002, 7 U.S.C. 8102, authorizes a program of preferred procurement of biobased products by Federal agencies. The proposed rule published in the **Federal Register** of December 19, 2003 (68 FR 70730) sets out the structure for implementing the program of preferred procurement of biobased products by Federal agencies.

The public meeting will provide an opportunity to brief stakeholders and interested parties on the proposed rule and allow them to ask questions about the proposed rule. The meeting also will provide an opportunity for stakeholders and others to offer public comments on the proposed rule.

The meeting will be video streamed in real time to enable stakeholders and other interested parties not attending the meeting in person to observe the discussion that takes place at the meeting. The video web streaming can be accessed by a hot link at the Current Issues Box on the Home Page of the Web site <http://www.biobased.oce.usda.gov>. The video web streaming can also be accessed on the USDA Home Page at <http://www.usda.gov>. During the meeting, members of the public can fax questions or public comments on the proposed rule to fax number (202) 720–9553. Alternatively, questions or public comments can also be e-mailed to the meeting at fb4p@oce.usda.gov. A transcript of the meeting, for the hearing impaired, will be prepared soon after the meeting is completed and posted on the Web site www.biobased.oce.usda.gov.

Agenda: The daylong meeting will have two sessions: The morning session will include a presentation on the major provisions of the proposed rule and a panel of government officials will respond to questions for clarification of the proposed rule.

In the afternoon session, public comments on the rule will be received. All public comments must include a printed text of the comment, identify the commenter, and provide contact information. Public comments may be faxed to the meeting site during the meeting using the fax number 202–720–9553. Alternatively, public comments

can be e-mailed to the meeting at fb4p@oce.usda.gov.

To provide public comments on the proposed rule outside of the announced stakeholder meeting, please follow the instructions in the **ADDRESSES** section of the proposed rule (68 FR 70730, December 19, 2003).

There is no registration fee for this meeting. Because the meeting will be held in a Federal building, you should bring a photo ID and plan for adequate time to pass through security screening systems.

II. Electronic Access

You can access the proposed rule, as published in the **Federal Register**, on the Web site <http://www.biobased.oce.usda.gov>.

III. Transcripts

The video web streaming of the meeting will be available to be viewed on the Web site www.biobased.oce.usda.gov for approximately 40 days after the date of the stakeholder meeting. The transcript of the meeting and submitted comments will be available for public examination at the USDA Office of Energy Policy and New Uses, Reporters Building, Room 361, 300 7th Street, SW., Washington, DC, 20024, between the hours of 8 a.m. to 4 p.m. eastern standard time, Monday through Friday.

Dated: January 20, 2004.

Keith Collins,

Chief Economist, USDA.

[FR Doc. 04–1552 Filed 1–23–04; 8:45 am]

BILLING CODE 3410–GL–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–222–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–101, –102, –103, –106, –201, –202, –301, –311, and –315 Airplanes on Which Engine Oil Coolers Have Been Installed Per LORI, Inc., Supplemental Type Certificate (STC) SA8937SW

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–101,