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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

RIN 3206-AI99

Reduction in Force Notices

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to remove the regulations requiring 120 day reduction in force notices for certain Department of Defense employees because the implementing statute is expiring.

EFFECTIVE DATE: This regulation is effective on June 2, 2000.

FOR FURTHER INFORMATION, CONTACT: Jacqueline Yeatman on (202) 606-0960, FAX (202) 606-2329, TDD (202) 606-0023 or by email at jryeatma@opm.gov

SUPPLEMENTARY INFORMATION: The regulations in paragraph (a)(2) of section 351.801 of 5 CFR part 351 were published on June 8, 1993, implementing section 4433 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102-484). The statute provided that Department of Defense employees who received reduction in force notices between January 20, 1993, and January 31, 1998, were entitled to a 120 day notice period if a significant number of employees were affected. Later, Public Law 103-337 was enacted. This law extended the requirement for a longer notice period until January 31, 2000. Because this section of the Public Law is expiring, OPM is deleting the regulatory material in 5 CFR part 351 that contains these requirements.

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 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 Part 351

Administrative practice and procedure, Government Employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 351 as follows:

PART 351—REDUCTION IN FORCE

1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3502; sec. 351.801 also issued under E.O. 12828, 58 FR 2965.

Subpart H—Notice to Employee

2. In § 351.801, paragraph (a)(1) is revised, paragraph (a)(2) is removed, paragraph (a)(3) is redesignated as paragraph (a)(2), and paragraph (b) is revised to read as follows:

§ 351.801 Notice period.

(a)(1) Each competing employee selected for release from a competitive level under this part is entitled to a specific written notice at least 60 full days before the effective date of release.

(b) When a reduction in force is caused by circumstances not reasonably foreseeable, the Director of OPM, at the request of an agency head or designee, may approve a notice period of less than 60 days. The shortened notice period must cover at least 30 full days before the effective date of release. An agency request to OPM shall specify:

- (1) The reduction in force to which the request pertains;
- (2) The number of days by which the agency requests that the period be shortened;
- (3) The reasons for the request; and
- (4) Any other additional information that OPM may specify.

3. In § 351.805, paragraph (a) is revised to read as follows:

§ 351.805 New notice required.

(a) An employee is entitled to a written notice of at least 60 full days if the agency decides to take an action more severe than first specified.

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[FR Doc. 00-10988 Filed 5-2-00; 8:45 am]

BILLING CODE 6325-01-P

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is amending its rules of practice and procedure with respect to the notice an agency must provide when it takes an appealable action against an employee who has both a right to appeal to the Board and a right to file a grievance under a grievance procedure. The amendment is intended to ensure that such an employee understands the consequences of making a choice between the MSPB appeal procedure and the grievance procedure. It also is intended to ensure that, where an employee may pursue both procedures (as in the case of preference eligible employees of the United States Postal Service), the employee understands that the Board's time limit for filing an appeal will not be modified or extended if the employee files a grievance. The amendment also clarifies that preference eligible employees of the United States Postal Service and other employees excluded from the coverage of the Federal Labor-Management Relations Statute may not seek Board review of a final decision on a grievance.

EFFECTIVE DATE: May 3, 2000.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

SUPPLEMENTARY INFORMATION: On November 1, 1999, the Board published a proposal to amend its rules of practice and procedure at 5 CFR 1201.21(d), regarding the notice an agency must provide when it takes an appealable action against an employee who has both a right to appeal to the Board and