

CIA INTERNAL USE ONLY

Reference
copy
6 Jan 55

MEMORANDUM FOR: Assistant Director for Personnel

SUBJECT:

Executive Order 10577 Establishing a New
Appointment System for the Competitive Service

1. Executive Order 10577, approved 22 November 1954, authorizes a new appointment system for the competitive service and makes other minor changes in the Civil Service Rules. The Order becomes effective 23 January 1955. The new program, providing for a system of "career-conditional" and "career" appointments, is intended to represent a new approach to the rights, privileges, and obligations of career civil servants and to provide the needed flexibility to adjust the competitive service to changing conditions. Two other features of the new system are a strengthened Rule IV, which forbids political considerations of any kind in appointments to jobs in the competitive service, and a provision for the movement of employees from one Federal merit system to another with full recognition in each system of the status and tenure earned by the employees affected.

2. Briefly, the new system provides for appointment of individuals selected from Civil Service registers on a "career-conditional" basis. These appointees will be required to serve the usual one-year probationary period and will acquire competitive status. They will remain in the "career-conditional" category for at least three years, their conversion to "career status" at the end of the three-year period being conditioned only upon the availability of permanent ceiling to accommodate them. The modified Whitten Rider imposes a ceiling of the 1950 total of permanent employees plus 10 percent on permanent Federal employment. Those individuals who are already serving under probationary appointments or with competitive status will automatically be converted to career status, if they have three years' continuous service, or to career-conditional status, if they have less than three years' continuous service. The required three years of service does not have to be performed immediately prior to conversion.

3. A copy of Executive Order 10577 with a comparison text of the current Civil Service Rules and notations as to changes is attached. The Order has little direct effect upon Agency employment procedures. The previous provision for making competitive appointments to excepted positions has been retained. Section 6.7, which provides for the movement of persons between the civil service system and other merit systems in the Federal service, is of potential importance to this Agency. However, in Departmental Circular 775, dated 1 December 1954, the Commission announced that

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study of general standards for agreements was still in process and asked that inquiries be withheld pending announcement of these general standards. Prospectively, however, this section may provide the basis for solving cover problems which may result from the recent inclusion of certain overseas positions in the competitive service and for agreements to provide for exchange or rotation of personnel between this and other intelligence organizations in the competitive service.

4. Publicity concerning the Order has aroused considerable interest among Agency employees as to its effect upon them. Although the Agency's statutory exception continues to provide the basis for appointments to all Agency positions, individual employees are concerned as to their eligibility for career status if they now have competitive status or as to their eligibility for acquiring competitive or career status if they do not now have it. Our study of material released by the Commission to date is not particularly helpful in answering these questions. The following statements appear applicable:

a. Present civil service career employees continue to be career employees. It would appear that Agency employees who have status in their present positions would be classified as career employees without formal action. Agency employees who have competitive status and eligibility for reinstatement but were not appointed to their Agency positions with status would have eligibility for career appointment in the competitive service (or reinstatement as career employees in this Agency).

b. An indefinite employee who was appointed to an excepted position in regular order from a civil-service eligible list will be eligible for competitive status. However, if he is not currently serving in the job to which he was so appointed, he is entitled to career or career-conditional appointment only if his current job is in the competitive service and is not a temporary appointment for a limited period.

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Chief, Planning and Analysis Staff

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PAS/ [REDACTED] bbb (6 Jan 55)

Distribution:

- O & 1 - Addressee
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CIVIL SERVICE RULES AS REVISED BY EXECUTIVE ORDER 10577
EFFECTIVE 23 JAN 1955

CURRENT TEXT

REVISED TEXT

CIVIL SERVICE RULE I - COVERAGE AND DEFINITIONS

(Note: Old title for this Rule was "Coverage of These Rules".)

Sec. 1.1 Positions and employees affected by these Rules. (a) These Rules shall apply to all positions in the competitive service. As used in these Rules, the words "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. The competitive service shall include all civilian positions in the executive branch of the Government unless specifically excepted therefrom under statute or Executive order, and 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 thereto by statute. Whenever there is a doubt the Commission shall determine whether a position is in the competitive service.

Sec. 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.

Sec. 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 Civil Service Commission (hereafter referred to in these Rules as the Commission) 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 Commission is authorized and directed to determine finally whether a position is in the competitive service.

Comments:

Essentially editorial changes. The phrase "and to all incumbents of such positions" has been added to the first sentence under section 1.1 to make the section precise and complete. The last sentence of section 1.2 has been changed for clarity. The definition of "competitive service" contained in current section 1.1(a) has been included in the new section 1.3 on the following page.

CURRENT TEXT

(b) Persons occupying such positions shall be considered as being in the competitive service when they have a competitive status. A competitive status shall mean a status which permits a person to be promoted, transferred, reassigned, and reinstated to positions in the competitive service without competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations for such noncompetitive actions. A competitive status shall be acquired by probational appointment through competitive examination, or may be granted by statute, Executive order, or the Civil Service Rules.

Comments:

New definitions have been added for "competitive position" and "tenure". The concept of competitive position is constantly used. The concept of "tenure" is considered necessary and has not heretofore been formally expressed.

The definition of "competitive status" has been changed to clarify the concept of status and to conform with policy that status depends upon completion of a probationary period after appointment from a register.

Note that the definition of an employee in the competitive service (1.3(d)) reflects the recent Appeals Court decision in the Roth case.

REVISED TEXT

Sec. 1.3 Definitions. As used in these Rules, the term (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.

CURRENT TEXT

REVISED TEXT

Sec. 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 Commission 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.

Comments:

New material. These concepts have not heretofore been expressly stated and are considered necessary to complete a Rule which purports to state the coverage of the Civil Service Rules.

CURRENT TEXT

REVISED TEXT

CIVIL SERVICE RULE II - APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

Sec. 2.1 Competitive examinations and eligible registers. (a) The Commission 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 Commission 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 lost eligibility on a probational register because of service in the armed forces subsequent to May 1, 1940, and the names of persons having a competitive status whom the Commission determines should be given further certification may also be entered at such places on appropriate registers and under such conditions as the Commission may prescribe.

Sec. 2.1 Competitive examinations and eligible registers. (a) The Commission 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 Commission 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 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 Commission determines that they should be given certification, may also be entered at such places on appropriate registers and under such conditions as the Commission may prescribe.

Comments:

No change has been made in sec. 2.1(a).

Sec. 2.1(b) has been changed to (1) substitute career and career-conditional in lieu of probational, (2) delete an obsolete date relating to military service, and (3) specifically provide for eligibles who "lost" certification for reasons other than military service.

CURRENT TEXT

REVISED TEXT

Sec. 2.2 Appointments. (a) The Commission 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 Commission. 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 selection 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.

Comments: New material. This provision is necessary to inaugurate and implement the career-conditional appointment system.

CURRENT TEXT

REVISED TEXT

(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. In the event section 1310, supra, is repealed, the Commission 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.

Comments: This subsection is new and was not included in the original draft of the order reviewed by this Office. Presumably, it has been added to give the Commission necessary authority to carry out its responsibilities under sec. 1310 and under sec. 2.2(a) above. Note also that the condition relating to non-conversion to career appointment when such conversion would exceed the ceiling has also been added to sec. 2.2.(a) since the draft reviewed by this Office.

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

Comments: This subsection was previously sec. 2.3(b) and is quoted in the "Current Text" column below.

Sec. 2.2 Apportionment. Subject to such modifications as the Commission 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.

Comments: No change.

Sec. 2.3 Apportionment. Subject to such modifications as the Commission 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.

CURRENT TEXT

Sec. 2.3 Probational and temporary appointments.
(a) Persons selected from eligible registers for other than temporary appointment shall be required to serve a probationary period under such terms and conditions as the Commission may prescribe.

Comments:

Text changed by substituting the words "career or career-conditional" for the words "other than temporary".

(b) The Commission may determine the types, duration and conditions of war service and other temporary appointments, and may prescribe the method for replacing persons holding such appointments.

Comments:

This provision has been retained as section 2.2(c) of the revised rule and is copied above.

REVISED TEXT

Sec. 2.4 Probationary period. Persons selected from registers of eligibles for career or career-conditional appointment shall be required to serve a probationary period under such terms and conditions as the Commission may prescribe.

CURRENT TEXT

REVISED TEXT

CIVIL SERVICE RULE III - NONCOMPETITIVE ACQUISITION OF STATUS

(Note: Old title for this Rule was "Acquisition of a Competitive Status". Since the competitive acquisition of status has been covered in the revised Rule II, this method has been deleted from the revised Rule III.)

Sec. 3.1 Classes of persons who may acquire status. (a) A person may acquire a competitive status by probational appointment through competitive examination, or by statute, Executive order, or this Rule.

(b) Subject to such noncompetitive examination time limits, or other requirements as the Commission may prescribe, the following classes of persons may acquire a competitive status:

(1) Any 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) Any person entitled to veteran preference who establishes the present existence of a service-connected disability of not less than ten percent, or any person entitled to wife or widow preference under the Veterans' Preference Act, when such person is serving under a war service 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.

(3) Any disabled veteran who, in a manner satisfactory to the Commission, 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).

Sec. 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 Commission 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 Commission, 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).

CURRENT TEXT

(4) Any employee who has served at least two years in the immediate office of the President or on the White House Staff and whose transfer to a competitive position is requested by any agency.

(5) 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 recommendation for status is made prior to expiration of the register on which his name appears.

(6) 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 he was appointed to a competitive position prior to the date such position was placed under the War Service Regulations and stood higher on such register than another eligible who received an original probational appointment therefrom.

(7) An employee who has served at least one year under an appointment not limited to one year or less and has received an eligible rating in an open competitive examination appropriate for the position occupied: Provided, That the lowest rating reached in the regular order of certification does not exceed his rating by more than five points: Provided further, That such employee is about to be replaced as a result of certification by the Commission. A non-veteran employee may not be granted status until all preference eligibles standing higher on the register have been given appropriate consideration under the Veterans' Preference Act.

REVISED TEXT

(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 he was reached.

Comments:

Following classes of persons have been removed from coverage by Rule III:

a. certain 10-point veterans who are provided for in Part II of the executive order;

b. certain "War Service indefinites" from World War II period - this is no longer necessary, and

c. persons whose ratings are within 5 points of the lowest rating reached on the registers - this is difficult of administration, was infrequently used, and is not considered worth keeping.

Subsection 3.1(a)(4) is changed to more precisely state the conditions prerequisite to acquiring status under this subsection and to add the provision relating to "continuous service".

CURRENT TEXT

Sec. 3.2 Appointment without competitive examination in rare cases. (a) Subject to receipt of satisfactory evidence of the qualifications of the person to be appointed, the Commission may authorize an appointment in the competitive service without competitive examination whenever it finds:

(1) 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; or

(2) That it is essential to the program in which he is engaged to retain in the service a person who was serving in a highly specialized scientific, professional, or administrative position during the war period and prior to March 7, 1946, the effective date of the Temporary Civil Service Regulations.

(b) Any subsequent vacancy in such position shall not be filled without competitive examination except upon express prior approval of the Commission in accordance with this section. Detailed statements of the reasons for the noncompetitive appointments made under this section shall be made a part of the records of the Commission and shall be published in its annual reports. Any person heretofore or hereafter appointed under this section may acquire a competitive status upon completion of at least one year of satisfactory service and compliance with such requirements as the Commission may prescribe.

REVISED TEXT

Sec. 3.2 Appointments without competitive examination in rare cases. Subject to receipt of satisfactory evidence of the qualifications of the persons to be appointed, the Commission 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 Commission may prescribe. Detailed statements of the reasons for the noncompetitive appointments made under this section shall be published in the Commission's annual reports.

Comments: This text is changed by deletion of (a) coverage of certain persons appointed during World War II (considered no longer necessary), and (b) specific conditions respecting subsequent filling of "rare" positions (these are considered unnecessary).

CURRENT TEXT

REVISED TEXT

Sec. 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.

Comments:

New material. This provision was necessary under career-conditional plan.

Question: Does the limitation on the number of permanent employees apply to the conversion to career appointment of these individuals as to those described in section 2.2(a)?

CURRENT TEXT

REVISED TEXT

CIVIL SERVICE RULE IV - PROHIBITED PRACTICES (formerly "GENERAL PROVISIONS")

Sec. 4.1 Prohibition against political activity. Persons in the executive branch shall retain the right to vote as they choose and to express their opinions on all political subjects and candidates, but such persons shall not use their official authority or influence for the purpose of interfering with an election or affecting the result thereof. Persons occupying positions in the competitive service shall not take any active part in political management or political campaigns except as may be provided by or pursuant to statute.

Comments:

Changed to express Hatch Act prohibition positively rather than negatively. In spite of reference to the competitive service only in this Rule, prohibition applies to Agency excepted employees.

Comments:

Now. Notes accompanying draft reviewed by this Office stated this kind of provision as relates to political discrimination appeared in the Rules from 1883 to 1947 but that, since the Civil Service Act prohibits political discrimination and since the language of proposed Rule 4.3 was included, this provision was dropped in the 1947 revision. It was restored in view of recent allegations of abuse. Although discrimination prohibitions here are phrased in terms of competitive service, E.O. 9980 (Fair Employment) remains in effect and applies to this Agency.

Sec. 4.1 Prohibition against political activity. No person employed in the executive branch of the Federal Government, or any agency or department thereof, shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No person occupying a position in the competitive service shall take any active part in political management or in political campaigns except as may be provided by or pursuant to statute. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

Sec. 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 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 applicant, eligible, or employee in the competitive service because of his race, political affiliation or religious beliefs, except as may be authorized or required by law.

CURRENT TEXT

Sec. 4.2 Attempting to secure withdrawal from competition. The Commission is authorized to take such disciplinary action as it deems appropriate whenever it finds that any person has influenced 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.

Comments: Changed for clarity and brevity only.

REVISED TEXT

Sec. 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. The Commission is authorized to take such disciplinary action as it deems appropriate whenever it finds that any person has violated this section.

NOTE: Sections 4.3 and 4.4 have been included in the new Rule VII and are quoted there for comparison.

CURRENT TEXT

REVISED TEXT

CIVIL SERVICE RULE V - REGULATIONS, INVESTIGATION AND ENFORCEMENT

Sec. 5.1 Regulations. (a) The Commission is authorized and directed to promulgate and enforce such regulations as may be necessary to carry out the provisions of the Civil Service Act and Rules, the Veterans' Preference Act, and all other applicable statutes or Executive orders imposing responsibilities on the Commission.

(b) The Commission is authorized, whenever there shall be practical difficulties and unnecessary hardships in complying with the strict letter of its regulations, to grant a variation from the strict letter of the regulations if the spirit of the same is complied with and the efficiency of the Government and the integrity of the competitive service are protected and promoted: Provided, That whenever such a variation is made from the regulations the Commission shall record in the minutes of its proceedings (1) the particular practical difficulty or hardship, (2) what is permitted in lieu 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 the variation: Provided further, That similar variations shall be granted whenever similar conditions exist. All minutes approved under authority of this section shall be published in the Commission's annual reports.

Comments: No change.

Sec. 5.1 Regulations. (a) The Commission is authorized and directed to promulgate and enforce such regulations as may be necessary to carry out the provisions of the Civil Service Act and Rules, the Veterans' Preference Act, and all other applicable statutes or executive orders imposing responsibilities on the Commission.

(b) The Commission is authorized, whenever there shall be practical difficulties and unnecessary hardships in complying with the strict letter of its regulations, to grant a variation from the strict letter of the regulations if such 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: Provided, That whenever such a variation is granted the Commission shall record in the minutes of its proceedings (1) the particular practical difficulty or hardship involved, (2) what is permitted in lieu 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 the variation: Provided further, That similar variations shall be granted whenever similar conditions exist. All minutes approved under authority of this section shall be published in the Commission's annual reports.

CURRENT TEXT

Sec. 5.2 Authority of the Commission to make investigations. The Commission may make appropriate investigations to secure enforcement of the Civil Service Act, Rules, and Regulations, including investigation of the qualifications and suitability of applicants for positions in the competitive service. It may authorize appointments conditioned upon a subsequent determination that the requirements of law or the Civil Service Rules and Regulations have been met.

REVISED TEXT

Sec. 5.2 Authority of the Commission to make investigations. The Commission may make appropriate investigations to secure enforcement of the Civil Service Act, Rules, and Regulations, including investigation of the qualifications and suitability of applicants for positions in the competitive service. It may require appointments to be made "subject to investigation" to enable the Commission to determine, after appointment, that the requirements of law or of the Civil Service Rules and Regulations have been met. Whenever the Commission finds that an employee serving under such an appointment is disqualified for Federal employment, it may instruct the agency to remove him, or to suspend him pending an appeal from the Commission's finding: Provided, That when an agency removes or suspends an employee pursuant to the Commission's instructions and the Commission, on the basis of new evidence or on appeal, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Commission, restore the employee to duty.

Comments: Changed by addition of all material following the first two sentences and by clarifying the second sentence. Suggested by the General Counsel's office of the Commission as necessary enforcement authority for the Commission.

Sec. 5.3 Officers and employees to furnish testimony. All officers and employees in the executive branch, and applicants or eligibles for positions therein, shall give to the Commission or its authorized representatives all information and testimony in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission. Whenever required by the Commission, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.

Sec. 5.3 Officers and employees to furnish testimony. All officers and employees in the executive branch, and applicants or eligibles for positions therein, shall give to the Commission or its authorized representatives all information and testimony in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission. Whenever required by the Commission, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.

Comments: No change.

CURRENT TEXT

Sec. 5.4 Authority of the Commission to issue instructions as to discipline or separation. Whenever the Commission finds that an appointment has been made in violation of the Civil Service Act, Rules, or Regulations, or that any employee subject thereto has violated such Act, Rules, or Regulations or is holding a position in violation thereof, it is authorized, after giving due notice and opportunity for explanation to the employee and the agency concerned, to certify the facts to the proper appointing officer with specific instructions as to discipline or dismissal.

Comments:

Text of subsection 5.4(a) has been changed to read "any officer or employee in the Executive branch" in lieu of "any employee subject to the Act, Rules and Regulations" which permits the Commission now to instruct the discipline, removal or other corrective action affecting employees in the excepted service. Subsections 5.4(b), (c) and (d) are new. These changes were suggested by the General Counsel's office of the Commission as necessary enforcement authority for the Commission.

REVISED TEXT

Sec. 5.4 Enforcement authority of the Commission.
(a) Whenever the Commission finds that any person has been appointed to or is holding a position in violation of the Civil Service Act, Rules or Regulations, or that any officer or employee in the Executive branch has violated this order or any of the laws, rules or regulations administered by the Commission, it is authorized, after giving due notice and opportunity for explanation to the officer or employee and the agency concerned, to certify the facts to the proper appointing officer with specific instructions as to discipline or dismissal or other corrective action.

(b) Whenever the Commission finds that any officer or employee in the executive branch has failed to adhere to established policies, regulations, standards and instructions relating to personnel management subject to the jurisdiction of the Commission, it shall instruct the agency head to take corrective action.

(c) Whenever, on the basis of an appeal by an employee, the Commission finds that its regulations prescribing procedures to be followed by agencies in connection with adverse actions for disciplinary reasons have not been followed, or that adverse action has been taken for political reasons except as may be required by law, or resulted from discrimination because of marital status, it shall instruct the agency to restore the employee to duty.

(d) Whenever the Commission issues specific instructions as to discipline or dismissal of an officer or employee, or to restore an officer or employee to duty, it shall be mandatory for the appointing officer concerned to comply with the Commission's instructions.

CURRENT TEXT

Sec. 5.5 Withholding salary. If the appointing officer fails to carry out the instructions of the Commission issued under section 5.4 of this Rule, the Commission shall certify the facts to the head of the agency concerned. If the head of the agency fails to carry out the instructions of the Commission within ten days after receipt thereof, the Commission shall notify the Comptroller General of the United States and no payment or allowance shall be made of the salary or wages accruing to the employee concerned after such notification.

REVISED TEXT

(e) If the appointing officer fails to carry out the instructions of the Commission issued under section 4(a) of this Rule, the Commission shall certify the facts to the head of the agency concerned. If the head of the agency fails to carry out the instructions of the Commission within ten days after receipt thereof, the Commission shall notify the Comptroller General of the United States and shall furnish a copy of such certification to the head of the agency concerned; and thereafter no payment shall be made of the salary or wages accruing to the employee concerned.

Comments: Changed to reflect correct reference in first sentence. Second sentence includes requirement that the agency concerned receive a copy of notice to the Comptroller General. "or allowance" has been deleted in last sentence.

CURRENT TEXT

REVISED TEXT

CIVIL SERVICE RULE VI - EXCEPTIONS FROM THE COMPETITIVE SERVICE

Sec. 6.1 Authority to except positions from the competitive service. (a) The Commission is authorized to except from the competitive service and to place in appropriate schedules positions to which appointments through competitive examination are not practicable and, upon the recommendation of the agency concerned, positions which are of a confidential or policy-determining character. Such exceptions from the competitive service shall be effective upon publication thereof in the Federal Register. Positions excepted by the Commission shall be listed in the Commission's annual report for the fiscal year in which the exceptions are made.

(b) The Commission shall decide whether the duties of any particular position are such that it may be classified as an excepted position.

Comments: Changes for clarity.

Sec. 6.1 Authority to except positions from the competitive service. (a) The Commission is authorized to except positions from the competitive service whenever it determines that appointments thereto through competitive examination are not practicable. Upon the recommendation of the agency concerned, it may also except positions which are of a confidential or policy-determining character. Such exceptions from the competitive service shall be effective upon publication in the Federal Register. Positions excepted by the Commission shall be listed in Schedules A, B, or C as provided for in section 6.2 of this Rule, and shall also be listed in the Commission's annual report for the fiscal year in which the exceptions are made.

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

Sec. 6.2 Classes of excepted positions. The Commission shall classify positions that it excepts 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 placed 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 placed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examination as may be prescribed by the Commission.

Sec. 6.2 Schedules of excepted positions. The Commission 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 examination as may be prescribed by the Commission.

CURRENT TEXT

REVISED TEXT

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

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

Comments: First sentence changed for precision and clarity. The words "list" and "listed" are used in lieu of "classify" and "place".

Sec. 6.3 Status of incumbents of excepted positions. Persons given excepted appointments to positions listed in Schedules A, B, and C or to positions excepted from the competitive service by statute shall not acquire a competitive status by reason of such appointments. Persons appointed to such positions in the same manner as competitive positions are filled may acquire a competitive status in accordance with the Civil Service Rules and regulations.

Sec. 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 a competitive status by reason of such appointment: Provided, That the Commission, 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 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.

Comments: Revised text differs from draft received initially. Apparently, current changes are for clarity as to authority of the head of the agency concerned to prescribe regulations and practices governing excepted appointments and appointees. Authorizes Commission to prescribe conditions under which excepted positions may be filled competitively.

CURRENT TEXT

REVISED TEXT

Sec. 6.4 Removal of incumbents of excepted positions. Except as may be required by the Veterans' Preference Act, 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, however they may have been or may be appointed.

Sec. 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.

Comments: First sentence has been broaden limiting condition to "statute" rather than simply "Veterans' Preference Act". Last phrase of second sentence has been deleted as unnecessary.

Sec. 6.5 Assignment of excepted employees. Persons who are appointed to excepted positions without competitive examination shall not be assigned to the work of a position in the competitive service without prior approval of the Commission.

Sec. 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 Commission.

Comments: Text is changed for clarity only. This helps maintain the distinction between the "excepted" and "competitive" services.

Sec. 6.6 Revocation of exceptions. The Commission may remove any position from or may revoke in whole or in part any provision of Schedule A and B, and, with the concurrence of the agency concerned, may remove any position from or may revoke in whole or in part any provision of Schedule C. Such changes shall become effective upon publication thereof in the Federal Register.

Sec. 6.6 Revocation of exceptions. The Commission may remove any position from or may revoke in whole or in part any provision of Schedule A or B, and, with the concurrence of the agency concerned, may remove any position from or may revoke in whole or in part any provision of Schedule C. Such changes shall become effective upon publication thereof in the Federal Register.

Comments: No change.

CURRENT TEXT

REVISED TEXT

Sec. 6.7 Movement of persons between the civil-service system and other merit systems. Whenever the Commission 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.

Comments: New. According to Departmental Circular 775 (1 Dec 54), the Commission is presently studying the establishment of general standards under which agreements can be made. The Circular states that requests for agreements should be withheld until these general standards are announced.

CURRENT TEXT

REVISED TEXT

CIVIL SERVICE RULE VII - GENERAL PROVISIONS

(NOTE: This is a new Rule. Sections 7.1 and 7.2 formerly appeared in Civil Service Rule IV.)

Sec. 4.3 Method of filling vacancies. In his discretion an appointing officer may fill any position by appointment through the competitive system from a certificate of eligibles issued under authority of the Commission, or by promotion, demotion, reassignment, transfer, reinstatement or restoration 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.

Sec. 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 appointment 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.

Comments: Text is changed by inserting the words "in the competitive service" in the first sentence to make this sentence compatible with section 6.3 which precludes the filling of excepted positions under competitive procedures except as authorized by the Commission.

Sec. 4.4 Personnel reports. Each agency shall report to the Commission, in such manner and at such times as the Commission may prescribe, such personnel information as it may request relating to positions and officers and employees in the competitive service or excepted from the competitive service by statute or Executive order, whether permanent, indefinite, temporary, or subject to contract.

Sec. 7.2 Personnel reports. Each agency shall report to the Commission, in such manner and at such times as the Commission may prescribe, such personnel information as it may request relating to positions and officers and employees in the competitive service and in the excepted service, whether permanent, or career, career-conditional, indefinite, temporary, emergency, or subject to contract.

Comments: Text is changed to add "career" and "career-conditional". Note that CIA has general exemption from reporting requirements in P.L. 110.

CURRENT TEXT

REVISED TEXT

Sec. 7.3 Reemployment rights. The Commission, 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 re-employment in the agencies from which employees are released.

Comments: This authority is carried forward from Executive Order 10180 which is repealed by E.O. 10577. Text has been changed to delete "in the interest of the national defense" to broaden the Commission's authority.

SECTION 201 (a) Under such conditions as the Civil Service Commission 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 Commission 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 non-competitively 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 appointments: 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 Commission 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.

SECTION 202. (a) Notwithstanding the provisions of section 201 (a) of this order, and subject to such noncompetitive examination or other requirements as the Commission 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 Commission 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 Commission, his appointment shall be converted to a career appointment subject to satisfactory completion of a probationary period.

SECTION 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 and who is selected in regular order from a competitive civil-service register may, notwithstanding the provisions of section 2.2 (a) of Civil Service Rule II, be converted to a career appointment: Provided, That not later than December 31, 1957, the agency in which he is employed so recommends and certifies to the Commission 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 requirements for such appointment prescribed under section 2.2 (a) of Civil Service Rule II.

SECTION 204. In order to effectuate the purposes of section 1310 of the Supplemental Appropriations Act, 1952 (65 Stat. 757), as amended, the Commission shall, after consultation with the agencies concerned, determine the division of allowable permanent appointments within and between the excepted service and the competitive service.

Section 205. The Commission shall issue such regulations and instructions as may be necessary to effectuate the purposes of this part.

PART III

SECTION 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 Commission.

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.