

rules and regulations

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[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Associate Director for Economic Development is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3373 (1) is added as set out below:

§ 213.3373 Community Services Administration.

* * *

(1) *Office of Economic Development.*

(1) One Special Assistant to the Associate Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc.77-34725 Filed 12-1-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant to the Inspector General is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(f) (3) is added as set out below:

§ 213.3331 Department of Energy.

* * *

(f) *Office of the Inspector General.* * * *

(3) One Staff Assistant to the Inspector General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc.77-34605 Filed 12-7-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Assistant to the Administrator, Health Care Financing Administration, is expected under Schedule C because it is confidential in nature.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3316(s) (2) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * *

(s) *Health Care Financing Administration.* * * *

(2) One Confidential Assistant to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc.77-34322 Filed 12-1-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This part is amended to reflect the following title changes: Special Assistant to the Assistant Secretary for Congressional and Legislative Affairs to Special Assistant to the Assistant to the Secretary and Director, Office of

Congressional and Legislative Affairs. This change reflects the new title of the superior. One position of Assistant to the Secretary (Congressional Liaison) is changed to one position of Special Assistant to the Assistant to the Secretary and Director, Office of Congressional and Legislative Affairs. This change in title reflects the new title of the superior and also reflects more appropriately the duties of the position. In addition, two positions of Assistant to the Secretary (Congressional Liaison) are revoked under the automatic revocation provisions because they have been vacant for more than 60 days.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3312(a) (17) is amended and (a) (26) is revoked as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(17) Two Special Assistants to the Assistant to the Secretary and Director, Office of Congressional and Legislative Affairs.

(26) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc.77-34604 Filed 12-1-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

National Aeronautics and Space Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Due to organization changes in the National Aeronautics and Space Administration (NASA), the following title changes are made in the excepted service regulations that apply to NASA: (1) From: Associate Administrator for Space Flight, To: Associate Administrator for Space Transportation Systems; (2) From: Associate Administrator for Applications, To: Associate Administrator for Space and Terrestrial Applications; (3) From: Associate Administrator for Tracking and Data Acquisition, To: Associate Administrator for Space Tracking and Data Systems; and (4) From: Associate Administrator for Cen-

ter Operations, To: Associate Administrator for Management Operations.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

John W. McKee, Civil Service Commission, 202-632-4625.

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

William L. Lee, Staff Assistant, Executive Position and Salary Committee, NASA, 202-755-3993.

Accordingly, 5 CFR 213.3348(g), (r), (s), and (t) are amended as set out below:

§ 213.3348 National Aeronautics and Space Administration.

(g) Associate Administrator for Space Transportation Systems.

(r) Associate Administrator for Space and Terrestrial Applications.

(s) Associate Administrator for Space Tracking and Data Systems.

(t) Associate Administrator for Management Operations.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-34321 Filed 12-1-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

U.S. Arms Control and Disarmament Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) Changes the title of one position of Congressional Assistant to the General Counsel to Special Assistant for Congressional Relations to more accurately reflect the duties of the position; (2) revokes one position of Confidential Assistant to the General Counsel because the position has been vacant for more than 60 days; and (3) excepts under Schedule C one position of Congressional Assistant to the General Counsel because it is confidential in nature.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3364(i) is amended, (j) is revoked, and (n) is added as set out below:

§ 213.3364 U.S. Arms Control and Disarmament Agency.

(i) One Special Assistant for Congressional Relations.

(j) [Revoked].

(n) One Congressional Assistant to the General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-34323 Filed 12-1-77; 8:45 am]

[6325-01]

PART 332—RECRUITMENT AND SELECTION THROUGH COMPETITIVE EXAMINATION

AGENCY: Civil Service Commission.

ACTION: Final regulation.

SUMMARY: This revision standardizes and simplifies the Commission's procedures for handling objections to eligibles and passovers of veterans on Commission certificates without making any substantive changes in what happens to a person on a certificate. Essentially, it eliminates "passovers" as a separate procedure while incorporating under a standardized objection procedure the requirements of law pertaining to the referral of veterans. The changes are designed to (1) eliminate the confusion caused by having two separate procedures to accomplish the same end, and (2) accord essentially equal treatment to all eligibles on Commission certificates.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Raleigh Neville, 202-632-6817.

Accordingly, 5 CFR 332.406 is revised, § 332.407 is deleted and present § 332.408 is renumbered § 332.407 as set out below:

§ 332.406 Objections to Eligibles.

(a) An appointing officer is not required to consider an eligible to whose certification for the particular position he makes an objection that is sustained by the Commission for any of the reasons stated in § 339.101 or § 731.201 of this chapter or for other reasons considered by the Commission to be disqualifying for the particular position. The Commission may also sustain an objection to certification of an otherwise qualified eligible for an overseas position on the basis of special overseas selection factors.

(b) An appointing officer may not pass over a preference eligible to select a non-preference eligible unless an objection to the preference eligible is sustained by the Commission.

(c) Pending Commission action on an agency's objection to an eligible, the agency may not appoint an eligible who would be within reach only if the objection is sustained.

(d) Paragraphs (b) and (c) above do not apply if the agency has more than one position to fill from the same certificate and holds a position for the individual objected to in the event the Commission does not sustain the objection.

(e) Agencies shall follow the procedures for objecting to an eligible published by the Commission in the Federal Personnel Manual.

(5 U.S.C. 3301, 3302, E.O. 10577.)

NOTE.—The Civil Service Commission has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-34324 Filed 12-1-77; 8:45 am]

[6325-01]

PART 831—RETIREMENT

Allotments From Civil Service Annuities; Correction

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This document corrects a final rule which appeared at 42 FR 52372, September 30, 1977, regarding the numbering of the sections contained in Subpart O of Part 831.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank D. Titus, Program Analyst, Bureau of Retirement, Insurance and Occupational Health, Civil Service Commission, Washington, D.C. 20415, phone: 202-632-4650.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-28667, the sections contained in Subpart O were inadvertently numbered 831.1301, 1311, and 1321; they should be numbered 831.1501, 1511, and 1521.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-34325 Filed 12-1-77; 8:45 am]

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, November 30, 1977. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 127]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends and clarifies the procedures for handling utility

expenses by providing households an allowance for amounts billed rather than amounts actually paid and requires State agencies to make prompt adjustments for households experiencing significant increases in utility costs. This change in policy will make the Food Stamp Program more responsive to the high winter heating costs of food stamp households.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William R. Tlucek, Chief, State Agency Operations Branch, Food Stamp Division, 500 12th Street SW., Washington, D.C. 20250, 202-447-8360.

SUPPLEMENTAL INFORMATION:

At present, the Food Stamp Program Regulations include a provision for deducting a household's shelter costs which exceed 30 percent of net income after other deductions. The shelter deduction is calculated using costs on an as paid basis. Shelter costs include rent or mortgage payments, utilities and property taxes. Allowable utility expenses are electricity, heating and cooking fuel, water and sewage, garbage and trash collection fees and the basic service fee for one telephone.

Utility costs can be the standard allowances set by the State agency or actual costs. If the State has standard allowances the household may claim actual costs if these are higher than the standard and the household provides verification.

Anticipating utility costs only on an as paid basis does not meet the needs of households with spiraling costs. A household that purchases its stamps may not have enough funds to pay a substantially increased utility bill that has not been reflected in its food stamp basis of issuance. Conversely, a household that pays an unanticipated high utility bill may not have the funds remaining to purchase its stamps. The result, in which a household may face a choice between paying a bill and getting adequate nutrition, is contrary to the purposes of the food stamp program. Therefore, to more accurately reflect a household's actual utility expenses, we are amending and clarifying the regulations to require that utility costs must be anticipated "as billed" and that the state agency must expedite certification and adjustments in participation when households document significant changes in their utility bills. This is designed to assure that households may both pay their utility bills and purchase their stamps.

Prior payment of a utility expense will not be required. Those expenses for which the household is billed are now to be counted. This amendment continues the policy of deducting only those shelter costs which exceed 30 percent of the household's net income and does not affect current methods of computing other components of the shelter deduction.

Effective January 1, 1978, upon initial or subsequent certification, the house-

hold's monthly utility allowance will be calculated in one of the following ways: (1) using the standard utility allowance, if applicable, or (2) using the bills the household is anticipated to receive during the certification period, based on the most recent actual bills received by the household and other accurate information available. In addition, effective January 1, 1978, a household shall receive an adjustment in its utility allowance whenever its most recent bills exceed the amount that has been anticipated.

The first method continues the State agency option of setting standard utility allowances in accordance with 7 CFR 271.3(c) (1) (iii) (h). The second method requires projection of the allowance using the most recent month's bills and any other information available to the applicant or the State agency which will result in the most accurate prediction of the household's utility bills over the certification period. Whenever, during a certification period, a household's most recent bills exceed the amount anticipated, the household shall be entitled to an adjustment in its allowance on the basis of such bills. The amendment also specifies the treatment of households whose utilities are billed on a "budget payment plan".

After the State agency has calculated the household's utility allowance in accordance with one of these methods, any previously undeducted, overdue utility expenses the household paid or intends to pay in the certification period shall be added. This provision is intended to ease the transition to the "as billed" method. A household can only receive this additional allowance if it can verify payment or has sufficient income and/or resources to cover an intended payment, and the expense was billed and received before the date of implementation of this amendment. Households making application for initial or subsequent certification which document increases of more than \$25.00 in their utility expenses shall be certified within ten days of submission of an application. Setting an amount for the increase ensures uniform national application of this provision and corresponds to current policy on reporting changes in income and deductions.

The State agency cannot average several previous months' utility bills to compute the household's utility allowance. The household must be given an allowance based on the State's standard or on its most recent utility bills. For example, if a household applies in December, the State agency must use the most recent utility bills received by the household and cannot require previously paid bills from the household to compute an average. If the anticipated expenses are not believed to remain stable throughout the duration of the certification period, the household should be assigned a variable basis of issuance or a shorter certification period. Adjustments must be made monthly if changes of more than \$25.00 in utility expenses are reported.

The State agency must adjust the basis of issuance for households which report increases of more than \$25.00 a month in utility costs subsequent to certification

but prior to purchasing their monthly allotments. Adjustments must be processed so that a household receives an opportunity to purchase within 10 days, or in less time if the allotment month is ending. Areas using authorization to purchase (ATP) cards must issue a replacement ATP card to show the correct basis of issuance. An over-the-counter (manual) ATP card must be issued if a machine ATP card cannot be provided within the deadlines. Changes in utility bills of \$25.00 or less will be processed in accordance with the normal procedures specified in 7 CFR 271.3(a) (1) (iii).

In States using utility standards, households are allowed to switch to or from the standard allowance once during a certification period of two months or more. In addition, when a State updates its standard allowance, households are entitled to switch during their certification period from actual bills to the updated standard allowance.

State agencies must publicize notice of these new procedures in the media in each project area and post a notice in each welfare office as soon as possible but no later than December 31, 1977. The notice must be posted through April 30, 1978 and must be provided in languages other than English where appropriate. Additionally, they shall notify each of their outreach contact groups of this change. By no later than January 15, 1978, State agencies must provide individual written notice to each participating household. This notice may be sent with ATP cards or assistance checks or by individual mailings or other appropriate means. If the State agency does not implement these procedures by January 1, 1978, and/or does not provide individual notice by January 15, 1978, households with increased utility expenses beginning in January are entitled to file claims for restoration of lost benefits. If a household receives an allowance for incurred expenses that are never paid, no claim for overissuance shall be filed.

It is the policy of this Department to give the public and the State agencies an opportunity to comment on regulatory changes before issuance. However, because of the need for timely implementation to benefit households experiencing higher utility costs this winter, the Department had decided that it is contrary to the public interest to give notice of proposed rulemaking. The Department intends this rulemaking to ensure lower purchase prices this winter for such households and to ensure prompt adjustments for participating households having unexpectedly high utility expenses. The publication of this amendment as a final rulemaking will give State agencies as much time as possible to prepare for the January 1, 1978, implementation date.

Because the Department feels that the public and the State agencies should have an opportunity to comment, comments are solicited through December 31, 1977. Written comments are to be submitted to: Nancy Snyder, Director, Food Stamp Division, Food and Nutrition Service, United States Department of

Agriculture, Washington, D.C. 20250. This amendment may be revised after considering the comments, if changes are appropriate or necessary.

Accordingly § 271.3 of Chapter II, Title 7, Code of Federal Regulations, is amended as follows:

In § 271.3, a new paragraph (f) is added which reads as follows:

§ 271.3 Household eligibility.

(f) **Utility costs deduction.** (1) Effective January 1, 1978, households which claim utility expenses as part of their shelter costs under 7 CFR 271.3(c)(1) (iii) (h) shall have them computed in accordance with the procedures in this paragraph. Allowable utility expenses are: electricity; heating and cooking fuels; water and sewage; trash and garbage collection fees and the basic service fee for one telephone.

(2) Households documenting an increase of more than \$25 in utility expenses, either at the time of initial or subsequent certification, shall be certified within ten days of submission of an application.

(3) Except as provided in (4) below, the household's monthly utility allowance shall be projected at the time of initial or subsequent certification using one of the following:

(i) the standard utility allowance as provided in 7 CFR 271.3(c)(1) (iii) (h), if the State agency has adopted a standard utility allowance; or

(ii) the bills the household is anticipated to receive during the certification period, based on the most recent actual bills received by the household and other accurate information available.

(iii) the amount the household is billed on a payment schedule established in agreement with the utility provider.

If applicable, add to any utility allowance computed above the amount a household is entitled to in accordance with (4) below.

(4) The State agency shall include as part of the household's utility allowance any payment during a certification period of a utility bill received by the household prior to implementation of this amendment if:

(i) the bill represents an allowable utility expense, but was not used in any previous shelter allowance computations.

(ii) the expense is not already included as part of the household's utility allowance; and

(iii) the expense has been paid by the household or it intends to pay it and has sufficient income and/or resources available.

(5) The State agency shall not average previously paid utility costs to compute the household's monthly utility allowance.

(6) If the household expects that its utility expenses will fluctuate substantially during its certification period, the State agency should assign a shorter

certification period or a variable basis of issuance. A household shall receive an adjustment in its utility allowance whenever its most recent bills exceed the amount that has been anticipated.

(7) If a certified household reports an increase of more than \$25 in its utility costs and has not purchased its monthly allotment, the State agency shall adjust the household's basis of issuance and provide the household with an opportunity to purchase within ten days, or less if the allotment month ends in less than ten days. If the State agency cannot provide the household with an opportunity to purchase within these time limits using its normal issuance system, alternative methods shall be used. No adjustment for that month shall be made after the household has purchased its allotment. Changes in utility bills of \$25 or less will be processed in accordance with the normal procedures specified in 7 CFR 271.3(a)(1) (iii).

(8) In States using utility standards, a household certified for more than one month shall be allowed to switch to or from the standard once during its certification period or to the standard if the standard is updated during its certification period.

(9) State agencies shall publicize the provisions of this paragraph in the media in each project area and by a notice posted in each welfare office. The notice shall be posted as soon as possible but not later than December 31, 1977, shall remain posted through April 30, 1978, and shall be in languages other than English where appropriate. In addition, the State agency shall notify each of their outreach contact groups.

Each participating household shall also be notified individually not later than January 15, 1978. The notice may be sent with the household's ATP card(s) or assistance check, by a separate mailing, or other appropriate means.

(10) State agencies which do not implement these procedures by January 1, 1978 and/or do not provide individual notices by January 15, 1978, are subject to claims for restoration of lost benefits by households which were adversely affected.

(11) A household given an allowance for an incurred utility expense which is never paid shall not be subject to a claim for overissuance.

(78 Stat. 703, as amended; (7 U.S.C. 2011-2027).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: November 28, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 77-34379 Filed 11-29-77; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 122; Lemon Reg. 121, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period December 4-10, 1977, and increases the quantity of such lemons that may be so shipped during the period Nov. 27-Dec. 3. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective December 4, 1977, and the amendment is effective for the period November 27-December 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: Findings: Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on November 29, 1977, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is generally good on all sizes and grades.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the