

111TH CONGRESS
2^D SESSION

S. RES. 700

To provide for the approval of final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunities Act of 1998 that apply to the Senate and employees of the Senate.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2010

Mr. SCHUMER (for himself and Mr. BENNETT) submitted the following resolution; which was considered and agreed to

RESOLUTION

To provide for the approval of final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunities Act of 1998 that apply to the Senate and employees of the Senate.

1 *Resolved*, That the following regulations issued by the
2 Office of Compliance on March 21, 2008, and stated in
3 section 4, with the technical corrections described in sec-
4 tion 3 and to the extent applied by section 2, are hereby
5 approved:

6 **SEC. 2. APPLICATION OF REGULATIONS.**

7 (a) IN GENERAL.—For purposes of applying the
8 issued regulations as a body of regulations required by sec-

1 tion 304(a)(2)(B)(i) of the Congressional Accountability
2 Act of 1995 (2 U.S.C. 1384(a)(2)(B)(i)), the portions of
3 the issued regulations that are unclassified or classified
4 with an “S” designation shall apply to the Senate and em-
5 ployees of the Senate.

6 (b) DEFINITION.—In this section, the term “em-
7 ployee of the Senate” has the meaning given the term in
8 section 101 of the Congressional Accountability Act of
9 1995 (2 U.S.C. 1301), except as limited by the regulations
10 (as corrected under section 3).

11 **SEC. 3. TECHNICAL CORRECTIONS.**

12 (a) CURRENT NAMES OF OFFICES AND HEADS OF
13 OFFICES.—A reference in the issued regulations—

14 (1) to the Capitol Guide Board or the Capitol
15 Guide Service (which no longer exist) shall be con-
16 sidered to be a reference to the Office of Congres-
17 sional Accessibility Services;

18 (2) to the Capitol Police Board shall be consid-
19 ered to be a reference to the Capitol Police;

20 (3) to the Senate Restaurants (which are no
21 longer public entities) shall be disregarded; and

22 (4) in sections 1.110(b) and 1.121(c), to the di-
23 rector of an employing office shall be considered to
24 be a reference to the head of an employing office.

1 (b) CROSS REFERENCES TO PROVISIONS OF REGU-
2 LATIONS.—A reference in the issued regulations—

3 (1) in paragraphs (l) and (m) of section 1.102,
4 to subparagraphs (3) through (8) of paragraph (g)
5 of that section shall be considered to be a reference
6 to paragraph (g) of that section;

7 (2) in section 1.102(l), to subparagraphs (aa)
8 through (dd) of section 1.102(g) shall be considered
9 to be a reference to subparagraphs (aa) through
10 (dd) of that section (as specified in the regulations
11 classified with an “H” classification);

12 (3) in section 1.102(m), to subparagraphs (aa)
13 through (ee) of section 1.102(g) shall be considered
14 to be a reference to subparagraphs (aa) through (ee)
15 of that section (as specified in the regulations classi-
16 fied with an “S” classification);

17 (4) in section 1.111(d), to section 1.102(o) shall
18 be considered to be a reference to section 1.102(p);
19 and

20 (5) in section 1.112, to section 1.102(h) shall
21 be considered to be a reference to section 1.102(i).

22 (c) CROSS REFERENCES TO OTHER PROVISIONS OF
23 LAW.—A reference in the issued regulations—

1 (1) to the Veterans Employment Opportunities
2 Act shall be considered to be a reference to the Vet-
3 erans Employment Opportunities Act of 1998;

4 (2) to 2 U.S.C. 43d(a) shall be considered to be
5 a reference to section 105(a) of the Second Supple-
6 mental Appropriations Act, 1978;

7 (3) to 2 U.S.C. 1316a(3) shall be considered to
8 be a reference to section 4(c)(3) of the Veterans
9 Employment Opportunities Act of 1998;

10 (4) to 5 U.S.C. 2108(3)(c) shall be considered
11 to be a reference to section 2108(3)(C) of title 5,
12 United States Code;

13 (5) to the Americans with Disabilities Act shall
14 be considered to be a reference to the Americans
15 with Disabilities Act of 1990;

16 (6) to the Soil Conservation and Allotment Act
17 shall be considered to be a reference to the Soil Con-
18 servation and Domestic Allotment Act; and

19 (7) to the Agricultural Adjustment Act shall be
20 considered to be a reference to the Agricultural Ad-
21 justment Act, reenacted with amendments by the
22 Agricultural Marketing Agreement Act of 1937.

23 (d) OTHER CORRECTIONS.—In the issued regula-
24 tions—

1 (1) in section 1.102(g)(1) (in the regulations
2 classified with an “S” classification), the “and” at
3 the end shall be disregarded;

4 (2) section 1.102(g)(7) (in the regulations clas-
5 sified with an “S” classification) shall be considered
6 to have an “or” at the end;

7 (3) section 1.109 shall be considered to have an
8 “and” after paragraph (a);

9 (4) the second sentence of section 1.116 shall
10 be disregarded;

11 (5) section 1.118(b) shall be considered to have
12 an “and” after paragraph (2) rather than paragraph
13 (1);

14 (6) a reference in sections 1.118(c)(1) and
15 1.120(b)(1) to veterans’ “preference eligible” shall
16 be considered to be a reference to “preference eligi-
17 ble”;

18 (7) sections 1.118(c) and 1.120(b) shall be con-
19 sidered to have an “and” after paragraph (1); and

20 (8) section 1.121(b)(6)(B) shall be considered
21 to have an “and” at the end.

22 **SEC. 4. REGULATIONS.**

23 When approved by the House of Representatives for
24 the House of Representatives, these regulations will have
25 the prefix “H.” When approved by the Senate for the

1 Senate, these regulations will have the prefix “S.” When
 2 approved by Congress for the other employing offices cov-
 3 ered by the CAA, these regulations will have the prefix
 4 “C.”

5 **In this draft, “H&S Regs” denotes the**
 6 **provisions that would be included in the reg-**
 7 **ulations applicable to be made applicable to**
 8 **the House and Senate, and “C Reg” denotes**
 9 **the provisions that would be included in the**
 10 **regulations to be made applicable to other**
 11 **employing offices.**

12 PART 1—Extension of Rights and Protections Re-
 13 lating to Veterans’ Preference Under Title 5, United
 14 States Code, to Covered Employees of the Legislative
 15 Branch (section 4(c) of the Veterans Employment Oppor-
 16 tunities Act of 1998)

SUBPART A—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS
 PROMULGATED UNDER SECTION 4 OF THE VEOA

Sec.

1.101 Purpose and scope.

1.102 Definitions.

1.103 Adoption of regulations.

1.104 Coordination with section 225 of the Congressional Accountability Act.

17 **SEC. 1.101. PURPOSE AND SCOPE.**

18 (a) Section 4(c) of the VEOA. The Veterans Employ-
 19 ment Opportunities Act (VEOA) applies the rights and
 20 protections of sections 2108, 3309 through 3312, and sub-
 21 chapter I of chapter 35 of title 5 U.S.C., to certain covered
 22 employees within the Legislative branch.

1 (b) Purpose of regulations. The regulations set forth
2 herein are the substantive regulations that the Board of
3 Directors of the Office of Compliance has promulgated
4 pursuant to section 4(c)(4) of the VEOA, in accordance
5 with the rulemaking procedure set forth in section 304 of
6 the CAA (2 U.S.C. § 1384). The purpose of subparts B,
7 C and D of these regulations is to define veterans' pref-
8 erence and the administration of veterans' preference as
9 applicable to Federal employment in the Legislative
10 branch. (5 U.S.C. § 2108, as applied by the VEOA). The
11 purpose of subpart E of these regulations is to ensure that
12 the principles of the veterans' preference laws are inte-
13 grated into the existing employment and retention policies
14 and processes of those employing offices with employees
15 covered by the VEOA, and to provide for transparency in
16 the application of veterans' preference in covered appoint-
17 ment and retention decisions. Provided, nothing in these
18 regulations shall be construed so as to require an employ-
19 ing office to reduce any existing veterans' preference
20 rights and protections that it may afford to preference eli-
21 gible individuals.

22 **H Regs:** (c) Scope of Regulations. The definition
23 of "covered employee" in Section 4(c) of the VEOA lim-
24 its the scope of the statute's applicability within the Leg-
25 islative branch. The term "covered employee" excludes

1 any employee: (1) whose appointment is made by the
2 President with the advice and consent of the Senate; (2)
3 whose appointment is made by a Member of Congress
4 within an employing office, as defined by Sec. 101 (9)(A–
5 C) of the CAA, 2 U.S.C. § 1301 (9)(A–C) or; (3) whose
6 appointment is made by a committee or subcommittee of
7 either House of Congress or a joint committee of the
8 House of Representatives and the Senate; or (4) who is
9 appointed to a position, the duties of which are equiva-
10 lent to those of a Senior Executive Service position (with-
11 in the meaning of section 3132(a)(2) of title 5, United
12 States Code). Accordingly, these regulations shall not
13 apply to any employing office that only employs individ-
14 uals excluded from the definition of covered employee.

15 **S Regs:** (c) Scope of Regulations. The definition
16 of “covered employee” in Section 4(c) of the VEOA lim-
17 its the scope of the statute’s applicability within the Leg-
18 islative branch. The term “covered employee” excludes
19 any employee: (1) whose appointment is made by the
20 President with the advice and consent of the Senate; (2)
21 whose appointment is made or directed by a Member of
22 Congress within an employing office, as defined by Sec.
23 101(9)(A–C) of the CAA, 2 U.S.C. § 1301 (9)(A–C) or;
24 (3) whose appointment is made by a committee or sub-
25 committee of either House of Congress or a joint com-

1 mittee of the House of Representatives and the Senate;
2 (4) who is appointed pursuant to 2 U.S.C. § 43d(a); or
3 (5) who is appointed to a position, the duties of which
4 are equivalent to those of a Senior Executive Service po-
5 sition (within the meaning of section 3132(a)(2) of title
6 5, United States Code). Accordingly, these regulations
7 shall not apply to any employing office that only employs
8 individuals excluded from the definition of covered em-
9 ployee.

10 **C Reg:** (c) Scope of Regulations. The definition
11 of “covered employee” in Section 4(c) of the VEOA lim-
12 its the scope of the statute’s applicability within the Leg-
13 islative branch. The term “covered employee” excludes
14 any employee: (1) whose appointment is made by the
15 President with the advice and consent of the Senate; (2)
16 whose appointment is made by a Member of Congress or
17 by a committee or subcommittee of either House of Con-
18 gress or a joint committee of the House of Representa-
19 tives and the Senate; or (3) who is appointed to a posi-
20 tion, the duties of which are equivalent to those of a Sen-
21 ior Executive Service position (within the meaning of sec-
22 tion 3132(a)(2) of title 5, United States Code). Accord-
23 ingly, these regulations shall not apply to any employing
24 office that only employs individuals excluded from the
25 definition of covered employee.

1 **SEC. 1.102. DEFINITIONS.**

2 Except as otherwise provided in these regulations, as
3 used in these regulations:

4 (a) Accredited physician means a doctor of medicine
5 or osteopathy who is authorized to practice medicine or
6 surgery (as appropriate) by the State in which the doctor
7 practices. The phrase “authorized to practice by the
8 State” as used in this section means that the provider
9 must be authorized to diagnose and treat physical or men-
10 tal health conditions without supervision by a doctor or
11 other health care provider.

12 (b) Act or CAA means the Congressional Account-
13 ability Act of 1995, as amended (Pub. L. 104–1, 109 Stat.
14 3, 2 U.S.C. §§ 1301–1438).

15 (c) Active duty or active military duty means full-time
16 duty with military pay and allowances in the armed forces,
17 except (1) for training or for determining physical fitness
18 and (2) for service in the Reserves or National Guard.

19 (d) Appointment means an individual’s appointment
20 to employment in a covered position, but does not include
21 any personnel action that an employing office takes with
22 regard to an existing employee of the employing office.

23 (e) Armed forces means the United States Army,
24 Navy, Air Force, Marine Corps, and Coast Guard.

25 (f) Board means the Board of Directors of the Office
26 of Compliance.

1 **H Regs:** (g) Covered employee means any em-
2 ployee of (1) the House of Representatives; and (2) the
3 Senate; (3) the Capitol Guide Board; (4) the Capitol Po-
4 lice Board; (5) the Congressional Budget Office; (6) the
5 Office of the Architect of the Capitol; (7) the Office of
6 the Attending Physician; and (8) the Office of Compli-
7 ance, but does not include an employee (aa) whose ap-
8 pointment is made by the President with the advice and
9 consent of the Senate; (bb) whose appointment is made
10 by a Member of Congress; (cc) whose appointment is
11 made by a committee or subcommittee of either House of
12 Congress or a joint committee of the House of Represent-
13 atives and the Senate; or (dd) who is appointed to a posi-
14 tion, the duties of which are equivalent to those of a Sen-
15 ior Executive Service position (within the meaning of sec-
16 tion 3132(a)(2) of title 5, United States Code). The term
17 covered employee includes an applicant for employment in
18 a covered position and a former covered employee.

19 **S. Regs:** (g) Covered employee means any em-
20 ployee of (1) the House of Representatives; and (2) the
21 Senate; (3) the Capitol Guide Board; (4) the Capitol Po-
22 lice Board; (5) the Congressional Budget Office; (6) the
23 Office of the Architect of the Capitol; (7) the Office of
24 the Attending Physician; and (8) the Office of Compli-
25 ance, but does not include an employee (aa) whose ap-

1 pointment is made by the President with the advice and
2 consent of the Senate; (bb) whose appointment is made
3 or directed by a Member of Congress; (cc) whose appoint-
4 ment is made by a committee or subcommittee of either
5 House of Congress or a joint committee of the House of
6 Representatives and the Senate; (dd) who is appointed
7 pursuant to 2 U.S.C. § 43d(a); or (ee) who is appointed
8 to a position, the duties of which are equivalent to those
9 of a Senior Executive Service position (within the mean-
10 ing of section 3132(a)(2) of title 5, United States Code).
11 The term covered employee includes an applicant for em-
12 ployment in a covered position and a former covered em-
13 ployee.

14 **C Reg:** (g) Covered employee means any employee
15 of (1) the Capitol Guide Service; (2) the Capitol Police;
16 (3) the Congressional Budget Office; (4) the Office of the
17 Architect of the Capitol; (5) the Office of the Attending
18 Physician; or (6) the Office of Compliance, but does not
19 include an employee: (aa) whose appointment is made by
20 the President with the advice and consent of the Senate;
21 or (bb) whose appointment is made by a Member of Con-
22 gress or by a committee or subcommittee of either House
23 of Congress or a joint committee of the House of Rep-
24 resentatives and the Senate; or (cc) who is appointed to
25 a position, the duties of which are equivalent to those of

1 a Senior Executive Service position (within the meaning
2 of section 3132(a)(2) of title 5, United States Code). The
3 term covered employee includes an applicant for employ-
4 ment in a covered position and a former covered em-
5 ployee.

6 (h) Covered position means any position that is or
7 will be held by a covered employee.

8 (i) Disabled veteran means a person who was sepa-
9 rated under honorable conditions from active duty in the
10 armed forces performed at any time and who has estab-
11 lished the present existence of a service-connected dis-
12 ability or is receiving compensation, disability retirement
13 benefits, or pensions because of a public statute adminis-
14 tered by the Department of Veterans Affairs or a military
15 department.

16 (j) Employee of the Office of the Architect of the
17 Capitol includes any employee of the Office of the Archi-
18 tect of the Capitol, the Botanic Gardens, or the Senate
19 Restaurants.

20 (k) Employee of the Capitol Police Board includes
21 any member or officer of the Capitol Police.

22 (l) Employee of the House of Representatives in-
23 cludes an individual occupying a position the pay of which
24 is disbursed by the Clerk of the House of Representatives,
25 or another official designated by the House of Representa-

1 tives, or any employment position in an entity that is paid
2 with funds derived from the clerk-hire allowance of the
3 House of Representatives but not any such individual em-
4 ployed by any entity listed in subparagraphs (3) through
5 (8) of paragraph (g) above nor any individual described
6 in subparagraphs (aa) through (dd) of paragraph (g)
7 above.

8 (m) Employee of the Senate includes any employee
9 whose pay is disbursed by the Secretary of the Senate,
10 but not any such individual employed by any entity listed
11 in subparagraphs (3) through (8) of paragraph (g) above
12 nor any individual described in subparagraphs (aa)
13 through (ee) of paragraph (g) above.

14 **H Regs:** (n) Employing office means: (1) the per-
15 sonal office of a Member of the House of Representa-
16 tives; (2) a committee of the House of Representatives or
17 a joint committee of the House of Representatives and
18 the Senate; or (3) any other office headed by a person
19 with the final authority to appoint, hire, discharge, and
20 set the terms, conditions, or privileges of the employment
21 of an employee of the House of Representatives or the
22 Senate.

23 **S Regs:** (n) Employing office means: (1) the per-
24 sonal office of a Senator; (2) a committee of the Senate
25 or a joint committee of the House of Representatives and

1 the Senate; or (3) any other office headed by a person
2 with the final authority to appoint, or be directed by a
3 Member of Congress to appoint, hire, discharge, and set
4 the terms, conditions, or privileges of the employment of
5 an employee of the House of Representatives or the Sen-
6 ate.

7 **C Reg:** (n) Employing office means: the Capitol
8 Guide Board, the Capitol Police Board, the Congressional
9 Budget Office, the Office of the Architect of the Capitol,
10 the Office of the Attending Physician, and the Office of
11 Compliance.

12 (o) Office means the Office of Compliance.

13 (p) Preference eligible means veterans, spouses, wid-
14 ows, widowers or mothers who meet the definition of
15 “preference eligible” in 5 U.S.C. § 2108(3)(A)–(G).

16 (q) Qualified applicant means an applicant for a cov-
17 ered position whom an employing office deems to satisfy
18 the requisite minimum job-related requirements of the po-
19 sition. Where the employing office uses an entrance exam-
20 ination or evaluation for a covered position that is numeri-
21 cally scored, the term “qualified applicant” shall mean
22 that the applicant has received a passing score on the ex-
23 amination or evaluation.

24 (r) Separated under honorable conditions means ei-
25 ther an honorable or a general discharge from the armed

1 forces. The Department of Defense is responsible for ad-
2 ministering and defining military discharges.

3 (s) Uniformed services means the armed forces, the
4 commissioned corps of the Public Health Service, and the
5 commissioned corps of the National Oceanic and Atmos-
6 pheric Administration.

7 (t) VEOA means the Veterans Employment Opportu-
8 nities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

9 (u) Veterans means persons as defined in 5 U.S.C.
10 § 2108(1), or any superseding legislation.

11 **SEC. 1.103. ADOPTION OF REGULATIONS.**

12 (a) Adoption of regulations. Section 4(c)(4)(A) of the
13 VEOA generally authorizes the Board to issue regulations
14 to implement section 4(c). In addition, section 4(c)(4)(B)
15 of the VEOA directs the Board to promulgate regulations
16 that are “the same as the most relevant substantive regu-
17 lations (applicable with respect to the Executive branch)
18 promulgated to implement the statutory provisions re-
19 ferred to in paragraph (2)” of section 4(c) of the VEOA.
20 Those statutory provisions are section 2108, sections 3309
21 through 3312, and subchapter I of chapter 35, of title 5,
22 United States Code. The regulations issued by the Board
23 herein are on all matters for which section 4(c)(4)(B) of
24 the VEOA requires a regulation to be issued. Specifically,
25 it is the Board’s considered judgment based on the infor-

1 mation available to it at the time of promulgation of these
2 regulations, that, with the exception of the regulations
3 adopted and set forth herein, there are no other “sub-
4 stantive regulations (applicable with respect to the Execu-
5 tive branch) promulgated to implement the statutory pro-
6 visions referred to in paragraph (2)” of section 4(c) of
7 the VEOA that need be adopted.

8 (b) Modification of substantive regulations. As a
9 qualification to the statutory obligation to issue regula-
10 tions that are “the same as the most substantive regula-
11 tions (applicable with respect to the Executive branch)”,
12 section 4(c)(4)(B) of the VEOA authorizes the Board to
13 “determine, for good cause shown and stated together
14 with the regulation, that a modification of such regula-
15 tions would be more effective for the implementation of
16 the rights and protections under” section 4(c) of the
17 VEOA.

18 (c) Rationale for Departure from the Most Relevant
19 Executive Branch Regulations. The Board concludes that
20 it must promulgate regulations accommodating the human
21 resource systems existing in the Legislative branch; and
22 that such regulations must take into account the fact that
23 the Board does not possess the statutory and Executive
24 Order based government-wide policy making authority un-
25 derlying OPM’s counterpart VEOA regulations governing

1 the Executive branch. OPM’s regulations are designed for
 2 the competitive service (defined in 5 U.S.C. § 2102(a)(2)),
 3 which does not exist in the employing offices subject to
 4 this regulation. Therefore, to follow the OPM regulations
 5 would create detailed and complex rules and procedures
 6 for a workforce that does not exist in the Legislative
 7 branch, while providing no VEOA protections to the cov-
 8 ered Legislative branch employees. We have chosen to pro-
 9 pose specially tailored regulations, rather than simply to
 10 adopt those promulgated by OPM, so that we may effec-
 11 tuate Congress’ intent in extending the principles of the
 12 veterans’ preference laws to the Legislative branch
 13 through the VEOA.

14 **SEC. 1.104. COORDINATION WITH SECTION 225 OF THE CON-**
 15 **GRESSIONAL ACCOUNTABILITY ACT.**

16 Statutory directive. Section 4(e)(4)(C) of the VEOA
 17 requires that promulgated regulations must be consistent
 18 with section 225 of the CAA. Among the relevant provi-
 19 sions of section 225 are subsection (f)(1), which pre-
 20 scribes as a rule of construction that definitions and ex-
 21 emptions in the laws made applicable by the CAA shall
 22 apply under the CAA, and subsection (f)(3), which states
 23 that the CAA shall not be considered to authorize en-
 24 forcement of the CAA by the Executive branch.

SUBPART B—VETERANS’ PREFERENCE—GENERAL PROVISIONS

Sec.

1.105 Responsibility for administration of veterans' preference.

1.106 Procedures for bringing claims under the VEOA.

1 **SEC. 1.105. RESPONSIBILITY FOR ADMINISTRATION OF VET-**
 2 **ERANS' PREFERENCE.**

3 Subject to section 1.106, employing offices with cov-
 4 ered employees or covered positions are responsible for
 5 making all veterans' preference determinations, con-
 6 sistent with the VEOA.

7 **SEC. 1.106. PROCEDURES FOR BRINGING CLAIMS UNDER**
 8 **THE VEOA.**

9 Applicants for appointment to a covered position and
 10 covered employees may contest adverse veterans' pref-
 11 erence determinations, including any determination that
 12 a preference eligible applicant is not a qualified applicant,
 13 pursuant to sections 401–416 of the CAA, 2 U.S.C.
 14 §§ 1401–1416, and provisions of law referred to therein;
 15 206a(3) of the CAA, 2 U.S.C. §§ 1401, 1316a(3); and
 16 the Office's Procedural Rules.

SUBPART C—VETERANS' PREFERENCE IN APPOINTMENTS

Sec.

1.107 Veterans' preference in appointments to restricted covered positions.

1.108 Veterans' preference in appointments to non-restricted covered positions.

1.109 Crediting experience in appointments to covered positions.

1.110 Waiver of physical requirements in appointments to covered positions.

17 **SEC. 1.107. VETERANS' PREFERENCE IN APPOINTMENTS TO**
 18 **RESTRICTED POSITIONS.**

19 In each appointment action for the positions of cus-
 20 todian, elevator operator, guard, and messenger (as de-
 21 fined below and collectively referred to in these regula-

1 tions as restricted covered positions) employing offices
2 shall restrict competition to preference eligible applicants
3 as long as qualified preference eligible applicants are
4 available. The provisions of sections 1.109 and 1.110
5 below shall apply to the appointment of a preference eli-
6 gible applicant to a restricted covered position. The provi-
7 sions of section 1.108 shall apply to the appointment of
8 a preference eligible applicant to a restricted covered po-
9 sition, in the event that there is more than one preference
10 eligible applicant for the position.

11 Custodian—One whose primary duty is the perform-
12 ance of cleaning or other ordinary routine maintenance
13 duties in or about a government building or a building
14 under Federal control, park, monument, or other Federal
15 reservation.

16 Elevator operator—One whose primary duty is the
17 running of freight or passenger elevators. The work in-
18 cludes opening and closing elevator gates and doors,
19 working elevator controls, loading and unloading the eleva-
20 tor, giving information and directions to passengers such
21 as on the location of offices, and reporting problems in
22 running the elevator.

23 Guard—One whose primary duty is the assignment
24 to a station, beat, or patrol area in a Federal building
25 or a building under Federal control to prevent illegal

1 entry of persons or property; or required to stand watch
2 at or to patrol a Federal reservation, industrial area, or
3 other area designated by Federal authority, in order to
4 protect life and property; make observations for detection
5 of fire, trespass, unauthorized removal of public property
6 or hazards to Federal personnel or property. The term
7 guard does not include law enforcement officer positions
8 of the Capitol Police Board.

9 Messenger—One whose primary duty is the super-
10 vision or performance of general messenger work (such as
11 running errands, delivering messages, and answering call
12 bells).

13 **SEC. 1.108. VETERANS' PREFERENCE IN APPOINTMENTS TO**
14 **NON-RESTRICTED COVERED POSITIONS.**

15 (a) Where an employing office has duly adopted a pol-
16 icy requiring the numerical scoring or rating of applicants
17 for covered positions, the employing office shall add points
18 to the earned ratings of those preference eligible appli-
19 cants who receive passing scores in an entrance examina-
20 tion, in a manner that is proportionately comparable to
21 the points prescribed in 5 U.S.C. § 3309. For example,
22 five preference points shall be granted to preference eligi-
23 ble applicants in a 100-point system, one point shall be
24 granted in a 20-point system, and so on.

1 (b) In all other situations involving appointment to
2 a covered position, employing offices shall consider vet-
3 erans' preference eligibility as an affirmative factor in the
4 employing office's determination of who will be appointed
5 from among qualified applicants.

6 **SEC. 1.109. CREDITING EXPERIENCE IN APPOINTMENTS TO**
7 **COVERED POSITIONS.**

8 When considering applicants for covered positions in
9 which experience is an element of qualification, employing
10 offices shall provide preference eligible applicants with
11 credit:

12 (a) for time spent in the military service (1) as an
13 extension of time spent in the position in which the appli-
14 cant was employed immediately before his/her entrance
15 into the military service, or (2) on the basis of actual du-
16 ties performed in the military service, or (3) as a combina-
17 tion of both methods. Employing offices shall credit time
18 spent in the military service according to the method that
19 will be of most benefit to the preference eligible applicant.

20 (b) for all experience material to the position for
21 which the applicant is being considered, including experi-
22 ence gained in religious, civic, welfare, service, and organi-
23 zational activities, regardless of whether he/she received
24 pay therefor.

1 **SEC. 1.110. WAIVER OF PHYSICAL REQUIREMENTS IN AP-**
2 **POINTMENTS TO COVERED POSITIONS.**

3 (a) Subject to (c) below, in determining qualifications
4 of a preference eligible for appointment, an employing of-
5 fice shall waive:

6 (1) with respect to a preference eligible appli-
7 cant, requirements as to age, height, and weight, un-
8 less the requirement is essential to the performance
9 of the duties of the position; and

10 (2) with respect to a preference eligible appli-
11 cant to whom it has made a conditional offer of em-
12 ployment, physical requirements if, in the opinion of
13 the employing office, on the basis of evidence before
14 it, including any recommendation of an accredited
15 physician submitted by the preference eligible appli-
16 cant, the preference eligible applicant is physically
17 able to perform efficiently the duties of the position;

18 (b) Subject to (c) below, if an employing office deter-
19 mines, on the basis of evidence before it, including any
20 recommendation of an accredited physician submitted by
21 the preference eligible applicant, that an applicant to
22 whom it has made a conditional offer of employment is
23 preference eligible as a disabled veteran as described in
24 5 U.S.C. § 2108(3)(c) and who has a compensable service-
25 connected disability of 30 percent or more is not able to
26 fulfill the physical requirements of the covered position,

1 the employing office shall notify the preference eligible ap-
2 plicant of the reasons for the determination and of the
3 right to respond and to submit additional information to
4 the employing office, within 15 days of the date of the
5 notification. The director of the employing office may, by
6 providing written notice to the preference eligible appli-
7 cant, shorten the period for submitting a response with
8 respect to an appointment to a particular covered position,
9 if necessary because of a need to fill the covered position
10 immediately. Should the preference eligible applicant make
11 a timely response, the highest ranking individual or group
12 of individuals with authority to make employment deci-
13 sions on behalf of the employing office shall render a final
14 determination of the physical ability of the preference eli-
15 gible applicant to perform the duties of the position, tak-
16 ing into account the response and any additional informa-
17 tion provided by the preference eligible applicant. When
18 the employing office has completed its review of the pro-
19 posed disqualification on the basis of physical disability,
20 it shall send its findings to the preference eligible appli-
21 cant.

22 (c) Nothing in this section shall relieve an employing
23 office of any obligations it may have pursuant to the
24 Americans with Disabilities Act (42 U.S.C. § 12101 et

1 seq.) as applied by section 102(a)(3) of the Act, 2 U.S.C.
 2 § 1302(a)(3).

SUBPART D—VETERANS' PREFERENCE IN REDUCTIONS IN FORCE

Sec.

- 1.111. Definitions applicable in reductions in force.
- 1.112. Application of preference in reductions in force.
- 1.113. Crediting experience in reductions in force.
- 1.114. Waiver of physical requirements in reductions in force.
- 1.115. Transfer of functions.

3 **SEC. 1.111. DEFINITIONS APPLICABLE IN REDUCTIONS IN**
 4 **FORCE.**

5 (a) Competing covered employees are the covered em-
 6 ployees within a particular position or job classification,
 7 at or within a particular competitive area, as those terms
 8 are defined below.

9 (b) Competitive area is that portion of the employing
 10 office's organizational structure, as determined by the em-
 11 ploying office, in which covered employees compete for re-
 12 tention. A competitive area must be defined solely in terms
 13 of the employing office's organizational unit(s) and geo-
 14 graphical location, and it must include all employees with-
 15 in the competitive area so defined. A competitive area may
 16 consist of all or part of an employing office. The minimum
 17 competitive area is a department or subdivision of the em-
 18 ploying office within the local commuting area.

19 (c) Position classifications or job classifications are
 20 determined by the employing office, and shall refer to all
 21 covered positions within a competitive area that are in the
 22 same grade, occupational level or classification, and which

1 are similar enough in duties, qualification requirements,
2 pay schedules, tenure (type of appointment) and working
3 conditions so that an employing office may reassign the
4 incumbent of one position to any of the other positions
5 in the position classification without undue interruption.

6 (d) Preference Eligibles. For the purpose of applying
7 veterans' preference in reductions in force, except with re-
8 spect to the application of section 1.114 of these regula-
9 tions regarding the waiver of physical requirements, the
10 following shall apply:

11 (1) "active service" has the meaning given it by
12 section 101 of title 37;

13 (2) "a retired member of a uniformed service"
14 means a member or former member of a uniformed
15 service who is entitled, under statute, to retired, re-
16 tirement, or retainer pay on account of his/her serv-
17 ice as such a member; and

18 (3) a preference eligible covered employee who
19 is a retired member of a uniformed service is consid-
20 ered a preference eligible only if

21 (A) his/her retirement was based on dis-
22 ability—

23 (i) resulting from injury or disease re-
24 ceived in line of duty as a direct result of
25 armed conflict; or

1 (ii) caused by an instrumentality of
2 war and incurred in the line of duty during
3 a period of war as defined by sections 101
4 and 1101 of title 38;

5 (B) his/her service does not include twenty
6 or more years of full-time active service, regard-
7 less of when performed but not including peri-
8 ods of active duty for training; or

9 (C) on November 30, 1964, he/she was em-
10 ployed in a position to which this subchapter
11 applies and thereafter he/she continued to be so
12 employed without a break in service of more
13 than 30 days.

14 The definition of “preference eligible” as set forth in
15 5 U.S.C § 2108 and section 1.102(o) of these regulations
16 shall apply to waivers of physical requirements in deter-
17 mining an employee’s qualifications for retention under
18 section 1.114 of these regulations.

19 **H&S Regs:** (e) Reduction in force is any termi-
20 nation of a covered employee’s employment or the reduc-
21 tion in pay and/or position grade of a covered employee
22 for more than 30 days and that may be required for
23 budgetary or workload reasons, changes resulting from
24 reorganization, or the need to make room for an em-
25 ployee with reemployment or restoration rights. The term

1 “reduction in force” does not encompass a termination or
2 other personnel action: (1) predicated upon performance,
3 conduct or other grounds attributable to an employee, or
4 (2) involving an employee who is employed by the em-
5 ploying office on a temporary basis, or (3) attributable to
6 a change in party leadership or majority party status
7 within the House of Congress where the employee is em-
8 ployed.

9 **C Reg:** (e) Reduction in force is any termination
10 of a covered employee’s employment or the reduction in
11 pay and/or position grade of a covered employee for more
12 than 30 days and that may be required for budgetary or
13 workload reasons, changes resulting from reorganization,
14 or the need to make room for an employee with reemploy-
15 ment or restoration rights. The term “reduction in force”
16 does not encompass a termination or other personnel ac-
17 tion: (1) predicated upon performance, conduct or other
18 grounds attributable to an employee, or (2) involving an
19 employee who is employed by the employing office on a
20 temporary basis.

21 (f) Undue interruption is a degree of interruption
22 that would prevent the completion of required work by a
23 covered employee 90 days after the employee has been
24 placed in a different position under this part. The 90-day
25 standard should be considered within the allowable limits

1 of time and quality, taking into account the pressures of
2 priorities, deadlines, and other demands. However, work
3 generally would not be considered to be unduly interrupted
4 if a covered employee needs more than 90 days after the
5 reduction in force to perform the optimum quality or
6 quantity of work. The 90-day standard may be extended
7 if placement is made under this part to a program ac-
8 corded low priority by the employing office, or to a vacant
9 position.

10 **SEC. 1.112. APPLICATION OF PREFERENCE IN REDUCTIONS**
11 **IN FORCE.**

12 Prior to carrying out a reduction in force that will
13 affect covered employees, employing offices shall deter-
14 mine which, if any, covered employees within a particular
15 group of competing covered employees are entitled to vet-
16 erans' preference eligibility status in accordance with
17 these regulations. In determining which covered employ-
18 ees will be retained, employing offices will treat veterans'
19 preference as the controlling factor in retention decisions
20 among such competing covered employees, regardless of
21 length of service or performance, provided that the pref-
22 erence eligible employee's performance has not been de-
23 termined to be unacceptable. Provided, a preference eligi-
24 ble employee who is a "disabled veteran" under section
25 1.102(h) above who has a compensable service-connected

1 disability of 30 percent or more and whose performance
2 has not been determined to be unacceptable by an em-
3 ploying office is entitled to be retained in preference to
4 other preference eligible employees. Provided, this section
5 does not relieve an employing office of any greater obliga-
6 tion it may be subject to pursuant to the Worker Adjust-
7 ment and Retraining Notification Act (29 U.S.C. § 2101
8 et seq.) as applied by section 102(a)(9) of the CAA, 2
9 U.S.C. § 1302(a)(9).

10 **SEC. 1.113. CREDITING EXPERIENCE IN REDUCTIONS IN**
11 **FORCE.**

12 In computing length of service in connection with a
13 reduction in force, the employing office shall provide
14 credit to preference eligible covered employees as follows:

15 (a) a preference eligible covered employee who is not
16 a retired member of a uniformed service is entitled to cred-
17 it for the total length of time in active service in the armed
18 forces;

19 (b) a preference eligible covered employee who is a
20 retired member of a uniformed service is entitled to credit
21 for:

22 (1) the length of time in active service in the
23 armed forces during a war, or in a campaign or ex-
24 pedition for which a campaign badge has been au-
25 thorized; or

1 (2) the total length of time in active service in
2 the armed forces if he is included under 5 U.S.C.
3 § 3501(a)(3)(A), (B), or (C); and

4 (c) a preference eligible covered employee is entitled
5 to credit for:

6 (1) service rendered as an employee of a county
7 committee established pursuant to section 8(b) of
8 the Soil Conservation and Allotment Act or of a
9 committee or association of producers described in
10 section 10(b) of the Agricultural Adjustment Act;
11 and

12 (2) service rendered as an employee described
13 in 5 U.S.C. § 2105(c) if such employee moves or has
14 moved, on or after January 1, 1966, without a break
15 in service of more than 3 days, from a position in
16 a nonappropriated fund instrumentality of the De-
17 partment of Defense or the Coast Guard to a posi-
18 tion in the Department of Defense or the Coast
19 Guard, respectively, that is not described in 5 U.S.C.
20 § 2105(c).

21 **SEC. 1.114. WAIVER OF PHYSICAL REQUIREMENTS IN RE-**
22 **DUCTIONS IN FORCE.**

23 (a) If an employing office determines, on the basis
24 of evidence before it, that a covered employee is preference
25 eligible, the employing office shall waive, in determining

1 the covered employee's retention status in a reduction in
2 force:

3 (1) requirements as to age, height, and weight,
4 unless the requirement is essential to the perform-
5 ance of the duties of the position; and

6 (2) physical requirements if, in the opinion of
7 the employing office, on the basis of evidence before
8 it, including any recommendation of an accredited
9 physician submitted by the employee, the preference
10 eligible covered employee is physically able to per-
11 form efficiently the duties of the position.

12 (b) If an employing office determines that a covered
13 employee who is a preference eligible as a disabled veteran
14 as described in 5 U.S.C. § 2108(3)(c) and has a compen-
15 sable service-connected disability of 30 percent or more is
16 not able to fulfill the physical requirements of the covered
17 position, the employing office shall notify the preference
18 eligible covered employee of the reasons for the determina-
19 tion and of the right to respond and to submit additional
20 information to the employing office within 15 days of the
21 date of the notification. Should the preference eligible cov-
22 ered employee make a timely response, the highest ranking
23 individual or group of individuals with authority to make
24 employment decisions on behalf of the employing office,
25 shall render a final determination of the physical ability

1 of the preference eligible covered employee to perform the
2 duties of the covered position, taking into account the evi-
3 dence before it, including the response and any additional
4 information provided by the preference eligible. When the
5 employing office has completed its review of the proposed
6 disqualification on the basis of physical disability, it shall
7 send its findings to the preference eligible covered em-
8 ployee.

9 (c) Nothing in this section shall relieve an employing
10 office of any obligation it may have pursuant to the Ameri-
11 cans with Disabilities Act (42 U.S.C. § 12101 et seq.) as
12 applied by section 102(a)(3) of the CAA, 2 U.S.C.
13 § 1302(a)(3).

14 **SEC. 1.115. TRANSFER OF FUNCTIONS.**

15 (a) When a function is transferred from one employ-
16 ing office to another employing office, each covered em-
17 ployee in the affected position classifications or job classi-
18 fications in the function that is to be transferred shall be
19 transferred to the receiving employing office for employ-
20 ment in a covered position for which he/she is qualified
21 before the receiving employing office may make an ap-
22 pointment from another source to that position.

23 (b) When one employing office is replaced by another
24 employing office, each covered employee in the affected po-
25 sition classifications or job classifications in the employing

1 office to be replaced shall be transferred to the replacing
 2 employing office for employment in a covered position for
 3 which he/she is qualified before the replacing employing
 4 office may make an appointment from another source to
 5 that position.

SUBPART E—ADOPTION OF VETERANS' PREFERENCE POLICIES,
 RECORDKEEPING & INFORMATIONAL REQUIREMENTS.

Sec.

- 1.116. Adoption of veterans' preference policy.
- 1.117. Preservation of records made or kept.
- 1.118. Dissemination of veterans' preference policies to applicants for covered positions.
- 1.119. Information regarding veterans' preference determinations in appointments.
- 1.120. Dissemination of veterans' preference policies to covered employees.
- 1.121. Written notice prior to a reduction in force.

6 SEC. 1.116. ADOPTION OF VETERANS' PREFERENCE POLICY.

7 No later than 120 calendar days following Congres-
 8 sional approval of this regulation, each employing office
 9 that employs one or more covered employees or that
 10 seeks applicants for a covered position shall adopt its
 11 written policy specifying how it has integrated the vet-
 12 erans' preference requirements of the Veterans Employ-
 13 ment Opportunities Act of 1998 and these regulations
 14 into its employment and retention processes. Upon timely
 15 request and the demonstration of good cause, the Execu-
 16 tive Director, in his/her discretion, may grant such an
 17 employing office additional time for preparing its policy.
 18 Each such employing office will make its policies avail-
 19 able to applicants for appointment to a covered position
 20 and to covered employees in accordance with these regu-

1 lations. The act of adopting a veterans' preference policy
2 shall not relieve any employing office of any other respon-
3 sibility or requirement of the Veterans Employment Op-
4 portunity Act of 1998 or these regulations. An employing
5 office may amend or replace its veterans' preference poli-
6 cies as it deems necessary or appropriate, so long as the
7 resulting policies are consistent with the VEOA and these
8 regulations.

9 **SEC. 1.117. PRESERVATION OF RECORDS MADE OR KEPT.**

10 An employing office that employs one or more cov-
11 ered employees or that seeks applicants for a covered po-
12 sition shall maintain any records relating to the applica-
13 tion of its veterans' preference policy to applicants for
14 covered positions and to workforce adjustment decisions
15 affecting covered employees for a period of at least one
16 year from the date of the making of the record or the
17 date of the personnel action involved or, if later, one year
18 from the date on which the applicant or covered employee
19 is notified of the personnel action. Where a claim has
20 been brought under section 401 of the CAA against an
21 employing office under the VEOA, the respondent em-
22 ploying office shall preserve all personnel records relevant
23 to the claim until final disposition of the claim. The term
24 "personnel records relevant to the claim", for example,
25 would include records relating to the veterans' preference

1 determination regarding the person bringing the claim
2 and records relating to any veterans' preference deter-
3 minations regarding other applicants for the covered posi-
4 tion the person sought, or records relating to the vet-
5 erans' preference determinations regarding other covered
6 employees in the person's position or job classification.
7 The date of final disposition of the charge or the action
8 means the latest of the date of expiration of the statutory
9 period within which the aggrieved person may file a com-
10 plaint with the Office or in a U.S. District Court or,
11 where an action is brought against an employing office
12 by the aggrieved person, the date on which such litigation
13 is terminated.

14 **SEC. 1.118. DISSEMINATION OF VETERANS' PREFERENCE**
15 **POLICIES TO APPLICANTS FOR COVERED PO-**
16 **SITIONS.**

17 (a) An employing office shall state in any announce-
18 ments and advertisements it makes concerning vacancies
19 in covered positions that the staffing action is governed
20 by the VEOA.

21 (b) An employing office shall invite applicants for a
22 covered position to identify themselves as veterans' pref-
23 erence eligible applicants, provided that in doing so:

24 (1) the employing office shall state clearly on
25 any written application or questionnaire used for

1 this purpose or make clear orally, if a written appli-
2 cation or questionnaire is not used, that the re-
3 quested information is intended for use solely in con-
4 nection with the employing office's obligations and
5 efforts to provide veterans' preference to preference
6 eligible applicants in accordance with the VEOA;
7 and

8 (2) the employing office shall state clearly that
9 disabled veteran status is requested on a voluntary
10 basis, that it will be kept confidential in accordance
11 with the Americans with Disabilities Act (42 U.S.C.
12 § 12101 et seq.) as applied by section 102(a)(3) of
13 the CAA, 2 U.S.C. § 1302(a)(3), that refusal to pro-
14 vide it will not subject the individual to any adverse
15 treatment except the possibility of an adverse deter-
16 mination regarding the individual's status as a pref-
17 erence eligible applicant as a disabled veteran under
18 the VEOA, and that any information obtained in ac-
19 cordance with this section concerning the medical
20 condition or history of an individual will be collected,
21 maintained and used only in accordance with the
22 Americans with Disabilities Act (42 U.S.C. § 12101
23 et seq.) as applied by section 102(a)(3) of the CAA,
24 2 U.S.C. § 1302(a)(3).

1 (3) the employing office shall state clearly that
2 applicants may request information about the em-
3 ploying office’s veterans’ preference policies as they
4 relate to appointments to covered positions, and
5 shall describe the employing office’s procedures for
6 making such requests.

7 (c) Upon written request by an applicant for a cov-
8 ered position, an employing office shall provide the fol-
9 lowing information in writing:

10 (1) the VEOA definition of veterans’ “pref-
11 erence eligible” as set forth in 5 U.S.C. § 2108 or
12 any superseding legislation, providing the actual,
13 current definition in a manner designed to be under-
14 stood by applicants, along with the statutory cita-
15 tion;

16 (2) the employing office’s veterans’ preference
17 policy or a summary description of the employing of-
18 fice’s veterans’ preference policy as it relates to ap-
19 pointments to covered positions, including any proce-
20 dures the employing office shall use to identify pref-
21 erence eligible employees;

22 (3) the employing office may provide other in-
23 formation to applicants regarding its veterans’ pref-
24 erence policies and practices, but is not required to
25 do so by these regulations.

1 (d) Employing offices are also expected to answer
2 questions from applicants for covered positions that are
3 relevant and non-confidential concerning the employing of-
4 fice's veterans' preference policies and practices.

5 **SEC. 1.119. INFORMATION REGARDING VETERANS' PREF-**
6 **ERENCE DETERMINATIONS IN APPOINT-**
7 **MENTS.**

8 Upon written request by an applicant for a covered
9 position, the employing office shall promptly provide a
10 written explanation of the manner in which veterans'
11 preference was applied in the employing office's appoint-
12 ment decision regarding that applicant. Such explanation
13 shall include at a minimum:

14 (a) the employing office's veterans' preference policy
15 or a summary description of the employing office's vet-
16 erans' preference policy as it relates to appointments to
17 covered positions; and

18 (b) a statement as to whether the applicant is pref-
19 erence eligible and, if not, a brief statement of the reasons
20 for the employing office's determination that the applicant
21 is not preference eligible.

22 **SEC. 1.120. DISSEMINATION OF VETERANS' PREFERENCE**
23 **POLICIES TO COVERED EMPLOYEES.**

24 (a) If an employing office that employs one or more
25 covered employees provides any written guidance to such

1 employees concerning employee rights generally or reduc-
2 tions in force more specifically, such as in a written em-
3 ployee policy, manual or handbook, such guidance must
4 include information concerning veterans' preference under
5 the VEOA, as set forth in subsection (b) of this regulation.

6 (b) Written guidances described in subsection (a)
7 above shall include, at a minimum:

8 (1) the VEOA definition of veterans' "pref-
9 erence eligible" as set forth in 5 U.S.C. § 2108 or
10 any superseding legislation, providing the actual,
11 current definition along with the statutory citation;

12 (2) the employing office's veterans' preference
13 policy or a summary description of the employing of-
14 fice's veterans' preference policy as it relates to re-
15 ductions in force, including the procedures the em-
16 ploying office shall take to identify preference eligi-
17 ble employees.

18 (3) the employing office may provide other in-
19 formation in its guidances regarding its veterans'
20 preference policies and practices, but is not required
21 to do so by these regulations.

22 (c) Employing offices are also expected to answer
23 questions from covered employees that are relevant and
24 non-confidential concerning the employing office's vet-
25 erans' preference policies and practices.

1 **SEC. 1.121. WRITTEN NOTICE PRIOR TO A REDUCTION IN**
2 **FORCE.**

3 (a) Except as provided under subsection (c), a cov-
4 ered employee may not be released due to a reduction in
5 force, unless the covered employee and the covered em-
6 ployee's exclusive representative for collective-bargaining
7 purposes (if any) are given written notice, in conformance
8 with the requirements of paragraph (b), at least 60 days
9 before the covered employee is so released.

10 (b) Any notice under paragraph (a) shall include—

11 (1) the personnel action to be taken with re-
12 spect to the covered employee involved;

13 (2) the effective date of the action;

14 (3) a description of the procedures applicable in
15 identifying employees for release;

16 (4) the covered employee's competitive area;

17 (5) the covered employee's eligibility for vet-
18 erans' preference in retention and how that pref-
19 erence eligibility was determined;

20 (6) the retention status and preference eligi-
21 bility of the other employees in the affected position
22 classifications or job classifications within the cov-
23 ered employee's competitive area, by providing:

24 (A) a list of all covered employee(s) in the
25 covered employee's position classification or job
26 classification and competitive area who will be

1 retained by the employing office, identifying
2 those employees by job title only and stating
3 whether each such employee is preference eligi-
4 ble, and

5 (B) a list of all covered employee(s) in the
6 covered employee's position classification or job
7 classification and competitive area who will not
8 be retained by the employing office, identifying
9 those employees by job title only and stating
10 whether each such employee is preference eligi-
11 ble.

12 (7) a description of any appeal or other rights
13 which may be available.

14 (c) The director of the employing office may, in writ-
15 ing, shorten the period of advance notice required under
16 subsection (a), with respect to a particular reduction in
17 force, if necessary because of circumstances not reason-
18 ably foreseeable.

19 (d) No notice period may be shortened to less than
20 30 days under this subsection.

○