

§215.5

§215.5 Processing of amendatory applications.

When an application is supplemental to or revises or amends in immaterial respects an application for which the Department of Labor has already certified that fair and equitable arrangements have been made to protect the interests of mass transit employees affected by the subject project the Department of Labor will on its own initiative apply to the supplemental or other amendatory application the same terms and conditions as were certified for the subject project as originally constituted. The Department of Labor's processing of these applications will be expedited.

§215.6 The Model Agreement.

The Model (or National) Agreement mentioned in paragraph (b)(3)(i) of §215.3 refers to the agreement executed on July 23, 1975 by representatives of the American Public Transit Association and the Amalgamated Transit Union and Transport Workers Union of America and on July 31, 1975 by representatives of the Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, Brotherhood of Railway and Airline Clerks and International Association of Machinists and Aerospace Workers. The agreement is intended to serve as a ready-made employee protective arrangement for adoption by local parties in specific operating assistance project situations. The Department has determined that this agreement provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of 49 U.S.C. 5333(b).

§215.7 The Special Warranty.

The Special Warranty mentioned in paragraph (b)(3)(ii) of §215.3 refers to the protective arrangements developed for application to the small urban and rural program under section 5311 of the Federal Transit statute. The warranty arrangement represents the understandings of the Department of Labor and the Department of Transportation, reached in May 1979, with respect to the protections to be applied for such grants. The Special Warranty provides

29 CFR Ch. II (7-1-05 Edition)

fair and equitable arrangements to protect the interests of employees and meets the requirements of 49 U.S.C. 5333(b).

§215.8 Department of Labor contact.

Questions concerning the subject matter covered by this part should be addressed to Director, Statutory Programs, U.S. Department of Labor, Suite N5603, 200 Constitution Avenue, N.W., Washington, DC 20210; phone number 202-693-0126.

[64 FR 40995, July 28, 1999]

PART 220—AIRLINE EMPLOYEE PROTECTION PROGRAM

Subpart A—Purpose and Scope of the Airline Employee Protection Program

Sec.

- 220.01 Definitions.
- 220.02 Purpose.
- 220.03 Scope.
- 220.04 Responsibilities of the Secretary of Labor.

Subpart B—Designated Employees' Eligibility and Rights

- 220.10 Eligibility requirements.
- 220.11 Designated employees' rights.

Subpart C—Carriers' Responsibilities

- 220.20 Duty to hire.
- 220.21 Criteria for employment.
- 220.22 Listing a vacancy.
- 220.23 Content of vacancy listing.
- 220.24 Filling a vacancy.
- 220.25 List of protected employees.
- 220.26 Appeals to the Secretary.
- 220.27 Notice of rights.
- 220.28 Air carrier actions to be reported to the Secretary.
- 220.29 Equal employment opportunity.

Subpart D—Designated Employees' Responsibilities

- 220.30 Designated employees' responsibilities.

Subpart E—Department of Labor's Responsibilities

- 220.40 Comprehensive job list.
- 220.41 List of protected employees.

Subpart F—Administration

- 220.50 Effective period of the program.
- 220.51 Disclosure of information.

APPENDIX I TO PART 220—U.S. CARRIERS CERTIFICATED AS OF OCTOBER 23, 1978 UNDER SECTION 401 OF THE FEDERAL AVIATION ACT OF 1958, AS AMENDED

AUTHORITY: Section 43(f) of the Airline Deregulation Act of 1978, Pub. L. No. 95-504, 92 Stat. 1750-1753 (49 U.S.C. 1552); Secretary's Order No. 1-79, 44 FR 13093; Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 50 FR 53101, Dec. 27, 1985, unless otherwise noted.

Subpart A—Purpose and Scope of the Airline Employee Protection Program

§ 220.01 Definitions.

As used in this part, unless the content otherwise indicates:

(a) *Act* means the Airline Deregulation Act of 1978, Public Law 95-504, 92 Stat. 1705.

(b) *Air Carrier* means an air carrier certificated under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(c) *Center* means the entity or location which from time to time may be designated by the Secretary to receive, maintain and distribute the job listing information required by this part.

(d) *Corporate officer* means an individual who holds any officer's position established pursuant to the Articles of Incorporation or bylaws of any air carrier, or who is otherwise identified as an officer by any air carrier, in filings with the Federal Aviation Administration, Civil Aeronautics Board or Securities and Exchange Commission or in any reports to stockholders or any public communications of an air carrier.

(e) *Covered air carrier* means an air carrier which was certificated prior to October 24, 1978 (A listing of such carriers appears as an appendix to this part).

(f) *Designated employee* means a protected employee who meets the eligibility requirements set forth in § 220.10.

(g) *Effective period* means the period commencing on the effective date of these regulations and ending on the later of:

(1) October 23, 1988, or

(2) The last day of the final month in which the Secretary is required to make a payment under section 43 of the Act; except that nothing in these

regulations shall preclude the exercise of statutory rights and duties between October 24, 1978, and the effective date of these regulations.

(h) *Eligibility period* means the ten-year period beginning on October 24, 1978.

(i) *Employment relationship* means an attachment to a covered air carrier which includes, but is not limited to, compensated service, furlough, leave, or strike.

(j) *Equal employment opportunity requirement* means a specific equal employment requirement, pursuant to a Federal court or administrative order, consent decree, or conciliation agreement, requiring that named individuals or specific members of a class are entitled to relief by virtue of the carrier's unlawful employment discrimination.

(k) *Occupational specialty* means the class, craft, or field of endeavor in which an individual was employed at the time of separation from a covered air carrier or in which the employee was employed during the 12 months immediately preceding the date of separation.

(l) *Protected employee* means a person other than a member of the Board of Directors or corporate officer of a covered air carrier:

(1) Who had an employment relationship with a covered air carrier on October 24, 1978, and

(2) Who on October 24, 1978, had four years of employment or four years accrued seniority with a single covered air carrier. The term employee shall include any full or part-time employee other than an employee in seasonal or temporary employment as defined herein. As used herein four years of employment shall mean not less than 48 months (whether or not consecutive) in which the employee actually completed the minimum number of hours of regular employment required for such employee's craft, class or position under the then applicable requirements of the employing carrier.

(m) *Seasonal employment* means employment during limited periods of the year due to peak market conditions or other factors which are periodic in nature, and in positions which do not confer seniority or recall rights.

§ 220.02

(n) *Secretary* means the Secretary of Labor of the United States.

(o) *Temporary employment* means employment of limited duration which does not confer seniority or recall rights.

(p) *Terminated*, means, unless expressly provided to the contrary, termination of employment, other than for cause.

(q) *Terminated for cause* means the separation of an individual from employment initiated by an air carrier for violation of such carrier's rules, policies, procedures, or practices pertaining to employee standards of conduct, job performance, or dependability.

(r) *Vacancy* means an employment opportunity other than seasonal or temporary employment, which an air carrier seeks to fill from outside its existing or furloughed work force.

§ 220.02 Purpose.

Section 43(d) of the Act provides a first-right-of-hire for designated employees of covered air carriers. The regulations in this part are issued to effectuate section 43(d) (1) and (2) of the Act (hereinafter referred to as the Rehire Program).

§ 220.03 Scope.

(a) The Rehire Program is applicable only to designated employees, as more fully set forth herein, and only those employees who are expressly granted a hiring preference under the Act and these regulations have any rights under the Rehire Program. The Secretary of Labor will also publish a comprehensive list of jobs available with air carriers.

§ 220.04 Responsibilities of the Secretary of Labor.

The Secretary of Labor is responsible for administering the Rehire Program, and the Assistant Secretary for Employment Standards has been delegated responsibility for the following:

(a) The development and promulgation of policies, regulations and procedures covering the first-right-of-hire provisions of section 43(d)(1) of the Act;

(b) The development and promulgation of policies, regulations, and procedures covering the comprehensive job

29 CFR Ch. II (7-1-05 Edition)

list required under section 43(d)(2) of the Act; and

(c) The establishment and implementation of reporting requirements for air carriers to obtain pertinent information necessary for fulfilling the Secretary's responsibilities under section 43(d)(2) of the Act.

[50 FR 53101, Dec. 27, 1985, as amended at 62 FR 6092, Feb. 10, 1997]

Subpart B—Designated Employees' Eligibility and Rights

§ 220.10 Eligibility requirements.

(a) To qualify as a designated employee eligible for rights under this part 220, an applicant must be a protected employee who is involuntarily placed on furlough or is terminated by a covered air carrier during the eligibility period.

(b) A protected employee shall not be deemed to be furloughed or terminated if such employee:

(1) Retired voluntarily;

(2) Was required to retire by virtue of reaching the mandatory retirement age, if any, established by a covered air carrier or as prescribed by any government agency with regulatory authority over a covered air carrier;

(3) Retired due to a disability;

(4) Is on strike or is withholding services in support of other employees who have struck the covered air carrier;

(5) Is terminated for cause as defined in § 220.01;

(6) Resigned or voluntarily quit for any reason.

(c) A designated employee who is recalled by his former carrier is no longer eligible under this section to exercise the first-right-of-hire. Such a person may become a designated employee in the future due to a subsequent termination or furlough which occurs on or prior to the expiration of the eligibility period.

§ 220.11 Designated employees' rights.

(a) A designated employee shall have a first-right-of-hire in such employee's occupational specialty, regardless of age, with any covered air carrier hiring additional employees; *Provided, however*, That each designated employee must satisfy all qualifications or other