

requirements established by the hiring carrier (subject to the limitations contained in §220.21) and must make a timely application in accordance with normal carrier procedures for any particular job vacancy.

(b) A designated employee hired by any covered air carrier pursuant to the provisions of the Act shall not be required, as a condition of employment, or in any other manner, to relinquish, waive, or forfeit any seniority or recall rights which such person may possess with any other air carrier; *Provided, however,* That the provisions of this part shall not be deemed to create or prolong any such seniority or recall rights.

### Subpart C—Carriers' Responsibilities

#### § 220.20 Duty to hire.

(a) Subject to §220.24, a covered air carrier shall have the duty to hire a designated employee, regardless of age, who otherwise meets the qualification requirements established by such carrier before it hires any other applicant when such carrier is seeking to fill a vacancy in the designated employee's occupational specialty from outside its work force. As used herein "work force" shall include all present employees and any furloughed or terminated employees who, at the time of furlough or termination, possessed recall or seniority rights.

(b) Subject to the provisions of §220.24, a covered air carrier shall not fill a vacancy, which would otherwise be available to a designated employee, by promoting or reassigning a seasonal or temporary employee, *unless* such seasonal or temporary employee is a designated employee.

(c) When considering applications from more than one designated employee for a particular vacancy, a covered air carrier shall be entitled to offer employment to any such designated employee in its absolute discretion.

#### § 220.21 Criteria for employment.

(a) A covered air carrier shall be entitled to apply any prerequisites or qualifications determined by it for any vacancy, except that, solely with re-

spect to the duty to hire created by the Act, a covered air carrier shall not be entitled to limit employment opportunities for designated employees on the basis of:

(1) Initial hiring age (provided that such prohibition shall not be applicable to retirement ages applicable to all of any class or craft of such air carrier's employees); or

(2) The existence of any seniority, recall rights or previous experience with any other air carrier; *Provided, however,* That covered air carriers shall be entitled to require prospective employees to disclose the existence of any such seniority or recall rights in making application for employment and to take the existence or nonexistence of such rights into account in selecting from among those qualified designated employees who have applied for a particular job vacancy.

(b) In filling job vacancies during the effective period, covered air carriers shall be entitled to require applicants to furnish evidence that they are designated employees.

EDITORIAL NOTE: A court-ordered justification by the Secretary of Labor relating to 29 CFR 220.21(a)(1) appears at 51 FR 32306, Sept. 11, 1986.

#### § 220.22 Listing a vacancy.

(a) During the effective period all air carriers shall be required to list each vacancy with the Center at the earliest practicable time, and to include with such listing a statement as to whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy. In addition, any air carrier shall be entitled to list anticipated vacancies with the Center at any time.

#### § 220.23 Content of vacancy listing.

Air carriers shall provide the Center with a description for each job listing, which shall include, but need not be limited to, the following:

- (a) Job title;
- (b) Type of position (full or part-time);
- (c) Salary;
- (d) Basic qualifications and/or training requirements;
- (e) Brief description of duties;
- (f) Location of vacancy (if known);

## § 220.24

(g) Special requirements such as type rating, licensing, skill requirements, etc.;

(h) Whether the vacancy is subject to the duty to hire;

(i) Information on how to apply, such as contact person, mailing address, and any special application procedures; and

(j) Whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy.

(Approved by the Office of Management and Budget under OMB control number 1214-0002)

### § 220.24 Filling a vacancy.

(a) A covered air carrier may fill a vacancy with a designated employee at any time after a vacancy has been listed with the Center.

(b) A covered air carrier may fill a vacancy with someone who is not a designated employee after the vacancy has been listed with the Center for at least 30 days; if

(1) No designated employee with the requisite occupational specialty has applied for the vacancy in accordance with § 220.30 within that time;

(2) No designated employee who did apply within that time period meets the carriers' criteria for employment as set forth in § 220.21; or

(3) The vacancy is subject to an equal employment opportunity requirement and the carrier cannot satisfy such equal employment opportunity requirement by hiring a designated employee.

(c) A covered air carrier may fill a vacancy on a temporary basis with someone who is not a designated employee while the carrier is considering applications for the vacancy which were received from designated employees during the listing period.

(d) The date of the listing shall be the date on which the listing is received by the Center.

### § 220.25 List of protected employees.

(a) Within 60 calendar days of the effective date of these regulations, each covered air carrier shall provide the Secretary with a list of all protected employees who were employed by it on October 24, 1978.

(b) The list shall contain the following information:

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

(1) Protected employee's name;

(2) Social Security number (if available); and

(3) Current occupational specialty for present employees or occupational specialty at the time of separation from employment for former employees.

(c)(1) Not later than 90 calendar days after the effective date of these regulations, each covered air carrier shall provide a onetime notice to each employee with an employment relationship with the carrier on October 24, 1978, stating whether or not the carrier has determined that employee to be a protected employee within the meaning of these regulations, and if so that the carrier has reported his or her name to the Secretary. Employees who are determined to be not protected shall be advised of their rights to appeal.

(2) Employees who dispute the carrier's determination of protected status may submit evidence of their status to the covered air carrier within 60 calendar days of receiving the notice required by paragraph (c)(1).

(3) The covered air carrier shall consider the evidence submitted by the employee and shall inform the employee of its final determination within 15 calendar days of the submission of evidence. In the event the carrier determines that the employee qualifies as a protected employee, it shall forward the information required by paragraph (b) of this section to the Secretary.

(The requirements contained in § 220.25(a) were approved by the Office of Management and Budget under OMB control number 1214-0002)

### § 220.26 Appeals to the Secretary.

(a) If the employee disagrees with the carrier's final determination under § 220.25 that he or she is not a protected employee within the meaning of this part, the employee (or his or her designated representative with express authorization) may appeal such determination to the Secretary within 60 calendar days of the carrier's final decision under § 220.25(c)(3) or the date when such decision was required.

(b) An appeal must be written, dated, and signed by the employee. It must set forth: