

# Proposed Rules

Federal Register

Vol. 89, No. 25

Tuesday, February 6, 2024

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 1201

#### Appellate Jurisdiction Update

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule updates the list of sources from which the Merit Systems Protection Board (MSPB) derives appellate jurisdiction.

**DATES:** Comments must be received on or before March 7, 2024.

**ADDRESSES:** Submit comments by using only one of the following methods:

*Email:* [mspb@mspb.gov](mailto:mspb@mspb.gov). Include "Proposed Rule—Appellate Jurisdiction" in the subject line of the email.

*Fax:* (202) 653–7130.

*Mail or other commercial delivery:* Jennifer Everling, Deputy Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419.

*Instructions:* All comments must reference "Proposed Rule—Appellate Jurisdiction." Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to MSPB's website ([www.mspb.gov](http://www.mspb.gov)) and will include any personal information you provide. Therefore, submitting this information makes it public.

To ensure that your comments will be considered, you must submit them within the specified open comment period. Before finalizing this proposed rule, MSPB will consider all comments within the scope of the regulation received on or before the closing date for comments. MSPB may make changes to the final rule after considering the comments received.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Everling, Deputy Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: [mspb@mspb.gov](mailto:mspb@mspb.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

The Civil Service Reform Act grants the MSPB jurisdiction to hear appeals of any action made appealable to the MSPB under law, rule, or regulation. 5 U.S.C. 7701(a). For the ease of the MSPB's stakeholders, the MSPB's regulation at 5 CFR 1201.3 contains a list of the types of appeals the MSPB has been granted to hear.

On September 18, 2023, the Office of Personnel Management (OPM) proposed to create 5 CFR 302.603, which would give certain Federal employees moved into the excepted service, or moved between schedules in the excepted service, the ability to appeal any loss of appeal rights stemming from that move to the MSPB. The MSPB thus proposes to amend its list of appealable actions to reflect the new appeal right granted by the new 5 CFR 302.603.

The MSPB notes that, should OPM modify the language of the proposed 5 CFR 302.603 in its final rule, the MSPB would similarly amend its final version of 5 CFR 1201.3 if necessary to adjust for OPM's modification to ensure that MSPB's final rule is coextensive with the appeal right granted by OPM.

### II. Scope of Comments Requested

The MSPB asks commenters to provide their view on the regulatory amendment proposed by MSPB.

### III. Summary of Changes

#### Section 1201.3 Appellate Jurisdiction

The proposed amendment adds the new appeal right created in the proposed 5 CFR 302.603 to the currently existing list of appealable actions identified in § 1201.3(a).

### IV. Procedural Requirements

#### A. Regulatory Impact Analysis: Executive Order 12866

The MSPB has examined the impact of this rulemaking as required by Executive Orders 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with

effects of \$200 million or more in any one year. This rulemaking does not reach that threshold but has otherwise been designated as a "significant regulatory action" under section 3(f) of Executive Order 12866, as supplemented by Executive Orders 13563 and 14094.

#### B. Regulatory Flexibility Act

The MSPB certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities because OPM's proposed rule will apply only to Federal agencies and employees, and the MSPB's proposed rule does not in itself effect any change, but only reflects OPM's addition to MSPB's jurisdiction.

#### C. Paperwork Reduction Act

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35).

#### D. Executive Order 13132, Federalism

This regulation will not have substantial direct effect on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Aug. 10, 1999), it is determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### E. Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988 (Feb. 7, 1996).

#### F. Unfunded Mandates Reform Act of 1995

This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Thus, no written assessment of unfunded mandates is required.

#### List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

For the reasons set forth above, 5 CFR part 1201 is proposed to be amended as follows:

## PART 1201—PRACTICES AND PROCEDURES

■ 1. The authority citation for part 1201 continues to read as follows:

**Authority:** 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

■ 2. Section 1201.3 is amended by adding paragraph (a)(12) to read as follows:

### § 1201.3 Appellate jurisdiction.

(a) \* \* \*

(12) *Service or schedule changes.*

Movement of an employee from the competitive service to the excepted service, or from one schedule in the excepted service to a different schedule in the excepted service, when such a move would strip the employee of any status or civil service protections they had already accrued.

\* \* \* \* \*

Jennifer Everling,

Deputy Clerk of the Board.

[FR Doc. 2024-02528 Filed 2-2-24; 5:00 pm]

BILLING CODE 7400-01-P

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Chapter I

[Docket ID OCC-2023-0016]

### FEDERAL RESERVE SYSTEM

#### 12 CFR Chapter II

[Docket No. OP-1828]

### FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Chapter III

RIN 3064-ZA39

### Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of regulatory review; request for comments.

**SUMMARY:** Pursuant to the Economic Growth and Regulatory Paperwork

Reduction Act of 1996 (EGRPRA), the OCC, Board, and FDIC (collectively, the agencies) are reviewing agency regulations to identify outdated or otherwise unnecessary regulatory requirements on insured depository institutions and their holding companies. The agencies divided their regulations into 12 categories outlined in the included chart. Over the next two years, the agencies will publish four **Federal Register** documents requesting comment on multiple categories. This first **Federal Register** document requests comment on regulations concerning the following three categories: Applications and Reporting, Powers and Activities, and International Operations.

**DATES:** Written comments must be received no later than May 6, 2024.

**ADDRESSES:** Comments should be directed to: OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title “Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- **Federal eRulemaking Portal—Regulations.gov:** Go to <https://regulations.gov/>. Enter “Docket ID OCC-2023-0016” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments, please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. ET, or email [regulationshelpdesk@gsa.gov](mailto:regulationshelpdesk@gsa.gov).

- **Mail:** Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- **Hand Delivery/Courier:** 400 7th Street, SW, Suite 3E-218, Washington, DC 20219.

**Instructions:** You must include “OCC” as the agency name and “Docket ID OCC-2023-0016” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers.

Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

- **Viewing Comments Electronically—Regulations.gov:** Go to <https://regulations.gov/>. Enter “Docket ID OCC-2023-0016” in the Search Box and click “Search.” Click on the “Dockets” tab and then the document’s title. After clicking the document’s title, click the “Browse All Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Comments Results” options on the left side of the screen. Supporting materials can be viewed by clicking on the “Browse Documents” tab. Click on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen checking the “Supporting & Related Material” checkbox. For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday–Friday, 9am–5pm ET, or email [regulationshelpdesk@gsa.gov](mailto:regulationshelpdesk@gsa.gov).

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

**Board:** You may submit comments, identified by Docket No. OP-1828 by any of the following methods:

- **Agency Website:** <https://www.federalreserve.gov>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Email:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the docket number in the subject line of the message.

- **Fax:** 202-452-3819 or 202-452-3102.

- **Mail:** Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

**Public Inspection:** In general, all public comments will be made available on the Board’s website at [www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm](https://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm) as submitted, and will not be modified to remove confidential, contact or any identifiable information. Public comments may also be viewed electronically or in paper in