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	U. S. DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: PER- 20 Transmittal Number: 348 Date: 7/01/87

Subject: Reduction-in-Force

Approval: [signature] Title: Acting Director, OSMRE

1. Purpose. This Directive provides policy guidance to all the Office of Surface Mining Reclamation and Enforcement (OSMRE) employees with regard to specific application of the Federal Personnel Manual (FPM) in reduction-in-force situations.

2. Definition and Table of Contents.

a. Reduction-in-Force (RIF) is the release from a Competitive Level by means of separating from the rolls, furlough for more than 30 days, reassignment involving displacement or change to lower grade, when such actions are caused by lack of work, shortage of funds, insufficient personnel ceiling, reorganization, or exercising of reemployment rights.

b. Competitive Level is the grouping of all positions within a single competitive area which are in the same grade and classification series and similar enough in duties, qualification requirements, pay schedules and working conditions so that the incumbent of any one position could successfully perform the critical elements of any other position without interruption of work.

c. Competitive Area is an area in which employees compete in reduction-in-force. Geographically or organizationally or both, the competitive area outlines the boundaries of competition. It must be an area large enough to permit adequate competition among employees and limited enough to be administratively manageable.

d. Grade and Pay Retention is an action plan carried out to negate consequences of RIF, work abolishment or transfer of function which could otherwise result in a loss of grade, pay or employment of employees.

e. Rounds of Competition are the different stages of competition by employees for retention under RIF procedures. In the first round of competition employees compete to stay in the same competitive level. In the second round of competition employees compete for assignment to a position in a different competitive level.

f. Competing Employee is an employee in tenure group I, II, or III in either the competitive or the excepted service, who compete for an assignment in the same or different competitive level.

g. Retention Register is a list of competing employees within a competitive level who are grouped by tenure, veteran preference, and length of service augmented by performance credit.

h. Obligated Position is a position to which an employee has statutory restoration rights based on active military service or reemployment rights earned during emergency situations.

i. Competitive Service covers all civilian positions in the Federal Government that are not specifically excepted from the civil service laws by or under statute, by the President, or by the Office of Personnel Management (OPM) under Rules VI or IX.

j. Excepted Service is unclassified civil service or positions outside the competitive service and the Senior Executive Service. Excepted Service positions have been excepted from the requirements of the competitive service by law, executive order, or OPM regulations.

k. Table of Content:

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Subchapter 9. Appeals and Corrective Action.

Subchapter 10. Establishment and Maintenance of Reemployment Priority Lists.

Subchapter 11. Grade and Pay Retention.

3. Policy, Procedures and Responsibilities.

a. Subchapter 1. Management Aspects of Reduction-in-Force

(1) Policy.

(a) To the maximum extent possible and consistent with sound management practices, reductions will be effected through carefully planned measures designed to minimize the impact of reduction-in-force on employees. Reduction-in-force actions will be made in accordance with the rights of career employees, veteran preference and the rules and regulations outlined by OPM, and the Department of the Interior. To the extent possible, when reorganization change in workload or funds or other changes which may affect employees are identified, various steps such as reassignments, transfers, terminating temporary appointments, qualifications modification, etc., may be used to minimize the effect of reduction-in-force.

(b) In the event that an employee must be released from his/her competitive level and another position is not available at the current grade level, such employee will be offered the benefits of grade and pay retention, if otherwise eligible, in addition to entitlements under RIF procedures. The requirements for and benefits of grade and pay retention are contained in OSMRE Directive (PER-9 dated October 27, 1986).

(2) Responsibilities.

(a) The Director is responsible for approving reductions-in-force and assuring that it is accomplished in accordance with OPM, Departmental, and OSMRE directives.

(b) The Deputy Director, Administration and Finance, is responsible for the implementation and overall direction and/or accomplishment of the reduction-in-force program goals and objectives including but not limited to:

1 Assuring that all provisions of the program are carried out in an equitable manner;

2 Keeping managers and employees completely informed of proposed actions in this area;

3 Providing necessary resources to effectively accomplish designated responsibilities;

4 Authorizing the development of retention registers, as appropriate, by the Servicing Personnel Officer (SPO) of OSMRE; and,

5 Submitting proposed competitive areas to the Department for approval.

(c) Chief, Division of Personnel and Chiefs, Administrative Service Centers, EFO/WFO are responsible for implementation of a local program within the purview of delegated responsibility if a reduction-in-force is to take place in their OSMRE units.

b. Subchapter 2. General Provisions.

(1) Use of Reduction-in-Force.

(a) Circumstances Constituting Reduction-in-Force.

1 An agency has a reduction-in-force when it releases an employee from his/her competitive level by separation, demotion, furlough for more than 30 days, or reassignment requiring displacement; when lack of work, personnel ceiling or funds, reorganization, or the need to make a place for a person exercising reemployment or restoration rights requires the agency to release the employee.

2 Before a competing employee can be released (separated, demoted, furloughed, etc.) from his/her competitive level, the employee's rights and privileges in accordance with reduction-in-force procedures must be observed.

3 The release of an employee from a specifically limited temporary promotion does not constitute a reduction-in force. Therefore, the reduction-in-force procedures are not used to return a temporarily promoted employee to his/her regular position or to place him/her in a position as good as or better than his/her regular position. The agency may, however, determine the order of return by retention standing when not all employees serving under temporary promotion have to be returned at the same time.

4 The release of a reemployed annuitant from his/her competitive level constitutes a reduction-in-force only if the appointing officer so chooses. Under the terms of section 3323 (b) of title 5, United States Code, a reemployed annuitant serves at the will of the appointing authority and may be terminated at any time, whether or not the agency is engaged in a reduction-in-force, without regard for his/her retention standing.

(b) Mandatory Application of Reduction-in-Force Procedures. The reduction-in-force procedures must be followed when an agency takes any reduction-in-force action, even when no separation occurs.

(2) Administrative Use of Reduction-in-Force

(a) Meaning of Administrative Use. The term administrative use refers to those personnel actions an agency may take, at its own discretion, that are consistent with OPM's regulations but go beyond them.

(b) Application of Reduction-in-Force Regulations in Filling Vacancies. The reduction-in-force regulations do not require an agency to fill a vacant position. An agency may however, at its discretion, offer a vacant position to an employee who has been identified for release from his/her competitive level for one of the reasons mentioned above. The placement may be accomplished as a reduction-in-force action, but then must comply with the procedures set forth in this directive.

c. Subchapter 3. Transfer of Function.

(1) General. When the transfer of function involves (a) movement to a different commuting area or (b) a change from one competitive area to another and there is a reduction in the total number of positions or the number of positions in a competitive level, reduction-in-force procedures will be applied at the gaining location. When a transfer of function occurs which does not involve a reduction in the total number of positions the reduction-in-force procedures do not apply. Procedures in FPM Chapter 752 are applicable when employees decline to accept an offer to move.

(2) Procedures.

(a) Employees occupying positions in a transferring function will be considered to be employees of the receiving organization and will be placed in appropriate consolidated competitive levels and will not be physically moved to the new commuting area until a specific assignment is determined, except for temporary details.

(b) Employees will receive advance notice of a proposed transfer of function. The notice will include the purpose of the transfer, specific assignments, the effective date and provide space for the employee to indicate whether he/she accepts or declines the offer. If he/she declines to accept the transfer, he/she will be separated unless he/she locates a position elsewhere, resigns or retires (pursuant to eligibility based on major reduction-in-force; major reorganization; or major transfer of function criteria). The notice must be issued in sufficient time to allow at least 30 days after the employee has notified the Personnel Office of his/her intentions to accept or decline the offer of employment before final action must be taken.

(c) Employees who are unable to transfer with the function should be advised of vacancies for which they might apply. They should also be advised of their eligibility for the Federal Displaced Employee Program, administered by OPM, and their eligibility for grade and pay retention as provided by OPM and Department of the Interior criteria.

d. Subchapter 4. Scope of Competition.

(1) The identification and location of competitive areas for RIF purposes will be designated and approved by the Department and published in a separate document.

e. Subchapter 5. Retention Factors.

(1) The decision as to which employee stays and which goes in a reduction-in-force depends on several factors. This subchapter explains the factors (tenure group, subgroup, length of service, and performance rating) that determine an employee's retention standing in his/her competitive level. Together these factors determine whether an employee is entitled to compete with other employees for retention and if so, with whom and with what success.

(2) Competitive Service.

(a) Competing Employees. Those employees serving with satisfactory or better performance ratings under appointments not limited to one year or less, are classed in groups and subgroups by length of service and veteran preference. The descending order of retention standing by groups is group I, group II, group III; within each group the order is subgroup AD, subgroup A, and subgroup B; within groups the order begins with the earliest service computation date.

(b) Noncompeting Employees. Employees with unsatisfactory performance ratings and employees with appointments limited to one year or less are not assigned to groups and subgroups, and they do not compete for retention under the reduction-in-force procedures. They are released from their competitive levels by appropriate means (e.g. performance-based removals, termination of appointment, etc.).

(c) Groups

1 Group I. Includes employees under career appointments who are not serving probation. A career employee in an obligated position is in group I only when he/she competes for other positions at or below the grade of his/her last permanent position, if any.

2 Group II. Includes employees serving probation, career-conditional employees, and career employees in obligated positions.

3 Group III. Includes indefinite employees, employees under temporary appointments pending establishment of registers, employees serving under term appointment, employees in status quo, and employees under any other nonstatus nontemporary appointment.

(d) Subgroups. In each Group, preference eligibles are in subgroups AD and A, and nonpreference eligibles are in subgroup B. The general provisions on veteran preference are as outlined in FPM Chapter 211.

(e) Tenure.

1 Advance to Group I. Normally, an employee's tenure group depends upon his/her present tenure. It is necessary, however, to consider an employee as if he/she were in a different tenure group when it is known his/her tenure will change by the effective date of reduction-in-force. Specifically, a career employee serving probation must be treated as a group I employee when he/she will complete probation on or before the effective date of reduction-in-force. Similarly, a career-conditional employee not serving probation who will complete the service requirement for career tenure by the effective date of reduction-in-force must be treated as a group I employee.

2 Advancement from Group III. When an employee is currently eligible to acquire competitive status his/her advancement to the higher retention group does not wait for the acquisition. This applies whether or not he/she acquires status before the effective date of reduction-in-force.

(3) Factors Affecting Tenure.

(a) Probation. A significant factor in assignment to group I is the probationary period. Regardless of a career employee's status or length of service, he/she goes not in group I but in group II while he/she serves an official probationary period.

(b) Obligated Position. A second significant factor in assignment to group I is the occupancy of an obligated position; that is, a position to which another employee has a statutory restoration right after military duty or reemployment rights. A career employee in an obligated position is in group II, rather than I, for the first round of competition; that is, for retention in his/her own competitive level.

(c) Relative Standing. The relative retention standing of competing employees in a competitive level is determined by the descending order of retention standing from the highest group (I) down to the lowest group (III), from subgroup AD in each group down to subgroup B, and from the earliest service date down to the latest in each subgroup. Competing employees are released from the competitive level in the inverse order of retention standing.

(4) Excepted Service.

(a) General. Tenure groups and subgroups for competing employees in the excepted service correspond with those for employees in the competitive service with similar tenure of employment and veteran preference, except that employees who complete one year of current continuous service under temporary appointment are in tenure group III.

(b) Excepted Service employees do not compete with competitive service employees under reduction-in-force. They are listed on separate retention registers.

(5) Length of Service.

(a) Service Date. Length of service, as reflected in the service date, is the primary basis for ranking employees in a subgroup on a retention register. An employee's service date is one of the following dates that reflects his/her total length of service and performance rating credit:

1 The date of his/her entrance on duty, when he/she has no previous creditable service.

2 The date obtained by subtracting his/her total creditable previous service from the date of his/her latest entrance on duty.

3 The date obtained by subtracting from 1 or 2 the service equivalent allowed for a performance rating above satisfactory.

The service date is adjusted as necessary to withhold credit for noncreditable time.

(6) Performance Rating.

(a) Employees receive additional service credit based on the average of their annual performance ratings (actual and/or assumed) received during the three-year period prior to issuance of the specific RIF notice:

- 20 additional years for an "Outstanding" rating
- 16 additional years for an "Exceeds Fully Successful" rating
- 12 additional years for a "Fully Successful" rating
- NO additional years for a rating below "Fully Successful"

The mathematical average of these three ratings is computed and rounded to the next higher whole number (in case of a fraction) to determine the amount of extra service for which the employee will be credited for RIF purposes:

Example: an employee who had received annual performance ratings of record in the last three years of fully successful (12), fully successful (12), and exceeds fully successful (16) would receive 14 years of additional service credit (12 + 12 + 16 = 40 divided by 3 = 13.3, rounded to 14) in determining retention standing.

(b) Rating Frozen on Date of Notice. An employee's last three official performance ratings on the date of issuance of specific reduction-in-force notice are the ratings that determine how much additional service credit he/she is entitled. Further, performance ratings that were due on or before the date of issuance of notice but were not officially approved and put on record until after the date of issuance of notice do not affect the employee's retention standing.

f. Subchapter 6. Release from Competitive Level.

(1) Regular Release. When reduction-in-force requires releases of one or more competing employees from a competitive level, all employees in group III are selected for release before any in group I or II; all in group II before any in group I. In each group all in subgroup B are selected before any in subgroup A or AD. In each subgroup, employees are selected in the order of their service dates beginning with the most recent service date.

(2) Ties. A tie occurs when two or more employees in the same subgroup have the same service date. When one or more but not all tied employees must be released from the competitive level OSMRE will break the tie. Ties may be broken by factors such as:

(a) Which employee has the most service in the agency, bureau, competitive level, or job;

(b) Which employee's position will continue and which will be abolished.

(3) Furlough.

(a) Use. OSMRE may furlough a competing employee only when it intends to recall him/her to duty within one year in the position from which furloughed. Furlough is not used unless it seems certain that the reduction is a temporary condition and that the furloughed employees will be returned to duty.

(b) Order of Furlough. OSMRE may not separate a competing employee in reduction-in-force while an employee with lower retention standing is on furlough from the same competitive level.

(c) No Recall from Furlough. If the situation changes so that furloughed employees cannot be recalled to duty, a new reduction-in-force notice will be issued at least 30 days before separation.

(d) No Return from Furlough. If a furloughed employee refuses or does not respond to a call to return to duty, a new reduction-in-force notice is not required. However, the employee's separation is termed a separation by reduction-in-force and is effective on or after the specified date of return to duty.

(e) Short Furlough. When it is necessary to furlough an employee for no more than 30 days because of lack of work or funds, the furlough is not a reduction-in-force action. Nevertheless, the retention standing of the employees will be used as the basis for selecting employees when some but not all in a competitive level must be furloughed for no more that 30 days.

(4) Provision on Liquidation. When an agency or an entire competitive area is being liquidated and no job in the area will last longer than three months, adherence to the normal order of reduction-in-force benefits employees relatively little and might cause serious administrative problems. Hence, the regulations relax the usual requirements when this condition exists. However, the essential requirements of veteran preference must still be applied; that is, in each tenure group, preference eligibles are not released from a competitive level while nonpreference eligibles are retained, unless an exception is justified. Within the subgroup, employees may be released as their jobs are abolished, without regard for retention standing.

g. Subchapter 7. Assignment Rights.

(1) Assignment of Career and Career-Conditional Employees in the Competitive Service.

(a) Placement Within OSMRE. When employees in retention subgroups IAD, IA, IB, IIAD, IIA, and IIB are reached for reduction-in-force, every effort shall be made to place them at their present grade levels within the reducing installation, or in other installations of OSMRE in the same commuting area, either in existing vacancies or by displacement of employees with lower retention standing in accordance with the retention preference regulations.

(b) Referral to Other Bureaus. If it is not possible to place career or career-conditional employees at their present grades in the reducing installation or in other installations of OSMRE in the same commuting area, the reducing installation will contact installations of other bureaus in the same commuting area to ascertain whether there are any positions either vacant or occupied by employees in retention group III, for which the affected employees are qualified and have assignment rights. The Department requires that all installations must recognize their responsibility for furnishing complete and accurate position information as requested, and for accepting qualified career employees who are entitled to reassignment.

(c) Action on Referrals Across Competitive Area. When suitable existing positions occupied by group III employees are reported to the reducing installation, retention groups I and II displaced employees shall be referred for assignment. When suitable existing vacancies are reported to the reducing installation retention groups I and II displaced employees shall be referred for consideration and placement action as appropriate under reemployment priority procedures. The personnel officer for the receiving installation shall report on these referrals within two days after receipt of the request. This report shall provide a satisfactory description of the placement efforts made by the installation.

(2) Assignment of Employees in the Excepted Service. Employees in retention subgroups IAD, IA, IB, IIAD, IIA, and IIB (Excepted-Career and Excepted-Career Conditional positions) reached for reduction-in-force may be given reassignment rights for placement in excepted positions at their present grade level within the same commuting area. Consideration may be given to placement either in existing vacancies or by displacement of employees with lower retention standing in accordance with the retention preference regulations.

h. Subchapter 8. Notice to Employees

(1) General.

(a) Requirement. A written notice will be given to a competing employee selected for release from his/her competitive level. A reduction-in-force notice is an official, personal communication addressed to the employee and issued by an agency official. It is not a general information leaflet or a notice on the bulletin board. The employee must receive the notice at least 30 full days before the date of his/her release. The employee should not ordinarily receive the notice more than 90 days before the date of release unless the agency determines that a longer notice will protect the employee's rights or avoid administrative hardship. The maximum length of notice is 90 days (exceptions must be approved by the Office of Personnel Management). In counting either the 30 day minimum or the 90 day maximum notice period, OSMRE omits the day the employee receives the notice. In counting the 30 day minimum notice period prescribed by this subchapter, OSMRE will not count a Saturday, Sunday, or legal holiday as the last day of the period, but will postpone the effective date of the action until the next business day.

(b) Content of Notice. The notice must state specifically what action OSMRE intends to take, the effective date of that action, the employee's subgroup, service date, and his/her last three annual performance ratings of record. The notice must describe the employee's competitive area and competitive level, tell him/her where he/she may inspect regulations and records pertinent to his/her case, and why any lower-standing employee is retained in his/her competitive level for more

than 30 days. The notice must provide information on reemployment rights. The notice also must tell the employee about his/her right to grieve under negotiated grievance procedures, if applicable, or appeal to the Merit Systems Protection Board (MSPB), the time limit on the appeal, and where to send it. A copy of the MSPB regulations and MSPB Appeal form, OF-283, must also be provided to an employee along with the notice.

(c) General Notice. When OSMRE cannot determine specifically all individual actions at the start of the notice period, it may issue general notices. A general notice lacks some of the specific information that must be given to the employee so it must be supplemented by a specific notice which supplies the required information. Both the minimum 30 day and the maximum 90 day notice periods begin to run the day after the employee receives the general notice.

(d) Specific Notice. A specific notice contains all the information OSMRE must give the employee. A specific notice may be a complete single notice, a notice with an attachment, or a general notice supplemented by a specific notice. Whatever the form of the specific notice, OSMRE may not take the action until the employee has had at least ten days' specific notice of what that action is to be.

(e) Expiration of Notices. A general notice expires on the date specified in the notice unless, on or before the date, the employee receives a renewal of the general notice or a specific notice. The date specified should be at least ten days before the end of the maximum allowable notice period since, at any later date, there would not be sufficient time for the ten day period required for the specific notice. Sometimes, it is permissible for the action to take place later than the date originally specified, as long as this does not result in a notice period longer than the maximum.

(f) Status During Notice Period.

1 When possible, OSMRE will keep the employee on active duty throughout the notice period. However, when in an emergency OSMRE lacks work or funds for all or part of the notice period, OSMRE may place an employee:

a on annual leave, with or without his or her consent;

b in a leave without pay status, with his or her consent; or

c in a nonpay status, without his or her consent.

2 Under either the Merit Systems Protection Board regulations or negotiated grievance procedures, as appropriate, employees who believe that they have been placed in a nonpay status in violation of controlling regulations may appeal or grieve such action.

i. Subchapter 9. Appeals and Corrective Action.

(1) Initial Appeals.

(a) Employee Appeal.

1 A competing employee may appeal to the MSPB when he/she has a specific notice of reduction-in-force and believes his/her agency incorrectly applied the procedures. He/she may file an appeal during the 20 day time period beginning with the day after the effective date of the action being appealed. The notice should give the name and address of the appropriate office of the MSPB with jurisdiction over his/her appeal.

2 The reduction-in-force notice should emphasize that the 20 calendar day time limit for appeal to the MSPB runs from the effective date of the action. It is important for the notice to state clearly the time limits because failure to do so may extend the time during which the MSPB will accept an appeal. The appeal must state why the employee believes the action improper.

j. Subchapter 10. Establishment and Maintenance of Reemployment Priority Lists.

(1) Reemployment Priority Lists. OSMRE will prepare and maintain on a current basis reemployment priority lists, including data on employees of other installations in the same commuting area. Copies of the lists will be furnished to other Department offices in the same commuting area.

(2) Relationship to Departmental Career Placement Assistance Program. Information concerning employees included on Reemployment Priority Lists will be provided through channels to the Office of Personnel, Department of the Interior, for inclusion in the Departmental Career Placement Assistance Program.

k. Subchapter 11. Grade and Pay Retention.

(1) Grade and pay retention coverage is described in Section 5362 of Title 5 U.S.C. and Part 536 of CFR. Basically, coverage extends to all Department of the Interior General Schedule (GS), Performance Management Recognition System (GM) and Wage Grade (WG) employees at GS-15 (or equivalent) and below, who are serving under an appointment which is other than temporary or term and who has received official notice of:

(a) An action to reduce them in grade by reclassification due to classification error, the issuance of new classification standards, the gradual erosion of duties and responsibilities or for any reasons other than nonperformance by the employee;

(b) A reduction-in-force (RIF) which would abolish their position, resulting in a loss of grade, pay or employment;

(c) A transfer of function outside of the commuting area where they decline offers to transfer with their positions.

2. An employee who transfers to another agency while in receipt of grade retention is entitled to continue grade retention for the balance of the original two-year period, subject to the conditions stated in 5 CFR 536.208. Similarly, an employee who transfers to another agency while in receipt of pay retention is entitled to continue pay retention, subject to the conditions stated in 5 CFR 536.209.

(Detailed information on Grade and Pay Retention is contained in OSMRE Directive PER-9, Implementation Plan for Grade and Pay Retention.)

3. Reporting Requirements. None.

4. References. OPM, Federal Personnel Manual Chapter 351, and Department of the Interior, Departmental Manual Part 370 DM 351.

5. Effect on Other Documents. This plan supersedes OSMRE Directive PER-20, Reduction-In-Force, dated 04-01-81.

6. Effective Date. Upon issuance.

7. Contact. Branch of Personnel Policy and Evaluation (202) 343-1010.