

Rules and Regulations

Federal Register

Vol. 89, No. 106

Friday, May 31, 2024

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

[Docket ID: OPM–2023–0026]

RIN 3206–AO57

Noncompetitive Appointment of Certain Military Spouses

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim final rule implementing the changes authorized by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 regarding the noncompetitive appointment authority for certain military spouses. These changes extend certain temporary provisions and remove the reporting requirements that were imposed by the NDAA for FY 2019. These changes will continue to enhance the recruitment and hiring of military spouses for permanent Federal positions in the competitive service.

DATES: This final rule is effective on May 31, 2024.

FOR FURTHER INFORMATION CONTACT: Michelle Glynn, telephone: 202–606–1571, fax: 202–606–4430, TDD: 202–418–3134, or email: michelle.glynn@opm.gov.

SUPPLEMENTARY INFORMATION: On September 28, 2023, the Office of Personnel Management (OPM) published an interim final rule in the *Federal Register* at 88 FR 66677 to implement changes authorized by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 on the noncompetitive appointment authority for certain military spouses. OPM made these changes to implement provisions in the FY 2023 NDAA, Public Law 117–263. Section 573(d) of Public Law 115–232 (“FY 2019 NDAA”) provided for a temporary amendment to 5 U.S.C. 3330d to expand the eligibility for

noncompetitive appointment of spouses currently married to a member of the armed forces on active duty. Under the FY 2019 NDAA, this authority would have sunset on August 13, 2023, which was reflected in OPM’s regulations. Section 1111 of the FY 2023 NDAA extended the temporary amendment until December 31, 2028.

Section 573(d) of the FY 2019 NDAA required agencies to report annually to OPM on the number of relocating and non-relocating spouses of current military members appointed; the types of positions filled (by title, series, and grade level); and the effectiveness of this hiring authority. Section 573(d) also required a report to Congress 18 months after enactment that had become obsolete. The FY 2023 NDAA removed these temporary agency reporting requirements established under the FY 2019 NDAA. Although the reporting requirements have been removed from statute, section 3(f) of Executive Order 13832, of May 9, 2018, *Enhancing Noncompetitive Civil Service Appointments of Military Spouses*, imposed similar agency reporting requirements that are still in effect. The changes in the FY 2023 NDAA became effective upon the President’s signature. OPM amended its regulations through the interim final rule to reflect the provisions of the FY 2023 NDAA.

Comments Received on the Interim Final Rule

Although the interim final rule was effective immediately upon publication, OPM provided a 60-day comment period, which ended November 27, 2023. OPM received nine comments on the interim rule: one comment from a federal agency and four individual comments. Four other individual comments were not responsive to the subject matter discussed in the rule and contained privacy protected information.

One Federal agency (comment OPM–2023–0026–006) recommended OPM remove the reference to “. . . January 1, 2029, or later . . .” in 5 CFR 315.612(e)(1)(ii). The interim final rule allows spouses married to members of the armed forces on active duty to remain eligible for non-competitive appointment until December 31, 2028. In accordance with the FY 2023 NDAA, on January 1, 2029, eligibility for spouses married to members of the

armed forces on active duty will require the spouse to be indicated on the service member’s permanent change of station (PCS) orders. The agency suggested that a military spouse should be eligible for appointment after January 1, 2029, regardless of the date of the PCS orders. OPM cannot adopt this suggestion. Section 573 of the FY 2019 NDAA amended 5 U.S.C. 3330d by, among other things, authorizing the head of an agency to appoint noncompetitively the spouse of a member of the armed forces on active duty. This amendment was originally to sunset in August 2023, but has since been extended until December 31, 2028, by the FY 2023 NDAA. After December 31, 2028, the statutory provisions will require a military spouse to have PCS orders dated January 1, 2029, or later to be eligible for noncompetitive appointment. The statute did not give OPM the authority to waive or modify this date.

Another individual (OPM–2023–0026–0004) did not support OPM’s interim final rule. This commenter stated that special considerations for military spouses negatively impacts recruitment of the best and brightest individuals for Federal jobs. OPM does not share this view and does not have discretion in implementing this provision, which was mandated by statute. Furthermore, OPM notes that several noncompetitive and excepted service hiring authorities have been codified to groups of applicants in obtaining Federal employment.

Another individual (OPM–2023–0026–0005) suggested OPM apply these rules to spouses of the Department of State’s Foreign Service. This commenter stated Foreign Service spouses face strains similar to those of military families, such as frequent moves overseas, without receiving the same level of support that military spouses receive. OPM cannot adopt this suggestion because the implementing statute does not provide for noncompetitive appointment of spouses of Foreign Service personnel unless otherwise eligible under these provisions.

Another commenter (OPM–2023–0026–0002) provided positive feedback and fully supported the swift implementation and expedited effective date, saying that the interim final rule ensured that the regulations accurately

reflect the current statute. OPM appreciates this comment.

A different commenter (OPM–2023–0026–0003) generally supported the interim final rule. This individual stated that, although spouses of active-duty members face the hardship challenges of finding employment, the change to the recruitment date would give them a positive advantage. This commenter suggested that if the intent of the rule is to enhance the recruitment and hiring of military spouses for permanent Federal positions in the competitive service then OPM should remove the January 1, 2029 date. OPM appreciates this comment but notes the January 1, 2029 recruitment date is specified in statute and that OPM cannot alter it via regulation.

OPM is adopting the interim final rule with no changes.

Expected Impact of This Final Rule

This final rule adopts, without change, the interim final rule implementing statutory changes codified at 5 U.S.C. 3330d, which extended the eligibility date for noncompetitive appointment of military spouses married to a member of the armed forces on active duty until December 31, 2028, and removed the temporary agency reporting requirements established under section 573(d) of Public Law 115–232. OPM did not receive any comments on the costs identified in the interim final rule. The final rule will benefit military spouses married to military members on active duty and hiring agencies by reflecting the statutorily revised sunset date for the noncompetitive appointment hiring authority in the FY 2023 NDAA. This rule also benefits agencies by removing duplicative reporting requirements originally established under the FY 2019 NDAA provisions.

Administrative Procedure Act

On September 28, 2023, OPM published an interim final rule (88 FR 66677) and determined that there was a basis under the Administrative Procedure Act for issuing the interim final rule with immediate effect. OPM has considered all relevant input and information contained in the comments submitted in response to the interim final rule and has concluded that no changes to the interim final rule are warranted. OPM is adopting the provisions of the interim final rule as a final rule with no changes.

Regulatory Review

Executive Orders 13563, 12866, and 14094 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). The Office of Management and Budget has determined that this final rule is not a “significant regulatory action” under Section (3)(f) Executive Order 12866, as amended by Executive Order 14094.

Regulatory Flexibility Act

The Director of OPM certifies that this final rule will not have a significant economic impact on a substantial number of small entities because it applies only to Federal agencies and employees.

Federalism

This final rule will not have substantial direct effects 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, OPM has determined that this final rule does not have federalism implications that require preparation of a federalism summary impact statement.

Civil Justice Reform

OPM has determined this final rule meets the relevant standards of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This final rule 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.

Congressional Review Act

OMB’s Office of Information and Regulatory Affairs has determined this final rule does not satisfy the criteria listed in 5 U.S.C. 804(2).

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

This final regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 315

Government employees.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

■ Accordingly, the interim rule published in the **Federal Register** on September 28, 2023, at 88 FR 66677, amending 5 CFR part 315, is adopted as final without change.

[FR Doc. 2024–11825 Filed 5–30–24; 8:45 am]

BILLING CODE 6325–39–P

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1026

[Docket No. CFPB–2024–0017]

Truth in Lending (Regulation Z); Use of Digital User Accounts To Access Buy Now, Pay Later Loans

AGENCY: Consumer Financial Protection Bureau.

ACTION: Interpretive rule; request for comment.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) is issuing this interpretive rule to address the applicability of subpart B of Regulation Z to lenders that issue digital user accounts used to access credit, including to those lenders that market loans as “Buy Now, Pay Later” (BNPL). This interpretive rule describes how these lenders meet the criteria for being “card issuers” for purposes of Regulation Z. Such lenders that extend credit are also “creditors” subject to subpart B of Regulation Z, including those provisions governing periodic statements and billing disputes. While not required under the Administrative Procedure Act, the CFPB is opting to collect comments on this interpretive rule and may make revisions as appropriate after reviewing feedback received.

DATES: This interpretive rule is applicable as of July 30, 2024. Comments must be received by August 1, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2024–0017, by any of the following methods:

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

- *Email:* 2024-BNPL-InterpretiveRule@cfpb.gov. Include Docket No. CFPB–2024–0017 in the subject line of the message.

- *Mail/Hand Delivery/Courier:* Comment Intake—2024 BNPL