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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 337

RIN 3206-AK35

Examining System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final regulation to designate two sections of the Alternative Ranking and Selection Procedures from the Chief Human Capital Officers Act of 2002 (Title XIII of the Homeland Security Act) as veterans' preference requirements for purposes of a prohibited personnel practice violation, thereby aligning these sections with other statutory provisions covering veterans' preference.

DATES: This rule is effective February 22, 2006.

FOR FURTHER INFORMATION CONTACT: Linda Watson by telephone at (202) 606-0830; by fax at (202) 606-2329; by TTY at (202) 418-3134; or by e-mail at linda.watson@opm.gov.

SUPPLEMENTARY INFORMATION: On April 7, 2005, OPM published a proposed rule at **Federal Register** 70 FR 17160 designating sections 3319(b) and (c)(2) of title 5, United States Code (U.S.C.) as veterans' preference requirements for purposes of 5 U.S.C. 2302(b)(11). OPM's authority to designate in regulation a provision of law as a "veterans' preference requirement" is prescribed in 5 U.S.C. 2302(e)(1)(G). The purpose of this designation is to align sections 3319(b) and (c)(2) with the other statutory provisions covering veterans' preference that are listed in section 2302(e)(1) as constituting veterans' preference requirements.

As background, this action completes the implementation of specific provisions of the Chief Human Capital Officers Act of 2002 (Act), Public Law 107-296. The Act provides Federal agencies with a number of human resources flexibilities to enhance their recruitment and hiring programs. These flexibilities include the alternative (category) rating and selection procedures which were codified in 5 U.S.C. 3319. This section provides agencies with the authority to develop a category-based rating method to assess and rate job applicants for positions filled through the competitive examining process.

Section 3319(b) protects the rights of preference eligibles by placing them ahead of non-preference eligibles within each category in lieu of adding veterans' preference points or applying the "rule of three."

Section 3319(c)(2) prohibits appointing officials from passing over a preference eligible in the same quality category from which a selection is made to select a non-preference eligible unless the requirements of section 3317(b) or 3318(b) are satisfied.

This rule designates sections 3319(b) and (c)(2) as veterans' preference requirements, for which, failure to comply constitutes a prohibited personnel practice. For additional background information, please refer to the proposed rule.

During the comment period, OPM received six comments to the proposed regulation. Two agencies submitted their comments supporting the proposed regulation and the remaining comments were outside the scope of this rule.

We are therefore issuing the final regulation with only stylistic changes.

E.O. 12866, Regulatory Review

This final rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they would only apply to Federal agencies and employees.

List of Subjects in 5 CFR Part 337

Government employees.

Linda M. Springer,

Director, U.S. Office of Personnel Management.

■ Accordingly, OPM is amending 5 CFR part 337 as follows:

PART 337—EXAMINING SYSTEM

■ 1. Revise the authority citation for part 337 to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 1302, 2302, 3301, 3302, 3304, 3319, 5364; Sec. 1413, Pub. L. 108-136, 117 Stat. 1392, 1665; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; 33 FR 12423, Sept. 4, 1968; 45 FR 18365, Mar. 21, 1980.

Subpart C—Alternative Rating and Selection Procedures

■ 2. Revise § 337.304 to read as follows:

§ 337.304 Veterans' preference.

In this subpart:

(a) Veterans' preference must be applied as prescribed in 5 U.S.C. 3319(b) and (c)(2);

(b) Veterans' preference points as prescribed in section 337.101 of this part are not applied in category rating; and

(c) Sections 3319(b) and 3319(c)(2) of title 5, U.S.C. constitute veterans' preference requirements for purposes of 5 U.S.C. 2302(b)(11)(A) and (B).

[FR Doc. 06-550 Filed 1-20-06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596-AC29

Sale and Disposal of National Forest System Timber; Timber Sale Contracts; Indices To Determine Market-Related Contract Term Additions

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: In this final rule, the Forest Service is selecting Producer Price Indices (PPI) for use by the Chief of the Forest Service to determine whether there has been a drastic reduction in