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U.S. OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

RIN 3206-AM76

Noncompetitive Appointment of Certain Military Spouses

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a proposed regulation limiting to one the number of permanent appointments spouses of 100 percent disabled and spouses of deceased members of the Armed Forces may receive under these provisions. OPM is making this change based on a provision contained in the Fiscal Year (FY) 2013 National Defense Authorization Act (NDAA). The intended effect of this change is to conform our regulation with the statute.

DATE: Comments must be received on or before [INSERT 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, which are identified by RIN 3206-AM76, by any of the following methods:

- Email: employ@opm.gov. Include “RIN 3206-AM76, Career and Career-Conditional Employment” in the subject line of the message.
- Fax: (202) 606-2329
- Mail: Kimberly A. Holden, Deputy Associate Director for Recruitment and Hiring, U.S. Office of Personnel Management, Room 6566, 1900 E Street NW, Washington, DC 20415-9700.

FOR FURTHER INFORMATION CONTACT: Michelle Glynn, 202-606-1571, Fax: 202-606-2329 by TDD: 202-418-3134, or email: michelle.glynn@opm.gov

SUPPLEMENTARY INFORMATION:

On September 25, 2008, the President issued Executive Order (E.O.) 13473 allowing agencies to make noncompetitive appointments of certain military spouses of members of the Armed Forces. OPM implemented this E.O. via final regulations which were published in the Federal Register (FR) on August 12, 2009, at 74 FR 40471, and amended on August 31, 2011, at 76 FR 54071. OPM's implementing rules established a noncompetitive hiring authority for certain military spouses. Under this hiring authority, eligible spouses include, subject to other criteria specified in the final rule, the following categories of military spouses: those who are relocating with their service member spouse as a result of permanent change of station (PCS) orders, spouses of service members who incurred a 100 percent disability because of the service member's active duty service, and the un-remarried widow or widower of a service member killed while on active duty. OPM's implementing rules did not restrict the number of permanent appointments the spouse of a disabled or deceased member of Armed Forces may receive under these provisions.

On January 2, 2013, the President signed the FY 13 NDAA. Section 566(a) of this Act codifies in statute, at 5 U.S.C. 3330d, the hiring authority previously created by E.O. 13743 and, in so doing, limits to one the number of permanent appointments the spouse of a disabled or deceased member of Armed Forces may receive under section 3330d. OPM is proposing to limit to one the number of permanent appointments an

eligible spouse may receive under its regulatory provisions. We are making this change to conform our regulations to 5 U.S.C. 3330d(d)(2).

E.O. 12866 and E.O. 13563, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866 and Executive Order 13563.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal agencies and employees.

List of Subjects in 5 CFR Part 315

Government employees.

U.S. Office of Personnel Management.

Beth F. Cobert,
Acting Director.

Accordingly, OPM is amending 5 CFR part 315 as follows:

PART 315 – CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for part 315 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954-1958 Comp. p.218, unless otherwise noted; and E.O. 13162. Secs.315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp. p.111. Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964-1965 Comp. p. 303. Sec. 315.607 also issued under

22 U.S.C. 2560. Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp. p. 293. Sec. 315.610 also issued under 5 U.S.C. 3304(c). Sec. 315.611 also issued under 5 U.S.C. 3304(f). Sec. 315.612 also issued under E.O. 13473 and Pub. L. 112-239, Sec. 566. Sec. 315.708 also issued under E.O. 13318, 3 CFR, 2004 Comp. p. 265. Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1978 Comp. p. 264.

Subpart F –Career or Career Conditional Appointment Under Special Authorities

2. In § 315.612, revise paragraph (d)(3) and add paragraph (d)(4) to read as follows:

§ 315.612 Noncompetitive appointment of certain military spouses.

* * * * *

(d)***

(3) Spouses of 100 percent disabled or deceased members of the armed forces may receive only one noncompetitive appointment under this section to a permanent position.

(4) Any law, Executive order, or regulation that disqualifies an applicant for appointment also disqualifies a spouse for appointment under this section.

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