



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 302, 332, and 337

[Docket ID: OPM-2017-0004]

RIN: 3206-AO24

Shared Certificates and Pooled Hiring Actions

AGENCY: U.S. Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing an interim rule to improve hiring efficiency across federal agencies, modify provisions pertaining to how an appointing authority (*i.e.*, the head of a Federal agency or department) may share a competitive certificate with one or more appointing authorities, implement provisions to allow an appointing authority to share an excepted service certificate with one or more appointing authorities, and implement provisions regarding OPM-led hiring actions which allow federal agencies to utilize competitive and excepted service certificates for occupations common to many agencies.

DATES: *Effective date.* This interim rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

ADDRESSES: You may submit comments by using the Federal Rulemaking Portal:

<https://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions must include the agency name and docket number or RIN for this *Federal Register* document. Please arrange and identify your comments about the regulatory text by subpart and section number. If your comments relate to the supplementary information, please refer to the heading and page number in the supplementary section. All comments must be received by the end of the comment period for them to be considered. All comments and other

submissions received generally will be posted at <https://regulations.gov> as they are received, without change, including any personal information provided. However, OPM retains discretion to redact personal or sensitive information, including but not limited to personal or sensitive information pertaining to third parties.

A summary of this rule may be found in the docket for this rulemaking at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Michael Mahoney (202) 936-3265 or by email at employ@opm.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 18, 2016, the Competitive Service Act of 2015 (the “Act”) was enacted as Public Law 114–137 (<https://www.govinfo.gov/content/pkg/PLAW-114publ137/pdf/PLAW-114publ137.pdf>). The Act allows an “appointing authority” to share a competitive certificate issued under delegated examining procedures with one or more “appointing authorities” to make an appointment to a position that is in the same occupational series, grade level (or equivalent), and duty location during the 240-day period beginning on the date of issuance of the certificate of eligibles. OPM issued implementing regulations, which became effective February 17, 2017 (see 82 FR 5335; RIN 3206-AN46). Since that time, OPM’s Human Resources Solutions and agencies using shared certificates have provided feedback on how to improve these provisions. OPM has considered that input in the context of Executive Order (E.O.) 14170, “*Reforming the Federal Hiring Process and Restoring Merit to Government Service*”¹ signed by the President on January 20, 2025, and the OPM-Executive Office of the President (EOP) joint implementing guidance of May 29, 2025, titled “Merit Hiring Plan,”² with the aim of making

¹ E.O. 14170, 90 FR 8621 (Jan. 30, 2025).

² U.S. Office of Personnel Management & White House Domestic Policy Council, Merit Hiring Plan (May 29, 2025), <https://www.opm.gov/chcoc/transmittals/2025/Merit%20Hiring%20Plan%205-29-2025%20FINAL.pdf>.

these provisions more efficient for agencies and applicants alike. OPM is modifying these rules to create greater efficiencies for hiring agencies. These changes include:

- Expanding the application of the three-considerations rule in 5 CFR 332.405 to allow a manager or selecting official in a receiving agency to use/apply a decision(s) by a hiring manager(s) in other agencies to remove applicants from further consideration. We are revising § 332.405(d) to remove the bar on applying the rule to shared certificates and, in its place, to codify the limitation of the rule to certificates issued using numerical rating.
- Expanding the application of veterans' pass over procedures to allow a veteran passed over by the original hiring agency (or OPM in the case of thirty percent or more disabled veterans) to be removed from consideration by a receiving agency;
- Adding language which reminds agencies of their obligations with respect to individuals who have selection priority (e.g., displaced employees eligible under Reemployment Priority List (RPL), Career Transition Assistance Plan (CTAP), Interagency Career Transition Assistance Plan (ICTAP), and workers' compensation provisions);
- Clarifying that an original hiring agency may share a certificate with other agencies simultaneously;
- Modifying the requirement that receiving agencies must work a shared certificate independently. The modification allows a receiving agency to leverage another agency's pass-over or three-considerations decision.
- Including language which reminds agencies that pass overs of disabled veterans with a thirty percent or more compensable disability must be sent to OPM for adjudication;
- Removing a reference to collective bargaining units to attune the rules with a statutory amendment which removed the reference with the CSA; and

- Expanding the application of shared certificates to positions filled in the excepted service.

II. Comments Received on the 2017 Interim Final Rule and OPM Responses

OPM received five comments on the interim final rule published on January 18, 2017 (82 FR 5335; Docket ID OPM-2017-0004), from a Federal agency, a nonprofit organization, and three individual members of the public. Because this rule reissues the 2017 interim regulations with modifications, OPM has considered those comments in developing this rule and responds to them here. Comments are identified by their Regulations.gov comment numbers.

Comment (OPM-2017-0004-0002): An individual commenter supported the rule’s focus on drawing talent into the Federal Government but questioned what would motivate an original hiring agency to share a certificate and suggested a mandate or quota requiring each hiring agency to share at least three certificates per year.

Response: OPM declines to adopt a sharing mandate or quota by regulation. The Competitive Service Act is permissive: 5 U.S.C. 3318 provides that an appointing authority “may” share a certificate, and a regulatory quota would be inconsistent with that discretionary framework. This rule instead addresses the commenter’s underlying concern by reducing the burden of sharing—permitting simultaneous sharing, permitting the sharing of assessment scores, and allowing receiving agencies to leverage another agency’s pass-over or three-considerations decision—and by establishing OPM-led pooled hiring actions, which systematically make a single hiring action available to multiple agencies. OPM notes that it has recently set, via guidance, a governmentwide goal of at least 60% of selections made from shared certificates (including OPM-led pooled hiring actions and agency certificates shared under 5 U.S.C. 3318(b)) for all new external competitive-service hires, measured as a share of external selections during Fiscal Year 2027.³

³ See OPM, Guidance on Annual Staffing Plans (July 30, 2026), available at <https://www.opm.gov/chcoc/latest-memos/guidance-on-annual-staffing-plans.pdf>

Comment (OPM-2017-0004-0003): A Federal agency posed six operational questions:

(1) how agencies would identify other agencies' need for the same hires in advance of an announcement; (2) whether a receiving agency could access applicants in a lower category than the one certified; (3) the effect of the 240-day shared-certificate period on OPM's 80-day hiring cycle model; (4) whether an original hiring agency may decline to share a certificate with a particular agency, and any reporting mechanism or repercussions for declining; (5) what happens if two agencies select the same candidate; and (6) how candidates who are no longer available are removed from shared certificates.

Response: Sharing remains within the discretion of the original hiring agency, including the choice of agencies with which to share; there is no reporting mechanism or repercussion for declining to share. The OPM-led pooled hiring provisions in new § 332.409 and new subpart F of part 302, together with the Merit Hiring Plan's direction that agencies collaborate with OPM to identify sharing opportunities and the Annual Staffing Plan process created by E.O. 14356 (*Ensuring Continued Accountability in Federal Hiring*),⁴ provide the advance mechanism for identifying common hiring needs that the commenter described. A receiving agency must use the certificate in its original form and may not re-rate or re-rank applicants, so it may not reach into a category other than as certified. The 240-day period is fixed by statute and does not alter the 80-day time-to-hire goal; indeed, the changes in this rule allowing receiving agencies to leverage pass-over and three-considerations decisions are designed to shorten the time receiving agencies need to work a certificate. Where more than one agency seeks the same candidate, the candidate may elect which offer to accept, and this rule requires notations on the certificate and prompt notification of errors, while under pooled hiring actions OPM will notify all participating agencies when an applicant is removed from further consideration. Remaining operational details are addressed in the Delegated Examining Operations Handbook and implementing guidance.

⁴ 90 FR 48387 (Oct. 20, 2025)

Comment (OPM-2017-0004-0004): An organizational commenter recommended that OPM (1) remove the requirement that applicants “opt in” to having their applications shared and adopt an opt-out default; (2) remove “duty location” from the conditions for using a shared certificate; (3) add language encouraging timely hiring decisions and expedited sharing; and (4) set a clear date for agencies to report to OPM on their use of the authority, with annual reporting thereafter. The commenter also encouraged OPM to promote staffing-system interoperability, enable USAJOBS searches for announcements with shared certificates, pilot the authority for mission-critical occupations, engage the CHCO Council and other interagency councils, and train agencies.

Response: OPM declines to replace the opt-in structure. Requiring an applicant’s affirmative consent before his or her application and personal information are disseminated to agencies to which the applicant did not apply protects applicant privacy, and this rule retains that structure. OPM also declines to remove “duty location”: the Competitive Service Act itself limits use of a shared certificate to positions in the same occupational series, grade level, and duty location, so that condition cannot be removed by regulation. OPM agrees with the objective of timely action and has addressed it operationally rather than through hortatory language—this rule permits simultaneous sharing and allows receiving agencies to leverage another agency’s pass-over and three-considerations decisions, both of which expedite use of shared certificates. OPM declines to codify a fixed reporting date in regulation; the recordkeeping and documentation requirements of this rule create the audit trail necessary for OPM oversight, and OPM collects usage information through its oversight functions under 5 U.S.C. 1104. The commenter’s remaining suggestions are operational and outside the scope of this rulemaking, but OPM has acted consistent with their aims, including through OPM-led pooled hiring actions for occupations common across agencies, as described in section V of this preamble.

Comment (OPM-2017-0004-0005): An individual commenter recommended that certificate sharing be mandatory rather than discretionary (“shall” rather than “may”), subject to

limits such as sharing only the top three candidates for each position or submitting an overall certificate quarterly, and suggested a quota of shared certificates.

Response: OPM declines to make sharing mandatory or to impose a quota, for the reasons stated in response to comment OPM-2017-0004-0002: the statute is permissive, and a mandate would impose burden where no cross-agency need exists. OPM believes the OPM-led pooled hiring provisions of this rule better achieve the commenter's aim of making talent systematically available across the Government from a single hiring action.

Comment (OPM-2017-0004-0006): An individual commenter, a veteran, supported the concept but expressed concern that agencies and their components would not follow the rules, described being passed over in favor of another candidate notwithstanding his veterans' preference, and urged OPM to examine agency policies and agreements and enforce the rules so applicants receive fair consideration.

Response: Veterans' preference protections apply fully to shared certificates, and this rule strengthens the documentation that supports enforcement: objections and pass-over requests must be resolved before a certificate is shared, pass overs of preference eligibles with a compensable service-connected disability of thirty percent or more must be adjudicated by OPM, sustained pass overs must be notated on the certificate, and both original and receiving agencies must maintain records sufficient to reconstruct their use of the certificate. These requirements support OPM's oversight of agency compliance under 5 U.S.C. 1104(b). Concerns about specific hiring actions are outside the scope of this rulemaking and may be pursued through applicable complaint and appeal procedures.

III. Changes to Shared Certificates in the Competitive Service Under the CSA (§ 332.408)

OPM is reissuing the interim regulations published on January 18, 2017, with the following modifications:

Section 332.408(b)(1)(iv) has been amended to include a reference to OPM as the entity which must resolve pass over requests of thirty percent or more disabled veterans with a service-connected disability. This also requires an original hiring agency to notate the certificate when it has sustained, or received OPM approval to sustain, a pass-over of a preference eligible veteran.

A new paragraph (b)(2) in § 332.408 provides that an original hiring agency may apply the three-consideration rule in § 332.405 to a certificate issued under § 332.402 and must make a notation next to the name of any applicant it removed from further consideration; the paragraphs that follow in § 332.408(b) are renumbered accordingly.

OPM is also revising § 332.405(d). The existing paragraph (d) provides that the three considerations rule does not apply to shared certificates. Because this rule permits an original hiring agency to apply the rule to a certificate it intends to share and permits a receiving agency to rely on that agency's decision, the existing bar is inconsistent with the amendments made in this rule and is removed. In its place, OPM is codifying the limitation of the rule to certificates issued using numerical rating, which OPM has previously stated but has not until now set out in regulatory text. See 90 FR 43135, 43138 (Sept. 8, 2025).

Section 1107 of Public Law 115-232 added the three-considerations provision at 5 U.S.C. 3318(e), which governs selections using numerical ratings, while at the same time amending 5 U.S.C. 3319 without adding a comparable provision for category rating. Section 3319 incorporates provisions of section 3318 where Congress intended them to apply, see 5 U.S.C. 3319(c)(5) and (c)(6)(A) and (B), and it does not incorporate section 3318(e). Congress also addressed separately, and more narrowly, the circumstances in which a preference eligible may be dropped from further consideration under category rating, providing for discontinuation of certification only where the preference eligible has been three times considered and passed over from a standing register, and only after advance notice. See 5 U.S.C. 3319(c)(6)(C). OPM is stating the limitation in regulatory text so that it applies uniformly to an agency's own certificates, to shared certificates, and to certificates issued in OPM-led pooled hiring actions.

OPM is updating renumbered § 332.408(b)(3) to clarify that an original hiring agency may, but is not required to, share the assessment scores of certified applicants with receiving agencies. OPM is making this update to provide agencies with more information when considering shared applicants with the aim of boosting interest and use of shared certificates.

Renumbered § 332.408(b)(4) is revised to clarify that an original hiring agency may share a certificate with one or more agencies, either sequentially or simultaneously. OPM is making this change to reduce delays in time-to-hire that would otherwise result if agencies could only share certificates sequentially. In the interim rule effective February 17, 2017 (82 FR 5335), OPM discussed simultaneous use and coordination of certificates by receiving agencies but did not squarely address simultaneous sharing by the original hiring agency. Because the CSA does not prohibit an original hiring agency from sharing a certificate with several agencies at the same time, OPM finds no basis to limit an agency from doing so. Paragraph (c)(4)(i) in § 332.408, discussed below, addresses how receiving agencies work a certificate that has been shared simultaneously.

OPM is amending § 332.408(c)(2) to remind receiving agencies of their responsibilities with respect to Reemployment Priority Lists (RPL) and Career Transition Assistance Plans (CTAP), in accordance with 5 CFR part 330, subparts B and F, respectively, before using a shared certificate.

OPM is amending § 332.408(c)(3)(i) by removing the reference to collective bargaining obligations. OPM is making this change in accordance with Public Law 115-232, section 1107,⁵ which removed the reference from section 2(b)(4) of the Competitive Service Act of 2015.

OPM is also revising § 332.408(c)(3)(ii) to provide that an agency may not give internal candidates an application period longer than 10 business days. Sections 3318(b)(4)(B) and 3319(c)(5)(B) of title 5, U.S. Code, each direct the other appointing authority to “provide up to

⁵ John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232, sec. 1107, 132 Stat. 1636 (Aug. 13, 2018) (amending section 2 of the Competitive Service Act of 2015), <https://www.congress.gov/115/plaws/publ232/PLAW-115publ232.pdf>.

10 business days” for its employees to apply for the position. OPM is conforming the regulatory text to the statutory period so that the same limit applies whether the shared certificate was issued using numerical rating or category rating procedures. As under the 2017 interim rule, this time limit may not be waived or extended.

OPM is adding new subparagraph (c)(4)(ii) in § 332.408 to provide that a receiving agency may, but is not required to, consider an applicant passed over by another agency in accordance with paragraph (b)(1)(iv) or an applicant who received three bona fide considerations by another agency in accordance with paragraph (b)(2). The flexibility to allow a receiving agency(s) to leverage an original hiring agency’s three-consideration decision is consistent with 5 U.S.C. 3318(e) and 5 CFR 332.405. In the statute and the codified regulations, “appointing officer” is not specific to a particular agency.

OPM is modifying current § 332.408(c)(4)(i) which requires a receiving agency to consider applicants independently of the actions of another agency with which the certificate is shared simultaneously. The modified provision provides an exception which allows a receiving agency to apply another agency’s pass-over or three-considerations decision as described in new paragraph (c)(4)(ii). In the interim rule effective February 17, 2017 (82 FR 5335), OPM noted, “Congress did not define precisely what it means to “share” the certificate. One possible approach is that when the original hiring agency “shares” the certificate with other agencies they must simultaneously work the certificate in a coordinated fashion, accounting for declinations, failures to respond, selections, and so on as if they were integrated arms of the same employer. (This is how the process might work when a department shares a certificate among a number of its different components.) Another possible approach is that each of the other agencies may work the certificate independently, as if the certificates had been referred from the top of a register or inventory. Neither of these approaches is compelled by the text of the statute and as such OPM has determined that the most reasonable approach, and the one that best effectuates Congress’s apparent purpose, is the latter of the two.”

OPM has reconsidered its original position and determined this change will allow agencies to use the shared certificate process more efficiently. It will do so by relieving a receiving agency from having to replicate the pass-over or three-considerations process when another agency already has done so. Though certificates may be shared simultaneously, the timing of when they are worked by each receiving agency may differ within the 240-day period depending on capacity, need, or urgency to fill the position, internal priorities, etc. For this reason, we are providing that a receiving agency may coordinate with another agency only for the purpose of leveraging another agency's pass-over or three-considerations decision.

OPM's revised approach satisfies the standards governing a change in agency position. *See Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41–43 (1983); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009). OPM acknowledges that it is modifying the position adopted in the 2017 interim rule and is doing so consciously rather than *sub silentio*. The new position is permissible under the statute: as the 2017 preamble itself recognized, neither the coordinated approach nor the fully independent approach is compelled by the text of the Competitive Service Act, which does not prescribe how simultaneously shared certificates must be worked. The revised rule retains independent consideration as the general requirement and adds only a narrow, discretionary exception permitting a receiving agency to leverage another agency's pass-over or three-considerations decision—an accommodation consistent with 5 U.S.C. 3318(e), which refers to consideration by “an appointing officer” without confining the relevant considerations to a single agency.

There are also good reasons for the change, and OPM believes the new policy is better: nearly a decade of experience administering shared certificates, together with feedback from OPM's Human Resources Solutions and from agencies using shared certificates, has demonstrated that requiring each receiving agency to replicate a pass-over or three-considerations process that another agency has already completed adds time and administrative burden without a corresponding benefit to applicants or to merit-based selection. In addition,

eliminating that duplication directly advances the efficiency objectives of E.O. 14170 and the Merit Hiring Plan. Finally, the change does not disturb serious reliance interests that would require a more detailed justification. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

The independence requirement in current § 332.408(c)(4)(i) is a procedural direction to agencies about how a shared certificate is to be worked. It confers no entitlement on applicants to duplicative consideration by every receiving agency. The exception is permissive rather than mandatory, so a receiving agency remains free to consider any applicant notwithstanding another agency's action. And applicants' substantive protections are unchanged: a pass-over of a preference eligible may be leveraged only where the original hiring agency has sustained the pass-over, or received OPM approval to sustain it in the case of a disabled veteran with a thirty percent or more service-connected disability, in accordance with paragraph (b)(1)(iv) and as notated on the certificate, and a three-considerations decision may be leveraged only as to an applicant who has received three bona fide considerations for the same position, as documented on the certificate under paragraph (b)(2).

IV. Shared Certificates in the Excepted Service (New Subpart E to Part 302)

A. Background and Purpose

The excepted service encompasses those positions in the Federal civil service that are not in the competitive service or the Senior Executive Service. Positions in the excepted service are organized under several schedules, including Schedule D — which covers Pathways Program positions for students and recent graduates — and Schedule Policy/Career — which covers career positions of a confidential, policy-determining, policy-making, or policy-advocating character not normally subject to change as a result of a Presidential transition. Employment in the excepted service is governed by 5 U.S.C. 2103 and the regulations set forth at 5 CFR parts 213 and 302.

OPM notes there are differences between the competitive and excepted services. One of these is the use of the term “certificate.” A certificate is a competitive service term defined in 5 CFR 332.102 as a list of qualified eligibles from which an appointing officer selects one or more applicants for appointment. For purposes of new subpart E in part 302, OPM is adopting the term certificate as defined in the competitive service.

Another difference lies in how agencies are required to consider employees and former employees involuntarily separated due to downsizing. In the competitive service, agencies must adhere to the requirements of Reemployment Priority List (RPL), Career Transition Assistance Plans (CTAP), and Interagency Career Transition Assistance Plans (ICTAP) in 5 CFR part 330 subparts B, F, and G, respectively, before considering other applicants from outside the hiring agency’s workforce. RPL, CTAP, and ICTAP apply when filling positions in the competitive service. CTAP applies in the excepted service only if the hiring agency’s CTAP plan specifically provides for selection priority in the excepted service (§ 330.607(c)(5)).

Another difference between the two services is the provision which allows an appointing officer to not consider an eligible candidate who has been given bona fide consideration by one or more hiring managers for three separate appointments from the same or different certificates for the same position (*i.e.*, the same title, series, and grade). This is known as “three-considerations” and is codified in § 332.405 of the competitive service but not in the excepted service.

The three-considerations provision applies in conjunction with numerical ranking (*i.e.*, rule of many) but not category rating. See *Reinvigorating Merit-Based Hiring Through Candidate Ranking in the Competitive and Excepted Service*, 90 FR 43135, 43138 (Sept. 8, 2025) (“The three considerations rule applies to the rule of many, not to category rating. The Act did not apply this provision to category rating.”). Because the excepted service utilizes a parallel numerical rating provision (§ 302.302(b)(1)), OPM establishes that agencies may use § 332.405 in conjunction with a shared certificate in the excepted service where applicants were assigned

numerical scores under that paragraph. Consistent with the competitive service, the three-considerations rule does not apply to an excepted service certificate on which applicants were placed in quality categories under § 302.302(b)(2).

Currently, 5 CFR part 302 establishes the procedures Federal agencies must follow when filling excepted service positions, including eligibility standards, application and rating procedures, and selection requirements. This interim rule adds a new subpart E to part 302 to create a framework for agencies to share certificates of eligibles generated under the excepted service examining process — a practice analogous to existing certificate-sharing authorities in the competitive examining context — thereby reducing duplicative recruitment efforts, lowering hiring costs, and expanding qualified applicant pools across the Federal Government.

B. Legal Authority

This rule is issued pursuant to 5 U.S.C. 1103, 1104, 3301, and 3302, which vest in OPM the authority to prescribe regulations governing the examination, selection, and appointment of individuals in the Federal civil service. Section 1103(a)(5) charges the Director of OPM with executing, administering, and enforcing the civil service rules and regulations and the laws governing the civil service, and section 1104(b)(1) requires OPM to establish standards for, and oversee, the performance of delegated personnel management functions. Sections 3301 and 3302 authorize the President to prescribe regulations for the admission of individuals into the civil service and to make exceptions from the competitive service when warranted; by E.O. 10577 (Civil Service Rule I and 5 CFR 1.1, 5.1, and 6.1), the President has directed OPM to administer those authorities, including the designation of excepted service schedules and the regulation of appointments within them.

The provisions governing shared use of competitive service certificates rest on the Competitive Service Act of 2015, Public Law 114-137, which amended 5 U.S.C. 3318 and 3319 to authorize an appointing authority to share a certificate of eligibles — whether issued under numerical rating and ranking or under alternative (category) rating — with one or more other

appointing authorities for selection to positions in the same occupational series, grade level (or equivalent), and duty location, within 240 days of issuance. Section 2(d) of the Act directs the Director of OPM to issue an interim final rule with comment to carry out its amendments, supplying both the substantive authority and the procedural vehicle for the amendments to § 332.408. Section 1107 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Public Law 115-232, subsequently amended section 2 of the Act, and this rule conforms OPM's regulations to that amendment.

OPM's authority to establish parallel certificate-sharing procedures for the excepted service derives from several sources. Positions in the excepted service are defined at 5 U.S.C. 2103 and are excepted from the competitive service under 5 U.S.C. 3302 and Civil Service Rule VI (5 CFR part 6), and OPM regulates appointments to those positions under 5 CFR parts 213 and 302. Part 302 itself implements, among other authorities, 5 U.S.C. 3320, which requires that the nominating or appointing authority select for excepted service and District of Columbia government positions "in the same manner and under the same conditions" required for the competitive service by the Veterans' Preference Act provisions codified at 5 U.S.C. 3308 through 3318. Because Congress has thus directed that excepted service selection track competitive service selection mechanics — including the examination, certification, consideration, and pass-over provisions those sections contain — OPM may, by regulation, make available in the excepted service the same certificate-sharing, three-consideration, and pass-over procedures Congress authorized for the competitive service, while preserving the veterans' preference protections that section 3320 makes applicable of its own force.

The OPM-led pooled hiring provisions rest on OPM's retained, non-delegated examining authority. Under 5 U.S.C. 1104(a)(2), OPM's delegation of examining functions to agencies is discretionary, not mandatory; OPM retains full authority to conduct competitive examinations itself, for one agency or for many, under 5 U.S.C. 1103, 3301, 3302, and 3304 and Civil Service Rule II (5 CFR 2.1). Nothing in the delegation framework limits OPM to single-agency

examining, and conducting a single examination whose results serve multiple agencies with a common hiring need is a straightforward exercise of the central examining function Congress vested in OPM. The assessment components of pooled hiring actions are conducted consistent with 5 U.S.C. 3304, as amended by the Chance to Compete Act of 2024 (Public Law 118-188), which requires examinations that permit direct assessment of job-related skills and competencies. The direct hire provisions in new § 337.206 implement 5 U.S.C. 3304(b)(3), under which OPM authorizes direct hire appointments upon a determination of severe candidate shortage or critical hiring need, and OPM's attendant authority to prescribe the conditions under which such appointments are made.

Finally, while E.O. 14170 and the Merit Hiring Plan do not themselves supply rulemaking authority, they direct the policy this rule implements, and the rule effectuates the merit system principle that the Federal workforce be used efficiently and effectively, 5 U.S.C. 2301(b)(5).

C. Overview of the Provisions for Sharing Certificates in the Excepted Service

Agencies will share certificates in the excepted service in a manner similar to how certificates are shared in the competitive service under § 332.408. A description of this process and regulatory provisions to implement them follows:

OPM is placing these provisions in 5 CFR part 302 subpart E and relabeling this subpart “Shared use of an excepted service certificate.” OPM is redesignating current subpart E, “Appeals,” as a new subpart G, and is placing the OPM-led pooled hiring provisions in a new subpart F.

OPM is adding provisions which allow agencies to share certificates for excepted service positions when the original hiring agency is using either the numerical list option or category rating option in accordance with § 302.401(a)(2) and (3), respectively. OPM is adopting this flexibility in accordance with 5 U.S.C. 3320⁶ which states that appointments in the excepted

⁶ 5 U.S.C. 3320.

service shall be filled “in the same manner and under the same conditions” as positions filled in the competitive service. Current regulations in 5 CFR 332.408 allow for competitive service shared certificates to be used in conjunction with both numerical ranking and category rating procedures at §§ 332.402 and .404, and part 337 subpart C, respectively. Because the same examining methods exist for filling positions in the excepted service, OPM believes the same efficiencies can be realized in excepted service hiring. OPM believes this approach is consistent with the intent of the CSA and 5 U.S.C. 3304(a)(3), (c)(1) and (4), and accords with 5 U.S.C. 3320, and promotes efficiency within excepted service hiring.

OPM is limiting the application of shared certificates in the excepted service to positions filled under excepted service Schedule D – Pathways Programs, and Schedule Policy/Career. OPM does not include positions in Schedule A of the excepted service for purposes of shared certificates because Schedule A is defined as “Positions other than those of a confidential or policy-determining character for which it is impracticable to examine.” Furthermore, 5 CFR 213.3102 states “Examining for this purpose means application of the qualification standards and requirements established for the competitive service.” The absence of governmentwide qualification standards for Schedule A positions makes sharing certificates cumbersome and difficult, which undermines the efficiency this flexibility is designed to create.

These rules allow an original hiring agency to flag with a designated code any applicant(s) to which the original hiring agency applied the three-consideration rule. For these purposes, OPM is allowing an agency to apply the three-consideration rule in § 332.405 to an excepted service certificate on which applicants were assigned numerical scores under § 302.302(b)(1). A receiving agency may apply the three-consideration rule to any applicant flagged by the original hiring agency with the designated code. Thus, a receiving agency will have its choice: it can leverage the original hiring agency’s three-consideration determination or make its own determinations when applying this rule.

The excepted service provisions also allow a receiving agency to apply a sustained pass over of a preference eligible veteran made by another agency for the same hiring action. OPM is adopting this on the basis that all agencies using the certificate will be using the same qualification standard for the position being filled.

The excepted service shared certificate rules do not require a receiving agency to consider internal candidates before making a selection from a shared certificate. OPM's rationale is that the eligibility for Schedule D and Policy/Career positions is specific; Schedule D applicants must be eligible under the Pathways Program Internship Program (see 5 CFR part 362, subpart B) or the Pathways Program Recent Graduate (see 5 CFR part 362 subpart C). This significantly limits the number of agency employees who could participate in these programs. Keeping the requirement for Schedule Policy/Career positions but not Schedule D positions would be confusing and lead to inefficient application of this flexibility.

The excepted service provisions provide that an original hiring agency may share a certificate with one agency at a time, or several agencies simultaneously.

OPM is establishing the competitive service provision that allows a receiving agency in the excepted service to use another agency's pass-over or three-considerations decisions. Our rationale is the same as that for the competitive service: to obviate the need for each agency to replicate these processes when another agency has already done so. The premise for sharing certificates in either service is to make hiring more efficient for agencies using the same certificate to fill a position in the same occupational series, at the same grade level (or a corresponding rate or level of pay for a position excluded from the General Schedule), with the same full performance level, and in the same duty location as was listed on the original hiring agency's certificate.

Each receiving agency will still be responsible for establishing a unique instance of a case file to document that agency's use of the certificate. This will be helpful in the event a receiving agency must later reconstruct its hiring actions. Allowing multiple agencies to use certificates

independently of one another also supports the timeliest and practical implementation of these provisions and minimizes the risk of error associated with multiple agencies simultaneously working the same certificate.

D. Section-by-Section Analysis of New Subpart E of Part 302

Section 302.501 — General Authority

Section 302.501 establishes the foundational authority and conditions applicable to all certificate-sharing activity under this subpart. Under § 302.501(b), a hiring agency may share an excepted service certificate issued for filling positions under Schedule D and Schedule Policy/Career with one or more Federal agencies, for positions filled on a permanent or time-limited basis. Time-limited positions remain subject to the conditions set forth in § 213.104. Shared use may encompass full-time and other-than-full-time positions, including part-time, seasonal, on-call, and intermittent positions, ensuring broad flexibility in workforce management.

In § 302.501(c), OPM establishes a 240-day time limit on all actions taken on a shared certificate, measured from the date on which the original hiring agency issued the certificate. This limit may not be extended. OPM establishes the 240-day duration to attune to the similar provision in the competitive service for the purpose of ensuring that shared certificates do not remain in active use for an indefinite period and that applicants on the certificate do not remain subject to potential selection for an unreasonable duration. We believe standardizing this duration will promote efficient use in both service and eliminate confusion among practitioners that might otherwise occur with different time limits.

Section 302.501(d) establishes documentation and safeguarding obligations. Both the original hiring agency and any receiving agency must maintain sufficient documentation to permit reconstruction of their respective use of the certificate, and must safeguard examination materials, assessment materials, and applicant information in accordance with § 300.201. This requirement supports accountability and enables OPM oversight of agency compliance.

Paragraphs (e) and (f) of § 302.501 provide general compliance reminders: all sharing activity must comply with part 302, and agencies must keep records of instances of sharing and use of shared certificates, establishing a clear audit trail.

Section 302.502 — Requirements for the Original Hiring Agency

Section 302.502 sets forth the conditions and obligations governing the original hiring agency's decision to share an excepted service certificate and its conduct in doing so. These provisions are designed to ensure that certificate sharing is carried out in a manner that respects applicant consent, preserves veteran preference rights, and maintains the integrity of the original examining process.

Conditions Precedent to Sharing (§ 302.502(a)). An original hiring agency may share a certificate issued under § 302.302 only if six conditions are satisfied:

- The original hiring agency itself intends to use the certificate for its own hiring needs (§ 302.502(a)(1)), ensuring that shared certificates are not generated solely for the benefit of other agencies.
- The agency informed applicants at the time of the announcement that the resulting certificate *may* be used by one or more hiring agencies (§ 302.502(a)(2)), consistent with transparency and due notice principles.
- The agency provided applicants an opportunity to *opt in* to having their applications and personal information shared with other agencies (§ 302.502(a)(3)). This opt-in structure protects applicant privacy and ensures that personal data is not disseminated to agencies without the individual's affirmative consent.
- All objections to eligibles and requests to pass over preference eligible veterans have been resolved in accordance with subpart D of part 302, or by OPM in the case of a disabled veteran with a 30% or more service-connected disability (§ 302.502(a)(4)).

The agency must notate on the certificate the name of any preference eligible it successfully passed over, preserving a clear record for receiving agencies.

- The original hiring agency either made a selection from the certificate or documented its reason for making no selection (§ 302.502(a)(5)), preventing agencies from sharing a certificate they have declined to use without explanation.
- The agency determined that sharing complies with part 302 and applicable agency policy (§ 302.502(a)(6)).

New § 302.502(b) permits the original hiring agency to apply the three-consideration rule of § 332.405 during its use of the certificate on which applicants were assigned numerical scores under § 302.302(b)(1), and to remove candidates accordingly, with required notations on the certificate before sharing; the paragraphs that follow are renumbered accordingly.

Obligations in Sharing (§ 302.502(c) through (e)). When sharing a certificate, the original hiring agency must transmit all documentation related to the certificate's creation, including the job analysis, testing and examination materials, the job opportunity announcement or applicable public notification, and applications as relevant. The agency may share certified applicants' assessment scores but must share the certificate in its original form to preserve the original candidate ordering. The agency must safeguard personally identifiable information during transmission and must redact the names of applicants who did not opt in, ensuring those individuals cannot be considered by receiving agencies.

An original hiring agency may share a certificate with one or more agencies, either sequentially or simultaneously (§ 302.502(d)), providing flexibility in multi-agency hiring efforts. If the original hiring agency discovers an error that may affect selections by a receiving agency, it must notify each affected agency promptly (§ 302.502(e)).

Section 302.503 — Requirements for Receiving Agencies

Section 302.503 establishes the conditions and procedures governing receiving agencies' use of shared certificates, with particular attention to position compatibility, applicant notification, selection procedures, and safeguards against further redistribution.

Eligible Vacancies (§ 302.503(a)). A receiving agency may use a shared certificate only to fill a vacancy in the *same occupational series*, at the *same grade level* (or corresponding pay rate or level), with the *same full-performance level*, and in the *same duty location* as specified on the original hiring agency's certificate. If the original certificate was issued for an interdisciplinary position, the receiving agency may use it to fill an interdisciplinary position. Before use, the receiving agency must independently verify through its own job analysis that the minimum qualification requirements — including any selective placement factors — and the competencies, knowledge, skills, and abilities used for the original position remain appropriate for the position to be filled. This verification requirement ensures that shared certificates are not misapplied to positions with materially different requirements.

Notification to Applicants (§ 302.503(b)). Before using a shared certificate, a receiving agency must notify eligible applicants that it has received their names and application materials and intends to consider them for employment. The notification must identify the receiving agency, position title, occupational series, grade level or equivalent, and duty location. This requirement ensures that applicants are informed of the expanded use of their application materials prior to any employment consideration, consistent with principles of transparency and individual notice.

Section 302.503(c)(1) clarifies that these requirements do not affect agencies' right to fill a position from any appropriate source under §§ 330.102 and 335.103. Section 302.503(c)(2) requires that, before considering other candidates, a receiving agency must first provide for priority consideration for individuals entitled to it under §§ 302.303 and 302.304.

Selection Procedures (§ 302.503(d)). Section 302.503(d)(1) permits — but does not require — a receiving agency to consider applicants designated as having been passed over or as having received three bona fide considerations, affording the agency discretion in these cases. Under § 302.503(d)(2), the receiving agency may *not* reassess applicants for rating or ranking

purposes, preserving the integrity of the original agency's examining process and preventing double examination.

Time Limit and Prohibition on Further Sharing. Section 302.503(e) confirms that a receiving agency has 240 days from the date of original certificate issuance to make selections — consistent with the governmentwide limit established in § 302.501(c). Section 302.503(f) expressly prohibits the receiving agency from sharing or distributing the shared certificate to any other Federal agency, ensuring that certificate sharing remains a controlled, bilateral transaction between the original hiring agency and its designated receiving agency or agencies, and does not become an uncontrolled daisy-chain distribution.

V. OPM-Led Pooled Hiring Actions

A. General Overview

OPM is establishing regulatory frameworks for OPM-led pooled hiring actions for both excepted service and competitive service positions, under which OPM will centrally recruit and preliminarily assess applicants or prepare and provide ready-made certificates to participating agencies which will use OPM-generated lists and certificates to make selections consistent with existing hiring authorities and protections. These rules memorialize OPM's current use of pooled hiring actions. OPM-led pooled hiring actions are a governmentwide hiring approach designed to allow multiple agencies to select from a single hiring action rather than each agency running separate announcements and creating individual or agency-specific certificates for the same occupation. The goal of these actions is to eliminate duplication of effort and resources, shorten the time-to-hire, improve the applicant experience, and increase the number of hires made from a single certificate. OPM uses this process for jobs filled under competitive examining procedures, direct hire authority (DHA), and when filling positions in the excepted service.

OPM, under its general authority governing admission of individuals into the executive branch of the civil service, may recruit and conduct examining for positions to be filled by multiple federal agencies. 5 U.S.C. 3301, 3302, and 3304. OPM-led pooled hiring actions utilize

one announcement, an assessment process in accordance with 5 U.S.C. 3304(a)(3), (c)(1) and (4), one common certificate, and enable multiple agencies to hire from the same talent pool. These actions are a common-certificate hiring strategy that leverages OPM's experience, efficiency, policy and examining expertise with respect to competitive examining, excepted service hiring procedures, or direct hire authority and applies this expertise to cross-agency hiring needs. The aim of these actions is to maximize hiring outcomes from a single recruitment effort. Key features of OPM-led pooled hiring rules include:

- OPM may recruit, screen applicants for minimum requirements and qualifications, and provide lists of applicants who meet these requirements to agencies which will conduct the technical assessment process and certify applicants;
- OPM may recruit, assess applicants for both minimum requirements and qualifications and technical qualifications, certify applicants for selection, and provide ready-made certificates to agencies from which to make selections;
- OPM may screen applicants for eligibility under the Career Transition Assistance Plan (CTAP), or the Interagency Career Transition Assistance Plan (ICTAP), or both, and provide lists of these eligibles to agencies;
- Allow agencies to apply the three-consideration rule in § 332.405, on certificates issued using numerical rating, such that a manager or selecting official in one agency may use/apply a decision by a hiring manager in another agency to remove applicants from further consideration;
- Allow a hiring manager in one agency to apply a pass over of a preference eligible veteran made by another hiring agency (or by OPM in the case of a preference eligible veteran with a thirty percent or more disability); and
- OPM may conduct these actions for hiring under competitive examining procedures, direct hire authority, or positions in the excepted service.

Both shared certificates and OPM-led pooled hiring actions create efficiencies within the hiring process, support merit system principles, and support several tenets of E.O. 14170 and the Merit Hiring Plan. The E.O. directed that “recruitment and hiring processes” become “more efficient and focused on serving the Nation.” Section I.D. of the Merit Hiring Plan speaks to “...the use of validated assessments, talent pools, and shared certificates.” The Merit Hiring Plan notes that “OPM has already begun this process by centralizing hiring actions for common occupations such as Budget Analysts, Human Resources Specialists, and Information Technology positions. This allows applicants to apply once for roles at many agencies and allow agencies to select qualified candidates from a single shared certificate.” The Merit Hiring Plan also states that, “Agencies should collaborate with OPM to identify hiring actions that will use shared certificates or lists of eligible candidates external to the agency as both the originating and receiving agency (such as pursuant to the Competitive Service Act of 2015 (5 U.S.C. §§ 3318-19) and other hiring authorities), so that OPM can assist in connecting agencies for the purposes of certificate sharing.” All of this supports Merit System Principles, which state, *inter alia*, “Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge and skills, after fair and open competition which assures that all receive equal opportunity.” 5 U.S.C. 2301(b)(1).

B. How OPM-Led Pooled Hiring Works in the Excepted Service (New Subpart F)

For the excepted service, new subpart F of part 302 authorizes OPM to issue excepted service certificates, permits agencies to make selections from those certificates in accordance with applicable law and regulation, and requires agencies to continue to meet all applicable requirements relating to priority reemployment and veterans’ preference, including those in §§ 302.103, 302.303, 302.304, and 302.401. Under § 302.603, OPM may recruit applicants, determine whether they meet minimum requirements and qualifications and provide lists of qualified applicants to agencies, while agencies remain responsible for conducting technical

assessments in accordance with the Merit Hiring Plan and 5 U.S.C. 3304(a)(3), (c)(1) and (4), preparing and issuing their own certificates under part 302, and applying existing mechanisms such as the three-consideration rule and pass-over procedures for preference eligibles, with notice to OPM so that OPM can notify all participating agencies when an applicant has been removed from further consideration. Section 302.604 permits OPM to create and issue one or more ready-made certificate(s) for pooled excepted service hiring and to establish policies governing the timeframe for agency selections, while retaining requirements that agencies satisfy all applicable priority reemployment and veterans' preference obligations and follow the three-consideration rule and pass-over procedures, with OPM informing all participating agencies when an applicant or veteran has been removed from further consideration.

Section-by-Section Analysis of Subpart F

Subpart F authorizes OPM to conduct pooled hiring for excepted service positions by recruiting applicants, determining their minimum qualifications, and providing lists or certificates that may be used by one or more agencies. Agencies retain responsibility for technical assessments, selections, and compliance with existing legal requirements, including priority reemployment, the three-consideration rule, and protections for preference eligibles.

Section 302.601 — General authority

Section 302.601 establishes that OPM may issue lists of qualified applicants to agencies, or excepted service certificates, that can be used by single or multiple agencies under part 302. It provides that agencies may conduct technical assessments and certification on lists of qualified applicants, or make selections from OPM-issued certificates consistent with applicable law and regulation, reinforcing that pooled hiring operates within existing statutory and regulatory hiring frameworks.

Section 302.602 — Definitions

Section 302.602 defines *OPM-led pooled hiring action* to mean a hiring approach under which OPM will 1) centrally recruit and provide agencies with lists of applicants who meet

minimum requirements and qualifications for hiring agencies to conduct the technical assessment, certification, and selection processes, or 2) centrally recruit, screen applicants for minimum requirements and qualifications, conduct the technical assessment and certification processes, and provide agencies with ready-made certificates of qualified applicants to make selections.

Section 302.603 — Lists of qualified applicants

Section 302.603 explains that OPM may recruit applicants and determine whether they meet minimum requirements and qualifications, then provide agencies with lists of qualified candidates. Agencies remain responsible for conducting technical assessments, issuing their own certificates, and ensuring that all requirements related to applicants eligible for priority reemployment (including those in §§ 302.103, 302.303, 302.304, and 302.401) are satisfied. Section 302.603 also permits agencies to apply the three-consideration rule under § 332.405, on certificates on which applicants were assigned numerical scores under § 302.302(b)(1), with a requirement to notify OPM so that OPM can inform all participating agencies when an applicant has been removed from further consideration under that rule. An agency may, but is not required to, consider an applicant who has already received three bona fide considerations by another agency; similarly, when an agency passes over a preference eligible and that pass over is sustained, it must notify OPM so that OPM can inform participating agencies that the veteran has been removed from further consideration, and any agency may—but is not required to—consider an applicant previously passed over under § 302.401 and the Delegated Examining Operations Handbook.

Section 302.604 — OPM-created certificates for pooled hiring

Section 302.604 authorizes OPM to issue one or more excepted service certificates for a given hiring instance under the procedures of part 302. When an agency uses an OPM-generated certificate, it may not reassess applicants for rating or ranking purposes, ensuring that OPM's central assessment governs how applicants are ordered on the certificate.

Section 302.604 further allows OPM to establish policies governing the timeframe within which an agency using an OPM certificate may make a selection, including any extensions. Agencies using these certificates must still meet all applicable requirements for applicants eligible for priority reemployment (referencing §§ 302.103, .303, .304, and .401), may apply the three-consideration rule with notice to OPM (so OPM can notify all participating agencies of removals from consideration), and must notify OPM when a pass over of a preference eligible is sustained so that OPM can remove the veteran from further consideration for all participating agencies, which may but are not required to consider such applicants thereafter.

C. How OPM-Led Pooled Hiring Works in the Competitive Service (§ 332.409)

For competitive service positions, new § 332.409 establishes parallel authority for OPM-led pooled hiring actions conducted under delegated examining procedures, permitting OPM to issue lists of qualified applicants or ready-made competitive service certificates for use by one or more agencies. Under paragraph (c), OPM may recruit applicants, determine whether they meet minimum qualifications, and provide agencies with lists of qualified applicants, including identifying applicants with ICTAP eligibility who must receive selection priority consistent with 5 CFR part 330, subpart G, before other applicants from an OPM-generated certificate. Participating agencies remain responsible for conducting technical assessments and issuing certificates under parts 332 and 337 and are required to satisfy all applicable Reemployment Priority List (RPL), CTAP, and ICTAP requirements before making selections.

Paragraph (d) authorizes OPM to issue one or more competitive certificates for a hiring instance and to establish policies specifying the timeframe within which agencies may make selections and any extensions, while providing agencies with ICTAP-eligible lists and requiring each agency to clear RPL and CTAP in accordance with 5 CFR part 330 before selecting from an OPM-generated certificate. As with the excepted service framework, agencies using pooled competitive examining certificates remain subject to the three-consideration rule and pass-over requirements for preference eligibles; agencies must notify OPM when invoking the three-

consideration rule or when a pass over is sustained, and OPM will notify all participating agencies when an applicant has been removed from further consideration, while allowing agencies discretion, consistent with law and the Delegated Examining Operations Handbook, to consider applicants who have received three bona fide considerations or been subject to a sustained pass over.

Analysis of § 332.409

Section 332.409 authorizes OPM to conduct pooled hiring for competitive service positions by issuing lists of qualified applicants or competitive service certificates that may be used by multiple agencies under delegated examining procedures. Agencies make selections from these OPM-issued certificates in accordance with existing law and regulation, while remaining responsible for technical assessments, their own certificates, and for clearing applicable Reemployment Priority List (RPL), CTAP, and ICTAP requirements before selecting from the pooled lists.

Paragraph (a): General authority

Paragraph (a) provides that OPM may issue lists of qualified applicants or competitive service certificates for use by one or more agencies operating under delegated examining procedures. It further states that agencies may make selections from these certificates consistent with applicable law and regulation, making clear that pooled hiring is an optional mechanism that functions within the existing competitive examining framework.

Paragraph (b): Definitions

Paragraph (b) defines OPM-led pooled hiring action to mean a hiring approach under which OPM will 1) centrally recruit and provide agencies with lists of applicants who meet minimum requirements and qualifications for hiring agencies to conduct the technical assessment, certification, and selection processes, or 2) centrally recruit, screen applicants for minimum requirements and qualifications, conduct the technical assessment and certification processes, and provide agencies with ready-made certificates of qualified applicants to make

selections. OPM at its discretion may provide agencies with lists of applicants eligible under 5 CFR part 330, subpart F, subpart G, or both.

Paragraph (c): Lists of qualified applicants

Paragraph (c) explains that OPM may recruit applicants, determine minimum qualifications, and provide agencies with lists of qualified applicants. As part of this pooled process, OPM will provide agencies with a list of applicants with ICTAP eligibility, who must be selected before other applicants from the OPM-generated certificate, consistent with 5 CFR part 330, subpart G.

Participating agencies remain responsible for conducting technical assessments and issuing certificates under this part and part 337, and must satisfy all applicable requirements related to RPL, CTAP, and ICTAP before making selections. The paragraph also allows an agency to apply the three-consideration rule under § 332.405, on certificates issued under § 332.402, with an obligation to notify OPM so that OPM can inform all participating agencies when an applicant has been removed from further consideration; agencies may, but are not required to, consider applicants who have already received three bona fide considerations by another agency, and similarly must notify OPM when a pass over of a preference eligible is sustained so that OPM can notify participating agencies and remove the veteran from further consideration, while leaving each agency the discretion to consider applicants previously passed over under § 332.406 and the Delegated Examining Operations Handbook.

Paragraph (d): OPM-created certificates for pooled hiring

Paragraph (d) authorizes OPM to issue one or more competitive certificates for a hiring instance under delegated examining procedures. When an agency uses an OPM-generated certificate, it may not reassess applicants for rating or ranking, ensuring that OPM's assessment governs the order of candidates.

Paragraph (d) also permits OPM to establish policies specifying the timeframe within which agencies using an OPM certificate may make selections, including any extensions. In

addition, OPM will provide agencies with a list of ICTAP-eligible applicants who must be selected before other applicants from the OPM-generated certificate, and each agency must clear RPL and CTAP before selecting from the certificate, while still being able to invoke the three-consideration rule on certificates issued under § 332.402 and to follow pass-over procedures for preference eligibles—again with notice to OPM so that it can inform all participating agencies and remove such applicants from further consideration, while allowing agencies the discretion to consider applicants who have been subject to three considerations or a sustained pass over.

D. OPM-Issued Direct Hire Certificates (§ 337.206)

OPM is also adding a new § 337.206 to subpart B of part 337, and redesignating existing § 337.206 (Terminations, modifications, extensions, and reporting) as § 337.207, to address OPM-issued certificates used in connection with direct hire authority as part of OPM-led pooled hiring. Paragraph (a) authorizes OPM to issue direct hire certificates in conjunction with any direct hire authority authorized under subpart B of part 337. Paragraph (b) requires OPM to provide participating agencies information concerning applicants entitled to priority consideration under 5 CFR part 330, subpart G, who applied to the pooled announcement, and requires each agency to provide those applicants selection priority in accordance with that subpart. Paragraph (c) requires each agency using an OPM-issued direct hire certificate to satisfy its Reemployment Priority List and Career Transition Assistance Plan obligations under 5 CFR part 330, subparts B and F, before making a selection from the certificate. Paragraph (d) provides that agencies may not assess applicants for purposes of determining relative qualifications through rating and ranking, consistent with the limitations on assessment applicable under direct hire authority, but may select among qualified candidates on the basis of relative qualifications. Paragraph (e) provides that these requirements apply to OPM-issued direct hire certificates notwithstanding § 337.201(a).

Paragraph (d)'s two clauses reflect the distinction, inherent in the direct-hire framework, between assessment and selection. Under 5 U.S.C. 3304(b)(3), direct-hire appointments are made

without regard to 5 U.S.C. 3309 through 3318, the provisions governing numerical rating, additional points for preference eligibles, and certification of eligibles in rank order. Because those provisions do not apply, agencies using direct-hire authority may not rate and rank applicants: assigning scores, categories, or ordinal standing would reconstruct a competitive-examining process without the preference and certification safeguards that ordinarily accompany one, and paragraph (d) carries that assessment-stage limitation forward for OPM-issued direct-hire certificates.

That limitation, however, has sometimes been misread to require selecting officials to treat every qualified candidate as interchangeable, as though any job-related comparison at the point of selection were forbidden. Neither 5 U.S.C. 3304(b)(3) nor subpart B of part 337 compels that result: the statute lifts the examining procedures of sections 3309 through 3318; it does not direct agencies to disregard merit when choosing among qualified candidates. Paragraph (d) therefore makes explicit that, once qualifications have been established, a selecting official may weigh the relative qualifications of qualified candidates—for example, depth and relevance of experience, education, and demonstrated competencies—in making a selection.

A selection-stage comparison of this kind is not rating and ranking within the meaning of paragraph (d): it assigns no scores, establishes no ordered register or certificate, occurs only after the certificate has been issued, and creates no entitlement to selection in any particular order. This clarification harmonizes direct-hire procedures with the merit system principle that selection should be determined on the basis of relative ability, knowledge, and skills (5 U.S.C. 2301(b)(1)) and with the direction of E.O. 14170 and the Merit Hiring Plan that agencies select the best-qualified candidates, while preserving the streamlined character of direct hiring that 5 U.S.C. 3304(b)(3) is designed to provide.

VI. Regulatory Analysis

A. Statement of Need

OPM is issuing this interim rule to implement the provisions of E.O. 14170, the Merit Hiring Plan, and 5 U.S.C. 2301(b)(5). These provisions emphasize efficiency and an effective use of the federal workforce. The modifications to the shared certificates provisions are responsive to agency feedback on the limitations of current § 332.408. This interim rule is needed to reinvigorate the use of shared certificates, broaden its applicability to excepted service hiring, and attune these rules with the Merit Hiring Plan and the Chance to Compete Act, 5 U.S.C. 3304(a) and (c). The OPM-led pooled hiring provisions memorialize current OPM hiring practices thereby creating transparency and consistency for high-demand occupations or those common across federal agencies. Pooled hiring actions enable a more efficient and effective hiring system. They eliminate duplication and variation of outcomes for the same hiring need across government and provide agencies with ready-made lists of applicants from which to make selections. They increase efficiency and expedite the hiring process by increasing the number of selections made from one certificate.

B. Impact

OPM is issuing these provisions to improve the efficiency and effectiveness of hiring across the federal landscape. OPM-led hiring actions leverage OPM's extensive expertise with respect to examining while alleviating agencies from having to replicate the process for the same hiring action. This will result in economies of scale when it comes to filling the same high-demand positions across government. Another impact will be that this approach reduces the time to hire. Agencies are provided ready-made certificates and pools of qualified applicants from which to make selections or conduct technical assessments and certify candidates. Applicants need only apply one time to the original job announcement or notification and can be considered by multiple agencies instead of applying to each agency separately. All of these outcomes will mean a more effective, twenty-first century hiring process for agencies and applicants.

These provisions are expected primarily to improve efficiency and consistency in Federal hiring while preserving existing protections and priority programs for affected applicants. The impact of this rule is as follows:

Expected operational impacts

- Centralized recruitment and preliminary qualification screening by OPM should reduce duplicative agency recruiting efforts and help agencies access broader, shared pools of qualified applicants for excepted and competitive service positions.
- Use of OPM-generated lists and certificates for multiple agencies is expected to shorten time-to-hire and support more consistent application of qualification standards and rating and ranking procedures.
- Agencies will retain responsibility for technical assessments and selections, so any changes to internal workflows are expected to be incremental and focused on integrating OPM-issued lists and certificates into existing hiring processes.

Impacts on preference and priority candidates

- The provisions are designed to maintain, rather than reduce, protections for preference eligibles and applicants covered by priority and transition programs.
- Agencies must continue to satisfy all applicable requirements related to priority reemployment (for excepted service) and RPL, CTAP, and ICTAP (for competitive service) before making selections, and OPM will identify ICTAP-eligible applicants who must be selected in accordance with 5 CFR part 330.
- Existing veterans' preference protections, including the pass-over procedures for preference eligibles and the three-consideration rule, remain in place, with additional coordination through OPM notification to ensure that all participating agencies act consistently when an applicant is removed from further consideration.

Impacts on agencies and applicants

- For agencies, the pooled hiring model is expected to provide greater flexibility and access to ready candidate pools, potentially improving the speed and quality of hiring decisions without imposing fundamentally new obligations beyond integrating OPM-led processes and notification requirements.
- For applicants, the ability for multiple agencies to use shared OPM-generated lists and certificates may increase opportunities for consideration across agencies from a single application, while ensuring that those subject to priority and preference rules continue to receive the protections required by statute and regulation.

C. Regulatory Alternatives

OPM considered minor regulatory changes to current rules at 5 CFR 332.408. We determined this approach did not support Merit System Principles and the Administration initiatives mentioned above. OPM opted for a more expansive approach aimed at producing a more efficient and effective hiring system for federal agencies, job applicants, and taxpayers. We determined the wording in 5 U.S.C. 3301, 3302, and 3320 allows us to expand the use of shared certificates under the Competitive Service Act of 2015, as amended, for positions filled in the excepted service using rating or ranking selection methods.

As OPM's use of pooled hiring actions has grown, we believe there is benefit to memorializing in regulation the provisions which govern this approach. This provides for a standardized and transparent system of rules to the benefit of hiring agencies and applicants. Under these provisions, applicants essentially apply once and become part of a pool of talent available for consideration by several federal agencies. Agencies are able to access candidates who have already been assessed and found qualified for similar positions, grades, and locations. This eliminates duplication of effort and resources. OPM determined the benefits of regulating far outweigh the alternative.

D. Costs

This interim rule will affect the operations of over 80 Federal agencies—ranging from

cabinet-level departments to small independent agencies. OPM will provide guidance on implementing this rule in various forms: fact sheets, frequently asked questions, and podcasts. OPM estimates that this rulemaking will require individuals employed by these agencies to train human resources (HR) practitioners and hiring managers on its use. For this cost analysis, OPM assumed an average salary rate of Federal employees performing this work using the rate in 2025 for GS-14, step 5, from the Washington, DC, locality pay table (\$161,486 annual locality rate and \$77.38 hourly locality rate). We assumed that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$154.76 per hour. To comply with the regulatory changes in the interim rule, affected agencies will need to review the rule and update their policies and procedures where necessary. We estimate that, in the first year following publication of the interim rule, doing so will require an average of 100 hours of work by employees per agency with an average hourly cost of \$154.76. This work would result in estimated costs in that first year of implementation of about \$15,476 per agency, and about \$1,238,080 in total governmentwide. In addition, OPM estimates that agencies will train human resources practitioners and hiring managers on these procedures, as contemplated by the guidance OPM will issue with this rule; assuming approximately 10,000 individuals governmentwide require an average of 2 hours of training at the same loaded hourly rate of \$154.76, first-year training costs are approximately \$3,095,200. OPM further estimates that agencies will update staffing-system configurations, applicant-notification templates, and case-file procedures to accommodate shared and OPM-issued certificates, at an average of 40 hours per agency, or approximately \$495,232 governmentwide. Total estimated first-year costs are therefore approximately \$4.8 million. OPM invites comment, accompanied by data, on these estimates. Some agencies may incur additional costs because they have to establish excepted service employment policies where none existed. We do not believe this rulemaking will substantially increase the ongoing administrative costs to agencies (including the administrative costs of using these new procedures and training new staff) because

the rulemaking streamlines existing procedures and processes.

E. Benefits

The benefits of the interim rule are many. This interim rule supports Administration efforts to improve hiring processes across federal agencies. These rules will prevent agencies from "reinventing the wheel" for every job opening, which will reduce the time to hire and allow agencies to tap into existing pools of top-tier talent. By streamlining the hiring process, these rules make federal hiring more efficient and beneficial for hiring agencies and applicants.

F. Severability

If any provision of the interim sections or its application to any person, act, or practice is held invalid, the remainder of the subpart or the application of its provisions to any person, act, or practice shall not be affected thereby.

VII. Waiver of Notice of Proposed Rulemaking

Section 2(d) of Public Law 114–137, the Competitive Service Act of 2015 ("CSA"), directs that "the Director of the Office of Personnel Management shall issue an interim final rule with comment to carry out the amendments made by this section." On January 18, 2017, OPM published an interim final rule to implement the amendments made by the CSA. Based on experience with the rule, these amendments to § 332.408 and related provisions of part 332 governing shared use of competitive service certificates are issued as an interim final rule with comment pursuant to this express statutory directive, and the general notice-and-comment requirement of 5 U.S.C. 553(b) is statutorily waived as to those provisions.

With respect to the new framework for shared use of excepted service certificates (5 CFR part 302, subpart E) and OPM-led pooled hiring actions (§§ 302.601 and 332.409), which are not amendments compelled by the CSA, OPM separately finds good cause under 5 U.S.C. 553(b)(B) to issue these provisions without prior notice of proposed rulemaking. OPM currently uses pooled hiring approaches and coordinated excepted-service referral practices administratively, and agencies have structured ongoing and planned hiring actions — including centralized hiring

for Budget Analyst, Human Resources Specialist, and Information Technology positions referenced in the Merit Hiring Plan — around the expectation that these practices will continue without interruption. Requiring a delay for notice and comment before formalizing these existing practices in regulation would be impracticable and contrary to the public interest, because it would create uncertainty for agencies and applicants currently relying on these hiring mechanisms and could require unwinding hiring actions already underway.

OPM-led pooled hiring actions are in active use for occupations common across the Government, with announcements open, certificates outstanding, and applicants awaiting selection as of the date of this rule. Interposing a notice-and-comment cycle before these provisions take effect would suspend or cast doubt on selections from those certificates, prejudice applicants who applied in reliance on the announced process, and delay the filling of high-need positions; those results would be impracticable to administer and contrary to the public interest.

In addition, these provisions are procedural and organizational in character: they govern the internal mechanics by which OPM and Federal agencies refer, share, and act upon lists and certificates of eligibles, and they impose no new substantive burden on applicants, whose rights—including veterans' preference, priority reemployment, and career transition protections—are preserved in full.

Accordingly, OPM has also concluded that these provisions fall within the exception for rules of agency organization, procedure, or practice under 5 U.S.C. 553(b)(A), which independently permits issuance without prior notice and comment. Codifying these existing practices now, rather than only after a comment cycle, also serves the public interest by providing applicants and agencies immediately with the transparency and uniformity of published rules. OPM is nonetheless requesting public comment on all provisions of this interim rule, including the excepted-service and pooled-hiring provisions, and will consider all comments received in determining whether to modify these provisions in a subsequent final rule.

VIII. Regulatory Compliance

1. Regulatory Review

OPM has examined the impact of this rule as required by E.O.s 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if a 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 rules that have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rulemaking does not reach that threshold but has otherwise been designated as a “significant regulatory action” under section 3(f) of E.O. 12866, as supplemented by E.O. 13563. This rulemaking is not considered an E.O. 14192 regulatory action because it imposes no more than de minimis costs.

2. Regulatory Flexibility Act

The Director of the Office of Personnel Management certifies that this regulation will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies and employees.

3. Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no Federalism Assessment is required.

4. Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

5. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that

agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

6. Congressional Review Act

OMB's Office of Information and Regulatory Affairs has determined this rule does not meet the criteria for a "major rule" as defined in 5 U.S.C. 804(2).

7. Paperwork Reduction Act (PRA)

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995, as amended, (44 U.S.C. 3501 et seq.), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

List of Subjects

5 CFR Part 302

Government employees, Reporting and recordkeeping requirements.

5 CFR Part 332

Government employees.

5 CFR Part 337

Government employees, Veterans.

Signing Statement

The Director of OPM, Scott Kuper, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

U.S. Office of Personnel Management

Jerson Matias
Federal Register Liaison

Accordingly, for the reasons stated in the preamble, OPM amends 5 CFR parts 302, 332, and 337 as follows:

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

1. The authority citation for part 302 continues to read as follows:

Authority: 5 U.S.C. 1103, 1302, 3301, 3302, 3318, 3320, 8151, and E.O. 10577, 3 CFR 1954–1958 Comp., p. 218, unless otherwise noted.

Subpart E—Appeals [Redesignated as Subpart G]

§ 302.501 [Redesignated]

2. Redesignate subpart E as subpart G and § 302.501 as § 302.701.

3. Add a new subpart E to read as follows:

Subpart E—Shared Use of Excepted Service Certificates

Sec.

302.501 General authority.

302.502 Requirements for the original hiring agency.

302.503 Requirements for receiving agencies.

§ 302.501 General authority.

(a) Certificate has the meaning given in § 332.102 of this chapter.

(b) A hiring agency may share an excepted service certificate issued for filling positions under Schedules D and Policy/Career with one or more Federal agencies for positions to be filled on a permanent or time-limited basis. Positions filled on a time-limited basis are subject to §

213.104 of this chapter. Positions may be full-time or other than full-time, including part-time, seasonal, on-call, and intermittent positions.

(c) All actions taken on a shared excepted service certificate must occur within 240 days after the date on which the original hiring agency issued the certificate. This period may not be extended.

(d) The original hiring agency and any receiving agency using a shared excepted service certificate must maintain sufficient documentation to reconstruct their respective use of the certificate and must safeguard examination materials, assessment materials, examination results, assessment results, and applicant information in accordance with § 300.201 of this chapter.

(e) All actions taken on a shared excepted service certificate must comply with this part.

(f) Agencies sharing excepted service certificates must keep records of the instances of sharing these certificates and/or using shared excepted service certificates.

§ 302.502 Requirements for the original hiring agency.

(a) An original hiring agency may share an excepted service certificate issued under § 302.302 with one or more receiving agencies if:

(1) The original hiring agency intends to use the excepted service certificate for its own hiring needs;

(2) The original hiring agency informed applicants that the resulting excepted service certificate may be used by one or more hiring agencies;

(3) The original hiring agency provided applicants an opportunity to opt-in to have their applications and other personal information shared with one or more hiring agencies;

(4) The original hiring agency's objections to eligibles or requests to pass over preference eligibles have been resolved in accordance with subpart D of this part, or by OPM in the case of a disabled veteran with a thirty percent or more service-connected disability. The original hiring agency must notate on the excepted service certificate next to the name of any preference eligible veteran whom the agency successfully passed over;

(5) The original hiring agency either made a selection from the excepted service certificate or documented its reason for making no selection; and

(6) The original hiring agency determined that sharing the excepted service certificate complies with this part and any applicable agency policy.

(b) The original hiring agency may apply the three-consideration rule in § 332.405 during its use of an excepted service certificate on which applicants were assigned numerical scores under § 302.302(b)(1) and remove candidates from consideration accordingly. The three-consideration rule does not apply to an excepted service certificate on which applicants were placed in quality categories under § 302.302(b)(2). Before sharing the certificate with another agency, the original hiring agency must notate the certificate next to the name of any applicant removed from consideration under § 332.405. For purposes of this subpart, § 332.405 applies as if the position were being filled in the competitive service.

(c) When sharing an excepted service certificate, the original hiring agency must share all documentation pertaining to the creation of that certificate, including but not limited to the job analysis, testing and examination materials, the job opportunity announcement or applicable public notification, and applications, as relevant, and must safeguard any personally identifiable information not needed for effective use of the certificate by the receiving agency. The original hiring agency may share the assessment scores of certified applicants. The original hiring agency must share the excepted service certificate of eligibles in its original form in order to retain the original ordering of the certificate; must safeguard any personally identifiable information from unauthorized access during the transmission process; and must redact the names of applicants who did not opt-in to the shared certificate, and who therefore may not be considered by the receiving agency.

(d) The original hiring agency may share an excepted service certificate of eligibles with one or more agencies, one agency at a time or multiple agencies simultaneously.

(e) If the original hiring agency determines that it has made an error that may affect selections by a receiving agency or agencies, it must notify each affected receiving agency.

§ 302.503 Requirements for receiving agencies.

(a) *Eligible vacancies.* A receiving agency may use a shared excepted service certificate to fill a vacancy in the same occupational series, at the same grade level (or corresponding rate or level of pay for a position excluded from the General Schedule) with the same full-performance level, and in the same duty location as was listed on the original hiring agency's certificate. If the original hiring agency's excepted service certificate is for an interdisciplinary position as described in the *Delegated Examining Operations Handbook*, the receiving agency may use it to fill an interdisciplinary position. The receiving agency must verify through its job analysis that the minimum qualification requirements (including use of any selective placement factors) and the competencies, or knowledge, skills, and abilities, that were used for the original position are appropriate for the position to be filled.

(b) *Notification to applicants.* Before using a shared excepted service certificate, a receiving agency must notify eligible applicants who opted-in that it has received their names and application materials and intends to consider them for employment. The notification must identify the agency, position title, occupational series, grade level or equivalent, and duty location.

(c) *Limitations.* (1) Nothing in this paragraph affects agencies' right to fill a position from any appropriate source under §§ 330.102 and 335.103 of this chapter.

(2) Before considering other candidates, a receiving agency must first provide for the consideration for selection required for individuals entitled to priority consideration under §§ 302.303 and 302.304.

(d) *Selection from the shared certificate.* A receiving agency may consider candidates referred on the shared excepted service certificate.

(1) A receiving agency may, but is not required to, consider any applicant designated on the certificate as being passed over under § 302.502(a)(4), or as having received three bona fide considerations under § 302.502(b).

(2) The receiving agency may not reassess the applicants for purposes of rating/ranking.

(e) *Time limit on selection.* The receiving agency has 240 days from the date the certificate was issued (in the original hiring agency) to select individuals from the shared excepted service certificate.

(f) *Limit on further sharing by the receiving agency.* The receiving agency may not share or distribute the shared certificate to another Federal agency.

4. Add subpart F to read as follows:

Subpart F—OPM-Led Pooled Hiring Actions

Sec.

302.601 General authority.

302.602 Definitions.

302.603 Lists of qualified applicants.

302.604 OPM-created certificates for pooled hiring.

§ 302.601 General authority.

(a) OPM may issue lists of qualified applicants for which agencies shall conduct technical assessments and certify applicants for selection, to one or more agencies under this part; or

(b) OPM may issue excepted service certificates to one or more agencies which may make selections in accordance with this part.

§ 302.602 Definitions.

In this subpart:

Certificate has the meaning given in § 332.102 of this chapter.

OPM-led pooled hiring action means a hiring approach under which OPM will 1) centrally recruit and provide agencies with lists of applicants who meet minimum requirements and qualifications for hiring agencies to conduct the technical assessment, certification, and

selection processes, or 2) centrally recruit, screen applicants for minimum requirements and qualifications, conduct the technical assessment and certification processes, and provide agencies with ready-made excepted service certificates of qualified applicants to make selections.

Participating agency means an agency that receives a list of qualified applicants or an excepted service certificate from OPM under this subpart for a given OPM-led pooled hiring action.

§ 302.603 Lists of qualified applicants.

(a) OPM may recruit applicants, determine minimum qualifications, and provide lists of qualified applicants to agencies.

(b) Agencies are responsible for conducting technical assessments and issuing excepted service certificates in accordance with this part.

(c) Agencies must satisfy all applicable requirements pertaining to applicants eligible for priority consideration in accordance with §§ 302.103, 302.303, 302.304, and 302.401.

(d) An agency may apply the three-consideration rule under § 332.405 of this subchapter to an excepted service certificate on which applicants were assigned numerical scores under § 302.302(b)(1) and must notify OPM when doing so. The three-consideration rule does not apply to an excepted service certificate on which applicants were placed in quality categories under § 302.302(b)(2). OPM will notify all participating agencies when an applicant has been removed from further consideration under the three-consideration rule. An agency may, but is not required to, consider any applicant who received three bona fide considerations from another agency in accordance with § 332.405 of this subchapter and identified as such by OPM. For purposes of this subpart, § 332.405 of this subchapter applies as if the position were being filled in the competitive service.

(e) An agency which passes over a preference eligible must notify OPM when the pass-over is sustained. OPM will notify all participating agencies when a pass-over request has been

sustained, and the veteran is removed from further consideration. An agency may, but is not required to, consider any applicant notified that he or she was being passed over by another agency in accordance with § 302.401(b), the Delegated Examining Operations Handbook, and identified as such by OPM.

§ 302.604 OPM-created certificates for pooled hiring.

(a) OPM may issue one or more excepted service certificates for a hiring instance under the procedures of this part.

(b) An agency using an OPM-generated excepted service certificate may not reassess applicants for purposes of rating or ranking.

(c) OPM may establish a policy for the timeframe within which an agency using a certificate may make a selection, and any extensions to this timeframe.

(d) Agencies must satisfy all applicable requirements pertaining to applicants eligible for priority consideration in accordance with §§ 302.103, 302.303, 302.304, and 302.401.

(e) An agency may apply the three-consideration rule under § 332.405 of this subchapter to an excepted service certificate on which applicants were assigned numerical scores under § 302.302(b)(1) and must notify OPM when doing so. The three-consideration rule does not apply to an excepted service certificate on which applicants were placed in quality categories under § 302.302(b)(2). OPM will notify all participating agencies when an applicant has been removed from further consideration under the three-consideration rule. A participating agency may, but is not required to, consider any applicant who received three bona fide considerations from another agency in accordance with § 332.405 and identified as such by OPM.

(f) An agency which passes over a preference eligible must notify OPM when the pass-over is sustained. OPM will notify all participating agencies when a pass-over request has been sustained, and the veteran is removed from further consideration. An agency may, but is not required to, consider any applicant notified that he or she was being passed over by another

agency in accordance with § 302.401(b), the Delegated Examining Operations Handbook, and identified as such by OPM.

PART 332—RECRUITMENT AND SELECTION THROUGH COMPETITIVE EXAMINATION

5. The authority citation for part 332 continues to read as follows:

Authority: 5 U.S.C. 1103, 1104, 1302, 2108, 3301, 3302, 3304, 3312, 3317, 3318, 3319; sec. 2(d), Pub. L. 114-137, 130 Stat. 310; E.O. 10577, 19 FR 7521, 3 CFR 1954-1958 Comp., p. 218.

6. Amend § 332.405 by revising paragraph (d) to read as follows:

§ 332.405 Three considerations for appointment.

* * * * *

(d) *Applicability.* The three considerations rule applies only to a certificate of eligibles issued under § 332.402. The rule does not apply to a certificate of eligibles issued under § 337.303 of this chapter.

7. Revise § 332.408 to read as follows:

§ 332.408 Shared use of a competitive certificate.

(a) *General authority.* (1) A hiring agency may share a competitive service certificate issued under its delegated examining authority with one or more hiring agencies for a position(s) to be filled on a permanent or term basis. Positions filled on a term basis are subject to the provisions of 5 CFR part 316, subpart C. Positions may be full-time or other than full-time (*i.e.*, part-time, seasonal, on-call, and intermittent).

(2) Another Federal agency may make a selection from a certificate shared with it under paragraph (b) of this section only after it has considered individuals it is required to consider when filling positions from within its own workforce and other internal applicants under paragraph (c) of this section.

(3) All actions taken on a shared certificate must be made within the 240-day period beginning on the date the original hiring agency issued the certificate of eligibles. This period cannot be extended.

(4) The original hiring agency and any receiving agency using a shared certificate must each maintain case file documentation sufficient for each agency to reconstruct its own use of the certificate in accordance with the *Delegated Examining Operations Handbook*, and must safeguard testing and examination materials, examination results, and the names of applicants from disclosure to other persons in accordance with § 300.201 of this chapter.

(5) All actions taken on competitive certificates must be done in accordance with the *Delegated Examining Operations Handbook* and all applicable regulations in this part and part 337 of this chapter.

(6) Agencies sharing certificates must keep records of the instances of sharing certificates and/or using shared certificates.

(b) *Requirements for the original hiring agency.* (1) A hiring agency may share a competitive certificate it has issued under § 332.402 (for traditional rating and ranking) or under 5 CFR 337.303 (for category rating) with one or more hiring agencies for use in filling a position(s) if:

(i) The original hiring agency intends to use the certificate for its own hiring;

(ii) The original hiring agency has provided notice within the job opportunity announcement for the original vacancy that the resulting list of eligible candidates may be used by one or more hiring agencies;

(iii) The original hiring agency provided an opportunity for applicants to opt-in to have their applications and other personal information shared with one or more hiring agencies;

(iv) The original hiring agency's objections to eligibles or requests to pass over preference eligibles on the certificate under § 332.406 or § 337.304 of this chapter have been resolved by that agency's Delegated Examining Unit, or by OPM in the case of a disabled

veteran with a thirty percent or more service-connected disability. The original hiring agency must notate on the certificate next to the name of any preference eligible veteran whom the agency successfully passed over.

(v) The original hiring agency has either made a selection from the certificate or has made no selection from the certificate, and has documented its reason for non-selection; and

(vi) The Delegated Examining Unit of the original hiring agency has closed and audited the certificate in accordance with the procedures in the *Delegated Examining Operations Handbook*.

(2) The original hiring agency may apply the three-consideration rule in § 332.405 during its use of a certificate issued under § 332.402 and remove candidates from consideration accordingly. The three-consideration rule does not apply to a certificate issued under § 337.303 of this chapter. Before sharing the certificate with another agency, the original hiring agency must notate the certificate next to the name of any applicant removed from consideration under § 332.405.

(3) When sharing a certificate of eligibles, the original hiring agency must share all documentation pertaining to the creation of that certificate, including but not limited to the job analysis, testing and examination materials, the job opportunity announcement, and applications, as relevant, and must safeguard any personally identifiable information not needed for effective use of the certificate by the receiving agency. The original hiring agency may share the assessment scores of certified applicants. The original hiring agency must share the certificate of eligibles in its original form in order to retain the original ordering of the certificate; must safeguard any personally identifiable information from unauthorized access during the transmission process; and must redact the names of applicants who did not opt-in to the shared certificate, and who therefore may not be considered by the receiving agency.

(4) The original hiring agency may share a certificate of eligibles with one or more agencies, one agency at a time or multiple agencies simultaneously.

(5) If the original hiring agency determines that it has made an error that may affect selections by a receiving agency or agencies, it must notify each affected receiving agency.

(c) *Requirements for the receiving agency* —(1) *Vacancies that may be filled.* A receiving agency may use a shared certificate to fill a vacancy in the same occupational series, at the same grade level (or a corresponding rate or level of pay for a position excluded from the General Schedule), with the same full performance level, and in the same duty location as was listed on the original hiring agency's certificate. If the original hiring agency's certificate is for an interdisciplinary position as described in the *Delegated Examining Operations Handbook*, the receiving agency may use it to fill an interdisciplinary position. The receiving agency must verify through its job analysis that the minimum qualification requirements (including use of any selective placement factors) and the competencies, or knowledge, skills, and abilities, that were used for the original position are appropriate for the position to be filled.

(2) *Notification to individuals who applied to the original vacancy.* Before using a shared certificate, a receiving agency must notify the list of candidates of its receipt of their names and application materials and its intention of considering them for a position. The receiving agency must also inform these individuals of its requirement to consider its own employees as well as other individuals the agency is required to consider pursuant to 5 CFR part 330, subparts B and F, before consideration of anyone on the shared certificate. At a minimum, the notification must include the agency, position title, series, grade level or equivalent, and duty location.

(3) *Consideration of internal candidates.* Before making a selection from a shared certificate, a receiving agency must provide notice of its intent to fill the available position(s) to its own employees and other individuals the agency is required to consider, to provide these internal candidates the opportunity to apply consistent with the provisions of part 335 of this chapter, and to review the qualifications of the internal candidates.

(i) Nothing in this paragraph affects agencies' right to fill a position from any appropriate source under §§ 330.102 and 335.103 of this chapter.

(ii) Agencies are prohibited from providing an application period any longer than 10 business days for internal candidates. This time limit cannot be waived or extended.

(iii) Before considering other candidates, a receiving agency must first provide for the consideration for selection required for individuals covered under its Reemployment Priority List and its Career Transition Assistance Plan under part 330, subparts B and F, of this chapter.

(4) *Selection from the shared certificate.* After considering internal candidates, a receiving agency may consider candidates referred on the shared certificate.

(i) Except as provided in paragraph (c)(4)(ii) of this section, the receiving agency must consider candidates on a shared certificate independently of the actions of any other agency with which the certificate is simultaneously shared under paragraph (b)(4) of this section.

(ii) The receiving agency may, but is not required to, consider any applicant designated on the certificate as being passed over under paragraph (b)(1)(iv) of this section, or as having received three bona fide considerations under paragraph (b)(2) of this section.

(iii) The receiving agency may not reassess the applicants for purposes of rating/ranking.

(iv) The receiving agency must provide selection priority to individuals eligible under the Interagency Career Transition Assistance Plan under part 330, subpart G, of this chapter, who applied to the original job announcement.

(5) *Time limit on selection from a shared certificate.* The receiving agency has 240 days from the date the certificate was issued (in the original hiring agency) to select individuals from the shared certificate.

(6) *Limit on further sharing by the receiving agency.* The receiving agency may not share or distribute the shared certificate to another Federal agency.

8. Add § 332.409 to read as follows:

§ 332.409 OPM-led pooled hiring actions for competitive examining.

(a) *General authority.*(1) OPM may issue lists of qualified applicants or competitive service certificates for use by one or more agencies under delegated examining procedures.

(2) Agencies may conduct technical assessments and certify applicants on lists of qualified applicants or make selections from certificates issued under this section in accordance with applicable law and regulation.

(b) *Definitions.* The following terms apply to this section:

OPM-led pooled hiring action means a hiring approach under which OPM will:

(1) Centrally recruit and provide agencies with lists of applicants who meet minimum requirements and qualifications for hiring agencies to conduct the technical assessment, certification, and selection processes; or

(2) Centrally recruit, screen applicants for minimum requirements and qualifications, conduct the technical assessment and certification processes, and provide agencies with ready-made certificates of qualified applicants to make selections. OPM at its discretion may provide agencies with lists of applicants eligible under 5 CFR part 330, subpart F, subpart G, or both.

Participating agency means an agency that receives a list of qualified applicants or a competitive service certificate from OPM under this section for a given OPM-led pooled hiring action.

(c) *Lists of qualified applicants.* (1) OPM may recruit applicants, determine minimum qualifications, and provide lists of qualified applicants to agencies.

(i) OPM will provide agencies with a list of eligible applicants with Interagency Career Transition Assistance Plan (ICTAP) eligibility who must be selected before other applicants from the OPM-generated certificate in accordance with 5 CFR part 330, subpart G.

(2) Participating agencies are responsible for conducting technical assessments and issuing certificates in accordance with this part and part 337 of this chapter.

(3) Agencies must satisfy all applicable requirements relating to Reemployment Priority List (RPL), Career Transition Assistance Plan (CTAP), and ICTAP before making selections.

(4) An agency may apply the three-consideration rule under § 332.405 to a certificate issued under § 332.402 and must notify OPM when doing so. The three-consideration rule does

not apply to a certificate issued under § 337.303 of this chapter. OPM will notify all participating agencies when an applicant has been removed from further consideration under the three-consideration rule. An agency may, but is not required to, consider any applicant who received three bona fide considerations from another agency in accordance with § 332.405 and identified as such by OPM.

(5) An agency which passes over a preference eligible must notify OPM when the pass-over is sustained. OPM will notify all participating agencies when a pass-over request has been sustained, and the veteran is removed from further consideration. An agency may, but is not required to, consider any applicant notified that he or she was being passed over by another agency in accordance with § 332.406, the Delegated Examining Operations Handbook, and identified as such by OPM.

(d) *OPM-created certificates for pooled hiring.* (1) OPM may issue one or more competitive certificates for a hiring instance under delegated examining procedures.

(2) An agency using an OPM-generated certificate may not reassess applicants for purposes of rating or ranking.

(3) OPM may establish a policy for the timeframe within which an agency using a certificate may make a selection, and any extensions to this timeframe.

(4) OPM will provide agencies with a list of ICTAP-eligible applicants who must be selected before other applicants from the OPM-generated certificate in accordance with 5 CFR part 330, subpart G.

(5) Each agency using the certificate must clear RPL and CTAP before making a selection from the certificate in accordance with 5 CFR part 330, subparts B and F.

(6) An agency may apply the three-consideration rule under § 332.405 to a certificate issued under § 332.402 and must notify OPM when doing so. The three-consideration rule does not apply to a certificate issued under § 337.303 of this chapter. OPM will notify all participating agencies when an applicant has been removed from further consideration under the three-

consideration rule. A participating agency may, but is not required to, consider any applicant who received three bona fide considerations from another agency in accordance with § 332.405 and identified as such by OPM.

(7) An agency which passes over a preference eligible must notify OPM when the pass over is sustained. OPM will notify all participating agencies when a pass over request has been sustained, and the veteran is removed from further consideration. An agency may, but is not required to, consider any applicant notified that he or she was being passed over by another agency in accordance with § 332.406, the Delegated Examining Operations Handbook, and identified as such by OPM.

PART 337—EXAMINING SYSTEM

9. The authority citation for part 337 continues to read as follows:

Authority: 5 U.S.C. 1104(a), 1302, 2302, 3301, 3302, 3304, 3319, 5364; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; 33 FR 12423, Sept. 4, 1968; and 45 FR 18365, Mar. 21, 1980; 116 Stat. 2135, 2290; 117 Stat. 1392, 1665; and E.O. 13833.

§ 337.206 [Redesignated]

10. Redesignate § 337.206 as § 337.207.

11. Add a new § 337.206 to read as follows:

§ 337.206 Special rules for OPM.

(a) OPM may issue direct hire certificates in conjunction with any direct hire authority authorized under subpart B of this part.

(b) OPM will provide participating agencies information concerning applicants entitled to priority consideration under part 330, subpart G, of this chapter who applied to the pooled announcement, and each agency must provide such applicants selection priority in accordance with that subpart.

(c) Each agency using an OPM-issued direct hire certificate must clear RPL and CTAP before making a selection from the certificate in accordance with 5 CFR part 330, subparts B and F.

(d) Agencies using OPM-issued direct hire certificates may not assess applicants for purposes of determining relative qualifications through rating and ranking, but may select among qualified candidates on the basis of relative qualifications.

(e) The requirements of this section apply to OPM-issued direct hire certificates notwithstanding § 337.201(a).

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