

U.S. Office of Personnel Management

Statement of Regulatory and Deregulatory Priorities

Fall 2024 Unified Agenda

The Office of Personnel Management (OPM) serves as the chief human resources agency and personnel policy manager for the Federal Government. We are champions of talent for the Federal Government, leading Federal agencies in workforce policies, programs, and benefits in service to the American people. We seek to position the Federal Government as a model employer through innovation, inclusivity, and leadership, as we build a rewarding culture that empowers the Federal workforce to tackle some of our nation's toughest challenges.

OPM's regulatory agenda is aligned with these core mission areas and advances multiple Biden-Harris Administration priorities. Indeed, **each of OPM's regulations is focused on improving the efficiency and effectiveness of government**—a key Administration priority. In addition, several of OPM's regulations are:

- Actions that empower workers, increase their wages, and address discrimination;
- Actions that address pandemic preparedness and access to healthcare; and
- Actions that improve access to and delivery of public programs and services by reducing administrative burden.

While OPM is committed to promoting inclusiveness in the regulatory process, most of our regulations are focused on organizational and personnel matters and, therefore, agency engagement with the general public is limited. In cases where OPM regulations do have public impact, OPM actively engages with stakeholders who may be affected by our regulations directly or indirectly through the social groups they represent. Public participation through petitions, job fairs, webinars, meetings, and the public comment process have informed the development of a

few of our rulemakings at the initiation phase of the process and are summarized in this Statement, where applicable. Generally, however, OPM's public participation efforts in developing its regulatory program focuses on engagement with agencies (such as through the Chief Human Capital Officers Council) and employee representative groups (such as labor unions). We will continue to encourage and provide opportunities for meaningful participation to inform regulatory planning in the future.

I. Actions that Empower Workers, Increase Their Wages, and Address Discrimination

OPM is committed to recruiting, retaining, and supporting a world-class Federal workforce. This means promoting equity between pay systems in the Federal Government, working to make every Federal job a good job, strengthening Federal labor unions, and addressing discrimination in the Federal workplace. OPM's regulatory agenda advances each of these goals and reflects the inputs received from members of the public and agencies during the initiation phase of the rulemaking process.

- *Prevailing Rate Systems; Change in Criteria for Defining Appropriated Fund Federal Wage System Wage Areas (3206-AO69)*

The Office of Personnel Management (OPM) is proposing a rule to change the regulatory criteria used to define Federal Wage System (FWS) wage area boundaries and make changes in certain wage areas. The purpose of this change, which would affect around ten percent of the FWS workforce, is to make the FWS wage area criteria more similar to the General Schedule locality pay area criteria. This change is based on a December 2023 majority recommendation of the Federal Prevailing Rate Advisory Committee, the statutory national level labor-management committee that advises OPM on the administration of the FWS.

- *Prevailing Rate Systems: Environmental Differential Pay for Prescribed Wildland Fire Activities*

Hazardous Duty Pay for Prescribed Wildland Fire Activities (3206-AO76)

OPM is proposing to add prescribed wildland fire activities to the Firefighting Hazardous Duty Pay (HDP) category for General Schedule (GS) employees and Firefighting Environmental Differential Pay (EDP) category for Federal Wage System (FWS) employees, for firefighting activities on the fireline directly involving the preparation, implementation, and control of prescribed wildland fires following a coordinated request from the United States Department of Agriculture (USDA) and the Department of the Interior (DOI). OPM is adding these activities to the HDP and EDP firefighting categories so that Federal agencies may provide additional compensation to Federal firefighters who are exposed to unusual health risks caused by working in close proximity to prescribed burn wildfires. This rulemaking would add HDP and EDP of 25 percent for prescribed wildland fire activities.

- *Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020 (3206-AO26)*

OPM is finalizing regulations to implement the Elijah E. Cummings Federal Employee Discrimination Act of 2020, which became law on January 1, 2021. The final rule amends existing anti-discrimination regulations and adds new requirements to implement the Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002. The final rule will establish a new requirement to post findings of discrimination, new electronic format reporting requirements for agencies, and new disciplinary action reporting requirements for agencies.

II. Actions that Address Pandemic Preparedness and Access to Healthcare

OPM has helped to lead the Federal Government throughout the COVID-19 pandemic—serving as a co-chair of the Safer Federal Workforce Task Force, supporting agencies with implementation of a maximum telework posture, and providing meaningful benefits to Federal employees. OPM will continue this important work through its regulatory agenda.

- *Scheduling of Annual Leave for Employees Responding to COVID-19 (3206-AO04)*

OPM is finalizing regulations to assist agencies and employees responding to the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and for future national emergencies. The regulations provide that employees who would forfeit annual leave in excess of the maximum annual leave allowable carryover because of their work to support the nation during a national emergency will have their excess annual leave deemed to have been scheduled in advance and subject to leave restoration.

- *Evacuation During a Public Health Emergency (3206-AO34)*

OPM is proposing a new subpart Q within 5 CFR part 550, which would amend, expand, and reorganize regulations that currently provide agencies with the authority to evacuate employees during a pandemic health crisis. The revised regulations will provide agencies with the authority to evacuate an employee or groups of employees during either a public health emergency declaration or a pandemic health crisis. The current authority to evacuate employees during a pandemic health crisis is found at 5 CFR 550.409. This revision and reorganization of the regulations will enable OPM to capitalize on lessons learned from the COVID-19 pandemic.

- *Postal Service Health Benefits Program: Additional Requirements and Clarifications (3206-AO59)*

OPM finalized a rule implementing the Postal Service Health Benefits (PSHB) Program within the Federal Employees Health Benefits (FEHB) Program pursuant to the Postal Service Reform Act of 2022 (PSRA). This rulemaking builds on that effort by implementing key provisions of the PSRA that will promote access to high quality care and provide cost savings by encouraging enrollment into Medicare for Postal Service annuitants and their Medicare-eligible family members. This regulation will also clarify rules for auto-enrollment and promote efficiencies in the new PSHB program. OPM is also clarifying rights of participants in the PSHB program with respect to initial decisions and reconsideration for eligibility and enrollment issues.

III. Actions that Improve Access to and Delivery of Public Programs and Services by Reducing Administrative Burden

OPM's work in this area focuses on improving efficiency and providing agencies additional flexibilities in the hiring process.

- *Rule of Many (3206-AN80)*

OPM is finalizing regulations to implement changes—known as the “rule of many”—authorized by the NDAA for FY 2019 governing the selection of candidates from competitive lists of eligibles. The statute eliminates the requirement that an agency select only from the top three candidates at any given juncture (the rule of three) in numerical rating and ranking and instead authorizes agencies to certify and consider a sufficient number of candidates, no fewer than three, using a cut-off score or other mechanism established through this rulemaking. This change also affects how agencies may make

selections under 5 CFR part 302, titled “Employment in the Excepted Service.” These changes will provide expanded flexibility to agencies in the selection of candidates.

- *Recruitment and Relocation Incentive Waivers (3206-AO36)*

OPM is issuing a final rule to expand the authority to approve waivers of the normal payment limitations on recruitment and relocation incentives. An expansion of the waiver approval authority provides agencies with access to higher payment limitations for these flexibilities based on a critical need without requesting approval from OPM. Under this final rule, agencies have the authority to approve a recruitment or relocation incentive of up to 50 percent of an employee’s annual rate of basic pay times the number of years in a service agreement (not to exceed 100 percent of annual basic pay).

- *Recruitment and Selection Through Competitive Examination (3206-AO24)*

OPM is finalizing revisions implementing the Competitive Service Act of 2015, Public Law 114-137, to allow an appointing authority (i.e., the head of a federal agency or department) to share a competitive certificate of eligibles with one or more appointing authorities for the purpose of making selections of qualified candidates.

- *Selective Service Registration (3206-AO37)*

OPM plans to finalize a rule to enable executive agencies to make initial determinations as to whether failure to register with the Selective Service System was knowing and willful.

- *Suitability and Fitness Vetting (3206-AO17)*

OPM is finalizing revisions to the Federal Government personnel vetting investigative and adjudicative processes for determining suitability and fitness. The purpose of OPM’s work in this area is to establish requirements and standards for agencies to properly vet

individuals to assess risk to the integrity and efficiency of the service by aligning position designation requirements, investigative standards, and reciprocity and implementing continuous vetting as required by Executive Order 13467, as amended. The changes will improve consistency in the vetting process and enhance mobility of the civil service, contractor, and nonappropriated fund workforces.

- *Credentialing (3206-AO11)*

OPM is proposing regulations to codify procedures and adjudicative standards for Departments and Agencies to determine eligibility for a Personal Identity Verification (PIV) Credential for logical or physical access to Government systems and facilities as called for in the Homeland Security Directive-12. OPM previously issued these procedures as guidance documents. Because the policy has general applicability, rulemaking will promote consistency and uniformity as is called for in Executive Order 13467, as amended. Additionally, the proposed rule introduces credentialing vetting requirements for the short-term population and clarifies applicability to other personnel who may have access to Federal information.

- *Hiring Authority for Post-Secondary Students (3206-AN86)*

OPM is finalizing regulations establishing hiring authorities for post-secondary students to positions in the competitive service to provide additional flexibility in hiring eligible and qualified individuals. These revisions will implement section 1108 of Public Law 115-232, John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019.

- *Hiring Authority for College Graduates (3206-AN79)*

OPM is finalizing regulations establishing hiring authorities for certain college graduates to positions in the competitive service. This rule will provide additional flexibility in hiring eligible and qualified individuals by implementing section 1108 of Public Law 115-232, the NDAA for FY 2019.

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