

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 211

RIN 3206-AL33

#### Veterans' Preference

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is adopting as a final rule an interim rule that implemented a change to the definition of "active duty" for veterans' preference entitlement contained in § 211.102(f) of title 5, Code of Federal Regulations.

**DATES:** Final rule effective October 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** Scott A. Wilander, Ed.D., by telephone at (202) 606-0960; by fax at (202) 606-0390; TTY at (202) 606-3134; or by e-mail at [Scott.Wilander@opm.gov](mailto:Scott.Wilander@opm.gov).

**SUPPLEMENTARY INFORMATION:** On July 27, 2007, OPM issued an interim rule with request for comments at 72 FR 41215, to amend its regulations regarding veterans' preference. This rule expanded the definition of "active duty" contained in 211.102(f) of title 5, Code of Federal Regulations, for a "disabled veteran" as defined by 5 U.S.C. 2108(2), to include active duty for training.

OPM received two written comments pertinent to the interim changes. A discussion of these comments is provided below.

One individual asked OPM to consider changing the definition of "active duty" to include active duty for training for a "veteran," defined by 5 U.S.C. 2108(1)(A), who "served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period

beginning April 28, 1952, and ending July 1, 1955." The commenter noted that such a change was necessary because both 5 U.S.C. 2108(2) and 2108(1)(A) use the term "active duty" without modification. We agree and have revised the regulation accordingly.

Another commenter noted that some individuals who are eligible under these provisions may not have received the documentation (e.g., DD-214) required to claim veterans' preference due to the relatively short duration of their service. We understand it may be difficult for these individuals to claim veterans' preference without a DD-214 but we note that OPM provides guidance (e.g., the Delegated Examining Operations Handbook) to agencies for accepting alternatives to the DD-214. We will consider adding similar guidance in VetGuide and VetsInfo Guide to better help job-seeking veterans.

OPM received one written comment from an individual that went beyond the scope of the amendments contained in the interim rule. Because this comment was not pertinent to the interim amendments, OPM is not responding to it. The commenter asked OPM to require agencies, by regulation, to notify job-seeking veterans of the status of their job applications and whether their veterans' preference was considered in the selection process.

#### E.O. 12866, Regulatory Review

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

#### Regulatory Flexibility Act

I certify that this regulation would not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because it affects only Federal employees.

#### Paperwork Reduction Act

The information collection requirements contained in this final rule are currently approved by OMB under 3206-AL33. This final regulation does not modify this approved collection.

#### List of Subjects in 5 CFR Part 211

Government employees, Veterans.

U.S. Office of Personnel Management.

**Michael W. Hager,**  
*Acting Director.*

■ Accordingly, the interim rule amending part 211 of title 5, Code of Federal Regulations, which was published at 72 FR 41215 on July 27, 2007, is adopted as a final rule with the following changes:

#### PART 211—VETERAN PREFERENCE

■ 1. The authority citation for part 211 continues to read as follows:

**Authority:** 5 U.S.C. 1302.

■ 2. In § 211.102, revise paragraph (f) to read as follows:

#### § 211.102 Definitions.

\* \* \* \* \*

(f) *Active duty or active military duty*—(1) *Active duty or active military duty* for veterans defined in paragraphs (a)(1) through (3) and disabled veterans defined in paragraph (b) of this section means active duty with military pay and allowances in the armed forces, including training or for determining physical fitness and including service in the Reserves or National Guard.

(2) Active duty or active military duty for a veteran defined in paragraph (a)(4) through (6) of this section means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

\* \* \* \* \*

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 370

RIN 3064-AD37

#### Temporary Liquidity Guarantee Program

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The FDIC is issuing this Interim Rule following a determination of systemic risk pursuant to section 13(c)(4)(G) of the Federal Deposit Insurance Act. As a result of this