

Rules and Regulations

Federal Register

Vol. 60, No. 89

Tuesday, May 9, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1603

Vesting

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comment.

SUMMARY: This interim amendment implements section 4 of the Uniformed Services Employment and Reemployment Rights Act (USERRA) which clarifies that certain military service will now be counted for vesting purposes under the Thrift Savings Plan (TSP).

DATES: This interim amendment is effective August 2, 1990. Comments must be received by June 30, 1995.

ADDRESSES: Comments may be sent to: James B. Petrick, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: James B. Petrick, (202) 942-1664.

SUPPLEMENTARY INFORMATION: Part 1603 establishes the rules for vesting of TSP basic (1%) contributions. Under those rules, persons who separate from Federal service with less than three years of civilian service (or in some cases, two years of civilian service) forfeit their basic contributions and attributable earnings. If employees have the requisite service when they separate, the contributions and attributable earnings are not forfeited.

Section 4 of the Uniformed Services Employment and Reemployment Rights Act (USERRA), Public Law 103-353 (October 14, 1994), added section 8432b to title 5 of the United States Code. Section 8432b contains provisions dealing specifically with participation in the TSP by Federal employees returning from covered military service. Among those provisions is 5 U.S.C.

8432b(h)(1)(B), which requires that persons who separate from Federal service to perform military service and who thereafter exercise restoration or reemployment rights be credited with service for the period of their absence for TSP vesting purposes. Because only civilian service was previously creditable for TSP vesting purposes, it is necessary to amend the definition of service credible for vesting under part 1603 to include military service credible under USERRA. It is also necessary to change all other references to "civilian service" to refer only to "service." In addition, the new definition of "year of service" eliminates any reference to the Federal Personnel Manual, which no longer exists.

Regulatory Flexibility Act

I certify that this amendment will not have a significant economic impact on a substantial number of small entities. It will affect only a small number of Federal employees who separate from employment to perform military service and who are later reemployed.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Under 5 U.S.C. 553(b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. It is necessary for these regulations to be effective as of August 2, 1990, which is the day on which employees may receive credit for military service under Public Law 103-353 and subpart H of part 1620 for vesting purposes.

List of Subjects in 5 CFR Part 1603

Employee benefit plans, Government employees, Retirement, Pension.

Dated: May 2, 1995.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, 5 CFR part 1603 is amended as follows:

PART 1603—VESTING

1. The authority citation for part 1603 is revised to read as follows:

Authority: 5 U.S.C. 8432(g), 8432b(h)(1), 8474(b)(5), and 8474(c)(1).

2. Section 1603.1 is amended by removing the definitions of "civilian service" and "year of civilian service" and adding the definitions of "service" and "year of service" to read as follows:

§ 1603.1 Definitions.

* * * * *

Service for purposes of TSP vesting means: (1) Any non-military service which is creditable under either 5 U.S.C. 8411 or subchapter III of chapter 83 of title 5, U.S.C., determined without regard to any time limitations, any deposit or redeposit requirements contained in those statutory provisions after performing the service involved, or any requirement that the individual give notice in writing to the official by whom that individual is paid of that individual's desire to become subject to the retirement system established by either chapter 83 or chapter 84 of title 5, United States Code; or (2) Any military service creditable under the provisions of 5 U.S.C. 8432b(h)(1) and the regulations issued at subpart H of part 1620 of this chapter.

* * * * *

Year of service means one full calendar year of service.

3. Section 1603.3 is amended in paragraph (a) by revising the phrase "three years of civilian service" to read "three years of service"; and in paragraph (b) by revising the phrase "two years of civilian service" to read "two years of service".

[FR Doc. 95-11235 Filed 5-8-95; 8:45 am]

BILLING CODE 6760-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 95-021-1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine by removing and adding commuted traveltime allowances for travel between various locations in California and North Carolina. Commuted traveltime allowances are the periods of time required for Plant Protection and Quarantine employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Plant Protection and Quarantine employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: May 9, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Eggert, Assistant to the Deputy Administrator, Resource Management Staff, PPQ, APHIS, Suite 4C03, 4700 River Road Unit 130, Riverdale, MD 20737-1236; (301) 734-7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR, chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return

there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by removing and adding commuted traveltime allowances for travel between various locations in California and North Carolina. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by removing or adding in the table, in alphabetical order under California and North Carolina, the following entries to read as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *