

25 percent of a law enforcement officer's annual rate of basic pay in the case of—

(1) A law enforcement officer, as defined in § 550.103 of this chapter, with respect to whom the provisions of chapter 51 of title 5, United States Code, apply;

(2) A member of the United States Secret Service Uniformed Division;

(3) A member of the United States Park Police;

(4) A special agent within the Diplomatic Security Service;

(5) A probation officer (referred to in section 3672 of title 18, United States Code; and

(6) A pretrial services officer (referred to in section 3153 of title 18, United States Code).

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14. Section 575.206 is revised to read as follows:

§ 575.206 Service agreement.

Before a relocation bonus may be paid, an agency shall require that the employee sign a written service agreement to complete a specified period of employment with the appointing agency (or the successor agency in the event of a transfer of function) at the new duty station.

15. Section 575.208 is revised to read as follows:

§ 575.208 Internal monitoring.

Each agency shall monitor the use of relocation bonuses to ensure that its relocation bonus plan conforms to the requirements established under this subpart and that the payment of relocation bonuses conforms to the criteria established under this subpart.

16. In § 575.302, paragraph (c) is revised to read as follows:

§ 575.302 Delegation of authority.

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(c) The head of an Executive agency may request that OPM authorize the payment of a retention allowance to one or more categories of employees of his or her agency not otherwise covered by 5 U.S.C. 5754 or this subpart.

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17. In § 575.303, the definition of *employee* is revised to read as follows:

§ 575.303 Definitions.

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Employee means an employee in or under an agency.

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18. In § 575.304, paragraphs (a) and (b) are revised to read as follows:

§ 575.304 Conditions for payment.

(a) An agency may not begin payment of a retention allowance during a period

of employment established under any service agreement required by payment of a recruitment bonus under subpart A of this part or relocation bonus under subpart B of this part. After retention allowance payments have commenced, a relocation bonus may be paid without affecting the payment of a retention allowance.

(b) An agency may pay a retention allowance to an employee if the employee is likely to leave the Federal service for any reason.

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19. In § 575.305, paragraph (c)(1) is revised to read as follows:

§ 575.305 Agency retention allowance plans; higher level review and approval; and criteria for payment.

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(c) *Criteria for payment.* (1) Each allowance paid under this subpart shall be based on a written determination that the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and that, in the absence of such an allowance, the employee would be likely to leave the Federal service.

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20. In § 575.306, a new paragraph (d) is added to read as follows:

§ 575.306 Payment of retention allowance.

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(d) A retention allowance is not pay for purposes of a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

21. Section 575.308 is revised to read as follows:

§ 575.308 Internal monitoring.

Each agency shall monitor the use of retention allowances to ensure that its retention allowance plan conforms to the requirements established under this subpart and that the payment of retention allowances conforms to the criteria established under this subpart.

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5 CFR Part 630

RIN 3206-AG48

Absence and Leave; SES Annual Leave Accumulation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final rules

governing annual leave accumulation for members of the Senior Executive Service (SES). SES members are now subject to a 90-day (720-hour) maximum limitation on the amount of annual leave that may be carried over from one leave year to the next.

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT: Frank Derby, (202) 606-2858.

SUPPLEMENTARY INFORMATION: On December 21, 1994, the Office of Personnel Management (OPM) issued interim regulations (59 FR 65704) implementing section 201 of the Government Management Reform Act of 1994 (Pub. L. 103-356, enacted October 13, 1994). Section 201 amended 5 U.S.C. 6304(f) to provide a 90-day (720-hour) limit on the amount of annual leave a member of the Senior Executive Service (SES) may carry over from one leave year to the next. Section 201 also contained a grandfather clause to allow SES members who had accumulated more than 90 days (720 hours) of annual leave as of the first day of the first pay period beginning after October 13, 1994, to retain the higher amount as a personal leave ceiling. The personal leave ceiling is the maximum amount of accrued annual leave an affected SES member may carry over from one leave year to the next. The personal leave ceiling is subject to reduction under 5 U.S.C. 6304(c) if the SES member uses more leave than he or she earns in a leave year.

The 60-day comment period ended on February 21, 1995. OPM received one comment from an agency that requested information on how to apply the statutory and regulatory limitations on annual leave accrual for individuals entering the SES. We agree that this information is necessary and have added this information to 5 CFR 630.301(b). (Previously, this information was provided in former FPM Supplement 920-1, Operations Handbook for the Senior Executive Service, which expired on December 31, 1994.)

Employees in non-SES positions are subject to a 30-day or 45-day maximum annual leave ceiling under 5 U.S.C. 6304 (a), (b), or (c), as appropriate. When an employee in a non-SES position moves to a position in the Senior Executive Service, any annual leave accumulated prior to movement remains to the employee's credit. Annual leave in excess of the 30-day or 45-day leave ceilings that accrued prior to the employee's entry into the SES and that is not used by the beginning of the next leave year is subject to forfeiture. Annual leave that is not in excess of the

30-day or 45-day maximum limitations and any annual leave accrued while serving in the SES is carried forward and becomes subject to the 90-day maximum limitation on accrued annual leave for SES members.

Example: A GS-15 employee who has 300 hours of accumulated annual leave (i.e., 60 hours in excess of the 240-hour (30-day) leave ceiling) is appointed to an SES position on June 14, 1995. The employee earns 100 additional hours of annual leave in the SES before the end of the 1995 leave year. If the SES member uses only 40 of the 60 hours of excess annual leave during the remainder of the 1995 leave year, his or her leave balance at the beginning of the 1996 leave year will be 340 hours (the maximum 240 hours carried over as a GS-15 employee, plus the 100 hours earned while in the SES). The remaining 20 hours of excess leave will be forfeited at the beginning of the 1996 leave year. If the SES member uses more than 60 hours of excess annual leave (e.g., 80 hours) during the remainder of the 1995 leave year, his or her leave balance at the beginning of the 1996 leave year will be 320 hours (the maximum 240 hours carried over as a GS-15 employee, plus the 100 hours earned while in the SES, minus the 20 hours of leave used above the 60 hours of excess annual leave).

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 630

Absence and leave.

U.S. Office of Personnel Management.

James B. King,
Director.

Accordingly, OPM is amending 5 CFR part 630 as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for part 630 is revised to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103-356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102-484, 106 Stat. 2722 and Pub. L. 103-337, 108 Stat. 2663; subpart D also issued under Pub. L. 103-329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332 and Pub. L. 100-566, 102 Stat. 2834 and 103-103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362 and Pub. L. 100-566 and 103-103; subpart K also issued under Pub. L. 102-25, 105 Stat. 92; and subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103-3, 107 Stat. 23.

Subpart C—Annual Leave

2. In § 630.301, paragraph (b) is revised to read as follows:

§ 630.301 Annual leave accumulation—Senior Executive Service.

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(b) When an employee in a position outside of the Senior Executive Service moves to a position in the Senior Executive Service, any annual leave accumulated prior to movement shall remain to the employee's credit.

(1) Annual leave accumulated prior to movement to the Senior Executive Service that is in excess of the amount allowed for the former position by 5 U.S.C. 6304 (a), (b), or (c) and that is not used by the beginning of the first full biweekly pay period in the next leave year shall be subject to forfeiture.

(2) If an employee serves less than a full pay period under an appointment in the Senior Executive Service, only that portion of accrued annual leave that is attributable to service in the Senior Executive Service shall be subject to the 90-day (720-hour) limitation on accumulation of annual leave provided in paragraph (a) of this section. Annual leave accrued during the remainder of the pay period shall be subject to the limitations in 5 U.S.C. 6304(a), (b), and (c), as appropriate.

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

[FV-94-705FR]

Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This amendment will expand the scope and applicability of the Department of Agriculture's uniform rules of practice governing adjudicatory proceedings to include actions initiated under the Fluid Milk Promotion Act of 1990; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993; the Lime Research, Promotion, and Consumer Information Act of 1990, as amended; the Mushroom Promotion, Research, and Consumer Information Act of 1990; the Pecan Promotion and Research Act of 1990; the Sheep Promotion, Research,

and Information Act of 1994; and the Soybean Promotion, Research, and Consumer Information Act.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Schultz, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535-S, Washington, D.C. 20090-6456, telephone: (202) 720-5976.

SUPPLEMENTARY INFORMATION: The Fluid Milk Promotion Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6401-6417]; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993 [Pub. L. 103-190, 7 U.S.C. 6801-6814]; the Lime Research, Promotion, and Consumer Information Act of 1990, as amended, [Pub. L. 101-624, 7 U.S.C. 6201-6212]; the Mushroom Promotion, Research, and Consumer Information Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6101-6112]; the Pecan Promotion and Research Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6001-6013]; the Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7101-7111]; and the Soybean Promotion, Research, and Consumer Information Act [Pub. L. 101-624, 7 U.S.C. 6301-6311]; each authorizes the assessment of civil penalties and the issuance of cease and desist orders against any person found to be in violation of the respective Act, order, plan, or regulation issued thereunder.

The Department of Agriculture has established uniform rules of practice [7 CFR part 1, subpart H], which govern the conduct of adjudicatory proceedings under numerous statutes. In order to insure consistency and uniformity in the conduct of the Department's administrative proceedings, it has been determined that proceedings initiated under the Acts listed above should also be governed by these uniform procedures.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect, and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

The provisions of the Administrative Procedure Act concerning notice and opportunity for comment on agency rulemaking [5 U.S.C. 553] do not apply to the promulgation of agency rules of practice. Further, this action simply extends the applicability of the Department's uniform rules of practice