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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 831 and 842

RIN 3206-AJ39

#### Law Enforcement Officer and Firefighter Retirement

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing final rules that permit certain police officers with the Metropolitan Washington Airports Authority (MWAA) to elect coverage under the special retirement provisions for law enforcement officers. We are also amending the regulations governing special retirement provisions for law enforcement officers and officers and firefighters employed under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). These changes were made to clarify and interpret previously promulgated regulations.

**DATES:** This final rule is effective July 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mary Ellen Wilson, (202) 606-0299.

**SUPPLEMENTARY INFORMATION:** On July 25, 2001, we published (at 66 FR 38524) interim regulations to implement provisions of section 636 of the Treasury and General Government Appropriations Act, 2001, enacted December 21, 2000, which is incorporated by reference as Appendix C to the Consolidated Appropriations Act, 2001, Public Law 106-554 (114 Stat. 2763). Section 636 of the Treasury and General Government Appropriations Act, 2001, permits certain police officers with the Metropolitan Washington Airports Authority (MWAA) to elect coverage under the special retirement provisions

for law enforcement officers. The interim rules issued on July 25, 2001, established procedures for these MWAA police officers to elect coverage under the special retirement provisions for law enforcement officers. The interim rule also made other amendments to previously promulgated rules regulating law enforcement officer and firefighter retirement coverage under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

OPM received comments from one Federal agency. The commentator noted that the revised definition of *agency head* at 5 CFR 831.902 and 5 CFR 842.802 deleted language from the second sentence of the definition. Specifically, the phrase “for provisions dealing with law enforcement officers and firefighters” was deleted from the definition of *agency head* at 5 CFR 842.802, and the phrase “or to the deputy department head” was deleted from the definition of *agency head* at 5 CFR 831.902 and 5 CFR 842.802. The commentator noted that the deletion of these phrases could be interpreted as a new restriction on an agency’s ability to delegate decision-making authority. We agree with the commentator. The definition of *agency head* was revised only to clarify and interpret the existing extent of an agency head’s authority. We are restoring the deleted language to indicate that the existing ability of an agency head to delegate decision-making authority is unchanged.

#### Executive Order 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 will not have a significant economic impact on a substantial number of small entities because the regulation will only affect a small number of employees of the Metropolitan Washington Airports Authority.

#### List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers,

Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

**Linda M. Springer,**  
*Director.*

■ Accordingly, the interim rule amending 5 CFR parts 831 and 842, which was published at 66 FR 38524 on July 25, 2001, is adopted as a final rule with the following change:

#### PART 831—RETIREMENT

■ 1. The authority citation for part 831 is revised to read as follows:

**Authority:** 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and section 1313(b)(5) of Pub. L. 107-296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; Sec. 831.201(g) also issued under section 7(b) and (e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; Sec. 831.204 also issued under section 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by section 153 of Pub. L. 104-134, 110 Stat. 1321; Sec. 831.205 also issued under section 2207 of Pub. L. 106-265, 114 Stat. 784; Sec. 831.301 also issued under section 2203 of Pub. L. 106-265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and section 2203 of Pub. L. 106-235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337; Sec. 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1965-1965 Comp. p. 317; Sec. 831.663 also issued under section 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103-66, 107 Stat. 412; Sec. 831.682 also issued under section 201(d) of Pub. L. 99-251, 100 Stat. 23; Sec. 831.912 also issued under section 636 of Appendix C to Pub. L. 106-554, 114 Stat. 2763A-164; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100-203, 101 Stat. 1330-275; Sec. 831.2203 also issued under section 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388-328.

#### Subpart I—Law Enforcement Officers and Firefighters

■ 2. Amend § 831.902 by revising the definition of *agency head* to read as follows:

#### § 831.902 Definitions.

\* \* \* \* \*

*Agency head* means, for the executive branch agencies, the head of an

executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For the purpose of an approval of coverage under this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department. For the purpose of a denial of coverage under this subpart, *agency head* is also deemed to include the designated representative of the *agency head*, as defined in the first sentence of this definition, at any level within the agency.

\* \* \* \* \*

#### **PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY**

■ 3. The authority citation for part 842 is revised to read as follows:

**Authority:** 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112, Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under section 4005 of Pub. L. 101–239, 103 Stat. 2106 and section 7001 of Pub. L. 101–508, 104 Stat. 1388, subpart H also issued under 5 U.S.C. 1104; sec. 842.810 also issued under Appendix C to Pub. L. 106–554, 114 Stat. 2763A–164.

#### **Subpart H—Law Enforcement Officers, Firefighters, and Air Traffic Controllers**

■ 4. Amend § 842.802 by revising the definition of *agency head* to read as follows:

##### **§ 842.802 Definitions**

\* \* \* \* \*

*Agency head* means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of State, the Clerk of the House of representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For the purpose of an approval of coverage under this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that, for provisions dealing with law enforcement officers and firefighters, the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department. For the purpose of a denial of coverage under this subpart, *agency head* is also deemed to include the designated representative of the *agency head*, as defined in the first sentence of this definition, at any level within the agency.

\* \* \* \* \*

[FR Doc. 05–14240 Filed 7–21–05; 8:45 am]

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#### **DEPARTMENT OF AGRICULTURE**

##### **Agricultural Marketing Service**

##### **7 CFR Parts 56 and 70**

[Docket No. PY–05–001]

**RIN 0581–AC44**

##### **Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are being increased to cover

the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

**DATES:** Effective September 25, 2005.

**FOR FURTHER INFORMATION CONTACT:** David Bowden, Jr., Chief, Standardization Branch, (202) 720–3506.

##### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) authorizes official voluntary grading and certification of eggs, poultry, and rabbits on a user-fee basis. The AMA provides that reasonable fees be collected from users of program services to cover, as nearly as practicable, the costs of services rendered. The AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable.

A recent review determined that the existing fee schedule, effective January 1, 2004, would not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance in FY 2006. Costs in FY 2006 are projected at \$31.9 million. Without a fee increase, FY 2006 revenues are projected at \$30.5 million and trust fund balances would be \$14.5 million. With a fee increase, FY 2006 revenues are projected at \$31.9 million and trust fund balances would remain at \$15.9 million.

Employee salaries and benefits account for approximately 82 percent of the total operating budget. A general and locality salary increase for Federal employees, effective in January 2004, materially affected program costs. Projected cost estimates for that increase were based on a salary increase of 2.0 percent, however, the increase was actually 3.89 to 5.35 percent, depending on locality. The last increase of 3.25 to 4.3 percent, depending on locality, became effective in January 2005 and another increase, estimated at 1.5 percent, is expected in January 2006. Also, from October 2004 through September 2006, salaries and fringe benefits of federally-licensed State employees will have increased by about 6.0 percent. This paragraph, which also appeared in the proposed rule, has been updated to reflect more current information.

The impact of these cost increases was determined for resident, nonresident, and fee services. To offset projected cost increases, the hourly resident and nonresident rate will be increased by approximately 5.8 percent and the fee rate will be increased by