

performed “as a member of the uniformed services.”

Statement as to How Petersen Differs From the Agency’s Policy

The WEP is a modified formula for calculating the retirement or disability benefits of a person who receives a pension from noncovered work (*i.e.*, work that is not defined as employment for Social Security purposes and where Social Security taxes were not deducted from the employee’s pay). The WEP applies to persons who attain age 62 or become eligible for disability benefits after 1985 and who first become eligible for a monthly payment (such as a civil service pension) after 1985 “which is based in whole or in part upon his or her earnings for service which did not constitute ‘employment’ as defined in” 42 U.S.C. 410. 42 U.S.C. 415(a)(7)(A)(III). The WEP applies to persons with noncovered employment in the CSRS which includes the civilian employment of a “dual status” National Guard technician. A formula is used to compute the person’s primary insurance amount (PIA), which then is used to compute the amount of the person’s Social Security benefits. 42 U.S.C. 415(a)(7)(B); 20 CFR 404.213(c). The formula results in a lower Social Security benefit.

Congress amended the WEP in 1994 in Pub. L. 103–296, the Social Security Independence and Program Improvements Act of 1994 (the Independence Act). Section 308 of the Independence Act, codified at 42 U.S.C. 415(a)(7)(A)(III), created a new exemption from the WEP, which applies to “a payment based wholly on service as a member of a uniformed service” as defined in 42 U.S.C. 410(m). We interpret the uniformed services exception to the WEP to mean that only monthly payments based on military service are exempt from the WEP. Under this interpretation, monthly payments that are based on noncovered civilian public employment, including that of National Guard technicians who work under the CSRS, are not exempt from the WEP. Moreover, the effect of the uniformed services exception to the WEP and the regulatory provision found at 20 CFR 404.213(e)(9) is to exempt from the WEP only military retirement pay based on reserve inactive duty training (IDT). Other kinds of military duty, such as active duty, already were not subject to the WEP because they have been covered employment since 1956. The WEP does not apply to noncovered work before 1957.

The legislative history of the uniformed services exception to the WEP explains that the purpose of the

exception was to exempt military retired pay, based on noncovered IDT military duty, from application of the WEP. The exception was not intended to exempt any pension based on civilian work from application of the WEP. The Court of Appeals declined to consider the legislative history of the uniformed services exception because it found there was no ambiguity to the uniformed services exception.

Explanation of How SSA Will Apply the Petersen Decision Within the Circuit

Social Security old-age or disability applicants and beneficiaries who receive a CSRS pension based on noncovered work as dual status National Guard technicians, and who are permanent legal residents of a State within the Eighth Circuit, should have their Social Security benefits computed using the normal PIA, rather than the WEP PIA described in 42 U.S.C. 415(a)(7) of the Act. A decisionmaker should not apply this AR to an applicant or beneficiary who is not a permanent legal resident of a State within the Eighth Circuit at the time of making the determination or decision to apply the WEP. Before we determine that the WEP does not apply, we must have evidence that an applicant’s or beneficiary’s CSRS pension is based on service as a dual status civilian technician with the National Guard.

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DEPARTMENT OF STATE

[Public Notice 7994]

Culturally Significant Objects Imported for Exhibition Determinations: “Plants of Virtue and Rocks by a Stream” by Shitao

ACTION: Notice, correction.

SUMMARY: On August 14, 2012, notice was published on pages 48582–3 of the **Federal Register** (volume 77, number 157) of determinations made by the Department of State pertaining to the object “Plants of Virtue and Rocks by a Stream” by Shitao. The referenced notice is corrected here to change the name of the exhibition in which that object will appear to “The Artful Recluse: Painting, Poetry, and Politics in 17th-Century China”.

FOR FURTHER INFORMATION CONTACT: For further information, including a listing of the exhibit object, contact Ona M. Hahs, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6473). The mailing

address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 21, 2012.

J. Adam Erel,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

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DEPARTMENT OF TRANSPORTATION

[Docket No. FRA 2012–0006–N–10]

Information Collection Requirements (ICRs) Forwarded to the Office of Management and Budget (OMB); Request for Comments.

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on June 12, 2012 (77 FR 35106).

DATES: Comments must be submitted on or before September 26, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On June 12, 2012,