

Rules and Regulations

Federal Register

Vol. 78, No. 222

Monday, November 18, 2013

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 850

RIN 3206-AM45

Electronic Retirement Processing

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its proposed regulations applicable to electronic benefits processing under the Civil Service Retirement System (CSRS), the Federal Employees' Retirement System (FERS), the Federal Employees' Group Life Insurance (FEGLI), the Federal Employees Health Benefits (FEHB), and the Retired Federal Employee Health Benefits (RFEHB) Programs. These amendments are also being adopted to provide OPM with the flexibility to implement further improvements in automated retirement processing, recordkeeping, and electronic submission of forms and retirement applications as OPM's technological initiatives reach completion.

DATES: Effective November 18, 2013.

FOR FURTHER INFORMATION CONTACT: Roxann Johnson or Kristine Prentice, (202) 606-0299.

SUPPLEMENTARY INFORMATION: On March 5, 2013, OPM published (at 78 FR 14233) proposed regulations to amend part 850 of title 5, Code of Federal Regulations, by updating regulations previously published (at 72 FR 73573). Pursuant to the President's January 18, 2011, Executive Order 13563—*Improving Regulation and Regulatory Review*, 76 FR 3821 (January 21, 2011), the Office of Personnel Management (OPM) undertook a review of part 850 of title 5, Code of Federal Regulations, to streamline and revise this part so that

it better serves OPM's ongoing modernization of the processing of benefits under the CSRS, FERS, FEGLI, FEHB, and the RFEHB Programs. OPM is adopting these amendments to part 850 to ensure the rule reflects the electronic recordkeeping and automated retirement processing improvements being deployed by OPM, agencies, and Shared Service Centers under OPM's Human Resources Line of Business.

OPM received no comments on the proposed regulations. Accordingly, we are now adopting the proposed regulations as final without change.

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and E.O. 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 purpose of this regulation is to assist in facilitating OPM's ongoing modernization of the processing of benefits under CSRS, FERS, FEGLI, FEHB, and RFEHB.

List of Subjects in 5 CFR Part 850

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.

Office of Personnel Management.

Katherine Archuleta,
Director.

Accordingly, OPM is amending 5 CFR part 850 as follows:

PART 850—ELECTRONIC RETIREMENT PROCESSING

■ 1. The authority citation for part 850 continues to read as follows:

Authority: 5 U.S.C. 8347; 5 U.S.C. 8461; 5 U.S.C. 8716; 5 U.S.C. 8913; sec. 9 of Pub. L. 86-724, 74 Stat. 849, 851-52 (September 8, 1960) as amended by sec. 102 of Reorganization Plan No. 2 of 1978, 92 Stat. 3781, 3783 (February 23, 1978).

■ 2. The heading for part 850 is revised to read as set forth above.

■ 3. Revise 850.101 to read as follows:

§ 850.101 Purpose and scope.

(a) The purpose of this part is to enable changes to OPM's retirement and insurance processing systems to improve the quality and timeliness of services to employees and annuitants covered by CSRS and FERS by using contemporary, automated business processes and supporting accessible technologies. By utilizing these automated processes, OPM will employ more efficient and effective business systems to respond to increased customer demand for higher levels of customer service and online self-service tools.

(b) The provisions of this part authorize exceptions from regulatory provisions that would otherwise apply to CSRS and FERS annuities and FEGLI, FEHB, and RFEHB benefits processed by or at the direction of OPM. Those regulatory provisions that would otherwise apply were established for a hardcopy based retirement and insurance benefits processing system that may eventually be phased out but which will continue to operate concurrently with OPM's modernization efforts. During the phased transition to electronic retirement and insurance processing, certain regulations that were not designed with information technology needs in mind, and which are incompatible with electronic business processes, must be set aside with respect to electronic retirement and insurance processing. The regulations set forth in this part make the transition to electronic processing possible.

(c) The provisions of this part do not affect retirement and insurance eligibility and annuity computation provisions. The provisions for capturing retirement and insurance data in an electronic format, however, may support, in some instances, more precise calculations of annuity and insurance benefits than were possible using hardcopy records.

■ 4. Revise 850.103 to read as follows:

§ 850.103 Definitions.

In this part—

Agency means an Executive agency as defined in section 105 of title 5, United States Code; a legislative branch agency; a judicial branch agency; the U.S. Postal Service; the Postal Regulatory Commission; and the District of Columbia government.

Biometrics means the technology that converts a unique characteristic of an individual into a digital form, which is then interpreted by a computer and compared with a digital exemplar copy of the characteristic stored in the computer. Among the unique characteristics of an individual that can be converted into a digital form are voice patterns, fingerprints, and the blood vessel patterns present on the retina of one or both eyes.

Cryptographic control method means an approach to authenticating identity or the authenticity of an electronic document through the use of a cipher (i.e., a pair of algorithms) which performs encryption and decryption.

CSRS means the Civil Service Retirement System established under subchapter III of chapter 83 of title 5, United States Code.

Digital signature means an electronic signature generated by means of an algorithm that ensures that the identity of the signatory and the integrity of the data can be verified. A value, referred to as the "private key," is generated to produce the signature and another value, known as the "public key," which is linked to but is not the same as the private key, is used to verify the signature.

Digitized signature means a graphical image of a handwritten signature usually created using a special computer input device (such as a digital pen and pad), which contains unique biometric data associated with the creation of each stroke of the signature (such as duration of stroke or pen pressure). A digitized signature can be verified by a comparison with the characteristics and biometric data of a known or exemplar signature image.

Director means the Director of the Office of Personnel Management.

Electronic communication means any information conveyed through electronic means and includes electronic forms, applications, elections, and requests submitted by email or any other electronic message.

Electronic Document Management System (EDMS) means the electronic system of images of hardcopy individual retirement records (SF 2806 and SF 3100) and other retirement-related documents.

Electronic Individual Retirement Record (eIRR) means a web-based database that contains certified electronic closeout and fully paid post-56 military service deposit Individual Retirement Records (IRRs), also known as Standard Form (SF) 2806 and SF 3100. The eIRR is stored in the Electronic Individual Retirement Record records storage database (formerly

known as the Individual Retirement Record Closeout Data Capture or ICDC records storage database).

Electronic Official Personnel Record Folder (eOPF) means an electronic version of the hardcopy Official Personnel Folder (OPF), providing Web-enabled access for federal employees and HR staff to view eOPF documents.

Electronic Retirement Record (ERR) means the certified electronic retirement record submitted to OPM as a retirement data feed in accordance with the Guide to Retirement Data Reporting. The ERR is submitted to OPM whenever an Agency would otherwise submit a hardcopy IRR to OPM.

Employee means an individual, other than a Member of Congress, who is covered by CSRS or FERS.

Enterprise Human Resources Integration (EHRI) Data System means the comprehensive electronic retirement record-keeping system that supports OPM's retirement processing across the Federal Government.

FEGLI means the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code.

FEHB means the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

FERS means the Federal Employees' Retirement System established under chapter 84 of title 5, United States Code.

Member means a Member of Congress as defined by section 2106 of title 5, United States Code, who is covered by CSRS or FERS.

Non-cryptographic method is an approach to authenticating identity that relies solely on an identification and authentication mechanism that must be linked to a specific software platform for each application.

Personal identification number (PIN) or password means a non-cryptographic method of authenticating the identity of a user of an electronic application, involving the use of an identifier known only to the user and to the electronic system, which checks the identifier against data in a database to authenticate the user's identity.

Public/private key (asymmetric) cryptography is a method of creating a unique mark, known as a digital signature, on an electronic document or file. This method involves the use of two computer-generated, mathematically-linked keys: A private signing key that is kept private and a public validation key that is available to the public.

Retirement Data Repository means a secure centralized data warehouse that stores electronic retirement data of

employees covered under the Civil Service Retirement System or the Federal Employees Retirement System compiled from multiple sources including agencies and Shared Service Centers.

RFEHB means the Retired Federal Employees Health Benefits Program established under Public Law 86-724, 74 Stat. 849, 851-52 (September 8, 1960), as amended.

Shared Service Centers means processing centers delivering a broad array of administrative services to multiple agencies.

Shared symmetric key cryptography means a method of authentication in which a single key is used to sign and verify an electronic document. The single key (also known as a "private key") is known only by the user and the recipient or recipients of the electronic document.

Smart card means a plastic card, typically the size of a credit card, containing an embedded integrated circuit or "chip" that can generate, store, or process data. A smart card can be used to facilitate various authentication technologies that may be embedded on the same card.

■ 5. Amend § 850.106 by revising paragraph (a)(4) to read as follows:

§ 850.106 Electronic signatures.

(a) * * *

(4)(i) In general, any regulatory requirement under CSRS, FERS, FEGLI, FEHB or RFEHB that a signature be notarized, certified, or otherwise witnessed, by a notary public or other official authorized to administer oaths may be satisfied by the electronic signature of the person authorized to perform those acts when such electronic signature is attached to or logically associated with all other information and records required to be included by the applicable regulation.

(ii) Except as provided in paragraph (a)(4)(iii) of this section, a person signing a consent or election for the purpose of electronic notarization under paragraph (a)(4)(i) of this section must be in the physical presence of the notary public or an official authorized to administer oaths.

(iii) The Director may provide in directives issued under § 850.104 that alternative procedures utilized by a notary public or other official authorized to administer oaths (such as audio-video conference technology) will be deemed to satisfy the physical presence requirement for a notarized, certified, or witnessed election or consent, but only if those procedures with respect to the electronic system

provide the same safeguards as are provided by physical presence.

* * * * *

■ 6. Revise § 850.201 to read as follows:

§ 850.201 Applications for benefits.

(a) Hardcopy applications and related submissions that are otherwise required to be made to an individual's employing agency (other than by statute) may instead be submitted electronically in such form as the Director prescribes under § 850.104.

(b) Data provided under subpart C of this part are the basis for adjudicating claims for CSRS and FERS retirement benefits, and will support the administration of FEGLI, FEHB and RFEHB coverage for annuitants, under this part.

§ 850.202 [Amended]

■ 7. Amend § 850.202 by removing the paragraph parenthetical designation "(a)" and by removing paragraph (b).

■ 8. Revise § 850.203 to read as follows:

§ 850.203 Other elections.

Any other election may be effected in such form as the Director prescribes under § 850.104. Such elections include but are not limited to elections of coverage under CSRS, FERS, FEGLI, FEHB, or RFEHB by individuals entitled to elect such coverage; applications for service credit and applications to make deposit; and elections regarding the withholding of State income tax from annuity payments.

■ 9. Revise § 850.301 to read as follows:

§ 850.301 Electronic records; other acceptable records.

(a) Acceptable electronic records for retirement and insurance processing by OPM include—

(1) Electronic employee data, including an eIRR or an ERR, submitted by an agency, agency payroll office, or Shared Service Center, or other entity and stored within the EHRI Retirement Data Repository, the eIRR records storage database, or other OPM database.

(2) Electronic Official Personnel Folder (eOPF) data; and

(3) Documents, including hardcopy versions of the Individual Retirement Record (SF 2806 or SF 3100), or data or images obtained from such documents, including images stored in EDMS, that are converted to an electronic or digital form by means of image scanning or other forms of electronic or digital conversion.

(b) Documents that are not converted to an electronic or digital form will continue to be acceptable records for

processing by the retirement and insurance processing system.

■ 10. Revise § 850.401 to read as follows:

§ 850.401 Electronic notice of coverage determination.

An agency or other entity that submits electronic employee records directly or through a Shared Service Center must include in the notice of law enforcement officer, firefighter, or nuclear materials retirement coverage, required by §§ 831.811(a), 831.911(a), 842.808(a), or 842.910(a) of this chapter, the position description number, or other unique alphanumeric identifier, in the notice for the position for which law enforcement officer, firefighter, or nuclear materials courier retirement coverage has been approved. Agencies or other entities must submit position descriptions to OPM in a PDF document to combox address: *combox@opm.gov*.

[FR Doc. 2013-27534 Filed 11-15-13; 8:45 am]

BILLING CODE 6325-38-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

[AMS-CN-13-0043]

RIN 0581-AD33

Cotton Futures Classification: Optional Classification Procedure

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending regulations to allow for the addition of an optional cotton futures classification procedure—identified and known as “registration” by the U.S. cotton industry and the Intercontinental Exchange (ICE). In response to requests from the U.S. cotton industry and ICE, AMS will offer a futures classification option whereby cotton bales may be certificated for the purpose of an exchange's cotton futures contract using Smith-Doxey data to verify that submitted bales meet more restrictive quality requirements and age parameters established by that exchange. AMS anticipates that the futures classification option will be available in time for the implementation of ICE's Cotton Resolution No. 2, which is scheduled to commence with the March 2014 contract month.

DATES: *Effective Date:* November 19, 2013.

FOR FURTHER INFORMATION CONTACT:

Darryl Earnest, Deputy Administrator, Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Telephone (901) 384-3060, facsimile (901) 384-3021, or email *darryl.earnest@ams.usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866; and, therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It 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.

Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are approximately 60 cotton merchant organizations of various sizes active in trading U.S. cotton. Cotton merchants voluntarily use the AMS cotton futures classification services under the Cotton Futures Act (Act) (7 U.S.C. 15b). Many of these cotton merchants are small businesses under the criteria established by the Small Business Administration (13 CFR § 121.201). Establishing the registration option for cotton futures classification will not significantly affect small businesses as defined in the RFA because:

(1) The established user fee for cotton futures classification services is \$3.50 per bale (7 CFR § 27.80). Users choosing the registration option would incur no additional charges;

(2) The established cotton futures classification fee represents a very small portion of the cost per-unit currently borne by those entities utilizing the service;

(3) The average price paid to producers for cotton from the 2012 crop was 73.22 cents per pound, making a 500 pound bale of cotton worth an average of \$366.10. The current user fee