

Civil Service Retirement System or the Federal Employees' Retirement System, as appropriate.

(b) When a disaster or emergency affecting an emergency leave recipient is terminated, any annual leave donated to an emergency leave transfer program that is not used by an approved emergency leave recipient must be returned to the emergency leave donors. The amount of remaining annual leave to be returned to each emergency leave donor must be proportional to the amount of annual leave donated by the employee to the emergency leave transfer program for such disaster or emergency. Annual leave donated to an emergency leave transfer program for a specific disaster or emergency may not be transferred to another emergency leave transfer program established for a different disaster or emergency.

(c) Under procedures established by the donating agency, the agency will

determine the amount of annual leave returned under paragraph (b) of this section to be restored to each of the emergency leave donors who, on the date leave restoration is made, is employed by a Federal agency. At the election of the emergency leave donor, unused transferred annual leave restored to the emergency leave donor may be restored by—

(1) Crediting the restored annual leave to the emergency leave donor's annual leave account in the current leave year; or

(2) Crediting the restored annual leave to the emergency leave donor's annual leave account effective as of the first day of the following leave year.

#### **§ 630.1109 Prohibition of coercion.**

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee

for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave under this subpart.

(b) For the purpose of paragraph (a) of this section, the term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

5. In the newly redesignated subpart M, for each section indicated in the left column, the citations in the middle column are removed wherever they appear in the section, and the citations in the right column are added to read as follows:

#### **§§ 630.1304, 630.1308, and 630.1309 [Amended]**

Section	Remove	Add
630.1304 .....	§ 630.1109(b)(1)	§ 630.1309(b)(1)
630.1308 .....	§ 630.1107	§ 630.1307
630.1309 .....	§ 630.1104(c)	§ 630.1304(c)
630.1309 .....	§ 630.1103(b)	§ 630.1303(b)

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## **OFFICE OF PERSONNEL MANAGEMENT**

### **5 CFR Parts 831 and 842**

RIN 3206-A125

#### **Retirement; Technical Amendment**

**AGENCY:** Office of Personnel Management.

**ACTION:** Amendment to interim regulations.

**SUMMARY:** The Office of Personnel Management (OPM) is amending the October 4, 1999, interim regulations concerning voluntary early retirement authority. The amendment removes paragraphs from 5 CFR 831.114 and 842.213 which were inadvertently retained when the interim regulations were published.

**DATES:** These regulations are effective October 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Charles Gray at (202) 606-0960, FAX (202) 606-2329, e-mail cwgray@opm.gov.

#### **SUPPLEMENTARY INFORMATION**

#### **Background**

On October 4, 1999, OPM published interim regulations (64 FR 53581) which (1) Removed the September 30, 1999, sunset date for agencies to request voluntary early retirement authority, and (2) Made the regulations at 5 CFR 831.114 and 842.213 permanent. Comments on these interim regulations are due on December 3, 1999. However, 5 CFR 831.114(i) and 842.213(i), were inadvertently retained. They make reference to the September 30, 1999, sunset date.

#### **Regulatory Flexibility Act**

I certify that this regulation will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations only affect Federal employees.

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

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30

days. The general notice of proposed rulemaking and delay in the effective date are being waived because the technical amendment to these regulations allows OPM to fully implement statutory language in Sec. 651 of the Treasury and General Government Appropriations Act for Fiscal Year 2000 governing voluntary early retirements which was effective May 1, 1998, and to give full effect to benefits extended by that statute.

#### **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.

Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

Accordingly, OPM is amending parts 831 and 842 of title 5, Code of Federal Regulations, as follows:

#### **PART 831—RETIREMENT**

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

**Authority:** 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also

issued under 5 U.S.C. 552a; § 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174, 112 Stat. 58, as amended by section 651 of Pub. L. 106–58, 113 Stat. 430; § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; § 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; § 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; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp. P. 317; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; subpart L also issued under 5 U.S.C. 8337; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

#### **Subpart A—Administration and General Provisions**

##### **§ 831.114 [Amended]**

2. In § 831.114, paragraph (i) is removed.

#### **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); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 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; § 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; § 842.108 also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; § 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105–174, 112 Stat. 58, as amended by section 651 of Pub. L. 106–58, 113 Stat. 430; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section

7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; § 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; § 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.

#### **Subpart B—Eligibility**

##### **§ 842.213 [Amended]**

4. In § 842.213, paragraph (i) is removed.

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#### **DEPARTMENT OF AGRICULTURE**

#### **Food and Nutrition Service**

#### **7 CFR Part 226**

**RIN 0584–AB19**

#### **Child and Adult Care Food Program: Overclaim Authority and Technical Changes to the Meal Pattern Requirements**

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Child and Adult Care Food Program (CACFP) regulations to explicitly authorize the Department and State agencies to assess overclaims against institutions that fail to abide by CACFP recordkeeping requirements. This authority has been successfully challenged in past judicial rulings on the grounds that such authority was not specifically established in program regulations. This rule affirms the Department's authority to assess overclaims for recordkeeping infractions, and clarifies any regulatory ambiguities or inconsistencies regarding overclaims authority. In addition, this rule makes minor changes to the meal pattern requirements. These changes include a technical correction to the supper meal pattern for adults; a modification to the egg and meat/meat alternate equivalencies in the meal patterns to conform to the standards used in the National School Lunch Program and the School Breakfast Program; and a correction to the infant meal pattern to remove an erroneous footnote for breakfast for infants 8 through 11 months.

**EFFECTIVE DATE:** The amendment to § 226.20(b)(4) is effective December 15,

1999. The remaining provisions are effective January 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Eadie or Ms. Melissa Rothstein, 703–305–2620.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The CACFP is authorized by section 17 of the National School Lunch Act (42 U.S.C. 1766). As discussed in the preamble to the proposed rule published in the **Federal Register** on December 5, 1995 (60 FR 62227), section 17(m) of that Act stipulates that “States and institutions participating in the program under this section shall keep accounts and records as may be necessary to enable the Secretary (of Agriculture) to determine whether there has been compliance with the requirements of this section.”

Furthermore, the current CACFP regulations at 7 CFR Part 226 include a number of requirements relating to recordkeeping; § 226.7(m) requires State agencies to establish standards for institutional recordkeeping; § 226.15(e) prescribes the minimum recordkeeping requirements for institutions in the CACFP; § 226.10(c) requires institutions to certify that records are available to support reimbursement claims; and § 226.10(d) establishes timeframes for record retention. In addition, § 226.6(f)(1) requires that the Program agreement between the State agency and each institution stipulate that the institution must agree to comply with all regulatory requirements, including these recordkeeping requirements. Finally, the importance with which the Department views an institution's recordkeeping responsibilities is found in § 226.6(c)(4), where failure to maintain adequate records is specifically listed as a serious deficiency for which termination of an institution's participation may be appropriate.

The December 5, 1995, rulemaking proposed to amend various sections of the CACFP regulations to clarify that failure to adhere to CACFP recordkeeping requirements may be used as a basis for State agencies to assess overclaims against institutions. The Department received a total of 12 comments from the public on the proposed rule. Eleven comments were from State administering agencies; one