

Presidential Documents

Proclamation 5907 of November 10, 1988

National Firefighters Day, 1988

By the President of the United States of America

A Proclamation

Each year, fires claim some 6,000 lives in our country and destroy property worth \$10 billion. The toll would be much higher were it not for the skilled and dedicated individuals who are our Nation's firefighters. These Americans, our friends and neighbors, confront danger every day as they protect our lives, homes, and communities. They exemplify the very best in the American spirit. On National Firefighters Day, 1988, and all year long, we owe municipal, volunteer, and all other firefighters our heartfelt thanks, our utmost respect, and our thorough cooperation in their fire prevention, rescue, and safety efforts.

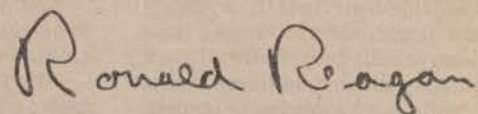
Last year, 127 firefighters gave their lives in the line of duty. Let us pause in solemn and prayerful remembrance of these fallen heroes and of all firefighters who have given their lives through the years. Let us also be sure to extend our support and sympathy to their brave families.

From the days of firefighters' hand-drawn rigs in the 18th century to those of the 19th-century horse-drawn engines, and on to today's modern fire and rescue vehicles, Americans young and old have thrilled, during many a parade on many a Main Street or Maple Avenue throughout our land, to colorful and exciting displays of powerful firefighting equipment. But we have thrilled even more in understanding and appreciation of firefighters' critical mission and their indispensable spirit of courage, service, and sacrifice. May such recognition always inspire us to salute and thank America's firefighters for all they do for each of us.

The Congress, by House Joint Resolution 649, has designated November 12, 1988, as "National Firefighters Day" and authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim November 12, 1988, as National Firefighters Day. I call upon the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of November, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.



Presidential Documents

Executive Order No. 11629, May 22, 1972

National Foundation Day, 1972

By the President of the United States of America

A Proclamation

That since the signing of the National Foundation Day Proclamation in 1963, the National Foundation for the Advancement of the Arts and Sciences has been a leading organization in the field of the arts and sciences. The National Foundation for the Advancement of the Arts and Sciences has been a leading organization in the field of the arts and sciences. The National Foundation for the Advancement of the Arts and Sciences has been a leading organization in the field of the arts and sciences.

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Richard Nixon

Rules and Regulations

Federal Register

Vol. 53, No. 220

Tuesday, November 15, 1988

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 550

Pay Administration (General); Interest on Back Pay

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is adopting an interim rule as a final rule implementing a provision of Pub. L. 100-202 that provides for the payment of interest on back pay awards to Federal employees. This rule establishes the interest rate or rates to be used in the computation, the frequency of compounding, the period of time for which interest accrues, and certain other computational procedures.

EFFECTIVE DATE: December 15, 1988.

FOR FURTHER INFORMATION CONTACT: John P. Cahill, (202) 632-5056.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) published an interim rule in the Federal Register (53 FR 18071, May 20, 1988), providing that interested persons could file comments through July 19, 1988. We received comments from 10 agencies, 1 labor organization, and 1 individual.

Comments on Entitlement to Interest

Three agencies requested additional guidance on determining entitlement to interest when various specific types of pay, allowances, and differentials—e.g., within-grade increases—are withdrawn, reduced, or denied. Although enactment of the provision for interest on back pay emphasized the variety of situations falling within the scope of the back pay law, it did not change the types of personnel actions falling within the scope of the law. Therefore, the interest provision applies whenever an unjustified or unwarranted personnel

action results in the withdrawal, reduction, or denial of pay, allowances, and differentials. Detailed guidance may be found in Federal Personnel Manual Supplement 990-2, Book 550, Subchapter S-8.

Agencies are reminded that under the back pay law, the term "unjustified or unwarranted personnel action" includes both personnel and pay actions (alone or in combination), as well as the omission or failure to take an action or confer a benefit. For example, if an agency, through administrative error, fails to implement a pay action such as a within-grade increase (after approval by the properly authorized official), the employee is made whole by issuing the appropriate payment of back pay and interest. If the error occurs before approval by the properly authorized official, back pay and interest are appropriate only if (1) the error resulted in the failure to carry out a nondiscretionary administrative regulation or policy, or (2) the employee was deprived of a right granted by applicable law, Executive order, rule, regulation, or mandatory personnel policy established by an agency or through a legally enforceable provision of a collective bargaining agreement.

One agency commented that interest accrual should begin on the date an agency is "notified of a delinquency." Since an agency normally does not learn of its obligation to issue payment of back pay and interest until it receives a back pay award from a third party or discovers an administrative error, this suggestion would preclude the accrual of interest for nearly the entire period during which the employee actually suffered a withdrawal, reduction, or denial of pay, allowances, and differentials. Such a provision would be inconsistent with the statutory requirement to begin interest accrual on the "effective date of the withdrawal involved."

The same agency commented that employees should be entitled to interest only when there was "intent" by an agency to withdraw, reduce, or deny pay. We find no basis in the legislative history of the back pay law for limiting entitlement to back pay or interest based on evaluating an agency's intent. An employee may suffer a withdrawal, reduction, or denial of pay, allowances, and differentials regardless of an agency's intent.

The same agency also commented that the final rule should limit entitlement to interest when an employee intentionally fails to notify an agency of an unjustified or unwarranted personnel action resulting in entitlement to back pay and interest. We believe such a limitation would tend to relieve agencies of responsibility for detecting and correcting unjustified or unwarranted personnel actions as soon as is practicable and would therefore be inconsistent with the purpose of the back pay law.

Comments on Reduction for Earnings from Other Employment

One agency commented that the final rule should state explicitly whether unemployment compensation benefits are included in the phrase "earnings from other employment." The final rule merely incorporates the existing concept of "earnings from other employment," as provided by statute. Guidance provided in Federal Personnel Manual Supplement 990-2, Book 550, Subchapter S-8, indicates that this concept applies only to amounts earned in employment and self-employment. Therefore, unemployment compensation benefits are not considered "earnings from other employment." Because the issue is discussed in existing guidance, we believe it is unnecessary to specifically mention unemployment compensation benefits in the final rule.

A labor organization commented that prorating earnings from other employment could be unfair to employees who have no outside earnings during a significant period of time covered by a back pay award when that period is followed by a period of time with outside earnings. The labor organization suggested deducting the actual corresponding amount of earnings from other employment from each withdrawal of pay, allowances, and differentials. The final rule adopts a proration method in deference to the established principle that the total amount of earnings from other employment must be deducted from the total amount of back pay. In some cases, the suggested computation method would result in deducting the total amount of earnings from other employment for the purpose of computing the amount of back pay, but deducting a smaller amount of earnings from other employment for the purpose

of computing interest on back pay. Such a discrepancy would be inconsistent with the purpose of the back pay law. Moreover, a proration method may actually advantage employees whose earnings from other employment occur near the beginning of the period covered by the back pay award or during periods of relatively high interest rates. In addition, the suggested method would present administrative difficulties in verifying and matching each withdrawn amount of pay, allowances, and differentials to a corresponding amount of earnings from other employment.

Comments on Administrative Burden

Seven agencies commented on the administrative burden of computing and issuing payments of interest on back pay in cases involving small amounts of interest or brief delays in issuing payment of pay, allowances, and differentials. The agencies suggested various regulatory remedies, including (1) paying interest only when the amounts of back pay and/or interest exceed minimum dollar amounts, and (2) allowing grace periods for the correction of unjustified or unwarranted personnel actions. We do not believe the statute authorized OPM to prescribe a regulation allowing agencies to forgo the payment of small amounts of interest on back pay. With regard to the second suggestion, we do not believe additional rulemaking is needed since the statute and final rule already permit adequate administrative flexibility in cases where the agency issues payment of back pay within 30 days of the withdrawal, reduction, or denial of pay, allowances, and differentials.

The final rule provides that an agency may end the accrual of interest up to 30 days before the date payment of interest is issued—i.e., the date an agency effectively discharges its fiscal obligation to issue payment of back pay and interest. If an agency can discharge its fiscal obligation within 30 days of the withdrawal, reduction, or denial, it may, in effect, end the accrual of interest before accrual could begin. As a result, the amount of interest payable would be zero.

For example, after approval by the properly authorized official, an agency intends to make an employee's within-grade increase effective with the pay period beginning November 20, 1988. This change should be reflected in the pay check issued December 13, 1988. Due to an administrative error, the within-grade increase is not reflected in the employee's pay check until the December 27, 1988, pay date. Payment of the within-grade increase amount that should have been paid on December 13,

1988, is also issued on December 27, 1988.

Since the agency effectively discharged its fiscal obligation by issuing payment of back pay on December 27, it may end the accrual of interest as early as November 27. Since interest does not begin to accrue until December 13 (the date of the withdrawal), no interest would accrue.

One individual commented that, in certain situations, the phrase "payment of back pay" may be misinterpreted as the actual money amount of the back pay check issued to the employee. This individual noted that the amount of the payment of back pay subtracted from the accrued amount of back pay and interest should be the amount of back pay prior to deductions for erroneous payments and miscellaneous deductions if that amount is larger than the actual amount issued to the employee. While we do not believe that this observation requires a change in the final rule, future guidance will emphasize that the amount of any payment of back pay to be subtracted from the interest computation includes amounts deducted from that payment (except outside earnings, which have already been deducted from the interest computation).

Finally, one agency commented that the final rule should further define the date interest accrual ends. The final rule incorporates as much flexibility as the statute permits—i.e., agencies may end interest accrual on any date not more than 30 days before the date the interest payment is issued. We do not believe additional definition is needed.

Tax Treatment

The Internal Revenue Service has issued an opinion on the tax treatment of interest on back pay. The opinion is consistent with the tentative guidance provided in Federal Personnel Manual Letter 550-78, dated May 31, 1988. Interest payments are not wages for Federal income tax or Federal Insurance Contributions Act (FICA) purposes, nor are they subject to withholding of FICA tax. In most cases, agencies should not withhold Federal income tax from interest payments unless the employee has failed to provide a social security number or the Internal Revenue Service has notified the agency that the social security number provided is incorrect. However, withholding may be required for nonresident alien employees. Agencies may contact the Internal Revenue Service for guidance in individual cases. IRS also advises that agencies should issue Form 1099-INT, Interest Income, to employees receiving interest payments of \$600 or more.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Civil defense, Government employees, Wages.

Office of Personnel Management.
Constance Horner,
Director.

PART 550—[AMENDED]

Accordingly, OPM is adopting the interim rule amending 5 CFR Part 550 published in the Federal Register (53 FR 18071, May 20, 1988) as a final rule without change.

[FR Doc. 88-26278 Filed 11-14-88; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 630

Absence and Leave; Temporary Leave Transfer Program

AGENCY: Office of Personnel Management.

ACTION: Interim rule.

SUMMARY: The Office of Personnel Management is revising the termination date of the voluntary leave transfer program from September 30, 1988, to September 30, 1989. This is a result of the enactment of Pub. L. 100-440, signed by the President on September 22, 1988, which extends OPM's authority to conduct a voluntary leave transfer program in the Federal Government through fiscal year 1989.

DATES: This interim rule is effective retroactively to October 1, 1988, and will expire on September 30, 1989.

FOR FURTHER INFORMATION CONTACT: Martha Hoehn, (202) 632-5056.

SUPPLEMENTARY INFORMATION: Pub. L. 100-440, signed by the President on September 22, 1988, authorizes the extension of the fiscal year 1988 voluntary leave transfer program through fiscal year 1989. The termination date of the extended voluntary leave transfer program is September 30, 1989.

Pursuant to section 553(b)(3)(B) and (d)(3) of Title 5, United States Code, I find that good cause exists for waiving the general notice of proposed

rulemaking and for making this amendment retroactively effective to October 1, 1988. The notice and the 30-day delay in the effective date are being waived because of the need to continue the voluntary leave transfer program without interruption.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 630

Government employees; Employee benefit plan.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, the Office is amending Part 630 of Title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for Part 630 is revised to read as set forth below:

Authority: 5 U.S.C. 6311; § 630.303 also issued under 5 U.S.C. 6133(a); § 630.501 and Subpart F also issued under E.O. 11228; Subpart G also issued under 5 U.S.C. 6305; Subpart H issued under 5 U.S.C. 6326; Subpart I also issued under Pub. L. 100-202, 100-284, and 100-440.

2. In § 630.913, paragraph (a) is revised to read as follows:

§ 630.913 Termination of temporary leave transfer program.

(a) The temporary leave transfer program shall terminate on September 30, 1989.

* * * * *

[FR Doc. 88-26277 Filed 11-14-88; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1430

Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts without change an interim rule published in the Federal Register on January 5, 1988 (53 FR 107) which amended 7 CFR Part 1430

to implement a two and one-half (2½) cents per hundredweight reduction in the price received by producers for all milk produced within the forty-eight contiguous states and marketed for commercial use in calendar year 1988.

EFFECTIVE DATE: November 15, 1988.

FOR FURTHER INFORMATION CONTACT:

Joseph E. Chervenec, Fiscal Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447-3679. A final regulatory Impact Analysis for this final rule is available upon request.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulations 1512-1 and has been classified "nonmajor". It has been determined that the provisions of this rule will not result in an annual effect on the national economy of \$100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule-making with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant adverse impact on the quality of the human environment. Therefore, neither an environmental assessment nor environmental impact statement is needed.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loans and Purchases—10.051, as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

An interim rule, published on January 5, 1988, provided for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced within the forty-eight contiguous states of the continental United States and marketed by producers for commercial use during calendar year 1988. The 1988 calendar year reduction in producer proceeds required by the 1987 Act was implemented by an interim rule published on January 5, 1988, in the

Federal Register (53 FR 107). The comment period ended March 7, 1988. The reduction is required by an amendment to section 201 of the Agricultural Act of 1949 which was enacted in the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203). No comments were received and it was determined that no modifications of the rule were needed.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Final Rule

Accordingly, with respect to 7 CFR Part 1430—*Dairy Products*, Subpart—*Regulations Governing Reductions in the Price of Milk Marketed by Producers, January 1, 1988 to December 31, 1988:*

PART 1430—[AMENDED]

1. The authority citation for the subpart shall continue to read as follows:

Authority: Sec. 201(d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1440); Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*), unless otherwise noted.

2. The interim rule published in the Federal Register on January 5, 1988 (53 FR 107) is adopted as a final rule without change.

Signed at Washington, DC, on November 9, 1988.

Vern Neppi,

Acting Executive Vice President, Commodity Credit Corporation.

[FR. Doc. 88-26368 Filed 11-14-88; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1956

Debt Settlement; Community and Business Programs; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule regarding debt settlement on Community Program Loans and insured Business and Industry loans published April 21, 1988 (53 FR 13098). In this final rule, a portion of Subpart C of 7 CFR Part 1956, § 1956.101 was omitted. The intent of this action is to insert the missing portion.

FOR FURTHER INFORMATION CONTACT: Susan G. Wiefelich, Senior Loan Officer, Program Management Branch,