

# Rules and Regulations

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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.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 831 and 844

RIN 3206-AH68

#### Revised Application Procedures for Disability Retirement Under CSRS and FERS

**AGENCY:** Office of Personnel  
Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing final regulations to establish uniformity in the application procedures for disability retirement under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). The regulations allow employees to meet the filing deadline for disability retirement by submitting applications directly to their employing agencies prior to separation, or to either their former employing agencies or OPM within 1 year after separation.

**EFFECTIVE DATE:** May 8, 1998.

**FOR FURTHER INFORMATION CONTACT:**  
Robert J. Girouard, (202) 606-0299.

**SUPPLEMENTARY INFORMATION:** On January 16, 1997, we published (at 62 FR 2323) proposed regulations to revise the application requirements for disability retirement under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

The revised rules allow OPM to accept a CSRS or FERS disability application filed with an employee's agency prior to separation, or with either the former employing agency or OPM within 1 year after separation. This revision constitutes a delegation of function by the Director of OPM under section 1104(a)(2) of title 5, United States Code.

The revised rules establish uniformity between CSRS and FERS with respect to

OPM-prescribed disability retirement forms and informal claims. The revised rules also establish standards for determining the date on which an application for disability retirement has been filed.

OPM received comments from one Government agency. The commenter recommended including a reference to former employing agencies in sections 831.1204(a) and 844.201(a)(1), to meet the regulations' intent of allowing former employees to file applications for disability retirement with their former employing agencies within one year of separation. The commenter also recommended including a reference to former employing agencies in sections 831.1204(b) and 844.201(a)(2), to ensure that procedures for determining the date on which a disability retirement application is filed apply equally in all filing situations. The commenter further recommended replacing a confusing term in proposed section 831.1204(b) with a more clear term used in proposed section 844.201(a)(2). Finally, the commenter recommended revising the basic requirements for disability retirement in section 831.1203(a)(5) to conform with the changes made by these regulations to the filing rules for disability retirement applications in section 831.1204.

OPM has adopted all of these recommendations, as they improve the clarity of the regulations and reduce the likelihood of administrative error.

#### 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 retirement and insurance benefits of retired Government employees and their survivors.

#### List of Subjects in 5 CFR Parts 831 and 844

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

Office of Personnel Management.

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

Accordingly, OPM is amending 5 CFR parts 831 and 844 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; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 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; § 831.204 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 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964-1965 Comp.; § 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; §§ 831.1203 and 831.1204 also issued under 5 U.S.C. 1104; subpart S also issued under 5 U.S.C. 8345(k); 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 L—Disability Retirement

2. In section 831.1203, paragraph (a)(5) is revised to read as follows:

#### § 831.1203 Basic requirements for disability retirement.

(a) \* \* \*  
(5) An application for disability retirement must be filed with the employing agency before the employee or Member separates from service, or with the former employing agency or the Office of Personnel Management (OPM) within 1 year thereafter. This time limit can be waived only in certain instances explained in § 831.1204.

\* \* \* \* \*

3. Section 831.1204 is revised to read as follows:

#### § 831.1204 Filing disability retirement applications: General.

(a) Except as provided in paragraphs (c) and (d) of this section, an application for disability retirement is timely only if it is filed with the employing agency before the employee or Member separates from service, or with the former employing agency or OPM within 1 year thereafter.

(b) An application for disability retirement that is filed with OPM, an

employing agency or former employing agency by personal delivery is considered filed on the date on which OPM, the employing agency or former employing agency receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the application is presumed to have been mailed 5 days before its receipt, excluding days on which OPM, the employing agency or former employing agency, as appropriate, is closed for business. The date of filing by commercial overnight delivery is the date the application is given to the overnight delivery service.

(c) An application for disability retirement that is filed with OPM or the applicant's former employing agency within 1 year after the employee's separation, and that is incompletely executed or submitted in a letter or other form not prescribed by OPM, is deemed timely filed. OPM will not adjudicate the application or make payment until the application is filed on a form prescribed by OPM.

(d) OPM may waive the 1-year time limit if the employee or Member is mentally incompetent on the date of separation or within 1 year thereafter, in which case the individual or his or her representative must file the application with the former employing agency or OPM within 1 year after the date the individual regains competency or a court appoints a fiduciary, whichever is earlier.

(e) An agency may consider the existence of a pending disability retirement application when deciding whether and when to take other personnel actions. An employee's filing for disability retirement does not require the agency to delay any appropriate personnel action.

#### **PART 844—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DISABILITY RETIREMENT**

4. The authority citation for part 844 is revised to read as follows:

**Authority:** 5 U.S.C. 8461; § 844.201 also issued under 5 U.S.C. 1104.

#### **Subpart A—General Provisions**

5. In § 844.201, paragraphs (a) and (c) are revised to read as follows:

##### **§ 844.201 General requirements.**

(a)(1) Except as provided in paragraphs (a)(3) and (a)(4) of this section, an application for disability retirement is timely only if it is filed with the employing agency before the employee or Member separates from

service, or with the former employing agency or OPM within 1 year thereafter.

(2) An application for disability retirement that is filed with OPM, an employing agency or former employing agency by personal delivery is considered filed on the date on which OPM, the employing agency or former employing agency receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the application is presumed to have been mailed 5 days before its receipt, excluding days on which OPM, the employing agency or former employing agency, as appropriate, is closed for business. The date of filing by commercial overnight delivery is the date the application is given to the overnight delivery service.

(3) An application for disability retirement that is filed with OPM or the applicant's former employing agency within 1 year after the employee's separation, and that is incompletely executed or submitted in a letter or other form not prescribed by OPM, is deemed timely filed. OPM will not adjudicate the application or make payment until the application is filed on a form prescribed by OPM.

(4) OPM may waive the 1-year time limit if the employee or Member is mentally incompetent on the date of separation or within 1 year thereafter, in which case the individual or his or her representative must file the application with the former employing agency or OPM within 1 year after the date the individual regains competency or a court appoints a fiduciary, whichever is earlier.

\* \* \* \* \*

(c) An agency may consider the existence of a pending disability retirement application when deciding whether and when to take other personnel actions. An employee's filing for disability retirement does not require the agency to delay any appropriate personnel action.

[FR Doc. 98-9134 Filed 4-7-98; 8:45 am]

BILLING CODE 6325-01-P

#### **DEPARTMENT OF AGRICULTURE**

#### **Federal Crop Insurance Corporation**

#### **7 CFR Parts 405 and 457**

#### **Apple Crop Insurance Regulations and Common Crop Insurance Regulations, Apple Crop Insurance Provisions**

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of apples. The provisions will be used in conjunction with the Common Crop Insurance Policy, Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current apple crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current apple crop insurance regulation to the 1998 and prior crop years.

**EFFECTIVE DATE:** May 8, 1998.

**FOR FURTHER INFORMATION CONTACT:** Gary Johnson, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926-7730.

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Order 12866**

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

##### **Paperwork Reduction Act of 1995**

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information for this rule have been approved by the Office of Management and Budget (OMB) under control number 0563-0053 through October 31, 2000.

##### **Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

##### **Executive Order 12612**

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained