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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 550 and 553

RIN 3206-AI92

Repeal of Dual Compensation Reductions for Military Retirees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is publishing final regulations recognizing the end of reductions in uniformed service (military) retired or retainer pay previously required by law of military retirees employed by the Federal Government. We are adopting the interim regulations as final without change and provide supplementary information to answer the questions we received.

EFFECTIVE DATE: The regulations are effective on July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Laurence T. Lorenz on (202) 606-0960, FAX (202) 606-2329, or e-mail ltlorenz@opm.gov.

SUPPLEMENTARY INFORMATION: Section 651 of the National Defense Authorization Act for Fiscal Year 2000, Public Law 106-65, repealed 5 U.S.C. 5532. This repeal ended two reductions in uniformed service (military) retired or retainer pay previously required of military retirees employed by the Federal Government. This repeal did not change other parts of the Dual Compensation Act of 1964 that gave military retirees a "fresh start" for Federal civilian employment. The law continues to limit crediting military service of retirees as civilian service for employment benefits. For military retirees, the law allows credit only for service in the armed forces during war, or service for which a campaign badge

is awarded, or when disability retirement is based on disability resulting from armed conflict or in the line of duty during a war; see 5 U.S.C. 3501 and 3502(a) for retention, 6303(a) for annual leave, and 8411(c) for retirement. The law requires agencies to credit uniformed service of non-retired service members as civilian service. We received many forms of the following four questions:

1. *Do any Federal pay caps count retired military or retainer pay?* No, the remaining Federal pay caps do not count uniformed service (military) retired or retainer pay.

2. *Why can't agencies count the military service of military retirees for annual leave, retention and retirement purposes?* The Dual Compensation Act of 1964 required that retired uniformed (military) service members have a "fresh start" upon appointment to the Federal civil service. As a result, generally agencies may not use the military service of a retiree to grant civilian employment benefits. The law provides exceptions for service in the armed forces during war and campaigns and for retirements based on disability resulting from armed conflict or in the line of duty during a war. In 1999, Public Law 106-65 repealed only the dual pay limitations of the 1964 Act.

3. *What exceptions allow agencies to credit the military service of non-retirees and some military retirees as civilian service?* The law requires agencies to credit uniformed (military) service of non-retirees as civilian service. For military retirees, the law only allows credit for service in the armed forces during a war, service in a campaign for which a campaign badge is awarded or when the retirement is based on disability resulting from an armed conflict or in the line of duty during a period of war. For details about these exceptions see 5 U.S.C. 3501 and 3502(a)—retention, 6303(a)—annual leave, and 8411(c)—retirement. Federal agencies use the law and The Guide to Processing Personnel Actions, especially Chapter 6, to credit uniformed (military) service of retirees. The OPM website, www.opm.gov/feddata/gppa/gppa.htm, contains a copy of the Guide.

4. *May military retirees use their veterans' preference?* Yes, retirement does not change a service member's

entitlement to veterans' preference in Federal hiring.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal agencies.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 550

Administrative practice and procedure, Government employees, Claims, Wages.

5 CFR Part 553

Administrative practice and procedure, Government employees, Military Personnel, Retirement, Wages.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the interim regulations amending 5 CFR parts 550 and 553 which were published at 65 FR 19643, on April 12, 2000, are adopted as final regulations without change.

[FR Doc. 02-15012 Filed 6-13-02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket Nos. FV01-905-1 FIR; FV01-905-2 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations To Limit the Volume of Small Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as final rules, without change, two interim final rules that regulated small red seedless grapefruit entering the fresh market