

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR PART 630

RIN: 3206-A171

#### Absence and Leave; Use of Restored Annual Leave

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Office of Personnel Management is issuing proposed regulations to aid agencies and employees involved in Year 2000 (Y2K) computer conversion efforts. The regulations provide that excess annual leave forfeited by employees who are unable to schedule and use their leave as a result of Y2K computer conversion efforts will be deemed to have been scheduled in advance and therefore eligible for restoration.

**DATES:** Comments must be received on or before July 14, 1999.

**ADDRESSES:** Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, FAX (202) 606-0824, or email to [payleave@opm.gov](mailto:payleave@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Sharon Herzberg, (202) 606-2858, FAX (202) 606-0824, or email to [payleave@opm.gov](mailto:payleave@opm.gov).

**SUPPLEMENTARY INFORMATION:** Section 6304 of title 5, United States Code, establishes limitations on the amount of annual leave that an employee may carry over from one leave year to the next. Most employees can carry over no more than 240 hours of annual leave to the next leave year. However, 5 U.S.C. 6304(d)(1)(b) also provides that excess annual leave lost as a result of "exigencies of the public business when the annual leave was scheduled in advance" may be restored to the affected employee.

For the purpose of Federal leave administration, an exigency of the public business occurs when there is a pressing need for an employee's service and his or her pre-approved annual leave must be canceled because there are no other practical alternatives available to accomplish the work by a given deadline. This situation may present itself later this year for Federal employees who are carrying out their agencies' efforts to address Year 2000 (Y2K) computer conversion problems. Many of these employees will be faced with the possible forfeiture of "use or lose" annual leave because they must remain on the job until the Y2K computer conversions have been implemented and thoroughly tested. Under the normal rules, agencies would be faced with the administrative burden of scheduling, canceling, and restoring such leave for these employees at a time when all available attention and energy should be focused on Y2K conversion efforts.

The Office of Personnel Management (OPM) believes the Government's efforts to address Y2K computer conversion problems constitute an exigency of the public business under 5 U.S.C. 6304(d)(1)(b), which justifies the restoration of any forfeited annual leave in excess of the maximum allowable limits. Since it is known in advance that it is not possible for employees affected by the Y2K exigency to be absent on leave, the scheduling and canceling of such leave places an unnecessary administrative burden on the employees and agencies involved.

Consistent with OPM's commitment to provide agencies with the human resources management tools they need to address Y2K computer conversion problems, we propose to simplify the procedures for restoring annual leave forfeited as a result of the Y2K exigency. Section 630.310(a) of title 5, Code of Federal Regulations, would deem the Y2K computer conversion project an exigency of the public business and establish January 31, 2000, as the Governmentwide termination date for the Y2K exigency. In addition, under § 630.310(b), annual leave forfeited as a result of the Y2K exigency would be deemed to have been scheduled in advance for the purpose of satisfying the requirements in 5 U.S.C. 6304(d) and 5 CFR 630.308. Therefore, annual leave forfeited as a result of the Y2K exigency

would be restored under 5 U.S.C. 6304 and placed in a separate restored leave account. The procedures established by these proposed regulations are similar to those established for employees of Department of Defense installations undergoing closure or realignment.

#### Time Limit for Use of Restored Leave

The existing regulations at § 630.306 provide that annual leave restored as a result of an exigency of public business must be scheduled and used not later than the end of the leave year ending 2 years after the termination date of the exigency. The Governmentwide termination date for the Y2K exigency would be January 31, 2000. Therefore, consistent with the current regulations, § 630.310(c) would provide that annual leave restored because of the Y2K computer conversion exigency must be scheduled and used not later than the end of leave year 2002.

#### Treatment of Current Restored Leave Accounts

Many employees currently involved in Y2K computer conversion efforts have an "active" restored leave account—i.e., an account of restored annual leave that was established under other conditions permitting restoration of annual leave under 5 U.S.C. 6304(d). Since there is no authority to restore previously restored annual leave, employees (and agencies) have little option but to use (or permit the use of) the leave in the "active" restored leave account to avoid the forfeiture of annual leave, even though the employees are needed to work on Y2K conversions. The proposed regulations at § 630.310(d) would alleviate this problem because the time limitation for using active restored annual leave would be canceled for the entire period during which employees' services are determined to be necessary for the completion of Y2K computer conversion efforts. As of January 31, 2000, a new time limit would be established under § 630.310(b) for using all restored leave available to the employee under 5 U.S.C. 6304(d). The new time limit for using restored annual leave would be not later than the end of leave year 2002.

#### Employees Who Transfer to Another Position

As noted earlier, § 630.308 currently requires that before forfeited annual

leave may be considered for restoration, it must have been scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year. We are concerned about the possible consequences of requiring advance scheduling for an employee who transfers from a position deemed necessary for Y2K conversion efforts to another position during the latter portion of leave year 1999. It is possible that such employees would have leave in excess of the maximum limitation, but would still be unable to schedule it. Therefore, § 630.310(e) would allow an agency to consider restoration of annual leave forfeited at the end of leave year 1999 to an employee whose involvement in Y2K conversion efforts ends during the leave year if the agency determines that there is a correlation between the lack of advance scheduling and the employee's Y2K conversion efforts.

OPM believes such annual leave may be considered for restoration. Section 630.310(e) would require affected employees to make a reasonable effort to comply with the advance scheduling requirement in § 630.308(a). However, the head of an agency could exempt an employee from the advance scheduling requirement if the employee could show that he or she was involved in Y2K conversion efforts during the leave year and was unable to comply with the scheduling requirement due to circumstances beyond his or her control. Since the agency may determine that there was sufficient time for the employee to schedule and use annual leave before the end of leave year 1999, this provision would not guarantee that excess annual leave would be restored.

Annual leave restored to an employee in leave year 2000 as a result of the Y2K conversion exigency, but unused by the end of leave year 2002, will be forfeited, with no possibility of further restoration.

#### Regulatory Flexibility Act

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

#### E.O. 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 in CFR Part 630

Government employees.

Office of Personnel Management.

**Janice Lachance,**  
*Director.*

Accordingly, OPM is proposing to amend 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 continues to read as follows:

**Authority:** 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103-356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102-484, 106 Stat. 2722, and Pub. L. 103-337, 108 Stat. 2663; subpart D also issued under Pub. L. 103-329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100-566, 102 Stat. 2834, and Pub. L. 103-103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100-566, and Pub. L. 103-103; subpart K also issued under Pub. L. 102-25, 105 Stat. 92; and subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103-3, 107 Stat. 23.

#### Subpart C—Annual Leave

2. In § 630.308, paragraph (a) is revised to read as follows:

##### § 630.308 Scheduling of annual leave.

(a) Except as provided in paragraph (b) of this section and § 630.310, before annual leave forfeited under section 6304 of title 5, United States Code, may be considered for restoration under that section, use of the annual leave must have been scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year.

\* \* \* \* \*

3. A new § 630.310 is added to read as follows:

##### § 630.310 Scheduling of annual leave by employees determined necessary for Year 2000 computer conversion efforts.

(a) Year 2000 computer conversion efforts are deemed to be an exigency of the public business for the purpose of restoring annual leave forfeited under 5 U.S.C. 6304. This exigency terminates on January 31, 2000.

(b) For any employee who forfeits annual leave under 5 U.S.C. 6304 at the beginning of leave year 2000 because the agency determined the employee's services were required during the Year 2000 computer conversion exigency, the forfeited annual leave is deemed to have been scheduled in advance for the purpose of 5 U.S.C. 6304(d)(1)(B) and § 630.208.

(c) Annual leave restored under 5 U.S.C. 6304(d) because of the Year 2000

computer conversion exigency must be scheduled and used not later than the end of leave year 2002.

(d) The time limits established under paragraphs (a) and (b) of § 630.308 for using previously restored annual leave do not apply for the period during which an employee's services were determined necessary for the completion of Year 2000 computer conversion efforts. On January 31, 2000, a new time limit will be established under paragraph (c) of this section for all annual leave restored to such an employee.

(e) An employee whose services were determined necessary during the Year 2000 computer conversion exigency for a portion of leave year 1999, but who subsequently moves to a position not involving Year 2000 computer conversion efforts, must make a reasonable effort to comply with the scheduling requirement in § 630.308(a). The head of the agency or his or her designee may exempt such an employee from the advance scheduling requirement in § 630.308(a) if coverage under paragraphs (a) and (b) of this section terminated during leave year 1999 and the employee can demonstrate that he or she was unable to comply with the advance scheduling requirement due to circumstances beyond his or her control.

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## DEPARTMENT OF AGRICULTURE

### Agriculture Marketing Service

#### 7 CFR Part 1216

[FV-98-702-PR3]

#### Peanut Promotion, Research, and Information Order; Extension of Voting Period

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule and referendum order; Amendment to referendum Order.

**SUMMARY:** This action extends the voting period for the referendum during which peanut producers will vote on whether the Peanut Promotion, Research, and Information Order will become effective. The voting period has been extended an additional 21 days to conclude on July 2, 1999, rather than June 11, 1999. This extension will better facilitate full voter participation.

**DATES:** In Order to be eligible to vote, peanut producers must have produced