

30-day or 45-day maximum limitations and any annual leave accrued while serving in the SES is carried forward and becomes subject to the 90-day maximum limitation on accrued annual leave for SES members.

Example: A GS-15 employee who has 300 hours of accumulated annual leave (i.e., 60 hours in excess of the 240-hour (30-day) leave ceiling) is appointed to an SES position on June 14, 1995. The employee earns 100 additional hours of annual leave in the SES before the end of the 1995 leave year. If the SES member uses only 40 of the 60 hours of excess annual leave during the remainder of the 1995 leave year, his or her leave balance at the beginning of the 1996 leave year will be 340 hours (the maximum 240 hours carried over as a GS-15 employee, plus the 100 hours earned while in the SES). The remaining 20 hours of excess leave will be forfeited at the beginning of the 1996 leave year. If the SES member uses more than 60 hours of excess annual leave (e.g., 80 hours) during the remainder of the 1995 leave year, his or her leave balance at the beginning of the 1996 leave year will be 320 hours (the maximum 240 hours carried over as a GS-15 employee, plus the 100 hours earned while in the SES, minus the 20 hours of leave used above the 60 hours of excess annual leave).

### Regulatory Flexibility Act

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

### List of Subjects in 5 CFR Part 630

Absence and leave.

U.S. Office of Personnel Management.

**James B. King,**

*Director.*

Accordingly, OPM is amending 5 CFR part 630 as follows:

### PART 630—ABSENCE AND LEAVE

1. The authority citation for part 630 is revised 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 issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332 and Pub. L. 100-566, 102 Stat. 2834 and 103-103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362 and Pub. L. 100-566 and 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 § 630.301, paragraph (b) is revised to read as follows:

#### § 630.301 Annual leave accumulation—Senior Executive Service.

\* \* \* \* \*

(b) When an employee in a position outside of the Senior Executive Service moves to a position in the Senior Executive Service, any annual leave accumulated prior to movement shall remain to the employee's credit.

(1) Annual leave accumulated prior to movement to the Senior Executive Service that is in excess of the amount allowed for the former position by 5 U.S.C. 6304 (a), (b), or (c) and that is not used by the beginning of the first full biweekly pay period in the next leave year shall be subject to forfeiture.

(2) If an employee serves less than a full pay period under an appointment in the Senior Executive Service, only that portion of accrued annual leave that is attributable to service in the Senior Executive Service shall be subject to the 90-day (720-hour) limitation on accumulation of annual leave provided in paragraph (a) of this section. Annual leave accrued during the remainder of the pay period shall be subject to the limitations in 5 U.S.C. 6304(a), (b), and (c), as appropriate.

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 1

[FV-94-705FR]

#### Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment will expand the scope and applicability of the Department of Agriculture's uniform rules of practice governing adjudicatory proceedings to include actions initiated under the Fluid Milk Promotion Act of 1990; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993; the Lime Research, Promotion, and Consumer Information Act of 1990, as amended; the Mushroom Promotion, Research, and Consumer Information Act of 1990; the Pecan Promotion and Research Act of 1990; the Sheep Promotion, Research,

and Information Act of 1994; and the Soybean Promotion, Research, and Consumer Information Act.

**EFFECTIVE DATE:** June 28, 1995.

#### FOR FURTHER INFORMATION CONTACT:

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**SUPPLEMENTARY INFORMATION:** The Fluid Milk Promotion Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6401-6417]; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993 [Pub. L. 103-190, 7 U.S.C. 6801-6814]; the Lime Research, Promotion, and Consumer Information Act of 1990, as amended, [Pub. L. 101-624, 7 U.S.C. 6201-6212]; the Mushroom Promotion, Research, and Consumer Information Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6101-6112]; the Pecan Promotion and Research Act of 1990 [Pub. L. 101-624, 7 U.S.C. 6001-6013]; the Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7101-7111]; and the Soybean Promotion, Research, and Consumer Information Act [Pub. L. 101-624, 7 U.S.C. 6301-6311]; each authorizes the assessment of civil penalties and the issuance of cease and desist orders against any person found to be in violation of the respective Act, order, plan, or regulation issued thereunder.

The Department of Agriculture has established uniform rules of practice [7 CFR part 1, subpart H], which govern the conduct of adjudicatory proceedings under numerous statutes. In order to insure consistency and uniformity in the conduct of the Department's administrative proceedings, it has been determined that proceedings initiated under the Acts listed above should also be governed by these uniform procedures.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect, and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

The provisions of the Administrative Procedure Act concerning notice and opportunity for comment on agency rulemaking [5 U.S.C. 553] do not apply to the promulgation of agency rules of practice. Further, this action simply extends the applicability of the Department's uniform rules of practice