§ 351.802 Content of notice.

(a)(1) The action to be taken, the reasons for the action, and its effective date;

* * * * *

[FR Doc. 98–15860 Filed 6–12–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206–AI25

Voluntary Early Retirement Authority

AGENCY: Office of Personnel Management.

ACTION: Interim rule.

SUMMARY: The Office of Personnel Management is publishing interim regulations covering Federal employee voluntary early retirements to implement new procedures affecting the application of voluntary early retirements. These temporary provisions affect agency requests, OPM approval, and agency offers of voluntary early retirement as well as several eligibility requirements for early retirement during a major reorganization, major reduction in force, or major transfer of function. The basic age and service requirements for voluntary early retirement remain unchanged.

DATES: Sections 831.108 and 842.205 are suspended from June 15, 1998 until October 1, 1999. Sections 831.114 and 842.213 are added effective from June 15, 1998 through September 30, 1999. Comments must be received by August 14, 1998.

ADDRESSES: Send written comments to Mary Lou Lindholm; Associate Director for Employment; Office of Personnel Management; Room 6500; 1900 E Street, NW; Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Edward P. McHugh or Gregory P. Keller, 202–606–0960, FAX 202–606–2329.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 8336(d)(2) and 8414(b)(1)(B) provide that OPM may approve voluntary early retirement authority for agencies undergoing a major reorganization, major reduction in force, or major transfer of function. 5 U.S.C. 8336(d)(2) authorizes the voluntary early retirement of employees under the Civil Service Retirement System (CSRS), while 5 U.S.C. 8414(b)(1)(B) authorizes the voluntary early retirement of employees under the Federal Employees Retirement System (FERS).

Section 7001 of Public Law 105–174, the Supplemental Appropriations and Rescissions Act, FY 1998, enacted May 1, 1998, provided authority for OPM and agencies to apply special provisions affecting the manner in which voluntary early retirements may be administered and approved for the period from May 1, 1998, through September 30, 1999.

Under section 7001, an agency may request a determination from the Office of Personnel Management that the agency or agency component(s) is undergoing a major reorganization, major reduction in force, or major transfer of function and that such action will result in the separation or downgrading of a significant percentage of the employees in the agency or component(s).

The law allows OPM to prescribe regulations which permit the agency, after OPM approval, to determine the scope of voluntary early retirement offers on the basis of one or more organizational units; one or more occupational series or levels; one or more geographic locations; other similar nonpersonal factors; or any appropriate combination of such factors.

Additionally, the law imposes several restrictions on eligibility for voluntary early retirement. Employees who have not been employed continuously by the agency since at least 31 days prior to the date of the agency's requests to OPM for early retirement; employees serving under time-limited appointments; and employees who have been notified that such employee is to be involuntarily separated for misconduct or unacceptable performance are ineligible for voluntary early retirements during the period this law is effective.

These interim regulations describe agencies' requests to OPM for approval of a voluntary early retirement authority; the manner in which agencies may offer voluntary early retirements; the responsibilities of agencies in managing approved voluntary early retirement authorities; eligibility of employees for voluntary early retirement; and agencies' required reports to OPM on use of the authorities.

Public Law 105–174 provided for the application of voluntary early retirements under these provisions through September 30, 1999. Therefore, 5 CFR 831.108 and 842.205 are suspended until October 1, 1999. In lieu of those sections, §§ 831.114 and 842.213 are added. 5 CFR 831.114 covers voluntary early retirement for CSRS employees, while the new 5 CFR 842.213 covers voluntary early retirement for FERS employees. Notwithstanding any future changes in the voluntary early retirement statutes, §§ 831.114 and 842.213 will expire September 30, 1999, at which time §§ 831.108 and 842.205 will be restored.

The special provisions in Public Law 105–174 do not affect the existing statutory requirements in 5 U.S.C. 8336(d) or 8414(b)(1) that, in order to be eligible for voluntary early retirement, an individual must have completed 25 years of service or have reached age 50 and completed 20 years of service.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30 days. The general notice of proposed rulemaking and delay in the effective date are being waived because these regulations allow OPM to immediately implement statutory language in Public Law 105–174 governing voluntary early retirements which was effective May 1, 1998, and to give full effect to benefits extended by that statute.

Regulatory Flexibility Act

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

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 831

Administrative practice and procedure, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending parts 831 and 842 of title 5, Code of Federal Regulations, as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 continues 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); § 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174; § 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; 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 A—Administration and General Provisions

2. Section 831.108 is suspended from June 15, 1998 until October 1, 1999.

3. Section 831.114 is added to subpart A effective from June 15, 1998 through September 30, 1999, to read as follows:

§ 831.114 Early retirement—major reorganization, major reduction in force, or major transfer of function.

(a) Upon an agency's request, as described in paragraph (c) of this section, OPM may make a determination as provided in 5 U.S.C. 8336(d)(2), that:

(1) The agency is undergoing a major reduction in force, major reorganization, or major transfer of function; and

(2) A significant percentage of the employees serving in the employing agency will be involuntarily separated, or subject to a reduction in basic pay.

(b)(1) Based on a determination by OPM under paragraph (a) of this section, OPM will provide to the agency the authority to offer voluntary early retirements to its employees.

(2) Under an OPM approved authority, the agency may offer voluntary early retirements to its employees based on:

(i) Organizational unit(s);

(ii) Occupational series or level(s);

(iii) Geographic area(s);

(iv) Specific window period(s);

(v) Any similar nonpersonal and objective factors; or

(vi) Any combination of factors under this paragraph (b)(2) that the agency determines to be appropriate and necessary to accomplish the reductions which formed the basis for OPM's determination under paragraph (a) of this section.

(3) An employee who separates from the service voluntarily under authority of 5 U.S.C. 8336(d)(2) after completing 25 years of service, or becoming age 50 and completing 20 years of service, is entitled to an annuity if, on the date of separation, the employee:

(i) Is serving in a position covered by an offer by the agency as described in paragraph (b)(2) of this section;

(ii) Has been employed in the requesting agency at least 31 days prior to the date the agency requested an OPM determination under paragraph (a) of this section;

(iii) Is not serving under a time-limited appointment; and

(iv) Is not in receipt of a decision of involuntary separation for misconduct or unacceptable performance.

(4) OPM may approve an agency's request for voluntary early retirement authority to cover the entire period of the major reduction in force, major reorganization, or major transfer of function; or through September 30, 1999, whichever is less.

(c)(1) An agency's request for voluntary early retirement must be signed by the head of the agency or by a specific designee with delegated authority.

(2) The agency's request for voluntary early retirement must contain the following:

(i) Identification of the agency or organizational unit(s) for which a determination is requested;

(ii) Reasons why the voluntary early retirement authority is needed. This explanation must include a detailed summary of the agency's personnel and budgetary situation that will result in an excess of personnel because of a major reduction in force, major reorganization, or major transfer of function as well as the date on which the agency expects to involuntarily separate employees as a result of the major reduction in force, major reorganization, or major transfer of function;

(iii) The time period during which voluntary early retirement will be offered. At the agency's discretion, the agency may request voluntary early retirement authority to cover the entire period of the major reduction in force, major reorganization, or major transfer of function; or through September 30, 1999, whichever is less;

(iv) The total number of nontemporary employees in the agency;

(v) The total number of nontemporary employees in the agency who will be involuntarily separated or downgraded because of reduction in force or relocation during a major reduction in force, major reorganization, or major transfer of function;

(vi) The total number of employees in the agency who are eligible for voluntary early retirement; and

(vii) An estimate of the total number of employees in the agency who are expected to retire early during the period covered by the request for voluntary early retirement authority.

(d)(1) The agency may not expand the availability of voluntary early retirements or offer early retirements to employees who are not within the authority approved by OPM.

(2) Except as provided in paragraph (d)(3) of this section, the agency may limit voluntary early retirement offers during window periods under paragraph (b)(2)(iv) of this section only by:

(i) An established opening and closing date which is announced to employees at the time of the initial offer; or

(ii) Receipt of a specified number of applications for retirement, provided that, at the time of the initial offer, the agency notified employees that the agency retained the right to limit voluntary early retirements on that basis.

(3) The agency may subsequently establish a revised closing date, or a revised number of applications, only when changes in the conditions that served as the basis for the approval of the voluntary early retirement authority have occurred. The revised closing date, or number of applications, may be applicable to the entire authority, or only to employees in specific organizational unit(s), occupational series or level(s), or geographic area(s).

(e) After approval of an authority, the agency is required to immediately notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the voluntary early retirement authority.

(f) Agencies are required to provide OPM with interim and final reports on each voluntary early retirement authorization, as covered in OPM's approval letter to the agency. OPM may suspend an agency's early retirement authority if the agency is not in compliance with the reporting requirements or reporting schedule provided to the agency in the approval letter from OPM.

(g) Agencies are responsible for ensuring that employees are not coerced into voluntary early retirement. If an agency finds any instances of coercion,

it must take appropriate corrective action.

(h) OPM may terminate an agency's authority at any time that OPM determines the agency is no longer undergoing the major reorganization, major reduction in force, or major transfer of function that formed the basis for OPM's approval of the authority. OPM may take steps to amend, limit, or terminate an authority in order to ensure that early retirement programs are operated in a manner which is consistent with applicable laws or regulatory requirements.

(i) Pursuant to section 7001 of Public Law 105–174 (112 Stat. 91), the provisions of this section are applicable until September 30, 1999.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

4. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 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; § 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 842.205 also issued under 5 U.S.C. 8414(b)(1)(B); § 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105-174; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508; § 842.707 also issued under section 6001 of Pub. L. 100–203; § 842.708 also issued under section 4005 of Pub. L. 101–239 and section 7001 of Pub. L. 101–508; subpart H also issued under 5 U.S.C. 1104.

Subpart B—Eligibility

5. Section 842.205 is suspended from June 15, 1998 until October 1, 1999.

6. Section 842.213 is added to subpart B effective from June 15, 1998 through September 30, 1999, to read as follows:

§ 842.213 Early retirement—major reorganization, major reduction in force, or major transfer of function.

(a) Upon an agency's request, as described in paragraph (c) of this section, OPM may make a determination as provided in 5 U.S.C. 8414(b)(1)(B), that:

(1) The agency is undergoing a major reduction in force, major reorganization, or major transfer of function; and

(2) A significant percentage of the employees serving in the employing agency will be involuntarily separated, or subject to a reduction in basic pay.

(b)(1) Based on a determination by OPM under paragraph (a) of this section, OPM will provide to the agency the authority to offer voluntary early retirements to its employees.

(2) Under an OPM approved authority, the agency may offer voluntary early retirements to its employees based on:

(i) Organizational unit(s);

(ii) Occupational series or level(s);

(iii) Geographic area(s);

(iv) Specific window period(s);

(v) Any similar nonpersonal and objective factors; or

(vi) Any combination of factors under this paragraph (b)(2) that the agency determines to be appropriate and necessary to accomplish the reductions which formed the basis for OPM's determination under paragraph (a) of this section.

(3) An employee who separates from the service voluntarily under authority of 5 U.S.C. 8414(b)(1)(B) after completing 25 years of service, or becoming age 50 and completing 20 years of service, is entitled to an annuity if, on the date of separation, the employee:

(i) Is serving in a position covered by an offer by the agency as described in paragraph (b)(2) of this section;

(ii) Has been employed in the requesting agency at least 31 days prior to the date the agency requested an OPM determination under paragraph (a) of this section;

(iii) Is not serving under a time-limited appointment; and

(iv) Is not in receipt of a decision of involuntary separation for misconduct or unacceptable performance.

(4) OPM may approve an agency's request for voluntary early retirement authority to cover the entire period of the major reduction in force, major reorganization, or major transfer of function; or through September 30, 1999, whichever is less.

(c)(1) An agency's request for voluntary early retirement must be signed by the head of the agency or by a specific designee with delegated authority.

(2) The agency's request for voluntary early retirement must contain the following:

(i) Identification of the agency or organizational unit(s) for which a determination is requested;

(ii) Reasons why the voluntary early retirement authority is needed. This explanation must include a detailed summary of the agency's personnel and budgetary situation that will result in an excess of personnel because of a major reduction in force, major reorganization, or major transfer of function as well as the date on which the agency expects to involuntarily separate employees as a result of the major reduction in force, major reorganization, or major transfer of function;

(iii) The time period during which voluntary early retirement will be offered. At the agency's discretion, the agency may request voluntary early retirement authority to cover the entire period of the major reduction in force, major reorganization, or major transfer of function; or through September 30, 1999, whichever is less;

(iv) The total number of nontemporary employees in the agency;

(v) The total number of nontemporary employees in the agency who will be involuntarily separated or downgraded because of reduction in force or relocation during a major reduction in force, major reorganization, or major transfer of function;

(vi) The total number of employees in the agency who are eligible for voluntary early retirement; and

(vii) An estimate of the total number of employees in the agency who are expected to retire early during the period covered by the request for voluntary early retirement authority.

(d)(1) The agency may not expand the availability of voluntary early retirements or offer early retirements to employees who are not within the authority approved by OPM.

(2) Except as provided in paragraph (d)(3) of this section, the agency may limit voluntary early retirement offers during window periods under paragraph (b)(2)(iv) of this section only by:

(i) An established opening and closing date which is announced to employees at the time of the initial offer; or

(ii) Receipt of a specified number of applications for retirement, provided that, at the time of the initial offer, the agency notified employees that the agency retained the right to limit voluntary early retirements on that basis.

(3) The agency may subsequently establish a revised closing date, or a revised number of applications, only when changes in the conditions that served as the basis for the approval of the voluntary early retirement authority have occurred. The revised closing date, or number of applications, may be applicable to the entire authority, or only to employees in specific organizational unit(s), occupational series or level(s), or geographic area(s).

(e) After approval of an authority, the agency is required to immediately notify OPM of any subsequent changes in the

conditions that served as the basis for the approval of the voluntary early retirement authority.

(f) Agencies are required to provide OPM with interim and final reports on each voluntary early retirement authorization, as covered in OPM's approval letter to the agency. OPM may suspend an agency's early retirement authority if the agency is not in compliance with the reporting requirements or reporting schedule provided to the agency in the approval letter from OPM.

(g) Agencies are responsible for ensuring that employees are not coerced into voluntary early retirement. If an agency finds any instances of coercion, it must take appropriate corrective action.

(h) OPM may terminate an agency's authority at any time that OPM determines the agency is no longer undergoing the major reorganization, major reduction in force, or major transfer of function that formed the basis for OPM's approval of the authority. OPM may take steps to amend, limit, or terminate an authority in order to ensure that early retirement programs are operated in a manner which is consistent with applicable laws or regulatory requirements.

(i) Pursuant to section 7001 of Public Law 105–174 (112 Stat. 91), the provisions of this section are applicable until September 30, 1999.

[FR Doc. 98–15656 Filed 6–12–98; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

[Docket No. FV98–958–1 FR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule decreases the assessment rate established for the Idaho-Eastern Oregon Onion Committee (Committee) under Marketing Order No. 958 for the 1998–99 and subsequent fiscal periods from $0.10 to $0.09 per hundredweight of onions handled. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon. Authorization to assess Idaho-Eastern Oregon onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958 (7 CFR part 958), both as amended, regulating the handling of onions grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Idaho-Eastern Oregon onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions beginning on July 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.10 to $0.09 per hundredweight of onions handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members, four handler members, and one public member, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.10 per hundredweight that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 2, 1998, and unanimously recommended 1998–99 expenditures of $1,155,205 and an assessment rate of $0.09 per hundredweight of onions handled during the 1998–99 and subsequent fiscal periods. The Committee estimates that the 1998–99 onion crop will approximate 9,200,000 hundredweight of onions. In comparison, the 1997–98 fiscal period budget was established at $1,146,916 on an estimated assessable onion harvest of 8,800,000 hundredweight of onions. The decrease is necessary to prevent expected assessment income from exceeding the