

# Rules and Regulations

Federal Register

Vol. 63, No. 37

Wednesday, February 25, 1998

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, 842, 870, and 890

RIN 3206-A112

#### Retirement and Insurance—Exemption From Continuity of Coverage Requirements for Certain Decennial Census Employees With Dual Appointments

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing final regulations to provide an exemption from continuity of coverage requirements for Federal retirement, health insurance, and life insurance benefits, for certain Federal employees who accept a second appointment to perform intermittent decennial census duties. The purpose of this exemption is to facilitate hiring Federal employees for the decennial census by eliminating administrative complexities that would otherwise result under current regulations. Employees will retain the retirement and insurance benefits to which they are entitled under their primary Federal jobs, while earning additional wages in their second jobs with the Census Bureau.

**EFFECTIVE DATE:** March 27, 1998.

**FOR FURTHER INFORMATION CONTACT:** For Parts 831 and 842: Robert Girouard, (202) 606-0299; and for Parts 870 and 890: Karen Leibach, (202) 606-0004.

**SUPPLEMENTARY INFORMATION:** On December 24, 1997, we published (at 62 FR 67295) a proposed rule to provide an exemption from continuity of coverage requirements for Federal retirement, health insurance, and life insurance benefits, for certain Federal employees who accept a second appointment to perform intermittent decennial census

duties. We received no comments on the proposed rule.

Continuity of coverage rules for retirement and insurance make it difficult for the Bureau of the Census, U.S. Department of Commerce ("Census Bureau") to hire Federal employees for second appointments. While each Federal employee retains benefit coverage under his or her primary position with little or no additional benefits accruing from the intermittent Census employment, the Census Bureau would be required to coordinate closely with each employee's agency to determine the amount of additional retirement deductions and insurance premiums that would have to be withheld as a result of continuity of coverage. The administrative complexities resulting from week by week coordination with the employee's primary agency would be highly susceptible to error and would make large-scale hiring from the pool of Federal employees administratively prohibitive. Placing Federal employees hired to perform short term decennial census service on the same benefit footing as persons hired from outside the Government will significantly reduce the coordination burden, and assist the Census Bureau in meeting its unique staffing requirements. Accordingly, we are amending the continuity of coverage rules to exempt Federal employees hired by the Census Bureau under temporary, intermittent appointments to perform decennial census duties.

#### 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 Government 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 Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental

relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

##### 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

##### 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

Accordingly, OPM is amending Title 5 of the Code of Federal Regulations 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; 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 B—Coverage

2. In § 831.201, paragraph (b)(1) is revised to read as follows:

##### § 831.201 Exclusions from retirement coverage.

\* \* \* \* \*

(b) \* \* \*

(1) Employment in an excluded category follows employment subject to subchapter III of chapter 83 of title 5, United States Code, without a break in service or after a separation from service of 3 days or less, except in the case of:

- (i) An alien employee whose duty station is located in a foreign country; or
- (ii) An employee hired by the Census Bureau under a temporary, intermittent appointment to perform decennial census duties.

\* \* \* \* \*

**PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY**

3. The authority citation for part 842 is revised 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; §§ 842.604 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 A—Coverage**

4. In § 842.105, paragraph (b) is revised to read as follows:

**§ 842.105 Regulatory exclusions.**

\* \* \* \* \*

(b) When an employee who is covered by FERS moves to a position listed in paragraph (a) of this section without a break in service or after a separation of 3 days or less, his or her FERS coverage will continue, except in the case of an employee hired by the Census Bureau under a temporary, intermittent appointment to perform decennial census duties.

\* \* \* \* \*

**PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM**

5. The authority citation for part 870 is revised to read as follows:

**Authority:** 5 U.S.C. 8716; subpart J also issued under sec. 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; § 870.302 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251.

6. In § 870.301, add paragraph (c) to read as follows:

**§ 870.301 Eligibility for life insurance.**

\* \* \* \* \*

(c) Notwithstanding any other provision in this part, the hiring of a Federal employee, whether in pay status or nonpay status, for a temporary, intermittent position with the decennial census has no effect on the amount of his/her Basic or Option B insurance, the withholdings or Government contribution for his/her insurance, or the determination of when 12 months in nonpay status ends.

**PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM**

7. The authority citation for part 890 continues to read as follows:

**Authority:** 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251.

8. In § 890.102, paragraph (g) is added to read as follows:

**§ 890.102 Coverage.**

\* \* \* \* \*

(g) Notwithstanding any other provision in this part, the hiring of a Federal employee, whether in pay status or nonpay status, for a temporary, intermittent position with the decennial census has no effect on the withholding or Government contribution for his/her coverage or the determination of when 365 days in nonpay status ends.

[FR Doc. 98-4781 Filed 2-24-98; 8:45 am]

BILLING CODE 6325-01-P

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 50 and 70**

RIN 3150-AF87

**Criticality Accident Requirements; Withdrawal of Direct Final Rule and Revocation of Regulatory Text**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** The Nuclear Regulatory Commission is withdrawing a direct final rule that would have amended the Commission's regulations to provide light-water nuclear power reactor licensees with greater flexibility in meeting the requirement that licensees authorized to possess more than a small

amount of special nuclear material (SNM) maintain a criticality monitoring system in each area where the material is handled, used, or stored. The NRC is taking this action because it has received significant adverse comments in response to an identical proposed rule which was concurrently published in the **Federal Register**. Because the effective date for the direct final rule has passed, the NRC is removing the regulatory text codified in that action.

**EFFECTIVE DATE:** February 25, 1998.

**FOR FURTHER INFORMATION CONTACT:** Stan Turel, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-6234 (E-mail: spt@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On December 3, 1997 (62 FR 63825), the Nuclear Regulatory Commission published in the **Federal Register** a direct final rule amending its regulations to provide persons licensed to construct or operate light-water nuclear power reactors with the option of either meeting the criticality accident requirements of paragraph (a) of 10 CFR 70.24 in handling and storage areas for SNM, or electing to comply with requirements that would be incorporated into 10 CFR part 50 at § 50.68. The direct final rule was to become effective on February 17, 1998. The NRC also concurrently published an identical proposed rule on December 3, 1997 (62 FR 63911). In these documents, the NRC indicated that if it received significant adverse comments in response to this action, the NRC would withdraw the direct final rule and would consider the comments received as in response to the proposed rule and address these comments in a subsequent final rule. Therefore, the Commission is withdrawing the December 3, 1997, direct final rule. The public comments received will be addressed in a subsequent final rule issued in either a notice of final rulemaking or in a notice of withdrawal of the proposed rule.

Because this notice of withdrawal is being published after the February 17, 1998, effective date for the direct final rule, the regulatory text presented in the December 3, 1997, direct final rule must be removed from the Code of Federal Regulations. Therefore, the provisions added to part 50 at § 50.68 are removed and the text of § 70.24(d) is being restored to the text of the paragraph that was in effect before the December 3, 1997, amendment to that paragraph.