

# 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 PARTS 831, 842, 870, AND 890

RIN 3206-AJ55

#### Continuation of Eligibility for Certain Civil Service Benefits for Former Federal Employees of the Civilian Marksmanship Program

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management is amending its regulations to describe conditions and procedures applicable to continuation of eligibility for certain Civil Service benefits for former Federal employees of the Civilian Marksmanship Program.

**DATES:** Comments must be received by August 2, 2002.

**ADDRESSES:** Send comments on this proposed rule to Mary Ellen Wilson, Director, Retirement Policy Center, Office of Personnel Management, Washington, DC 20415-3200. You may also submit comments by sending electronic mail (e-mail) to: [commbbox@opm.gov](mailto:commbbox@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Ted Newland, 202-606-0299.

#### SUPPLEMENTARY INFORMATION:

#### Introduction

The Office of Personnel Management (OPM) is amending parts 831, 842, 870, and 890 of title 5, Code of Federal Regulations, to implement benefit-related provisions of the "Corporation for the Promotion of Rifle Practice and Firearms Safety Act," Public Law 104-106, 110 Stat. 515.

#### Background

The "Corporation for the Promotion of Rifle Practice and Firearms Safety Act," Public Law 104-106, 110 Stat. 515, created a private, non-profit, corporation, and transferred the Civilian Marksmanship Program from the Department of Defense to the new

corporation. Section 1622 of the Act provided that individuals employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation who were offered and accepted employment by the Corporation as part of the transition would continue to be eligible during continuous employment with the Corporation for the Federal health, retirement, and similar benefits (including life insurance) for which the employee would have been eligible had the employee continued to be employed by the Department of Defense.

#### Analysis

The proposed regulations provide that the affected employees will be treated under all of the applicable benefits programs on the same basis as if the individuals had remained as employees of the Federal Government.

Section 1622 of the Act provided that the affected employees "may" continue to be eligible to continue Federal benefits. Accordingly, the proposed regulations provide that individuals may elect to irrevocably discontinue coverage under all of the Federal benefit programs. Individuals could also achieve the same result by a break in continuous employment with the corporation for any period.

However, the proposed regulations do not permit affected individuals to terminate eligibility under some benefit programs, while retaining it under others. Such a choice of eligibility is not an option available to individuals employed by the Federal Government, and neither the statutory language nor the legislative history of the Act reflects an intent to provide such a choice to the affected employees. Nevertheless, affected employees of the Corporation will continue to have the same enrollment choices under the Federal Employees Health Benefits Program and the Federal Employees Group Life Insurance Program that are available to Federal employees, including the right for non-covered but eligible employees to elect coverage during open seasons or based upon other qualifying events.

#### Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities because the proposed rule only affects the employment benefits of a small

number (estimated to be fewer than a dozen) former Federal employees now employed by the Corporation for the Promotion of Rifle Practice and Firearms Safety.

#### 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, 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.

##### 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, Military personnel, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

**Kay Coles James,**

*Director.*

For the reasons stated in the preamble, the Office of Personnel Management proposes to amend 5 CFR parts 831, 842, 870, and 890, as follows:

#### PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

**Authority:** 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105-174, 112 Stat. 58; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec.

831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; Sec. 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; Sec. 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; Sec. 831.205 also issued under section 2207 of Pub. L. 106-265, 114 Stat. 784; Sec. 831.206 also issued under section 1622(b) of Pub. L. 104-106, 110 Stat. 521; Sec. 831.301 also issued under section 2203 of Pub. L. 106-265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and section 2203 of Pub. L. 106-235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337; Sec. 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964-1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103-66, 107 Stat. 412; Sec. 831.682 also issued under section 201(d) of Pub. L. 99-251, 100 Stat. 23; Sec. 831.912 also issued under section 636 of H.R. 5658, incorporated by reference in Pub. L. 106-554, 114 Stat. 2763, and published as Appendix C to Pub. L. 106-554 at 114 Stat. 2763A-125; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100-203, 101 Stat. 1330-275; Sec. 831.2203 also issued under section 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388-328.

#### Subpart B—Coverage

2. Add § 831.206 to subpart B to read as follows:

##### **§ 831.206 Continuation of coverage for former Federal employees of the Civilian Marksmanship Program.**

(a) A Federal employee who was covered under the CSRS; was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety; and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104-106, 110 Stat. 517; shall remain covered by the CSRS during continuous employment with the Corporation unless the individual files an election under paragraph (c) of this section. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to the CSRS. The individual shall be entitled to the benefits of, and be subject to all conditions under, the CSRS on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall

terminate eligibility for coverage under the CSRS during any subsequent employment by the Corporation.

(c) An individual described by paragraph (a) of this section may at any time file an election to terminate continued coverage under the Federal benefits described in § 1622(a) of Public Law 104-106, 110 Stat. 521. Such an election shall be in writing and filed with the Corporation. It shall take effect immediately when received by the Corporation. It shall apply to all Federal benefits described by § 1622(a) of Public Law 104-106, 110 Stat. 521, and shall be irrevocable. Upon receipt of an election, the Corporation shall transmit the election to OPM with the individual's retirement records.

(d) The Corporation shall withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the percentage withheld from Federal employees' pay for periods of service covered by CSRS and, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from the individual's pay.

(e) The Corporation shall, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions required under CSRS.

#### **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); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 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; Sec. 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; Sec. 842.107 also issued under section 7(b) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.108 also issued under section 7(e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.109 also issued under section 1622(b) of Pub. L. 104-106, 110 Stat. 521; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105-174, 112 Stat. 58, as amended by section 651 of Pub. L. 106-58, 113 Stat. 430; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under section 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388; Sec. 842.707 also issued under section 6001 of Pub. L. 100-

203, 101 Stat. 1300; Sec. 842.708 also issued under section 4005 of Pub. L. 101-239, 103 Stat. 2106 and section 7001 of Pub. L. 101-508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under section 636 of H.R. 5658, incorporated by reference in Pub. L. 106-554, 114 Stat. 2763, and published as Appendix C to Pub. L. 106-554 at 114 Stat. 2763A-125.

#### **Subpart A—Coverage**

4. Add § 842.109 to subpart A to read as follows:

##### **§ 842.109 Continuation of coverage for former Federal employees of the Civilian Marksmanship Program.**

(a) A Federal employee who was covered under the FERS; was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety; and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104-106, 110 Stat. 517; shall remain covered by the FERS during continuous employment with the Corporation unless the individual files an election under paragraph (c) of this section. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to the FERS. The individual shall be entitled to the benefits of, and be subject to all conditions under, the FERS on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall terminate eligibility for coverage under the FERS during any subsequent employment by the Corporation.

(c) An individual described by paragraph (a) of this section may at any time file an election to terminate continued coverage under the Federal benefits described in § 1622(a) of Public Law 104-106, 110 Stat. 521. Such an election shall be in writing and filed with the Corporation. It shall take effect immediately when received by the Corporation. It will apply to any and all Federal benefits described by § 1622(a) of Public Law 104-106, 110 Stat. 521, and shall be irrevocable. The Corporation shall transmit the election to OPM with the individual's retirement records.

(d) The Corporation shall withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the percentage withheld from Federal employees' pay for periods of service covered by FERS

and, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from the individual's pay.

(e) The Corporation shall, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions required under FERS.

#### **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 section 599C of Public Law 101-513, 104 Stat. 2064, as amended; § 870.302(a)(3)(ii) also issued under sec. 153 of Public Law 104-134, 110 Stat. 1321; § 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Public Law 105-33, 111 Stat. 251 and section 721 of Pub. L. 105-261, 112 Stat. 2061; § 870.510 also issued under section 1622(b) of Pub. L. 104-106, 110 Stat. 521.

#### **Subpart E—Coverage**

6. Add § 870.510 to subpart E to read as follows:

##### **§ 870.510 Continuation of eligibility for former Federal employees of the Civilian Marksmanship Program.**

(a) A Federal employee who was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety, and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104-106, 110 Stat. 517, shall be deemed to be an employee for purposes of this part during continuous employment with the Corporation unless the individual files an election under § 831.206(c) or § 842.109(c) of this title. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to FEGLI. The individual shall be entitled to the benefits of, and be subject to all conditions under, FEGLI on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall terminate eligibility for coverage under FEGLI as an employee during any subsequent employment by the Corporation.

(c) The Corporation shall withhold from the pay of an individual described

by paragraph (a) of this section an amount equal to the premiums withheld from Federal employees' pay for FEGLI coverage and, in accordance with procedures established by OPM, pay into the Employees' Life Insurance Fund the amounts deducted from the individual's pay.

(d) The Corporation shall, in accordance with procedures established by OPM, pay into the Employees' Life Insurance Fund amounts equal to any agency contributions required under FEGLI.

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

7. The authority citation for Part 890 is revised to read as follows:

**Authority:** 5 U.S.C. 8913; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104-106, 110 Stat. 521; § 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), 11246 (b) and (c) of Pub. L. 105-33, 111 Stat. 251; and section 721 of Pub. L. 105-261, 112 Stat. 2061.

#### **Subpart A—Administration and General Provisions**

8. Add § 890.111 to subpart A to read as follows:

##### **§ 890.111 Continuation of eligibility for former Federal employees of the Civilian Marksmanship Program.**

(a) A Federal employee who was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety, and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104-106, 110 Stat. 517, shall be deemed to be an employee for purposes of this part during continuous employment with the Corporation unless the individual files an election under § 831.206(c) or § 842.109(c) of this title. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to the FEHB Program. The individual shall be entitled to the benefits of, and be subject to all conditions under, the FEHB Program on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall terminate eligibility for coverage under the FEHB Program as an employee

during any subsequent employment by the Corporation.

(c) The Corporation shall withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the premiums withheld from Federal employees' pay for the FEHB Program coverage and, in accordance with procedures established by OPM, pay into the Employees Health Benefits Fund the amounts deducted from the individual's pay.

(d) The Corporation shall, in accordance with procedures established by OPM, pay into the Employees Health Benefits Fund amounts equal to any agency contributions required under the FEHB Program.

[FR Doc. 02-13740 Filed 5-31-02; 8:45 am]

**BILLING CODE 6325-50-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. 2000-NE-57-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Titeflex Corporation**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to certain Titeflex Corporation high-pressure and medium-pressure hoses. This proposal would require inspecting certain Titeflex hoses for a date of manufacture, and if necessary, replacing the hose with a serviceable part. This proposal is prompted by reports of hoses that failed to meet the fire test requirements during laboratory testing. The actions specified by the proposed AD are intended to prevent failure of a hose when exposed to fire.

**DATES:** Comments must be received by August 2, 2002.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-57-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected, by appointment, at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also