

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 890

RIN 3206-A162

Waiver of Requirements for Continued Coverage During Retirement

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: Under current Federal Employees Health Benefits (FEHB) Program regulations, the Office of Personnel Management (OPM) may waive the eligibility requirements for health benefits coverage as an annuitant for an individual when, in its sole discretion, it determines that it would be against equity and good conscience not to allow a person to be enrolled in the FEHB Program as an annuitant. The regulations state that an individual's failure to satisfy eligibility requirements must be due to exceptional circumstances. They also list specific situations where a waiver will not be granted by OPM such as when an individual's retirement is based on a disability or an involuntary separation, or when an individual was misadvised by his/her employing office. This proposed regulation eliminates these specific situations from the regulation. This proposed regulation will provide OPM with more flexibility when granting waivers.

DATES: Comments must be received on or before October 6, 2006.

ADDRESSES: This document is available for viewing at the U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415. Send all comments to Anne Easton, Manager, Insurance Policy, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3400, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Michael Kaszynski, Policy Analyst, at 202.606.0004.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 8905(b), OPM may waive the eligibility requirements for health benefits coverage as an annuitant for an individual when, in its sole discretion, it determines that it would be against equity and good conscience not to allow a person to be enrolled in the FEHB Program as an annuitant. Under 5 CFR 890.108, an individual's failure to satisfy eligibility requirements must be due to exceptional circumstances. An individual requesting a waiver must provide OPM with evidence that (1) the individual intended to have FEHB coverage as an annuitant (retiree); (2) the circumstances that prevented the individual from meeting the requirements of 5 U.S.C. 8905(b) were beyond the individual's control; and (3) the individual acted reasonably to protect his or her right to continue coverage into retirement.

Section 890.108 lists specific situations where a waiver will not be granted by OPM such as when an individual's retirement is based on a disability or an involuntary separation, or an individual was misadvised by his/her employing office. This regulation eliminates these specific situations from 5 CFR 890.108 to provide more flexibility to the waiver process.

Collection of Information Requirement

The proposed rule does not impose information collection and recordkeeping requirements that meet the definition of the Paperwork Reduction Act of 1995's term "collection of information" which means obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on ten or more persons, other than agencies, instrumentalities, or employees of the United States; or answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies with revenues of \$11.5 million or less in any one year. This rulemaking affects FEHB Program health insurance eligibility requirements which do not impact the dollar threshold. Therefore, I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact Analysis

We have examined the impact of this proposed rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the RFA (September 16, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995, (Pub. L. 104-4), and Executive Order 13132. Executive Order 12866 (as amended by Executive Order 13258, which merely assigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects (\$100 million or more in any one year). This rule is not considered a major rule, as defined in section 804(2) of title 5, United States Code, because we estimate its impact will only affect federal government employment offices. Any resulting economic impact would not be expected to exceed the dollar threshold.

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 in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professionals, Hostages, Iraq, Kuwait, Lebanon, Military Personnel,

Reporting and recordkeeping requirements, Retirement.

Linda M. Springer,

Director, Office of Personnel Management.

For the reasons set forth in the preamble, OPM proposes to amend 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. 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), 11246 (b) and (c) of Pub. L. 105-33, 111 Stat. 251; and section 721 of Pub. L. 105-261, 112 Stat. 2061, unless otherwise noted.

2. Section 890.108 is revised to read as follows:

§ 890.108 Will OPM waive requirements for continued coverage during retirement?

(a) Under 5 U.S.C. 8905(b), OPM may waive the eligibility requirements for health benefits coverage as an annuitant for an individual when, in its sole discretion, it determines that due to exceptional circumstances it would be against equity and good conscience not to allow a person to be enrolled in the FEHB Program as an annuitant.

(b) The individual's failure to satisfy the eligibility requirements must be due to exceptional circumstances. An individual requesting a waiver must provide OPM with evidence that:

(1) The individual intended to have FEHB coverage as an annuitant (retiree);

(2) The circumstances that prevented the individual from meeting the requirements of 5 U.S.C. 8905(b) were beyond the individual's control; and

(3) The individual acted reasonably to protect his or her right to continue coverage into retirement.

[FR Doc. E6-12782 Filed 8-4-06; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-79]

Mr. Lawrence T. Christian, et al.; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is republishing its December 19, 2005 notice (70 FR 75085) denying a petition for rulemaking submitted by Mr. Lawrence T. Christian and 3,000 co-signers on September 4, 2002, to correct errors and clarify the NRC's regulatory position. These changes do not affect the Commission's denial of the petition. The petition was docketed by the NRC on September 23, 2002, and was assigned Docket No. PRM-50-79. The petition requests that the NRC amend its regulations regarding offsite state and local government emergency plans for nuclear power plants to ensure that all day care centers and nursery schools in the Emergency Planning Zone (EPZ) of nuclear power facilities are properly protected in the event of a radiological emergency.

ADDRESSES: Publicly available documents related to this petition, including the petition for rulemaking, public comments received, and the NRC's letter of denial to the petitioner, may be viewed electronically on public computers in the NRC's Public Document Room (PDR), 01 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at: <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR reference staff at (800) 387-4209, (301) 415-4737 or by e-mail to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT:

Michael T. Jamgochian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3224, e-mail MTJ1@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

In December 1979, the President directed the Federal Emergency Management Agency (FEMA), now part of the U.S. Department of Homeland Security (DHS), to lead state and local emergency planning and preparedness

activities with respect to jurisdictions in proximity to nuclear reactors. FEMA has responsibilities under Executive Order 12148, issued on July 15, 1979, to establish federal regulations and policies and to coordinate civil emergency planning within emergency preparedness programs. Consequently, FEMA is the lead authority concerning the direction, recommendations, and determinations with regard to offsite state and local government radiological emergency planning efforts necessary for the public health and safety. FEMA sends its findings to the NRC for final determinations. FEMA implemented Executive Order 12148 in its regulations outlined in 44 CFR part 350. Within the framework of authority created by Executive Order 12148, FEMA also entered into a Memorandum of Understanding (MOU) (58 FR 47966, September 9, 1993) with the NRC to provide acceptance criteria for and determinations as to whether state and local government emergency plans are adequate and capable of being implemented to ensure public health and safety. FEMA's regulations are further amplified by FEMA Guidance Memorandum (GM) EV-2, "Protective Actions for School Children," and the "Radiological Emergency Preparedness Exercise Evaluation Methodology" (67 FR 20580 dated April 25, 2002).

The Commission's emergency planning regulations for nuclear power reactors are contained in 10 CFR part 50, specifically § 50.33(g), 50.47, 50.54 and Appendix E. As stated in 10 CFR 50.47(a)(1), in order to issue an initial operating license, the NRC must make a finding "that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency" to protect the public health and safety. An acceptable way of meeting the NRC's emergency planning requirements is contained in Regulatory Guide (RG) 1.101, Rev. 4, "Emergency Planning and Preparedness for Nuclear Power Reactors" (ADAMS Accession No. ML032020276). This guidance document endorses NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" (ML040420012; Addenda: ML021050240), an NRC and FEMA joint guidance document intended to provide nuclear facility operators and Federal, state, and local government agencies with acceptance criteria and guidance on the creation and review of radiological emergency plans. Together, RG 1.101, Rev. 4; and