

Rules and Regulations

Federal Register

Vol. 52, No. 204

Thursday, October 22, 1987

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.

The **Code of Federal Regulations** is sold by the Superintendent of Documents. Prices of new books are listed in the first **FEDERAL REGISTER** issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, 873, and 890

Federal Employees Group Life Insurance and Health Benefits Programs; Coverage After Retirement Under FERS

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comment.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement amendments to the Federal Employees Health Benefits (FEHB) law enacted by Pub. L. 99-335, as amended, which established the Federal Employees Retirement System (FERS). This regulation describes the conditions under which individuals entitled to immediate or survivor annuities and lump sum death benefits under FERS and former spouses entitled to annuity payments under FERS may receive FEHB coverage. The regulation also allows FERS annuitants to make direct payment of premiums for their FEHB and Federal Employees' Group Life Insurance (FEGLI) coverages when their annuity is too low to cover the insurance premiums.

DATES: Interim rule effective January 1, 1988. Comments must be received on or before December 21, 1987.

ADDRESS: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P. O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 632-4634.

SUPPLEMENTARY INFORMATION: On June 6, 1986, Congress established the

Federal Employees Retirement System by Pub. L. 99-335. Section 207(l) of the act provides that individuals entitled to immediate or survivor annuities under FERS may continue their health coverage, and former spouses entitled to annuity payments under FERS may obtain health benefits coverage, in the FEHB Program under the same conditions that apply to individuals under the Civil Service Retirement System (CSRS). Subsequently, the Federal Employees' Retirement System Technical Corrections Act of 1986, Pub. L. 99-556, was enacted on October 27, 1986. This law authorized widows or widowers entitled to receive basic employee death benefits under FERS to continue health benefits coverage under FEHB. FERS annuitants may also continue their life insurance coverage in retirement under the same conditions that apply to individuals under CSRS. The regulation describes the procedures for continuing health benefits coverage after retirement and for paying FEHB and FEGLI premiums directly to the retirement system.

Under FERS, widows or widowers entitled to receive lump sum death benefits under 5 U.S.C. 8442(b)(1)(A), that is, widows and widowers of FERS employees who at the time of death had completed at least 18 months' creditable civilian service, will be entitled to continue their FEHB coverage after the death of a spouse. This group is entitled to a lump sum death benefit but not an annuity because the employee on whose service the widow's or widower's benefits are based had less than ten years of creditable service at the time of death. Thus, there will be no annuity from which to withhold the health benefits premium.

Surviving children may also continue health benefits coverage upon death of an employee or annuitant. Under FERS, surviving children receive an annuity equal to the amount they would be eligible to receive under CSRS, less any Social Security benefit to which they may be entitled. In most cases, the annuity will not be sufficient to cover the health benefits premium.

Other individuals whose annuity may not cover health or, where applicable, life insurance premiums are (1) FERS disability retirees who qualify for Social Security disability benefits prior to age 62 (5 U.S.C. 8452(a)(2), and (2) certain FERS disability retirees whose disability

annuities must be recomputed at age 62 (5 U.S.C. 8452(B)(4)). Those entitled to Social Security disability benefits before age 62 will have their annuity reduced by all or a portion of their monthly Social Security disability benefit. Those who are not entitled to Social Security disability benefits at age 62 will be treated as though they were entitled to them. Thus, their FERS disability annuity at age 62 will be reduced by the amount of Social Security disability benefits that would be payable if they had been entitled to such a benefit.

The regulation provides for direct payment of health benefits and, where applicable, life insurance premiums for these groups and for all FERS annuitants whose annuity is not sufficient to cover their share of the total premium.

Direct payment must be made for the annuitant's full share of the premium. Thus, the annuitant may not have a portion of the premium withheld from the annuity and make direct payment for the balance. Further, once an annuitant is in direct-pay status for health benefits or life insurance, or both, he or she must continue to pay premiums directly even if the annuity later exceeds the amount of the premiums.

We have made a technical change to the regulation [5 CFR 890.808(b)] to clarify that the information the former spouse must send to the retirement system for a determination as to whether a court order is qualifying for health benefits enrollment is the same information required in 5 CFR 831.1705 for determining his or her entitlement to a future survivor annuity or a portion of a retirement annuity.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because the entitlements conferred by Pub. L. 99-335 and Pub. L. 99-556 addressed in this regulation were effective beginning January 1, 1987.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under Section 1(b) or E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they simply extend FEHB and FEGLI coverage to qualified annuitants.

List of Subjects**5 CFR Parts 870, 871, 872, and 873**

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management

James E. Colvard,
Deputy Director.

Accordingly, OPM is amending 5 CFR Parts 870, 871, 872, 873 and 890 as follows:

1. The authority citation for Part 870, 871, 872, and 873 continues to read as follows:

Authority: 5 U.S.C. 8716.

PART 870—BASIC LIFE INSURANCE

2. In § 870.401, a new paragraph (j) is added to read as follows:

§ 870.401 Withholdings and contributions.

(i) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the basic life insurance premium, the retirement system will notify the annuitant of the opportunity to pay the annuitant's share of the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for basic life insurance premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system his or her share of the premium for basic life insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 870.501.

Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The basic insurance coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage, except as provided in paragraph (j)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (j)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that Office.

PART 871—STANDARD OPTIONAL LIFE INSURANCE

3. In § 871.401, a new paragraph (i) is added to read as follows:

§ 871.401 Withholdings.

(i) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the standard optional insurance premium, the retirement system will notify the annuitant of the

opportunity to pay the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for standard optional premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system the premium for standard optional insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 871.501.

Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The standard optional insurance coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage, except as provided in paragraph (i)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (i)(3) of this section is retroactive to the end of the last pay

period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that Office.

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

4. In § 872.401, a new paragraph (i) is added to read as follows:

§ 872.401 Withholdings.

(i) *Direct premium payments under 5 U.S.C. Chapter 84.*

(1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the additional optional insurance premium, the retirement system will notify the annuitant of the opportunity to pay the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for additional optional insurance premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system the premium for additional optional insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 872.501. Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The additional optional insurance coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage, except as provided in paragraph (i)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (i)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that Office.

PART 873—FAMILY OPTIONAL LIFE INSURANCE

5. In § 873.401, a new paragraph (g) is added to read as follows:

§ 873.401 Withholdings.

(g) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the family optional insurance premium, the retirement system will notify the annuitant of the opportunity to pay the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for family optional insurance premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system the premium for family optional insurance for every pay

period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 873.501. Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The family optional coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage; except as provided in paragraph (g)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (g)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that office.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

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

Authority: 5 U.S.C. 8913; § 890.102 also issued under 5 U.S.C. 1104.

7. Section 890.101 is amended as follows:

a. By adding alphabetically the definition of "Basic employee death benefit" as set forth below.

b. In the definition of "Employing office," by redesignating paragraphs (i) through (iii) as (1) through (3), by revising paragraphs (1) and (2), and by adding paragraph (4) as set forth below.

c. By revising the definition of "Pay period" as set forth below.

§ 890.101 Definitions; time computations.

(a) * * *

"Basic employee death benefit" has the meaning set out at § 843.102. Survivors receiving this benefit are deemed to be "annuitants" for purposes of this Chapter.

* * * * *

"Employing office" * * *

(1) For an enrolled annuitant (including survivor annuitant, former spouse annuitant, and surviving spouses receiving a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A)) who is not also an eligible employee, "employing office" is the office which has the authority to approve payment of annuity, basic employee death benefit, or workers' compensation for the annuitant concerned.

(2) For a former spouse of an annuitant whose marriage dissolved after the employee's retirement and who has entitlement to receive future annuity payments under section 8341(h), 8345(j), 8445, or 8467 of title 5, United States Code, "employing office" is the office which has the authority to approved payment of annuity for the annuitant or former spouse concerned.

(4) For a surviving spouse in receipt of a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) who is not also an eligible employee, the "employing office" is the retirement system which has authority to approve the basic employee death benefit.

"Pay period" means the biweekly pay period established pursuant to section 5504 of title 5, United States Code, for the employees to whom that section applies and the regular pay period for employees not covered by that section. "Pay period" as it relates to a former spouse or annuitant who is not actively receiving an annuity, including surviving spouses receiving a basic employee death benefit, means any regular pay period for employees of the agency to which jurisdiction and responsibility for health benefits actions for the former spouse or annuitant have been delegated as provided under the definition of "Employing office" in this section. "Pay period" for annuitants in active receipt of annuity means the

period for which a single installment of annuity is customarily paid.

* * * * *

8. Section 890.104 is amended by revising paragraph (a) to read as follows:

§ 890.104 Initial decision and reconsideration.

(a) *Who may file.* An employee, annuitant, or former spouse may request OPM to reconsider a decision of an employing office that denies coverage or change of enrollment.

* * * * *

9. Section 890.301 is amended by revising paragraph (q) and adding paragraph (aa) to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

(q) *Annuity insufficient to pay withholdings.* If the annuity of an annuitant under 5 U.S.C. Chapter 83 or of all annuitants in a family receiving benefits under 5 U.S.C. Chapter 83 is not sufficient to pay the withholdings for the plan in which the annuitants are enrolled, the employing office shall notify the annuitant of the plans available at a cost not in excess of the annuity. The annuitant may register to be enrolled in another plan whose cost is no greater than his or her annuity. For annuitants receiving benefits under 5 U.S.C. Chapter 84, see § 890.502(d).

* * * * *

(aa) *Termination of remarriage of "lump sum" survivors in receipt of basic employee death benefits.*

A surviving spouse who received a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) and who was covered by a health benefits enrollment under this part immediately before remarriage prior to age 55 may register to enroll in a health benefits plan under this part upon termination of the remarriage. The survivor must provide OPM with a certified copy of the notice of death or the court order terminating the marriage. Registration must be made within 60 days after OPM mails the registration form to the surviving spouse.

10. Section 890.303(c) is revised to read as follows:

§ 890.303 Continuation of enrollment.

* * * * *

(c) *On death.* The enrollment of a deceased employee or annuitant who is enrolled for self and family is transferred automatically to his or her eligible survivor annuitants. The enrollment is considered to be that of (1) the survivor annuitant from whose

annuity all or the greatest portion of the withholding for health benefits is made, or (2) the surviving spouse entitled to a basic employee death benefit. The enrollment covers members of the family of the deceased employee or annuitant. A remarried spouse is not a member of the family of the deceased employee or annuitant unless annuity under section 8341 or 8442 of title 5, United States Code, continues after remarriage.

* * * * *

11. In § 890.304, paragraph (b)(1) is revised and (b)(2)(iv) is added to read as follows:

§ 890.304 Termination of enrollment.

* * * * *

(b) *Annuitants.* (1) If the annuity of an annuitant retiring under 5 U.S.C. Chapter 83 or of all survivor annuitants in a family of such an annuitant is not sufficient to pay the withholdings for the plan in which the annuitants are enrolled, and the annuitant does not, or cannot, elect a plan under § 890.301(q) at a cost to him or her not in excess of the annuity, the employing office shall terminate the annuitant's enrollment effective as of the end of the last period for which withholding was made. Each annuitant whose enrollment is so terminated is entitled to a 31-day extension of coverage for conversion.

(2) * * *

(iv) The last day of the month preceding the month in which a survivor annuitant in receipt of basic employee death benefits under 5 U.S.C. 8442(b)(1)(A) remarries before attaining age 55.

* * * * *

12. In § 890.306, paragraph (b) is revised, paragraph (g) is redesignated as paragraph (h), and a new paragraph (g) is added to read as follows:

§ 890.306 Effective dates.

* * * * *

(b) *Annuitant required to change enrollment.* The effective date of an annuitant's change to a lower cost enrollment under § 890.301(q) is immediately upon termination of his or her prior enrollment.

* * * * *

(g) *Restoration of health benefits for survivors in receipt of basic employee death benefits following termination of remarriage.* The effective date of an enrollment under § 890.301(aa) is the first day of the month after the date of receipt by OPM of the registration form and the notice of death or court order terminating the remarriage.

13. In § 890.502, paragraph (a) is redesignated as (a)(1) and new paragraph (a)(2) is added, the second sentence of paragraph (b)(1) is revised, and paragraph (f) is added to read as follows:

§ 890.502 Employee withholdings and contributions.

(a) * * *

(2) Surviving spouses in receipt of a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) and annuitants retiring under 5 U.S.C. Chapter 84 whose health benefits premiums exceed the amount of their annuities may pay their portion of the health benefits premium directly to the retirement system acting as their employing office in accordance with procedures set out in paragraph (d) of this section.

(b)(1) * * * In each pay period for which health benefits withholdings or direct premium payments are not made but during which the enrollment of an employee or annuitant continues, he/she will incur an indebtedness due the United States in the amount of the proper employee withholdings required for that pay period.

(f) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the health benefits premium or if a surviving spouse receives a basic employee death benefit, the retirement system will notify the annuitant of the opportunity to pay the annuitant's share of the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for health benefits premiums from surviving spouses who have received or are currently receiving basic employee death benefits as well as from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their health premiums. The annuitant must continue to make direct payment of the health benefits premium even if the annuity increases to the extent that it covers the premium.

(3) The retirement system will use the deceased annuitant's case file as the health benefits file for surviving spouses who receive a basic employee death benefit.

(4) The annuitant must remit to the retirement system his or her share of the subscription charge for the enrollment for every pay period during which the enrollment continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 890.401.

Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the surviving spouse or annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The enrollment of an individual who fails to remit payment within the specified time frame will be terminated. An individual whose enrollment is terminated because of nonpayment of premium may not reenroll or reinstate coverage, except as provided in paragraph (d)(5).

(5) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(6) Termination of enrollment for failure to pay premiums within the time frame established in accordance with paragraph (d)(4) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(7) The retirement system will submit all direct premium payments along with its regular health benefits premiums to OPM in accordance with procedures established by that office.

14. In § 890.803, paragraph (a)(3)(i) is revised to read as follows:

§ 890.803 Who may enroll.

(a) * * *

(3)(i) The former spouse currently receives, or has future title to receive (A) a portion of annuity payable to the employee upon retirement based on a qualifying court order for purposes of 5 U.S.C. 8345(j) or 5 U.S.C. 8467; (B) survivor annuity benefits based on a qualifying court order for purposes of 5 U.S.C. 8341(h) or 5 U.S.C. 8445; or (C) a survivor annuity elected by the employee under 5 U.S.C. 8339(j) (3) or 5 U.S.C. 8417(b) (or benefits similar to those under this paragraph under

another retirement system for Government employees); or

* * * * *

15. In § 890.805, paragraph (b)(2) is revised to read as follows:

§ 890.805 Application time limitations.

(b) * * *

(2) if the marriage dissolved after retirement, within 60 days after the dissolution of the marriage, or within 60 days after the retired employee elects to provide a survivor annuity for the former spouse under 5 U.S.C. 8339(j) (3) or 5 U.S.C. 8417(b); or

* * * * *

16. In § 890.806, paragraph (b) is revised to read as follows:

§ 890.806 Effective dates of coverage.

(b) *Change required because of insufficient annuity.* When a former spouse receiving an annuity under 5 U.S.C. Chapter 83 changes to a lower cost enrollment as provided by § 890.301(q), the change is effective immediately upon loss of coverage under the prior enrollment.

§ 890.807 [Amended]

17. In § 890.807, the word "establishment" in paragraph (a)(3) is removed and the word "established" is inserted in its place.

18. In § 890.808, a new sentence is added at the end of paragraph (b)(1), and paragraph (d) is revised to read as follows:

§ 890.808 Employing office responsibilities.

(b)(1) * * * The request for the retirement system's determination whether the court order is a qualifying court order for health benefits enrollment under this Subpart must be accompanied by the documents specified in § 831.1705 (b) and (c).

(d) *Premium payments.* (1) The former spouse must remit to the employing office the full subscription charge for the enrollment for every pay period during which the enrollment continues, exclusive of the 31-day temporary extension of coverage for conversion provided in §§ 890.401 and 890.807(a)(2). Payment must be made after the pay period in which the former spouse is covered in accordance with a schedule established by the employing office [see definition of "pay period" under § 890.101(a)]. If the employing office does not receive payment by the due date, the employing office will notify the

former spouse by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days (45 days for former spouses residing overseas) after receipt of the notice. The enrollment of an individual who fails to remit payment within the specified time frame will be terminated. A former spouse whose enrollment is terminated because of nonpayment of premium may not reenroll or reinstate coverage, except as provided in paragraph (d)(2) of this section.

(2) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the employing office. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The employing office will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(3) The employing office will submit all premium payments collected from former spouses along with its regular health benefits payments to OPM in accordance with procedures established by that Office.

* * * * *

[FR Doc. 87-24359 Filed 10-21-87; 8:45 am]

BILLING CODE 6325-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1264

Implementation of the Program Fraud Civil Remedies Act of 1986

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The National Aeronautics and Space Administration (NASA) is implementing the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, sections 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812 (hereinafter referred to as the Act). This new regulation is in accordance with the Model Regulations of the President's Council on Integrity and Efficiency, and establishes the

NASA practices and procedures in compliance with the Act.

DATE: Effective October 22, 1987. Comments due by December 21, 1987.

ADDRESS: Comments may be mailed to the Office of General Counsel, Code CG, NASA Headquarters, Washington, DC 20546. Comments may be inspected in Room 7041 between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Sara Najjar, 202-453-2465.

SUPPLEMENTARY INFORMATION: This regulation does not constitute a major rule for the purpose of Executive Order 12291, and is not subject to the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980; 5 U.S.C. 601 et seq.).

List of Subjects in 14 CFR Part 1264

Administrative practice and procedure, Civil penalties and assessments, False claims or statements, Fraud, Remedies.

Part 1264 is added to Title 14, Chapter V, to read as follows:

PART 1264—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL PENALTIES ACT OF 1986

Sec.

- 1264.100 Basis and purpose.
- 1264.101 Definitions.
- 1264.102 Basis for civil penalties and assessments.
- 1264.103 Investigation.
- 1264.104 Review by the reviewing official.
- 1264.105 Prerequisites for issuing a complaint.
- 1264.106 Complaint.
- 1264.107 Service of complaint.
- 1264.108 Answer.
- 1264.109 Default upon failure to file an answer.
- 1264.110 Referral of complaint and answer to the presiding officer.
- 1264.111 Notice of hearing.
- 1264.112 Parties to the hearing.
- 1264.113 Separation of functions.
- 1264.114 Ex parte contacts.
- 1264.115 Disqualification of reviewing official or presiding officer.
- 1264.116 Rights of parties.
- 1264.117 Authority of the presiding officer.
- 1264.118 Prehearing conferences.
- 1264.119 Disclosure of documents.
- 1264.120 Discovery.
- 1264.121 Exchange of witness lists, statements, and exhibits.
- 1264.122 Subpoenas for attendance at hearing.
- 1264.123 Protective order.
- 1264.124 Fees.
- 1264.125 Form, filing, and service of papers.
- 1264.126 Computation of time.
- 1264.127 Motions.
- 1264.128 Sanctions.
- 1264.129 The hearing and burden of proof.

Sec.

- 1264.130 Determining the amount of penalties and assessments.
- 1264.131 Location of hearing.
- 1264.132 Witnesses.
- 1264.133 Evidence.
- 1264.134 The record.
- 1264.135 Post-hearing briefs.
- 1264.136 Initial decision.
- 1264.137 Reconsideration of initial decision.
- 1264.138 Appeal to authority head.
- 1264.139 Stays ordered by the Department of Justice.
- 1264.140 Stay pending appeal.
- 1264.141 Judicial review.
- 1264.142 Collection of civil penalties and assessments.
- 1264.143 Right to administrative offset.
- 1264.144 Deposit in Treasury of United States.
- 1264.145 Compromise or settlement.
- 1264.146 Limitations.

Appendix A—Notice to Consent to the Chairperson, NASA Board of Contract Appeals (BCA), or Designee, as Presiding Officer

Authority: 31 U.S.C. 3809, 42 U.S.C. 2473(c)(1).

§ 1264.100 Basis and purpose.

(a) **Basis.** This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, Sections 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) **Purpose.** This part does the following:

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents; and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 1264.101 Definitions.

(a) **ALJ** means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344. For purposes of this part, the ALJ shall be referred to as the presiding officer.

(b) **Authority** means the National Aeronautics and Space Administration (NASA).

(c) **Authority head** means the NASA Administrator or Deputy Administrator or designee. For purposes of this regulation, the NASA General Counsel or Deputy General Counsel is