Federal Register
Vol. 57, No. 76
Monday, April 20, 1992

Presidential Documents

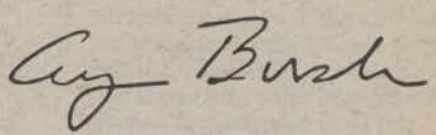
Title 3—

The President

Executive Order 12802 of April 16, 1992

Waiver Under the Trade Act of 1974 With Respect to the Republic of Byelarus, the Republic of Kyrgyzstan, and the Russian Federation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 402(c)(2) of the Trade Act of 1974, as amended ("Act") (19 U.S.C. 2432(c)(2)), which continues to apply to the Republic of Byelarus, the Republic of Kyrgyzstan, and the Russian Federation pursuant to section 402(d) of the Act, and having made the report to the Congress required by section 402(c)(2) of the Act, I hereby waive the application of sections 402(a) and 402(b) of the Act with respect to the Republic of Byelarus, the Republic of Kyrgyzstan, and the Russian Federation.



THE WHITE HOUSE,
April 16, 1992.

[FR Doc. 92-9279
Filed 4-16-92; 2:52 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 57, No. 76
Monday, April 20, 1992

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 Part 890

RIN 3206-AE68

Federal Employees Health Benefits Program: Letter of Credit Provisions

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations that reflect a revised system of making recurring premium payments to experience-rated Federal Employees Health Benefits (FEHB) Program carriers on a letter of credit (LOC) basis; implement section 7002(b) of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990 which specifies that, to the maximum extent practicable, payments to FEHB plans participating in an LOC arrangement shall be made on a checks-presented basis; relocate the regulations on minimum standards for health benefit carriers at 5 CFR 890.202 to the Contractor Qualifications section at 48 CFR 1609.70; and relocate the regulations on recurring premium payments to carriers at 5 CFR 890.505 to the Contract Financing section at 48 CFR 1632.170.

DATES: Interim rule effective May 20, 1992. Comments must be received on or before June 19, 1992.

ADDRESSES: Written comments may be sent to Andrea S. Minniear, 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: Abby L. Block, (202) 606-0191.

SUPPLEMENTARY INFORMATION: On September 6, 1988, OPM published interim regulations in the **Federal Register** (53 FR 34305 and 53 FR 34320) and on December 23, 1988, final regulations in the **Federal Register** (53 FR 51741 and 53 FR 51781) that required the use of letter of credit (LOC) arrangements for Federal Employees Health Benefits (FEHB) Program payments to certain experience-rated carriers.

When the LOC arrangements were first established, payments from the LOC accounts to the carriers were made through a Department of the Treasury system, the Treasury Financial Communications System—Letter of Credit (TFCS-LOC). The TFCS-LOC was phased out by Treasury and replaced for the FEHB Program in early 1991 with a system developed by OPM and operated according to guidelines issued by OPM.

On November 5, 1990, Public Law 101-508 was enacted. Section 7002(b) of Public Law 101-508, requires that payments from the Employees Health Benefits Fund to a plan participating in an LOC arrangement shall be made, to the maximum extent practicable, on a checks-presented basis.

This new payment requirement became effective for contract years beginning on or after January 1, 1991. Currently, OPM regulations allow payments form LOC accounts to be made on a checks-presented basis (formerly called the checks paid technique but now called checks-presented to conform with the designation in the law; the two terms have an identical meaning), the delay of drawdown technique, or both.

This interim regulation amends the section of the FEHB regulations defining letter of credit arrangements to state that the definition is located in 48 CFR 1602.170-9. In the accompanying regulation amending title 48 of the CFR the definition is amended to remove the citation of Department of the Treasury regulations because the Department of the Treasury no longer processes LOC transactions. LOC accounts for the FEHB Program are now administered through a system developed by OPM and operated according to guidelines issued by OPM.

This interim regulation amends the section of the FEHB regulations on reserves (§ 890.503) by:

- Making it clear that most reserves of experience-rated carriers are now held in the carriers' LOC accounts and not by the carriers;
- Incorporating LOC accounts into the procedures for transferring funds between the contingency reserve and carrier reserves; and
- Removing instructions for determining payments to and from the contingency reserve for an experience-rated carrier with more than 50 percent of its enrollees stationed outside the United States. These instructions are no longer utilized.

In addition, this interim regulation relocates two sections from title 5 of the Code of Federal Regulations (CFR) to title 48 chapter 16 of the CFR where they more appropriately belong. Section 890.202, the section on minimum standards for health benefits carriers is moved unchanged, except for adjustments in regulatory citations, to 48 CFR 1609.70. Section 890.505, the section on recurring premium payments to carriers, is removed from title 5 of the CFR and moved to 48 CFR 1632.170. In addition, this section is amended to:

- Remove the minimum amount of annual payments an experience-rated plan must receive in order to be paid on an LOC basis. Previously, in order to comply with Treasury regulations, only experience-rated plans that received a total of $120,000 or more during the contract year were paid on an LOC basis. Now, all experience-rated plans will receive payments on an LOC basis;
- Remove from regulation the reference to the ability of underwriters to make drawdowns from carriers' LOC accounts. OPM guidelines allow a carrier to delegate its authority to make drawdowns from its LOC account to the underwriter of its plan;
- Remove from regulation the limit on the number of drawdowns per day from an LOC account and the specifications regarding the time of day the requests for drawdowns must be presented to the Department of the Treasury. The limit on, and timing of, drawdowns now will be specified in guidelines issued by OPM;
- Remove OPM's authority to grant an exception to the effective date of the LOC payment arrangement because this authority is no longer necessary; and

• Implement section 7002(b) of Public Law 101–508 by providing that drawdowns from LOC accounts will be made, where practicable, on the "checks-presented" basis. OPM may waive the requirement that drawdowns be made on the checks-presented basis and allow the plan to adopt an alternative drawdowns methodology, subject to OPM approval. In order to receive a waiver, a carrier must demonstrate to OPM's satisfaction that the restriction of LOC disbursements to a checks-presented basis is clearly and significantly detrimental to the operation of the plan.

An interim regulation amending 48 CFR chapter 16 to conform to the LOC payment arrangement for FEHB Program contracts is published elsewhere in this issue of the **Federal Register**.

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. This notice is being waived because: (1) The change in LOC drawdowns cited in this regulation was contained in Public Law 101–508 and has been in effect since January 1, 1991; and (2) the revised LOC system cited in this regulation has been operating since early 1991. This regulation is effective 30 days after publication so that OPM regulations will conform with the current LOC system and the law as recently amended.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of 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 primarily affect the administrative procedures used by OPM and FEHB plans.

List of Subjects in 5 CFR Part 890

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

U.S. Office of Personnel Management.

Constance Berry Newsman,

Director.

Accordingly, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 is revised 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.

2. In § 890.101, the definition for *letter of credit* in paragraph (a) is revised to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

Letter of credit is defined in 48 CFR 1602.170–9.

* * * * *

3. Section 890.202 is revised to read as follows:

§ 890.202 Minimum standards for health benefits carriers.

The minimum standards for health benefits carriers for the FEHB Program shall be those contained in 48 CFR subpart 1609.70.

§ 890.204 [Amended]

4. In § 890.204, paragraph (a) is amended by removing "§§ 890.201 and 890.202 of this part" and replacing it with "§ 890.201 of this part and 48 CFR subpart 1609.70".

5. In § 890.503:

a. Paragraph (c)(3) is revised;

b. Paragraph (c)(4) is removed;

c. Paragraph (c)(5) is redesignated as paragraph (c)(4);

d. Paragraph (c)(6) is redesignated as paragraph (c)(5) and amended by removing "(c)(5)" in the first sentence and replacing it with "(c)(4)", removing "(6)" in the fourth sentence and replacing it with "(5)", and adding a new sentence at the end of the paragraph as set out below:

§ 890.503 Reserves.

* * * * *

(c) * * *

(3) *OPM/carrier reserve transfers.* The target level for total reserves of an experience-rated plan is 3½ times an amount equal to the sum of an average month's paid claims plus an average month's administrative expenses and retentions. Reserves include funds set aside for incurred-but-unpaid benefit claims and the "special" reserve representing the cumulative difference between income to the plan (subscription income plus interest on investments) and plan expenses (benefit costs plus administrative expenses and retentions). Included as carrier reserves is the balance in the letter of credit (LOC) account maintained by OPM for the plan. For the purposes of this section, an average month's paid claims is one-sixth of the total claims paid during the last 6 months of the most recent contract period, and an average month's administrative expenses and retentions is one-twelfth of the administrative expenses and retentions for the most recent contract period.

(i) When, as of the end of a contract period, the total of all the reserves for an experience-rated plan is less than the target level described in the first four sentences of paragraph (c)(3) of this section, the carrier is entitled to payment from the contingency reserve. Such contingency reserve payment shall equal the lesser of: An amount equal to the difference between the target level for the plan's reserves and the total of the reserves for the plan, or an amount equal to the excess, if any, of the contingency reserve over the preferred minimum balance. OMP must authorize this payment promptly after accepting the accounting statement for the contract period. The contingency reserve payment so authorized will be made available to the carrier's LOC account.

(ii) When, as of the end of a contract period, the total of all reserves of an experience-rated plan amounts to more than the plan's target level, the excess over the plan's target level must be credited to the contingency reserve maintained by OPM for the plan. OPM will withdraw the excess amount from the plan's LOC account, based on reporting in the annual accounting statement for the year, no sooner than May 1, of the following year. If the accounting statement is not filed by the time limit specified in the plan's contract with OPM, OPM will estimate the amount of the excess reserves and may withdraw that amount from the plan's LOC account, or begin the process of offsetting that amount from subscription payments, no sooner than May 1. The amount withdrawn from the plan's LOC account, or offset from subscription payments, will be credited to that plan's contingency reserve.

* * * * *

(5) * * * For carriers funded by LOC, the returned amount will be withdrawn from the plan's LOC account.

6. Section 890.505 is revised to read as follows:

§ 890.505 Recurring premium payments to carriers.

The procedures for payment of premiums, contingency reserve, and interest distribution to FEHB Program carriers shall be those contained in 48 CFR subpart 1632.170.

§ 890.1208 [Amended]

7. In § 890.1208, paragraph (d) is amended by removing "§ 890.505" and replacing it with "48 CFR subpart 1632.170".

[FR Doc. 92-9033 Filed 4-17-92; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

1992 Feed Grain Program; Acreage Reduction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On July 15, 1991, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to the 1992 Production Adjustment Program for Feed Grains, which is conducted by the CCC in accordance with the Agricultural Act of 1949 (1949 Act), as amended. The 1992 acreage reduction program (ARP) percentage for corn, grain sorghum, and barley has been determined to be 5 percent. The level for oats will be 9 percent, as required by statute. This rule amends the regulations at 7 CFR part 1413 to set forth the acreage reduction percentage for the 1992 crop of feed grains. This action is required by Section 105B of the 1949 Act.

EFFECTIVE DATE: April 17, 1992.

FOR FURTHER INFORMATION CONTACT: Philip W. Sronce, Division Director, Feed Grains Analysis Division, USDA/ASCS, room 3746-S, P.O. Box 2415, Washington, DC 20013 or call (202) 720-4418.

SUPPLEMENTARY INFORMATION: The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of the implementation of each option is available on request from the above-named individual.

This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as "major." It has been determined that this program provision will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are Feed Grains Production Stabilization—10.055.

It has been determined that the Regulatory Flexibility Act is applicable to this final rule because the CCC is required by section 105B(o) of the 1949 Act to publish a notice of proposed rulemaking with respect to the subject matter of this rule. A Final Regulatory Flexibility Analysis for the 1992 Feed Grain ARP was prepared as part of the Final Regulatory Impact Analysis. Copies of this analysis are available from the above-named individual.

It has been determined by an environmental evaluation that this action will not have significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The amendments to 7 CFR part 1413 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

This final rule amends 7 CFR part 1413 to set forth the determination of the 1992 Production Adjustment Program for Feed Grains. General descriptions of the statutory basis for the determinations in this final rule were set forth at 56 FR 32132 (July 15, 1991).

The public was asked to comment on the five 1992 feed grain ARP options shown in Table 1:

TABLE 1.—1992 FEED GRAIN ARP OPTIONS

[In percent]

Crop	Option				
	1	2	3	4	5
Corn	7.5	5.0	7.5	10.0	12.5
Grain Sorghum	7.5	5.0	0.0	5.0	7.5
Barley	7.5	5.0	0.0	5.0	7.5
Oats	0.0	0.0	0.0	0.0	0.0

Comments received during the specified comment period are summarized as follows:

Seventy-six comments were received. Sixty-three of the respondents commented on the corn ARP, 28 of the respondents commented on the grain sorghum ARP, and 27 of the respondents commented on the barley ARP.

Seven corn respondents, 7 grain sorghum respondents, and 8 barley respondents favored a 0-percent ARP. Most of these respondents were grain merchandisers and their trade associations. A 0-percent ARP was not listed as a possible option for corn.

Seven corn respondents, 5 grain sorghum respondents, and 5 barley respondents favored a 5-percent ARP. Over half of these respondents were producers and producer organizations.

Nine corn respondents, 12 grain sorghum respondents, and 10 barley respondents favored a 7.5-percent ARP. These respondents were generally producers and producer organizations, ASC county committees, and bankers.

Forty corn respondents, 4 grain sorghum respondents, and 4 barley respondents favored an ARP greater than 7.5-percent. Almost all of these respondents were producers. Most of the corn respondents favored either a 10 or 12.5-percent ARP.

Four corn respondents, 2 grain sorghum respondents, and 2 barley respondents favored either a 15 or 20-percent ARP. All of these respondents were producers. Acreage Reduction Programs greater than 12.5-percent were not listed as possible options. There is no authority for such ARP's at present stocks-to-use levels.

Respondents favoring the lower ARP's noted that the U.S. needs to produce more to take advantage of export opportunities. These respondents emphasized that low 1991 corn yields will result in 1991/92 ending stocks at historically low levels. They also cited the income impact of reduced payment acres under flexibility provisions. Many confirmed USDA's analysis that lower ARP's result in higher producer incomes. Advocates for a 0-percent barley ARP indicated the need for adequate supplies to aggressively implement the Export Enhancement Program for barley.

Respondents favoring the higher ARP's noted that feed grain prices would be higher and Government costs would be lower with higher ARP levels. Many producers wanted higher ARP's indicating that it would increase prices and improve the profitability of their farms.

After considering these comments, the Secretary made an initial announcement on September 30, 1991, of an ARP of 5 percent for corn, grain sorghum, and barley and 0 percent for oats. The Secretary indicated that this announcement would be subject to change because of historically low world and U.S. 1991/92 ending stocks. The Secretary is authorized to make adjustments in the 1992 program no later than November 15.

On November 15, 1991, the Secretary announced that the ARP would not be changed from its initial announcement.