Proposed Rules

Federal Register

Vol. 60, No. 85

Wednesday, May 3, 1995

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 870, 871, 872, 873, and 874

RIN 3206–AF32

Federal Employees' Group Life Insurance Program: Merger of Life Insurance Regulations

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to combine the five parts of title 5 of the Code of Federal Regulations relating to the Federal Employees' Group Life Insurance (FEGLI) Program. This will ease administration and aid in understanding the Program. We are also simplifying the language and incorporating policy information from FPM Supplement 870–1, which is being abolished as of December 31, 1994.

DATES: We must receive comments on or before July 3, 1995.

ADDRESSES: Send your comments to Lucretia F. Myers, Assistant Director for Insurance Programs, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; deliver them to OPM, Room 3451, 1900 E Street NW., Washington, DC; or FAX them to 202–606–0633.

FOR FURTHER INFORMATION CONTACT: Karen Leibach, 202–606–0004.

SUPPLEMENTARY INFORMATION: The FEGLI Act of 1980 made sweeping changes in the Program, including establishing two new forms of optional coverage. At that time, we decided to pattern the regulations after the law by setting up separate parts of the Code for each of the types of insurance (basic, standard optional, additional optional, and family optional coverages). Although we recognized that this method of translating the law into regulations would result in a lot of duplication, we believed that the format helped OPM and agencies put the new provisions in place. We believe that the regulations can now be merged to eliminate the duplication, without losing clearness or content.

The proposed merger involves deleting parts 871, 872, 873, and 874 and combining the information now contained in those parts into an expanded part 870. This results in a complete presentation of material in one place.

In addition to merging the regulations, we have reorganized the material; incorporated some material formerly found in FPM Supplement 870–1, which is being abolished as of December 31, 1994; and simplified the language to make the regulations easier to understand.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, because the regulations will affect only Federal employees and annuitants.

List of Subjects in 5 CFR Parts 870, 871, 872, 873, and 874

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

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend title 5, Code of Federal Regulations, as follows:

Part 870 is revised to read as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

Authority: 5 U.S.C. 8716.

Subpart A—Administration and General Provisions

§ 870.101 Definitions.

Annuitant means a former employee entitled to an annuity under a retirement system established for employees. This includes the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard.

Assign and *assignment* refer to a judge's irreversible transfer to another individual, corporation, or trustee all ownership of FEGLI coverage (except Option C).

Assignee means the individual, corporation, or trustee to which a judge irreversibly transfers ownership of FEGLI coverage (except Option C).

Child, as used in the definition of *family member*, means a legitimate child, an adopted child, a stepchild who lives with the employee or former employee in a regular parent-child relationship, or a recognized natural child. It does not include a stillborn child, a grandchild, or a foster child. The child must be under age 22, or if over age 22, must be incapable of self-support because of a mental or physical disability which existed before the child reached age 22.

Child, as used in the order of precedence, means a legitimate child, an adopted child, or a recognized natural child. It does not include a stillborn child, a stepchild, a grandchild, or a foster child. An individual who has reached age 18 is considered an adult. However, if the age of adulthood where the individual has his/her legal residence is set at a lower age, the individual is considered an adult upon reaching that lower age. Adopted children do not inherit under the order of precedence stated in 5 U.S.C. 8705 from their birth parents, other than as designated beneficiaries, but inherit from their adoptive parents. However, a child who is adopted by the spouse of a birth parent inherits from that birth parent.

Compensation means compensation under subchapter I of chapter 81 of title 5, United States Code, which is payable because of an on-the-job injury or disease.

Compensationer means an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty.

Date of retirement, as used in 5 U.S.C. 8706(b)(1)(A), means the starting date of annuity.

Dependent means living with or receiving support from the insured individual.

Duly appointed representative of the insured's estate means an individual named in a court order granting the individual the authority to receive, or the right to possess, the insured's property; the order must be issued by a court having jurisdiction over the insured's estate. Where the law of the insured's legal residence provides for the administration of estates through alternative procedures which do away with the need for a court order, this term also means an individual who shows that he/she is entitled to receive, or possess, the insured's property under the terms of those alternative procedures.

Employee means an individual defined by section 8701(a) of title 5, United States Code.

Employing office means the agency office or retirement system office that has responsibility for life insurance actions.

(a) The Administrative Office of the United States Courts is the employing office for judges of the following courts:

(1) All United States Courts of Appeals;

(2) All United States District Courts;

(3) The Court of International Trade;

(4) The Claims Court; and

(5) The District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands.

(b) The Washington Headquarters Services is the employing office for judges of the United States Court of Military Appeals.

(c) The United States Tax Court is the employing office for judges of the United States Tax Court.

(d) The United States Court of Veterans Appeals is the employing office for judges of the United States Court of Veterans Appeals.

Family member means a spouse (including a valid common law marriage) and unmarried dependent child(ren).

Immediate annuity means (1) an annuity that begins no later than 1 month after the date the insurance would otherwise stop, and (2) an annuity under § 842.204(a)(1) of this title for which the starting date has been postponed under § 842.204(c) of this title.

Judge means an individual appointed as a Federal justice or judge under Article I or Article III of the Constitution. Administrative law judges, bankruptcy judges, and magistrates are not judges for purposes of assignment of FEGLI coverage.

OFEGLI means the Office of Federal Employees' Group Life Insurance, which makes payments to beneficiaries under the policy.

OPM means the Office of Personnel Management.

OWCP means the Office of Workers' Compensation Programs, U.S. Department of Labor, which administers subchapter I of chapter 81 of title 5, United States Code.

Parent means the mother or father of a legitimate child or an adopted child. The term *parent* includes the mother of a recognized natural child; it also includes the father of a recognized natural child if the recognized natural child meets the definition provided below.

Recognized natural child, with respect to paternity, is one for whom the father meets one of the following:

(a) (1) Has acknowledged paternity in writing;

(2) Was ordered by a court to provide support;

(3) Before his death, was pronounced by a court to be the father;

(4) Was established as the father by a certified copy of the public record of birth or church record of baptism, if the insured was the informant and named himself as the father of the child; or

(5) Established paternity on public records, such as records of schools or social welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(b) If paternity is not established by paragraph (a) of this definition, such evidence as the child's eligibility as a recognized natural child under other State or Federal programs or proof that the insured included the child as a recognized natural child on his income tax returns may be considered to establish paternity.

Reconsideration means the final level of administrative review of an agency's initial decision to determine if the employing office followed the law and regulations correctly in making the initial decision.

Service means civilian service which is creditable under subchapter III of chapter 83 or chapter 84 of title 5, United States Code. This includes service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard for an individual who elected to remain under a retirement system established for employees described in section 2105(c) of title 5.

Underdeduction means a failure to withhold the required amount of life insurance deductions from an individual's pay, annuity, or compensation. This includes nondeductions (when none of the required amount was withheld) and partial deductions (when only part of the required amount was withheld).

§ 870.102 The policy.

Basic, Option A, Option B, and Option C benefits are payable according to a contract with the company or companies that issue a policy under section 8709 of title 5, United States Code. Any court action to obtain money due from an insurance policy must be taken against the company that issues the policy.

§ 870.103 Correction of errors.

(a) The employing office may make corrections of administrative errors regarding coverage or changes in coverage. Retroactive corrections are subject to the provisions of § 870.401(f).

(b) OPM may order correction of an error after reviewing evidence that it would be against equity and good conscience not to do so.

§ 870.104 Initial decision and reconsideration.

(a) (1) An employee may ask his/her agency to reconsider its initial decision denying life insurance coverage or the opportunity to change coverage.

(2) An annuitant may ask his/her retirement system to reconsider its initial decision affecting life insurance coverage.

(3) A judge may ask his/her agency, or retirement system if applicable, to reconsider its initial decision denying an entitlement related to assignments under 5 U.S.C. 8706(e) or subpart I of this part.

(4) An individual insured under subpart J of this part may ask the U.S. Department of State to reconsider its initial decision affecting life insurance coverage.

(b) An employing office's decision is an initial decision when the employing office gives it in writing and informs the individual of the right to an independent level of review (reconsideration) by the appropriate agency or retirement system.

(c) A request for reconsideration must be made in writing and must include the employee's (or annuitant's) name, address, date of birth, Social Security number, reason(s) for the request, and, if applicable, retirement claim number.

(d) A request for reconsideration must be made within 30 calendar days from the date of the initial decision. This time limit may be extended when the individual shows that he/she was not notified of the time limit and was not otherwise aware of it or that he/she was unable, due to reasons beyond his/her control, to make the request within the time limit.

(e) The reconsideration must take place at or above the level at which the initial decision was made.

(f) After reconsideration, the agency or retirement system must issue a final decision. This decision must be in writing and must fully state the findings.

Subpart B—Types and Amount of Insurance

§ 870.201 Types of insurance.

(a) There are two types of life insurance under the FEGLI Program: Basic and optional.

(b) There are three types of optional insurance: Option A (standard optional insurance), Option B (additional optional insurance), and Option C (family optional insurance).

§ 870.202 Basic insurance amount (BIA).

(a) (1) An employee's basic insurance amount (BIA) is either: (i) His/her annual rate of basic pay, rounded to the next higher thousand, plus $2,000; or

(ii) $10,000; whichever is higher. However, the BIA can never be more than the annual rate of pay for Level II Executive Schedule positions under section 5313 of title 5, U.S.C., rounded to the next higher thousand, plus $2,000.

(2) The BIA of an individual who is eligible to continue basic life insurance coverage as an annuitant or compensationer is the BIA in effect at the time his/her insurance as an employee would stop under § 870.601.

(b) An employee's BIA automatically changes whenever annual pay is increased or decreased by an amount sufficient to raise or lower pay to a different $1,000 bracket.

(c) The amount of an employee's basic life insurance coverage is equal to his/her BIA multiplied by the appropriate factor based on the employee's age, as follows:

Age	Factor
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0

§ 870.203 Annual rates of pay.

(a) (1) An insured employee's annual pay is his/her annual rate of basic pay as fixed by law or regulation.

(2) Annual pay for this purpose includes the following:

(i) Interim geographic adjustments and locality-based comparability payments as provided by Pub. L. 101–509;

(ii) Premium pay under 5 U.S.C. 5545(c)(1);

(iii) For a law enforcement officer as defined under 5 U.S.C. 8331(20) and § 831.903 of this title, premium pay under 5 U.S.C. 5545(c)(2);

(iv) Night differential pay for wage employees;

(v) Environmental differential pay for employees exposed to danger or physical hardship;

(vi) Tropical differential pay for citizen employees in Panama; and

(vii) Special pay adjustments for law enforcement officers.

(b) To convert a pay rate of other than annual salary to an annual rate, multiply the pay rate by the number of pay periods in a 52-week work year.

(c) The annual pay for a part-time employee is his/her basic pay applied to his/her tour of duty in a 52-week work year.

(d) The annual pay for an employee on piecework rates is the total basic earnings for the previous calendar year, not counting premium pay for overtime or holidays.

(e) The annual pay for an employee with a regular schedule who works at different pay rates is the weighted average of the rates at which the employee is paid, projected to an annual basis.

(f) The annual pay for a non-Postal intermittent employee or an employee who works at different pay rates without a regular schedule is the annual rate which he/she is receiving at the end of the pay period.

(g) If an employee legally serves in more than 1 position at the same time, and at least 1 of those positions entitles him/her to life insurance coverage, the annual pay is the sum of the annual basic pay fixed by law or regulation for each position. Exception: This doesn't apply to part-time flexible schedule employees in the Postal Service.

§ 870.204 Amount of optional insurance.

(a) Option A coverage is $10,000. However, if an employee's annual rate of pay is more than the sum of the annual rate of basic pay for Level II Executive Schedule positions under 5 U.S.C. 5313 plus $10,000, Option A coverage automatically increases. The amount of Option A coverage in this case is the difference between the employee's annual rate of pay, (rounded to the next higher thousand if not already an even thousand) and the BIA.

(b) (1) Option B coverage comes in 1, 2, 3, 4, or 5 multiples of an employee's annual pay (after the pay has been rounded to the next higher thousand, if not already an even thousand). A multiple can not be more than the annual rate of basic pay for Level II Executive Schedule positions under 5 U.S.C. 5313, rounded to the next higher thousand.

(2) The amount of Option B coverage automatically changes whenever annual pay is increased or decreased by an amount sufficient to raise or lower pay to a different $1,000 bracket.

(c) Option C coverage is $5,000 payable upon the death of a spouse and $2,500 payable upon the death of a child. Payments are made to the insured individual.

§ 870.205 Accidental death and dismemberment.

(a) (1) Accidental death and dismemberment coverage is an automatic part of basic and Option A insurance for employees.

(2) There is no accidental death and dismemberment coverage with Options B and C.

(3) Individuals who are insured as annuitants or compensationers do not have accidental death and dismemberment coverage.

(b) Under basic insurance, accidental death benefits are equal to the BIA, but without the age factor described in § 870.202(c).

(c) (1) Under basic insurance, accidental dismemberment benefits for the loss of a hand, foot, or eye are equal to one-half the BIA. For loss of 2 of these, benefits are equal to the BIA.

(2) For more than one type of loss in a single accident, total benefits cannot be more than the BIA.

(3) Accidental dismemberment benefits are paid to the employee.

(d) Under Option A, accidental death and dismemberment benefits are equal to the amount of Option A.

Subpart C—Eligibility

§ 870.301 Eligibility for life insurance.

(a) Each nonexcluded employee is automatically insured for basic insurance unless he/she waives it.

(b) (1) Optional insurance must be specifically elected; it is not automatic.

(2) An employee may elect optional insurance if:

(i) He/she has basic insurance;

(ii) He/she doesn't have a waiver of that type of optional insurance still in effect; and

(iii) His/her periodic pay, after all other deductions, is enough to cover the full cost.

§ 870.302 Exclusions.

(a) The following employees are excluded from life insurance coverage by law:

(1) An employee of a corporation supervised by the Farm Credit Administration, if private interests elect or appoint a member of the board of directors.

(2) An individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States. Exception: An individual who met the definition of employee on September 30, 1979, by service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone.

(3) An individual first employed by the Government of the District of Columbia on or after October 1, 1987. Exception: An employee of St. Elizabeths Hospital, who accepts employment with the District of Columbia Government following Federal employment without a break in service, as provided in section 6 of Pub. L. 98–621.

(4) Teachers in Department of Defense dependents schools overseas, if employed by the Federal Government in a nonteaching position during the recess period between school years.

(b) The following employees are also excluded from life insurance coverage:

(1) An employee serving under an appointment limited to 1 year or less. Exceptions:

(i) An employee whose full-time or part-time temporary appointment has a regular tour of duty and follows a position in which he/she was insured, with a break in service of no more than 3 days;

(ii) An acting postmaster;

(iii) A Presidential appointee appointed to fill an unexpired term; and

(iv) Certain temporary employees who receive provisional appointments as defined in §§ 316.401 and 316.403 of this title.

(2) An employee who is employed for an uncertain or purely temporary period, who is employed for brief periods at intervals, or who is expected to work less than 6 months in each year. Exception: An employee who is employed under an OPM-approved career-related work-study program under Schedule B lasting at least 1 year and who is in pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

(3) An intermittent employee (a non-full-time employee without a regularly scheduled tour of duty). Exception: An employee whose intermittent appointment follows, with a break in service of no more than 3 days, a position in which he/she was insured and to which he/she is expected to return.

(4) An employee whose pay, on an annual basis, is $12 a year or less.

(5) A beneficiary or patient employee in a Government hospital or home.

(6) An employee paid on a contract or fee basis. Exception: An employee who is a United States citizen, who is appointed by a contract between the employee and the Federal employing authority which requires his/her personal service, and who is paid on the basis of units of time.

(7) An employee paid on a piecework basis. Exception: An employee whose work schedule provides for full-time or part-time service with a regularly scheduled tour of duty.

(c) OPM makes the final determination about whether the above categories apply to a specific employee or group of employees.

Subpart D—Cost of Insurance

§ 870.401 Withholdings and contributions for basic insurance.

(a) The cost of basic insurance is shared between the insured individual and the Government. The employee pays two-thirds of the cost, and the Government pays one-third.

(b) (1) During each pay period in which an insured employee is in pay status for any part of the period, $0.165 must be withheld from the employee's biweekly pay for each $1,000 of the employee's BIA. The amount withheld from the pay of an employee who is paid on other than a biweekly basis must be prorated and adjusted to the nearest one-tenth of 1 cent.

(2) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the amount obtained

by converting the biweekly rate to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(3) The amount withheld from the pay of an insured employee whose BIA changes during a pay period is based on the BIA in force at the end of the pay period.

(4) No payment is required while an insured employee is in nonpay status for up to 12 months.

(c) For each pay period in which an employee is insured, the employing agency must contribute an amount equal to one-half the amount withheld from the employee's pay. This agency contribution must come from the appropriation or fund that is used for the payment of the employee's pay. For an elected official, the contribution must come from the appropriation or fund that is available for payment of other salaries in the same office.

(d) (1) For an annuitant who elects to continue basic insurance and chooses the maximum reduction of 75 percent after age 65 under § 870.702(a)(2), the amount withheld monthly is $0.3575 for each $1,000 of the BIA. For a compensationer who makes this election, the amount withheld weekly is $0.0825 for each $1,000. These withholdings stop the month after the month in which the individual reaches age 65. There are no withholdings from individuals who retired or began receiving compensation before January 1, 1990, and who elected the 75 percent reduction. For the purpose of this paragraph, an individual who separates from service after meeting the requirements for an immediate annuity under 5 U.S.C. 8412(g) is considered to retire on the day before the annuity begins.

(2) For an annuitant who elects to continue basic insurance and chooses the maximum reduction of 50 percent after age 65 under § 870.702(a)(3), the amount withheld monthly is $0.8775 for each $1,000 of the BIA until the annuitant reaches age 65; the amount is then reduced to $0.52 for each $1,000. For a compensationer who makes this election, the amount withheld weekly is $0.2025 for each $1,000 of the BIA until age 65; the amount is then reduced to $0.12 for each $1,000.

(3) For an annuitant who elects to continue basic insurance and chooses no reduction after age 65 under § 870.702(a)(4), the amount withheld monthly is $2.0475 for each $1,000 of the BIA until the annuitant reaches age 65; the amount is then reduced to $1.69 for each $1,000. For a compensationer who makes this election, the amount withheld weekly is $0.4725 for each $1,000 of the BIA until age 65; the amount is then reduced to $0.39 for each $1,000.

(e) (1) For each period in which an annuitant or compensationer is insured, OPM must contribute an amount equal to one-half the amount that would be withheld under paragraph (d)(1) of this section. Exception: For USPS employees who become annuitants or compensationers after December 31, 1989, the Postal Service pays the Government contributions.

(2) The Government contribution is the same amount whether the individual elects a maximum 75 percent reduction, a maximum 50 percent reduction, or no reduction.

(3) The Government contribution stops the month after the month in which the individual reaches age 65.

(f) When an agency withholds less than or none of the proper amount of basic life insurance deductions from an individual's pay, annuity, or compensation, the agency must submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under 5 U.S.C. 8708 to OPM for deposit in the Employees' Life Insurance Fund.

§ 870.402 Withholdings for optional insurance.

(a) The insured individual pays the full cost of all optional insurance. There is no Government contribution toward the cost of any optional insurance. Exception: The United States Postal Service may make a contribution toward the cost of optional insurance for USPS employees in some situations.

(b) During each pay period in any part of which an insured employee is in pay status, the employing agency must withhold the full cost of optional insurance from his/her pay.

(c) Subject to the provisions for reemployed annuitants in § 870.706(d), the full cost of optional insurance must be withheld from the annuity of an annuitant and from the compensation of a compensationer. These withholdings stop after the end of the month in which an annuitant or compensationer reaches age 65.

(d) (1) The biweekly cost per $10,000 of Option A coverage is:

For persons under age 35	$0.40
For persons ages 35 through 39	.50
For persons ages 40 through 44	.70
For persons ages 45 through 49	1.10
For persons ages 50 through 54	1.80
For persons ages 55 through 59	3.00
For persons ages 60 and over	7.00

(2) The amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be prorated and adjusted to the nearest cent.

(e) (1) The biweekly cost per $1,000 of Option B coverage is:

For persons under age 35	$0.04
For persons ages 35 through 39	.05
For persons ages 40 through 44	.07
For persons ages 45 through 49	.11
For persons ages 50 through 54	.18
For persons ages 55 through 59	.30
For persons ages 60 and over	.70

(2) The amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be prorated and adjusted to the nearest one-tenth of 1 cent.

(f) (1) The biweekly cost of Option C coverage is based on the age of the employee, annuitant, or compensationer. The cost is:

For persons under age 35	$0.30
For persons ages 35 through 39	.31
For persons ages 40 through 44	.52
For persons ages 45 through 49	.70
For persons ages 50 through 54	1.00
For persons ages 55 through 59	1.50
For persons ages 60 and over	2.60

(2) The amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be prorated and adjusted to the nearest cent.

(g) For the purpose of this subpart, an individual is considered to reach age 35, 40, 45, 50, 55, or 60 on the first day of the first pay period beginning on or after the January 1 following his/her corresponding birthday.

(h) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the amount obtained by converting the biweekly rate for his/her age group to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(i) When an agency withholds less than or none of the proper amount of optional life insurance deductions from an individual's pay, annuity, or compensation, the agency must submit an amount equal to the uncollected deductions required under 5 U.S.C. 8714a to OPM for deposit in the Employees' Life Insurance Fund.

§ 870.403 Withholdings and contributions provisions that apply to both basic and optional insurance.

(a) Withholdings (and Government contributions, when applicable) are based on the amount of insurance in force at the end of the pay period.

(b) Withholdings are not required for the period between the end of the pay period in which an employee separates from service and the date his/her annuity or compensation begins.

(c) The deposit described in §§ 870.401(f) and 870.402(i) must be made no later than 60 calendar days after the date the employing office determines the amount of the underdeduction that has occurred, regardless of whether or when the underdeduction is recovered by the agency. The agency must determine whether to waive collection of the overpayment of pay, in accordance with 5 U.S.C. 5584, as implemented by 4 CFR ch. I, subchapter G. However, if the agency involved is excluded from the provisions of 5 U.S.C. 5584, it may use any applicable authority to waive the collection.

(d) Effective October 21, 1972, when an employee returns to work after being suspended or fired erroneously, no withholdings are made from the back pay.

(e) If an individual's periodic pay, compensation, or annuity isn't sufficient to cover the full withholdings, any amount available for life insurance withholding must be applied first to basic insurance, with any remainder applied to optional insurance.

§ 870.404 Direct premium payments under 5 U.S.C. chapter 84 (Federal Employees' Retirement System—FERS).

(a) If the FERS annuity, excluding subchapter III of 5 U.S.C. chapter 84 (Thrift Savings Plan), is too low to cover any of the insurance premiums, the retirement system must notify the annuitant of the opportunity to pay his/her share of the basic premium and the optional premium(s) directly to the retirement system.

(b) The retirement system must establish a method for accepting these direct premium payments. The retirement system must provide the annuitant with a premium payment schedule and the requirements for continued enrollment.

(c) The annuitant must send the retirement system the required premium(s) for every pay period during which the coverage(s) continue, excluding the 31-day temporary extension of coverage provided in § 870.601. The annuitant must make payment after the pay period in which he/she is covered, according to the schedule established by the retirement system. If it does not receive payment by the due date, the retirement system must notify the annuitant that coverage(s) will be continued only if he/she makes payment within 15 days after receiving the notice. The basic and optional insurance coverage(s) of an annuitant who does not pay within the specified time limit terminate. An individual whose coverage(s) terminate because of nonpayment of premium cannot reelect or reinstate coverage, except as provided in paragraph (d) of this section.

(d) If, for reasons beyond his/her control, an annuitant is unable to pay within 15 days after receiving the notice, he/she may request reinstatement of coverage by writing to the retirement system. Such a request must be made within 30 calendar days from the date of termination and must be accompanied by proof that the annuitant was prevented from paying within the time limit for reasons beyond his/her control. The retirement system will decide if the individual is eligible for reinstatement of coverage. If the decision is yes, the coverage is reinstated back to the date of termination.

(e) Termination of coverage for failure to pay premiums within the time limit established according to paragraph (c) of this section is effective at the end of the last pay period for which payment has been received on time.

(f) The retirement system must submit all direct premium payments, along with its regular life insurance premiums, to OPM according to procedures set by OPM.

Subpart E—Coverage

§ 870.501 Basic insurance: Effective dates of automatic coverage.

(a)(1) When an employee is appointed or transferred to a position in which he/she is eligible for insurance, the employee is automatically insured for basic insurance on the day he/she enters on duty in pay status, unless, before the end of the first pay period, the employee files a waiver of basic insurance with the employing office or had previously filed a waiver which remains in effect.

(2) An insured employee who moves to another covered position is automatically insured on the effective date of the move, unless the employee files a waiver of basic insurance with the new employing office before the end of the first pay period in the new position.

(b) An employee who returns to pay and duty status after a period of more than 12 months of nonpay status is automatically insured at the time he/she actually enters on duty in pay status, unless, before the end of the first pay period, the employee files a waiver of basic insurance coverage with the employing office or had previously filed a waiver which remains in effect.

(c) For an employee who serves in cooperation with a non-Federal agency and who is paid in whole or in part from non-Federal funds, OPM sets the effective date. This date must be part of an agreement between OPM and the non-Federal agency. The agreement must provide either:

(1) That the required withholdings and contributions be made from federally controlled funds and deposited into the Employees' Life Insurance Fund on a timely basis, or

(2) That the cooperating non-Federal agency, by written agreement with the Federal agency, make the required withholdings and contributions from non-Federal funds and transmit that amount to the Federal agency for deposit into the Employees' Life Insurance Fund on a timely basis.

(d) If an employee waived basic insurance on or before February 28, 1981, the waiver was automatically cancelled effective on the 1st day the employee entered on duty in pay status on or after April 1, 1981. Basic insurance coverage was automatically effective on the date of the waiver's cancellation, unless the employee filed a new waiver of basic insurance with the employing office before the end of the pay period during which the coverage became effective.

§ 870.502 Basic insurance: Waiver/cancellation of insurance.

(a) An insured individual may cancel his/her basic insurance at any time by filing a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers his/her retirement system. If still employed, a compensationer files with the employing office, and if not still employed, with OWCP. The waiver is effective, and the insurance stops, at the end of the pay period in which the waiver is properly filed.

(b) An individual who cancels his/her basic insurance automatically cancels all forms of optional insurance.

§ 870.503 Basic insurance: Cancelling a waiver.

(a) An annuitant who has filed a waiver of basic insurance cannot cancel the waiver.

(b) An employee who has filed a waiver of basic insurance may cancel the waiver and become insured if:

(1) At least 1 year has passed since the effective date of the waiver, and

(2) He/she provides satisfactory medical evidence of insurability.

(c) OFEGLI reviews the Request for Insurance filed by an employee who has complied with paragraph (b) of this section and decides whether to approve it. The insurance is effective when, after OFEGLI's approval, the employee actually enters on duty in pay status in a position in which he/she is eligible for insurance. If the employee doesn't enter on duty in pay status within 31 days following the date of OFEGLI's approval, the approval is automatically revoked and the employee is not insured.

(d) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of basic insurance is automatically cancelled. Unless the employee files a new waiver, basic insurance becomes effective on the 1st day he/she actually enters on duty in pay status in a position in which he/she is eligible for coverage. Exception: For employees who waived basic insurance after February 28, 1981, separated, and returned to Federal service before December 9, 1983, the waiver remained in effect; these employees were permitted to elect basic insurance by applying to their employing office before March 7, 1984.

§ 870.504 Optional insurance: Election.

(a)(1) Each employee must, on the form entitled Life Insurance Election, elect or waive Option A, Option B, and Option C coverage within 31 days after becoming eligible, unless during earlier employment he/she filed an election or waiver which remains in effect. The 31-day time limit for Option B or Option C begins on the 1st day after February 28, 1981, on which an individual meets the definition of an employee.

(2) Within 6 months after an employee becomes eligible, an employing office may determine that the employee was unable, for reasons beyond his/her control, to elect any type of optional insurance within the time limit. In this case, the employee must elect or waive that type of optional insurance within 31 days after he/she is notified of the determination. The insurance is retroactive to the 1st day of the first pay period beginning after the date the individual became eligible or after April 1, 1981, whichever is later. The individual must pay the full cost of the insurance from that date for the time that he/she is in pay status, retired, or receiving compensation and under age 65.

(b) An employee who doesn't file a Life Insurance Election form with his/her employing office specifically electing any type of optional insurance is considered to have waived it and does not have that type of optional insurance.

(c) For the purpose of having Option A as an employee, an election of this insurance filed on or before February 28, 1981, is considered to have been cancelled effective at the end of the pay period which included March 31, 1981, unless the employee didn't actually enter on duty in pay status during the 1st pay period which began on or after April 1, 1981. In that case the election is considered to have been cancelled on the 1st day after the end of the next pay period in which the employee actually entered on duty in pay status. In order to have Option A as an employee after the date of this cancellation, an employee must specifically elect the coverage by filing the Life Insurance Election form with his/her employing office, subject to the provisions of § 870.504(a) or 870.506.

(d) Optional insurance is effective the 1st day an employee actually enters on duty in pay status on or after the day the employing office receives the election.

(e) For an employee whose optional insurance stopped for a reason other than a waiver, the insurance is reinstated on the 1st day he/she actually enters on duty in pay status in a position in which he/she again becomes eligible.

§ 870.505 Optional insurance: Waiver/cancellation of insurance.

(a) An insured individual may cancel entirely any type of optional insurance, or reduce the number of multiples of his/her Option B insurance, at any time by filing a waiver of optional insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers his/her retirement system. If still employed, a compensationer files with the employing office, and if not still employed, with OWCP.

(b) A cancellation of optional insurance becomes effective, and optional insurance stops, at the end of the pay period in which the waiver is properly filed. Exception: If Option C is cancelled because there are no eligible family members, the effective date is retroactive to the end of the pay period in which there stopped being any eligible family members.

(c) A waiver of optional insurance remains in effect until it is cancelled as provided in § 870.506.

§ 870.506 Optional insurance: Cancelling a waiver.

(a)(1) An employee who has waived Option B coverage may elect it, and an employee who has Option B of fewer than five multiples of annual pay may increase the number of multiples, upon his/her marriage or divorce, upon a spouse's death, or upon acquiring an eligible child.

(2) The number of multiples of Option B coverage that an employee can obtain or add (which can't exceed a total of five) is limited to the following:

(i) For marriage, the number of additional family members (spouse and eligible children) acquired with the marriage;

(ii) For acquisition of children, the number of eligible children acquired; and

(iii) For divorce or death of a spouse, the total number of eligible children of the enrollee.

(3) An employee who has waived Option C coverage may elect it upon his/her marriage or upon acquiring an eligible child. An employee may also elect Option C coverage upon divorce or death of a spouse, if the employee has any eligible children.

(4)(i) The employee must file the election on the Life Insurance Election form, along with proof of the event, with the employing office no later than 60 days following the date of the event that permits the election.

(ii) This 60-day time limit may be extended if the individual isn't serving in a covered position on the date of the event or if the individual separates from covered service prior to the end of the 60-day time limit. This extension cannot exceed the 31-day time limit for electing insurance following employment in a covered position or the 31-day period following the 1st day on which the individual becomes eligible to cancel a waiver of basic insurance.

(5)(i) The effective date of Option B insurance elected under this paragraph is the 1st day the employee actually enters on duty in pay status on or after the day the employing office receives the election.

(ii) The effective date of Option C insurance elected under this paragraph is the day the employing office receives the election.

(b)(1) An employee who has waived Option A or Option B coverage may elect it if:

(i) At least 1 year has passed since the effective date of the waiver, and

(ii) He/she provides satisfactory medical evidence of insurability.

(2) An employee who has Option B coverage of fewer than five multiples of annual pay may increase the number of multiples if:

(i) At least 1 year has passed since the effective date of his/her last election of fewer than five multiples (including a reduction in the number of multiples), and

(ii) He/she provides satisfactory medical evidence of insurability.

(iii) The requirement for at least 1 year to have passed since the effective date of the last election doesn't apply when an employee elected fewer than five multiples because of the limitation under paragraph (a)(2) of this section.

(c) OFEGLI reviews the request filed by an employee who has complied with paragraph (b) of this section and decides whether to approve it. The optional insurance is effective when, after OFEGLI's approval, the employee actually enters on duty in pay status in a position in which he/she is eligible for insurance. If the employee doesn't enter on duty in pay status within 31 days following the date of OFEGLI's approval, the approval is automatically revoked and the employee does not have the optional insurance requested.

(d)(1) If an employee waived Option A insurance on or before February 28, 1981, the waiver was automatically cancelled effective on the 1st day the employee entered on duty in pay status on or after April 1, 1981. Option A was effective on the date of the waiver's cancellation, if the employee filed an election of Option A during the March 1, 1981 through March 31, 1981 open enrollment period. If the employee didn't file the election form with his/her employing office during the March, 1981 open enrollment period, the employee will be considered to have waived Option A on March 31, 1981.

(2) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of optional insurance is automatically cancelled, as follows:

(i) An employee who returned to service between April 1, 1981 and December 8, 1983, after a 180-day break in service was permitted to elect any form of optional insurance by applying to his/her employing office before March 7, 1984.

(ii) An employee who returns to service after December 8, 1983, following a 180-day break in service may elect any form of optional insurance by applying to his/her employing office within 31 days after reinstatement. Coverage is effective on the 1st day the employee actually enters on duty in pay status in a position in which he/she is eligible for insurance on or after the date the employing office receives the election. If the employee doesn't file a Life Insurance Election form within the 31-day period, the employee is considered to have waived optional insurance. However, an employee who fails to file during the 31-day period due to reasons beyond his/her control may enroll belatedly under the conditions stated in § 870.504(a)(2).

(e) An annuitant or compensationer is not eligible to cancel a waiver or to increase multiples of Option B under this section.

(f) The United States Postal Service may have less limiting requirements for cancelling waivers for USPS employees in some situations.

§ 870.507 Open enrollment periods.

(a) There are no regularly scheduled open enrollment periods for life insurance. Open enrollment periods are held only when specifically scheduled by OPM.

(b) During an OPM-scheduled open enrollment period, eligible employees may cancel their existing waivers of basic and/or optional insurance by electing the insurance on an OPM-designated form.

(c)(1) OPM sets the effective date for all insurance elected during an open enrollment period. The newly elected insurance is effective on the 1st day of the first pay period which begins on or after the OPM-established date and which follows a pay period during which the employee was in pay and duty status for at least 32 hours.

(2) A part-time employee must be in pay and duty status for one-half the regularly scheduled tour of duty shown on his/her current Standard Form 50 for newly elected coverage to become effective.

(3) An employee who has no regularly scheduled tour of duty or who is employed on an intermittent basis must be in pay and duty status for one-half the hours customarily worked before newly elected coverage can become effective. For the purpose of this paragraph, employing offices can determine the number of hours customarily worked by averaging the number of hours worked in the most recent calendar year quarter prior to the start of the open enrollment period.

(d) Within 6 months after an open enrollment period ends, an employing office may determine that an employee was unable, for reasons beyond his/her control, to cancel an existing waiver by electing to be insured during the open enrollment period. In this case, if the employee wants coverage, he/she must submit an election within 31 days after being notified of the determination. Coverage is retroactive to the first pay period which begins on or after the effective date set by OPM and which follows a pay period during which the employee was in pay and duty status for at least 32 hours. If the employee doesn't file an election within this 31-day time limit, he/she will be considered to have waived coverage.

§ 870.508 Nonpay status.

(a) An employee who is on leave without pay is entitled to continue life insurance for up to 12 months. No premium payments are required.

(b) If an insured employee who is entitled to free insurance while in nonpay status accepts a temporary appointment to a position in which he/she would normally be excluded from insurance, the insurance continues. The amount of basic insurance is based on whichever position's salary is higher. Withholdings are made from the employee's pay in the temporary position.

(c) If an insured employee goes on leave without pay to serve as a full-time officer or employee of certain employee organizations, within 60 days of the start of the leave-without-pay he/she may elect to continue life insurance. The insurance continues for the length of the appointment, even if the leave-without-pay lasts longer than 12 months. The employee must pay to the employing office the full cost of basic and optional insurance. There is no Government contribution for these employees.

(d) If an insured employee goes on leave without pay while assigned to a State government, local government, or institution of higher education, life insurance continues for the length of the assignment, even if the leave-without-pay lasts longer than 12 months. The employee must pay his/her premiums to the Federal agency on a current basis. The agency must continue to pay its contribution as long as the employee makes his/her payments.

§ 870.509 Transfers to international organizations.

An employee transferred to an international organization as provided in 5 U.S.C. 3582 may continue life insurance coverage. Regulations governing these transfers are in part 352 of this title.

Subpart F—Termination and Conversion

§ 870.601 Termination of basic insurance.

(a) Except as provided in § 870.701, the basic insurance of an insured employee stops on the date he/she separates from service, subject to a 31-day extension of coverage.

(b) The basic insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this title and who postpones receiving the annuity, as provided by § 842.204(c) of this title, stops on the date he/she separates from service, subject to a 31-day extension of coverage.

(c) The basic insurance of an insured employee who moves without a break in service to a position in which he/she is excluded from life insurance stops on his/her last day in the former position, subject to a 31-day extension of coverage.

(d)(1) Except as provided in § 870.701, the basic insurance of an insured employee who is in nonpay status stops on the date the employee completes 12 months in nonpay status, subject to a 31-day extension of coverage. The 12 months' nonpay status may be broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he/she is entitled to begin the 12 months' continuation of basic insurance again. If an employee has used up his/her 12 months' continuation in nonpay status and returns to duty for less than 4 consecutive months, his/her basic insurance stops on the 32nd day after the last day of the last pay period in pay status.

(2) For the purpose of this paragraph, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status for at least part of each pay period.

§ 870.602 Termination of optional insurance.

(a) The optional insurance of an insured employee stops when his/her basic insurance stops, subject to the same 31-day extension of coverage.

(b) The optional insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this title and who postpones receiving the annuity, as provided by § 842.204(c) of this title, stops on the date he/she separates from service, subject to a 31-day extension of coverage.

(c) If, because of a waiver, an insured employee isn't eligible to continue optional coverage as an annuitant or compensationer (see § 870.701), the optional insurance stops on the date that his/her basic insurance is continued or reinstated under the provisions of § 870.701, subject to a 31-day extension of coverage.

(d) If, at the time of an individual's election of basic insurance during receipt of annuity or compensation (see § 870.701), he/she elects no basic life insurance, the optional insurance stops at the end of the month in which the election is received in OPM, subject to a 31-day extension of coverage.

(e) Except as provided in § 870.404, optional insurance stops, subject to a 31-day extension of coverage, at the end of the pay period in which it's determined that an individual's periodic pay, compensation, or annuity, after all other deductions, isn't enough to cover the full cost of the optional insurance. If an individual has more than one type of optional insurance, and his/her pay, compensation, or annuity is sufficient to cover some but not all of the insurance, Option C terminates first, followed by Option A and then Option B.

§ 870.603 Conversion of basic and optional insurance.

(a)(1) When group coverage terminates for any reason other than voluntary cancellation, an employee may apply to convert all or any part of his/her basic and optional insurance to an individual policy; no medical examination is required. The premiums for the individual policy are based on the employee's age and class of risk. An employee is eligible to convert the policy only if he/she doesn't return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of coverage and the right to convert to an individual policy either before or immediately after the event causing the loss of coverage.

(3) The employee must submit the request for conversion information to OFEGLI. It must be postmarked within 31 days following the date of the terminating event or within 31 days of the date the employee received the notice of loss of group coverage and right to convert, whichever is later.

(4) An employee who fails to use his/her conversion right within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is considered to have refused coverage, unless OFEGLI determines the failure was for reasons beyond the employee's control, as described in paragraph (a)(5) of this section.

(5) When the employee fails to request conversion information within the time limit set in paragraph (a)(3) of this section for reasons beyond his/her control, he/she may make a belated request by writing to OFEGLI. The employee must make the request within 6 months after becoming eligible to convert the insurance. The employee must show that he/she wasn't notified of the loss of coverage and the right to convert and was not otherwise aware of it or that he/she was unable to convert to an individual policy for reasons beyond his/her control. OFEGLI will determine if the employee is eligible to convert. When the request is approved, the employee must convert within 31 days of that determination.

(b) The individual conversion policy is effective the day after the group coverage ends. The employee must pay the premiums for any period retroactive to that date.

(c) The 31-day extension of coverage provided under this subpart does not depend upon timely notification of the right to convert to an individual policy. The extension cannot be continued beyond 31 days.

Subpart G—Annuitants and Compensationers

§ 870.701 Eligibility for life insurance.

(a) When an insured employee retires, basic life insurance (but not accidental death and dismemberment) continues or is reinstated if he/she:

(1) Is entitled to retire on an immediate annuity under a retirement system for civilian employees, including the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard;

(2) Was insured for the 5 years of service immediately before the date the annuity starts, or for the full period(s) of service during which he/she was eligible to be insured if less than 5 years; and

(3) Has not converted to an individual policy as described in § 870.603. If it is not determined that an individual is eligible to continue the group coverage as an annuitant until after he/she has converted, the group enrollment must be reinstated. The conversion policy must be voided, and the premiums already paid on the policy must be refunded to the individual.

(b) A compensationer's basic life insurance (but not accidental death and dismemberment) continues or is reinstated if he/she:

(1) Has been insured for the 5 years of service immediately before the date of entitlement to compensation, or for the full period(s) of service during which he/she was eligible to be insured if less than 5 years; and

(2) Has not converted to an individual policy as described in § 870.603. If it is not determined that an individual is eligible to continue the group coverage as a compensationer until after he/she has converted, the group enrollment must be reinstated. The conversion policy must be voided, and the premiums already paid on the policy must be refunded to the individual.

(c) An individual who meets the requirements under paragraphs (a) or (b) of this section or § 870.707 for continuation or reinstatement of life insurance must complete a written election on the appropriate form at the time entitlement is established. For the election to be valid, OPM must receive the election form before it has made a final decision on the individual's application for annuity or supplemental annuity or an individual's request to continue life insurance as a compensationer. If there is no valid election, OPM considers the individual to have chosen the option described in paragraph (a)(2) of § 870.702.

(d) If the annuity or compensation of an insured individual is terminated, or if the Department of Labor finds that an insured compensationer is able to return to duty, his/her basic life insurance held as an annuitant or compensationer stops on the date of the termination or finding. There is no 31-day extension of coverage or conversion right.

(e)(1) An annuitant or compensationer who is eligible to continue or have reinstated basic insurance is also eligible to continue or have reinstated optional insurance if he/she meets the same coverage requirements for optional insurance as those stated in paragraph (a) or (b) of this section for basic insurance.

(2) For the purpose of continuing insurance as an annuitant or compensationer, an employee is not considered to have been eligible for Option C during any period when the employee had no eligible family member.

§ 870.702 Election of basic insurance.

(a) An individual who makes an election under § 870.701(c) must select one of the following options:

(1) Termination of the insurance. The individual's insurance stops upon conversion to an individual policy as provided under § 870.603. If the individual doesn't convert to an individual policy, insurance stops at the end of the month in which OPM or the employing office receives the election;

(2) Continuation or reinstatement of basic insurance with a maximum reduction of 75 percent during retirement. Premiums are withheld from annuity or compensation (except as provided under § 870.401(d)(1)). The amount of basic life insurance in force reduces by 2 percent a month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later;

(3) Continuation or reinstatement of basic insurance with a maximum reduction of 50 percent during retirement. Premiums are withheld from annuity or compensation. The amount of basic insurance in force reduces by 1 percent a month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later; or

(4) Continuation or reinstatement of basic insurance with no reduction after age 65. Premiums are withheld from annuity or compensation.

(b)(1) An insured individual may cancel an election under paragraph (a)(3) or (a)(4) of this section at any time. The amount of basic insurance automatically switches to the amount that would have been in force if the individual had originally elected the 75 percent reduction. This revised amount is effective at the end of the month in which OPM receives the request to cancel the previous election.

(2) If the individual files a waiver of insurance, the coverage stops without a 31-day extension of coverage or conversion right. This is effective at the end of the month in which OPM receives the waiver.

§ 870.703 Amount of life insurance.

(a)(1) The amount of an annuitant's or compensationer's basic insurance is his/her BIA on the date insurance would otherwise have stopped because of separation from service or completion of 12 months in nonpay status, minus any reductions applicable under § 870.702(a).

(2) For the purpose of paying benefits upon the death of a retired insured individual under age 45, the BIA is multiplied by the appropriate age factor shown in § 870.202(c). Exception: If the insured individual retired before October 10, 1980.

(b) The amount of an annuitant's or compensationer's Option A coverage reduces by 2 percent a month up to a maximum reduction of 75 percent. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later.

(c) (1) The number of multiples of Option B coverage an annuitant or compensationer can continue is the smallest number of multiples in force during the applicable period of service required to continue Option B.

(2) Each multiple of an annuitant's or compensationer's Option B coverage reduces by 2 percent a month. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the insured's 65 birthday, whichever is later. At 12 noon on the day before the 50th reduction, the insurance stops, with no extension of coverage or conversion right.

(d) The amount of an annuitant's or compensationer's Option C coverage on each family member reduces by 2 percent a month. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the annuitant's or compensationer's 65th birthday, whichever is later. At 12 noon on the day before the 50th reduction, the insurance stops, with no extension of coverage or conversion right.

(e)(1) Judges retiring under 28 U.S.C. 371 (a) and (b), 28 U.S.C. 372(a), and 26 U.S.C. 7447 are considered employees under the FEGLI law. Basic and optional insurance for these judges continues without interruption or reduction upon retirement.

(2) If a judge chooses to receive compensation instead of an annuity, his/her optional insurance reduces as stated in paragraphs (b), (c), and (d) of this section.

§ 870.704 Reinstatement of life insurance.

(a) An annuitant whose disability annuity terminates because he/she recovers from the disability or because his/her earning capacity returns, and whose disability annuity is later restored under 5 U.S.C. 8337(e) (after December 31, 1983), may elect to resume the basic insurance held immediately before his/her disability annuity terminated. OPM must receive the election within 60 days after OPM mails a notice of insurance eligibility and election form.

(b) An annuitant described in paragraph (a) of this section may elect to resume any optional insurance held immediately before the annuity terminated if:

(1) He/she has made an election under paragraph (a) of this section; and

(2) OPM receives the election within 60 days after OPM mails a notice of insurance eligibility and election form.

(c) Basic and optional insurance reinstated under paragraphs (a) and (b) of this section are effective on the 1st day of the month after the date OPM receives the election form. Any applicable annuity withholdings are also reinstated on the 1st day of the month after OPM receives the election form.

(d) The amounts of basic and optional insurance reinstated under paragraphs (a) and (b) of this section are the amounts that would have been in force if the individual's annuity hadn't terminated.

§ 870.705 Waiver or suspension of annuity or compensation.

(a) Except as provided in paragraph (b) of this section, when annuity or compensation is waived or suspended, optional life insurance continues. When the annuity or compensation is resumed, back payments must be withheld for the full cost of the optional insurance for the period of waiver or suspension during which the person is under age 65.

(b) If suspension of annuity or compensation is because of reemployment, the reemploying office must withhold the full cost of the insurance during each pay period of reemployment.

§ 870.706 Reemployed annuitants.

(a) (1) If an insured annuitant is appointed to a position in which he/she is eligible for insurance, the amount of his/her basic life insurance as an annuitant (and any applicable annuity withholdings) is suspended on the day before the 1st day in pay status under the appointment, unless the reemployed annuitant waives all insurance coverage. The benefit payable upon the death of a reemployed annuitant who has basic insurance in force as an employee cannot be less than the benefit which would have been payable if the individual hadn't been reemployed.

(2) Except as provided in paragraph (b) of this section, the basic insurance obtained as an employee stops, with no 31-day extension of coverage or conversion right, on the date reemployment terminates. Any suspended basic insurance (and any applicable annuity withholdings) is reinstated on the day following termination of the reemployment.

(b) Basic insurance obtained during reemployment can be continued after the reemployment terminates if:

(1) The annuitant qualifies for a supplemental annuity or receives a new retirement right;

(2) He/she has had basic insurance as an employee for at least 5 years of service immediately before separation from reemployment or for the full period(s) during which such coverage was available to him/her, whichever is less; and

(3) He/she doesn't convert to nongroup insurance when basic insurance as an employee would otherwise terminate.

(c) If the basic insurance obtained during reemployment is continued as provided in paragraph (b) of this section, any suspended basic life insurance stops, with no 31-day extension of coverage or conversion right.

(d)(1) An annuitant appointed to a position in which he/she is eligible for basic insurance, is also eligible for optional insurance as an employee, unless he/she has on file an uncanceled waiver of basic or optional insurance.

(2) If the individual has Option A or C as an annuitant, that insurance (and applicable annuity withholdings) is suspended on the day before his/her 1st day in pay status under the appointment. Unless he/she waives Option A or C (or waives basic insurance), he/she obtains Option A or C as an employee.

(3) If the individual has Option B as an annuitant, that insurance (and applicable annuity withholdings) continues as if the individual weren't reemployed, unless:

(i) The individual files with his/her employing office an election of Option B on the Life Insurance Election form within 31 days after the date of reemployment. In this case Option B (and applicable annuity withholdings) as an annuitant is suspended on the date that Option B as an employee becomes effective; or

(ii) The individual waives basic insurance.

(4) Except as provided in paragraph (e) of this section, the optional insurance obtained as an employee stops, with no 31-day extension or conversion right, on the date reemployment terminates. The amount of suspended optional insurance which remains in force after applicable monthly reductions after age 65 (and corresponding withholdings) is reinstated on the day after reemployment terminates.

(e) Optional life insurance obtained during reemployment may be continued after the reemployment terminates if the annuitant:

(1) Qualifies for a supplemental annuity or receives a new retirement right;

(2) Continues his/her basic life insurance under paragraph (d)(2), (3), or (4) of § 870.701; and

(3) Has had optional insurance in force for the 5 years of service immediately before separation from reemployment or for the full period(s) of service during which it was available to him/her, whichever is less.

(f) If optional insurance obtained during reemployment is continued as provided in paragraph (e) of this section, any suspended optional insurance stops, with no 31-day extension of coverage or conversion right.

(g) If a reemployed annuitant waives life insurance as an employee, the waiver also cancels his/her life insurance as an annuitant.

§ 870.707 MRA-plus-10 annuitants.

(a) The basic insurance of an individual whose coverage terminates under § 870.601(a), and who meets the requirements for continuing basic insurance after retirement as stated in § 870.601(b), resumes on the starting date of annuity or on the date OPM receives the application for annuity, whichever is later. The individual must file an election as provided in § 870.701(c) so that OPM receives it within 60 days after OPM mails a notice of insurance eligibility and election form.

(b) Optional insurance of an individual whose coverage terminates under § 870.602(a), and who meets the requirements for continuing optional insurance after retirement under § 870.602(b), resumes on the starting date of annuity or on the date OPM receives the application for annuity, whichever is later.

Subpart H—Order of Precedence and Designation of Beneficiary

§ 870.801 Order of precedence and payment of benefits.

(a) Benefits are paid according to the order of precedence stated in 5 U.S.C. 8705, as follows:

(1) To the designated beneficiary (or beneficiaries);

(2) If none, to the widow(er);

(3) If none, to the child, or children in equal shares, with the share of any deceased child going to his/her children;

(4) If none, to the parents in equal shares or the entire amount to the surviving parent;

(5) If none, to the executor or administrator of the estate;

(6) If none, to the next of kin according to the laws of the State in which the insured individual legally resided.

(b) If an insured individual provided in a valid designation of beneficiary for insurance benefits to be payable to the insured's estate, or to the Executor, Administrator, or other representative of the insured's estate, or if the benefits would otherwise be payable to the duly appointed representative of the insured's estate under the order of precedence specified in 5 U.S.C. 8705(a), payment of the benefits to the duly appointed representative of the insured's estate bars recovery by any other person.

(c) Option A or B insurance in force on a person on the date of his/her death is paid, on receipt of a valid claim, in the same order of precedence and under the same conditions as basic insurance. A designation of beneficiary for basic insurance is also a designation of beneficiary for Option A or B, unless the insured individual states otherwise in his/her designation.

(d) Upon the death of an insured family member, Option C benefits are paid to the employee, annuitant, or compensationer responsible for withholdings under § 870.402(f), except as provided in paragraph (e) of this section.

(e) In spite of an assignment of life insurance under subpart I of this part, if an employee, annuitant, or compensationer entitled to receive Option C benefits dies before the benefits are paid, the Option C benefits are paid to the individual(s) entitled to receive basic life insurance benefits.

§ 870.802 Designation of beneficiary.

(a) If an insured individual wants benefits paid differently from the order of precedence, he/she may file a designation of beneficiary. A designation of beneficiary cannot be filed by anyone other than the insured individual.

(b) A designation of beneficiary must be in writing, signed, and witnessed by two people. The employing office (or OPM, in the case of an individual receiving an annuity or compensation must receive the designation before the death of the insured.

(c) A designation, change, or cancellation of beneficiary in a will or any other document not witnessed and filed as required by this section has no legal effect with respect to benefits under this chapter.

(d) A witness to a designation of beneficiary cannot be named as a beneficiary.

(e) Any individual, firm, corporation, or legal entity can be named as a beneficiary, except an agency of the Federal or District of Columbia Government.

(f) An insured individual may change his/her beneficiary at any time without the knowledge or consent of the previous beneficiary. This right cannot be waived or restricted.

(g) A designation of beneficiary is automatically cancelled 31 days after the individual stops being insured.

(h) An insured individual may provide that a designated beneficiary is entitled to the insurance benefits only if the beneficiary survives him/her for a specified period of time (not more than 30 days). If the beneficiary doesn't survive for the specified period, insurance benefits will be paid as if the beneficiary had died before the insured.

§ 870.803 Child incapable of self-support.

(a) When it receives a claim for Option C benefits because of the death of a child over age 21, OFEGLI determines, based on whatever evidence it considers necessary, whether the deceased child was incapable of self-support because of a mental or physical disability which existed before the child reached age 22.

(b) If an employee elects Option C under § 870.506(a)(3), and the opportunity to elect is based solely on the acquisition of a child over age 21, the employee must submit to the employing office at the time of making the election a doctor's certificate stating that the child is incapable of self-support because of a physical or mental disability which existed before the child reached age 22 and which is expected to continue for more than 1 year. The certificate must include the name of the child, the type of disability, how long it has existed, and its expected future course and duration. The certificate must be signed by the doctor and show his/her office address.

Subpart I—Assignments of Life Insurance

§ 870.901 Assignments permitted.

(a) Section 208 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. 98–353, effective July 10, 1984, permits Federal judges to irreversibly assign their FEGLI coverage to one or more individuals, corporations, or trustees. A judge may assign ownership of all life insurance under this part, except Option C. If a judge owns more than one type of coverage, he/she must assign all the insurance; a judge cannot assign only a portion of the coverage. Option C cannot be assigned.

(b) A judge cannot name conditional assignees in case the primary assignee dies before the insured judge.

(c) If the insurance is assigned to two or more individuals, corporations, or trustees, the judge must specify percentage shares, rather than dollar amounts or types of insurance, to go to each assignee.

(d) If a judge who has made an assignment later elects increased insurance coverage under § 870.506 or during an open enrollment period, the increased coverage is considered included in the already-existing assignment. The right to increase coverage remains with the judge, rather than transferring to the assignee.

(e) A judge who assigns ownership of insurance continues to be the insured individual, but the assignee receives those rights of an insured employee that are specified in this part.

(f) Once assigned, the value of the insurance increases or decreases automatically as provided by this part.

§ 870.902 Making an assignment.

To assign insurance, a judge must make a written request for an approved assignment form. The judge must complete and submit to the employing office the signed and witnessed form indicating the intent to irreversibly assign all ownership of the insurance. (Assignments submitted prior to November 28, 1986, were accepted without an approved assignment form.)

§ 870.903 Effective date of assignment.

An assignment under this section is effective on the date the employing office receives the properly completed, signed, and witnessed assignment form.

§ 870.904 Amount of insurance.

The amount of insurance is based on the judge's basic pay as stated in subpart B of this part.

§ 870.905 Withholdings.

Premium withholdings for assigned insurance are withheld from the salary, annuity, or compensation of the judge, as provided in subpart D of this part.

§ 870.906 Cancellation of insurance.

The assignee has the right to cancel insurance according to the provisions of §§ 870.502 and 870.505. When there is more than 1 assignee, all assignees must agree to the cancellation. A cancellation of basic insurance also cancels all optional insurance.

§ 870.907 Termination and conversion.

(a) Assigned insurance terminates under the conditions stated in subpart F of this part.

(b) (1) When a judge's insurance terminates, an assignee has the right to convert all or part of the group insurance to an individual policy on the judge. The conditions stated in subpart F of this part apply to assignees who elect to convert.

(2) When there is more than 1 assignee, each assignee has the right to convert all or part of his/her share of the insurance. Any assignee who doesn't convert loses all ownership of the insurance.

(3) When there is more than 1 assignee and they wish to convert the assigned insurance to individual policies on the judge, the maximum amount of insurance each assignee will be able to convert is determined by the dollar amount corresponding to the assignee's share of the total insurance. This amount will be rounded up to the next higher thousand, if it's not already an even thousand dollar amount.

(4) Premiums for converted life insurance are based on the insured judge's age and class of risk at the time the conversion policy is issued.

(5) The employing office must notify each assignee of the conversion right at the time the assigned group insurance terminates.

§ 870.908 Annuitants and compensationers.

(a) If a judge assigns basic insurance and later becomes eligible to continue such insurance coverage while receiving annuity or compensation as provided in § 870.701:

(1) At the time he/she retires or becomes eligible to receive compensation, the judge may elect unreduced or partially reduced insurance coverage as provided in § 870.702(a).

(2) After the judge has made the election described in paragraph (a)(1) of this section, the assignee (or, if more than one, all of the assignees acting together) may, at any time, elect to cancel all or part of the basic insurance coverage as provided in § 870.702(b).

(b) Judges retiring under 28 U.S.C. 371 (a) and (b), 28 U.S.C. 372(a), and 26 U.S.C. 7747 are considered employees under the FEGLI law. Insurance for these judges continues without interruption or reduction upon retirement. The amount of basic insurance for a judge who elects to receive compensation in lieu of annuity will be computed according to § 870.703(e)(2).

§ 870.909 Designations and changes of beneficiary.

(a) Each assignee (or the legally appointed guardian of an assignee) may designate a beneficiary or beneficiaries to receive insurance benefits upon the death of the insured judge and may also later change the beneficiaries. Assignees may designate themselves the primary beneficiaries and name other conditional beneficiaries to receive insurance benefits if the assignees die before the insured judge.

(b) Benefits for assigned insurance are paid to an assignee's estate if the assignee dies before the insured judge and:

(1) The assignee did not designate a beneficiary; or

(2) The assignee's designated beneficiary dies before the insured judge.

(c) An assignment automatically cancels a judge's prior designation of beneficiary.

(d) The provisions of § 870.802 apply to designations of beneficiary made by assignees.

§ 870.910 Notification of current addresses.

Each assignee and each beneficiary of an assignee must keep the office where the assignment is filed informed of his/her current address.

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

§ 870.1001 Purpose.

This subpart sets forth the conditions for life insurance coverage according to the provisions of section 599C of Pub. L. 101–513.

§ 870.1002 Definitions.

In this subpart:

Hostage and *hostage status* have the meaning set forth in section 599C of Pub. L. 101–513.

Pay period for individuals insured under this subpart means the pay period set by the U.S. Department of State.

Period of eligibility means the period beginning on the effective date set forth in § 870.1004 and ending 12 months after hostage status ends.

§ 870.1003 Coverage and amount of insurance.

(a) An individual is covered under this subpart when the U.S. Department of State determines that the individual is eligible under section 599C of Pub. L. 101–513.

(b) (1) The amount of basic life insurance for these individuals is the amount specified in § 870.202, subject to the applicable conditions stated in this subpart.

(2) The BIA under § 870.202 is the amount of the payment specified in section 599C(b)(2) of Pub. L. 101–513, rounded to the next higher $1,000, plus $2,000.

(c) Individuals who have basic insurance under this section also have group accidental death and dismemberment insurance.

(d) Individuals insured by this subpart are not eligible for optional insurance.

(e) Individuals insured by this subpart are not considered employees for the purpose of this part.

(f) Eligibility for insurance under this subpart depends on the availability of funds under section 599C(e) of Pub. L. 101–513.

§ 870.1004 Effective date of insurance.

Insurance under this subpart was effective on August 2, 1990, for hostages in Iraq and Kuwait and on January 1, 1990, for hostages captured in Lebanon, unless the U.S. Department of State sets a later date.

§ 870.1005 Premiums.

(a) Government contributions and employee withholdings required under subpart D of this part are paid from the funds provided under section 599C(e) of Pub. L. 101–513.

(b) If an individual isn't insured for the full pay period, premiums are paid only for the days he/she is actually insured. The daily premium is the monthly premium multiplied by 12 and divided by 365.

(c) OPM may accept the payments required by this section in advance from a State Department appropriation, if necessary to fund the 12-month period of coverage beginning the earlier of:

(1) The day after sanctions or hostilities end; or

(2) The day after the individual's hostage status ends.

(d) OPM will place any funds received under paragraph (c) of this section in an account set up for that purpose. OPM will make the deposit required under 5 U.S.C. 8714 from the account when the appropriate pay period occurs.

§ 870.1006 Cancellation of insurance.

(a) An individual who is insured under this subpart may cancel his/her insurance at any time by written request. The cancellation is effective on the 1st day of the pay period after the pay period in which the U.S. Department of State receives the request.

(b) Cancellation must be requested by the insured individual and cannot be requested by a representative acting on the individual's behalf.

(c) An individual who cancels the insurance under this section cannot obtain the insurance again, unless the U.S. Department of State determines that it would be against equity and good conscience not to allow the individual to be insured.

§ 870.1007 Termination and conversion.

(a) Insurance under this subpart terminates 12 months after hostage status ends, unless the individual cancels the insurance earlier.

(b) Insured individuals whose coverage terminates are eligible for the 31-day extension of coverage and conversion as set forth in subpart F of this part, unless the individual cancelled the coverage.

§ 870.1008 Order of precedence and designation of beneficiary.

Insurance benefits are paid under the order of precedence set forth in 5 U.S.C. 8705 and under the provisions of subpart H of this part.

§ 870.1009 Responsibilities of the U.S. Department of State.

(a) The U.S. Department of State functions as the ''employing office'' for individuals insured under this subpart.

(b) The U.S. Department of State must determine the eligibility of individuals under Pub. L. 101–513 for insurance under this subpart. This includes determining whether an individual is barred from insurance under chapter 87 of title 5 U.S.C. because of other life insurance, as provided in section 599C of Pub. L. 101–513.

PART 871—[REMOVED]

2. Part 871 is removed.

PART 872—[REMOVED]

3. Part 872 is removed.

PART 873—[REMOVED]

4. Part 873 is removed.

PART 874—[REMOVED]

5. Part 874 is removed.

[FR Doc. 95–10778 Filed 5–2–95; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–75–AD]

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model C–212–CB, –CC, –CD, –CE, –CF, and –DF Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all CASA Model C–212–CB, –CC, –CD, –CE, –CF, and –DF series airplanes. This proposal would require supplemental structural inspections, and repair or replacement, as necessary, to ensure the continued airworthiness of these airplanes. This proposal is prompted by a structural reevaluation, which identified certain significant structural components to inspect for fatigue cracks as these airplanes approach and exceed the manufacturer's original fatigue design life goal. The actions specified by the proposed AD are intended to prevent reduced structural integrity of these airplanes.

DATES: Comments must be received by June 12, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–75–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sam Grober, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1187; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 92–NM–75–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–75–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In June 1988, the FAA sponsored a conference on aging airplane issues, which was attended by representatives of the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The FAA, in concert with the Regional Airline Association (RAA); several U.S. and non-U.S. operators of the affected airplanes; the Dirección General de Aviación Civil (DGAC), which is the airworthiness authority for Spain; and Construcciones Aeronauticas, S.A. (CASA); has agreed to undertake the task of identifying and implementing procedures to ensure continuing structural airworthiness of aging commuter-class airplanes. This group reviewed selected service bulletins, applicable to CASA Model C–212–CB, –CC, –CD, –CE, –CF, and –DF series airplanes, to be recommended for mandatory rulemaking action to ensure the continued operational safety of these airplanes.

The group reviewed and recommended CASA Supplemental Inspection Document (SID) C–212–PV–01–SID, dated June 1, 1987 (hereinafter referred to as the ''Document''), for mandatory rulemaking action. The Document describes procedures for implementing a structural inspection program, which includes inspections of the following Principal Structural Elements (PSE's) on the airplane:

1. 6 PSE's of the flap controls;
2. 24 PSE's of the fuselage structure, attach lugs and bolts, frame, and attachments;
3. 14 PSE's of the horizontal and vertical tails;
4. 14 PSE's of the wings; and
5. 8 PSE's of the engine support structure, firewall attach fittings, attach fittings to the wing, and attach bolts.

The Document also provides information addressing retirement lives, stress analysis, and fatigue inspections.

The intent of this Document is to positively address fatigue cracking of