

because the regulation pertains only to Federal employees and agencies.

#### List of Subjects in 5 CFR Part 316

Government employees.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

Accordingly, OPM is amending part 316 of title 5, Code of Federal Regulations, as follows:

#### PART 316—TEMPORARY AND TERM EMPLOYMENT

1. The authority citation for part 316 continues to read as follows:

**Authority:** 5 U.S.C. 3301, 3302; E.O. 10577, (3 CFR 1954–1958 Comp. Page 218).

2. Section 316.201 paragraph (b) is revised to read as follows:

##### § 316.201 Purpose and duration.

\* \* \* \* \*

(b) *Specific authority for Worker-Trainee positions.* Agencies may make TAPER appointments to positions at GS-1, WG-1, and WG-2 and may reassign or promote the appointees to other positions through grade GS-4, WG-5, or equivalent grades in the Federal Wage System consistent with § 330.501 of this chapter. Agencies are authorized to reassign or promote worker-trainees under this authority.

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#### OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831, 837, 842, 846, 870, and 890

RIN 3206-A155

#### Retirement, Health, and Life Insurance Coverage for Certain Employees of the District of Columbia under the District of Columbia Courts and Justice Technical Corrections Act of 1998

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Office of Personnel Management is issuing interim regulations to implement the District of Columbia Courts and Justice Technical Corrections Act of 1998. The effect of these regulations is to extend Federal retirement, health insurance, and life insurance coverage to employees of the Public Defender Service of the District of Columbia under section 7 of the Act, and to exclude certain former

employees of the District of Columbia who are hired by the Department of Justice or by the Court Services and Offender Supervision Agency from Federal retirement coverage if they elect, under section 3 of the Act, to continue their coverage under a retirement system for employees of the District of Columbia.

**DATES:** Interim rules effective March 31, 1999; comments must be received on or before June 29, 1999.

**ADDRESSES:** Send comments to Mary Ellen Wilson, Retirement Policy Division, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington DC. Comments may also be submitted by electronic mail to *combox@opm.gov*. **FOR FURTHER INFORMATION CONTACT:** For Parts 831, 837, 842, and 846: Robert Girouard, (202) 606-0299; and for Parts 870 and 890: Karen Leibach, (202) 606-0004.

#### SUPPLEMENTARY INFORMATION:

##### 1. Background

The National Capital Revitalization and Self-Government Improvement Act of 1997 (the 1997 Act), title XI of Public Law 105-33, 111 Stat. 251 (August 5, 1997) provided for transfers of certain functions and liabilities from the government of the District of Columbia (DC) to the Federal Government.

Section 11201 of the 1997 Act provided for transfer of incarceration functions from the Lorton Correctional Complex, D.C. Department of Corrections, to the Bureau of Prisons, Department of Justice. Section 11202 established a Corrections Trustee to oversee the finances of the DC Department of Corrections during this transfer. Section 11232 established a Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee to manage the reorganization and transfer of the DC government's pretrial services, parole, adult probation, and offender supervision functions and funding.

The 1997 Act provided that a former Federal employee who, after a break in service of 3 days or less, is appointed as a Trustee under section 11202 or section 11232, or who becomes employed by the Trustee, shall be treated as a Federal employee for purposes of chapter 83 (Civil Service Retirement System—CSRS); chapter 84 (Federal Employees Retirement System—FERS); chapter 87 (Federal Employees' Group Life Insurance Program—FEGLI); and chapter 89 (Federal Employees Health Benefits program—FEHB) of title 5, United States Code.

Section 11233 of the 1997 Act provided for an Offender Supervision, Defender, and Court Services Agency to be established during the period beginning August 5, 1998 and ending August 5, 2000 to supervise offenders on probation, parole, and supervised release pursuant to the DC Code, subject to a certification that the Agency is ready to assume its duties.

Section 11246 of the 1997 Act provided for nonjudicial employees of the DC courts to be treated as Federal employees for purposes of chapters 81 (relating to compensation for work injuries), 83, 84, 87, and 89 of title 5, United States Code, and for judicial employees of the D.C. courts to be treated as Federal employees only for purposes of chapters 81, 87, and 89 of title 5. On September 30, 1997, OPM published interim regulations (at 62 FR 50995) to implement the retirement, health insurance, and life insurance provisions of the 1997 Act.

The District of Columbia Courts and Justice Technical Corrections Act of 1998 (the 1998 Act), Public Law 105-274, 112 Stat. 2419, was enacted on October 21, 1998. The 1998 Act made technical changes to the 1997 Act, extended Federal employee benefits to additional groups of DC government employees, and provided certain former DC Government employees who work for the Federal Government with the opportunity to continue their DC government benefits. OPM is issuing interim regulations to implement sections 3, 7(b), 7(c), and 7(e) of the 1998 Act.

##### 2. Renaming of Agencies That Affects These Regulations

Section 7(b) and 7(c) of the 1998 Act changes the names of two agencies established by the 1997 Act. The former "Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee" is now known as the "Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee," and the former "Offender Supervision, Defender, and Court Services Agency" is now known as the "Court Services and Offender Supervision Agency." OPM is making technical revisions to sections 831.201, 842.107, 870.302, and 890.102 of Title 5, Code of Federal Regulations to implement these changes.

##### 3. Retirement and Insurance Provisions for Certain Employees of the Department of Justice and the Court Services and Offender Supervision Agency

Section 3 of the 1998 Act provides that a former employee of the District of

Columbia who is hired by the Department of Justice or by the Court Services and Offender Supervision Agency may elect to retain retirement coverage under a retirement system for employees of the District of Columbia. Employees are eligible to make this election only if they were hired by the Department of Justice or by the Court Services and Offender Supervision Agency during the period beginning August 5, 1997, and ending on the later of 2 dates: (1) one year after the date on which the Lorton Correctional Complex is closed, or (2) one year after the date on which the Court Services and Offender Supervision Agency assumes its duties.

The election to participate in the District of Columbia's retirement system must occur no later than June 1, 1999 or 60 days after the date of the Federal appointment, whichever is later. The election remains in effect until the employee leaves the Department of Justice or the Court Services and Offender Supervision Agency.

Note that under section 11232(h) of the 1997 Act, the Court Services and Offender Supervision Agency cannot be established, and, by extension, cannot make any Federal appointments, until the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee certifies that the Agency is ready to assume its duties.

OPM is adding new sections 831.201(i) and 842.104(g) to Title 5, Code of Federal Regulations to exclude employees from CSRS and FERS who elect to retain coverage under a retirement system for employees of the District of Columbia. An employee who transfers from the DC government to a Federal Government position covered by CSRS or FERS will initially be placed under CSRS, CSRS-Offset, or FERS, as appropriate. If the employee subsequently elects to retain D.C. government retirement coverage within 60 days of appointment, the employee will be removed from CSRS, CSRS-Offset, or FERS and placed under a retirement plan for employees of the DC government, retroactive to the date of appointment.

OPM is required by section 3 of the 1998 Act to consult with the Department of Justice, the government of the District of Columbia, and the Court Services and Offender Supervision Agency prior to issuing regulations that implement section 3. OPM consulted with the Department of Justice, the Public Defender Service of the District of Columbia, and the Office of Personnel of the District of Columbia, and received their concurrence prior to issuing these regulations. Because the

Court Services and Offender Supervision Agency does not yet exist, OPM consulted with its statutory predecessor, the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee, and received its concurrence prior to issuing these regulations.

#### **4. Retirement and Insurance Provisions for the Public Defender Service of the District of Columbia**

Sec. 7(e) of the 1998 Act provides that employees of the Public Defender Service of the District of Columbia are to be treated as Federal employees for purposes of chapters 81, 83, 84, 87, and 89 of title 5, United States Code, beginning the first month after the effective date of these regulations. OPM is revising section 831.201(g) of Title 5, Code of Federal Regulations to provide CSRS coverage to eligible employees of the Public Defender Service, and is adding a new section 842.108 to provide FERS coverage to eligible employees of the Public Defender Service. OPM is also revising section 846.201(d) to provide employees of the Public Defender Service who are automatically placed under CSRS or CSRS-Offset with an election opportunity to transfer to FERS.

OPM is also making technical and conforming revisions to sections 837.101 and 837.102 of Title 5, Code of Federal Regulations, concerning reemployment of annuitants.

OPM is revising sections 870.302 and 890.102 to show that employees of the Public Defender Service of the District of Columbia are no longer excluded from coverage under the Federal Employees' Group Life Insurance and Federal Employees Health Benefits Programs.

#### *Waiver of General Notice of Proposed Rulemaking*

Under section 553(b)(3)(B) and (d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making these rules effective in less than 30 days. These regulations will affect the retirement and insurance coverage of employees of the Public Defender Service of the District of Columbia on and after April 1, 1999, and the retirement coverage of certain employees of the Department of Justice and the Court Services and Offender Supervision Agency after March 31, 1999. Publication of a general notice on proposed rulemaking would be contrary to the public interest because it would delay the commencement of Federal retirement and insurance benefits for employees of the Public Defender

Service of the District of Columbia, and because it would delay the opportunity for former employees of the District of Columbia who are appointed in Federal positions by the Department of Justice or by the Court Services and Offender Supervision Agency to elect to continue their coverage under a retirement system for employees of the District of Columbia.

#### *Regulatory Flexibility Act*

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects retirement and insurance benefits for certain employees of the Federal Government and the District of Columbia, and their survivors.

#### *Executive Order 12866, Regulatory Review*

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### **List of Subjects**

##### *5 CFR Parts 831, 837, 842, and 846*

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

##### *5 CFR Part 870*

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

##### *5 CFR Part 890*

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

Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

Accordingly, OPM amends Parts 831, 837, 842, 846, 870, and 890 of Title 5 of the Code of Federal Regulations as follows:

#### **PART 831—RETIREMENT**

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

**Authority:** 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.114

also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105-174, 112 Stat. 58; § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; § 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105-274, 112 Stat. 2419; § 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; § 831.204 also issued under section 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by section 153 of Pub. L. 104-134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964-1965 Comp. p. 317; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under section 11004 (c)(2) of Pub. L. 103-66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99-251, 100 Stat. 23; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100-203, 101 Stat. 1330-275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388-328.

Subpart B—Coverage

2. Amend § 831.201 to redesignate paragraphs (g)(3) through (g)(5) as paragraphs (g)(4) through (g)(6) respectively; revise new paragraph (g)(5); and add new paragraphs (g)(3) and (i) to read as follows:

§ 831.201 Exclusions from retirement coverage.

\* \* \* \* \*

(g) \* \* \*

(3) Effective on and after April 1, 1999, the effective date of section 7(e) of Pub. L. 105-274, 112 Stat. 2419, employees of the Public Defender Service of the District of Columbia employed in a position which is not excluded from CSRS under the provisions of this section;

\* \* \* \* \*

(5) The District of Columbia Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee, authorized by section 11232 of Pub. L. 105-33, 111 Stat. 251, as amended by section 7(b) of Pub. L. 105-274, 112 Stat. 2419, and an employee of the Trustee, if the Trustee or employee is a former Federal employee appointed with a break in service of 3 days or less, and, in the case of an employee of the Trustee, is employed in a position which is not excluded from CSRS under the provisions of this section, and;

\* \* \* \* \*

(i)(1) A former employee of the District of Columbia who is appointed in a Federal position by the Department of Justice, or by the Court Services and Offender Supervision Agency

established by section 11233(a) of Pub. L. 105-33, 111 Stat. 251, as amended by section 7(c) of Pub. L. 105-274, 112 Stat. 2419, is excluded from CSRS beginning on the date of the Federal appointment, if the employee elects to continue coverage under a retirement system for employees of the District of Columbia under section 3 of Pub. L. 105-274, 112 Stat. 2419, and if the following conditions are met:

(i) The employee is hired by the Department of Justice or by the Court Services and Offender Supervision Agency during the period beginning August 5, 1997, and ending 1 year after the date on which the Lorton Correctional Complex is closed, or 1 year after the date on which the Court Services and Offender Supervision Agency assumes its duties, whichever is later; and

(ii) The employee elects to continue coverage under a retirement system for employees of the District of Columbia no later than June 1, 1999 or 60 days after the date of the Federal appointment, whichever is later.

(2) An individual's election to continue coverage under a retirement system for employees of the District of Columbia remains in effect until the individual separates from service with the Department of Justice or the Court Services and Offender Supervision Agency.

PART 837—REEMPLOYMENT OF ANNUITANTS

3. The authority citation for part 837 continues to read as follows:

Authority: 5 U.S.C. 8337, 8344, 8347, 8455, 8456, 8461, and 8468; and sec. 302, Pub. L. 99-335, 100 Stat. 514, as amended by Title I, sec. 134(a), Pub. L. 100-238, 101 Stat. 1762; Title V, sec. 529 [Title I, sec. 108(c)], Pub. L. 101-509, 104 Stat. 1427, 1450; Div. A, Title XII, sec. 1206(j)(3), Pub. L. 101-510, 104 Stat. 1664; Div. A., Title VI, sec. 655(c), Pub. L. 102-190, 105 Stat. 1392; sec. 8(a), Pub. L. 102-378, 106 Stat. 1359.

Subpart A—General Provisions

4. In § 837.101, paragraph (a)(2) is revised to read as follows:

§ 837.101 Applicability.

(a) \* \* \*

(2) Reemployment of an annuitant by the government of the District of Columbia when the annuitant—

(i) Had been employed subject to CSRS by the District of Columbia prior to October 1, 1987;

(ii) Is an employee of the government of the District of Columbia not excluded from CSRS under § 831.201(g) or § 831.201(i); or

(iii) Is an employee of the District of Columbia who is deemed to be a Federal employee for FERS purposes under § 842.107 or § 842.108 of this chapter; and

\* \* \* \* \*

5. In § 837.102, revise the definition of Reemployed to read as follows:

§ 837.102 Definitions.

\* \* \* \* \*

Reemployed means reemployed in an appointive or elective position with the Federal Government, or reemployed in an appointive or elective position with the District of Columbia (when the annuitant was first employed subject to CSRS by the District of Columbia before October 1, 1987, or is an employee of the government of the District of Columbia not excluded from CSRS under § 831.201(g) or § 831.201(i) of this chapter, or is an employee of the government of the District of Columbia who is deemed to be a Federal employee for FERS purposes under § 842.107 or § 842.108 of this chapter), whether the position is subject to CSRS, FERS, or another retirement system, but does not include appointment as a Governor of the Board of Governors of the United States Postal Service, or reemployment under the provisions of law that exclude offset of pay by annuity, that is, sections 8344(i), (j), or (k), or 8468(f), (g), or (h) of title 5, United States Code.

\* \* \* \* \*

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

6. The authority citation for section 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.104 also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by section 153 of Pub. L. 104-134, 110 Stat. 1321; § 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; § 842.107 also issued under section 7(b) of Pub. L. 105-274, 112 Stat. 2419; § 842.108 also issued under section 7(e) of Pub. L. 105-274, 112 Stat. 2419; § 842.205 also issued under 5 U.S.C. 8414(b)(1)(B); § 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105-174, 112 Stat. 58; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388; § 842.707 also issued under section 6001 of Pub. L. 100-203, 101 Stat. 1300; § 842.708 also issued under section

4005 of Pub. L. 101-239, 103 Stat. 2106 and section 7001 of Pub. L. 101-508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104.

### Subpart A—Coverage

7. In § 842.104, add paragraph (g) to read as follows:

#### § 842.104 Statutory exclusions.

\* \* \* \* \*

(g) *Certain Federal employees who elect to continue coverage under a retirement system for employees of the District of Columbia.*

(1) A former employee of the District of Columbia who is appointed in a Federal position by the Department of Justice, or by the Court Services and Offender Supervision Agency established by section 11233(a) of Pub. L. 105-33, 111 Stat. 251, as amended by section 7(c) of Pub. L. 105-274, 112 Stat. 2419, is excluded from FERS coverage beginning on the date of the Federal appointment, if the employee elects to continue coverage under a retirement system for employees of the District of Columbia under section 3 of Pub. L. 105-274, 112 Stat. 2419, and if the following conditions are met:

(i) The employee is hired by the Department of Justice or by the Court Services and Offender Supervision Agency during the period beginning August 5, 1997, and ending 1 year after the date on which the Lorton Correctional Complex is closed, or 1 year after the date on which the Court Services and Offender Supervision Agency assumes its duties, whichever is later; and

(ii) The employee elects to continue coverage under a retirement system for employees of the District of Columbia no later than June 1, 1999 or 60 days after the date of the Federal appointment, whichever is later.

(2) An individual's election to continue coverage under a retirement system for employees of the District of Columbia remains in effect until the individual separates from service with the Department of Justice or the Court Services and Offender Supervision Agency.

8. In § 842.107, revise paragraph (c) to read as follows:

#### § 842.107 Employees covered under the National Capital Revitalization and Self-Government Improvement Act of 1997.

\* \* \* \* \*

(c) The District of Columbia Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee, authorized by section 11232 of Pub. L. 105-33, 111 Stat. 251, as amended by section 7(b) of Pub. L. 105-274, 112

Stat. 2419, and an employee of the Trustee, if the Trustee or employee is a former Federal employee appointed with a break in service of 3 days or less.

9. Add § 842.108 to subpart A to read as follows:

#### § 842.108 Employees covered under the District of Columbia Courts and Justice Technical Corrections Act of 1998.

Employees of the Public Defender Service of the District of Columbia are deemed to be Federal employees for FERS purposes on and after April 1, 1999.

### PART 846—FEDERAL EMPLOYEES RETIREMENT SYSTEM—ELECTIONS OF COVERAGE

10. The authority citation for section 846 is revised to read as follows:

**Authority:** 5 U.S.C. 8347(a) and 8461(g) and Title III of Pub. L. 99-335, 100 Stat. 517; § 846.201(b) also issued under 5 U.S.C. 7701(b)(2) and section 153 of Pub. L. 104-134, 110 Stat. 1321; § 846.201(d) also issued under section 11246(b) of Pub. L. 105-33, 111 Stat. 251; § 846.201(d) also issued under section 7(e) of Pub. L. 105-274, 112 Stat. 2419; § 846.202 also issued under section 301(d)(3) of Pub. L. 99-335, 100 Stat. 517; § 846.726 also issued under 5 U.S.C. 1104; subpart G also issued under section 642 of Pub. L. 105-61, 111 Stat. 1272.

### Subpart B—Elections

11. In § 846.201, paragraph (d)(1) is revised to read as follows:

#### § 846.201 Elections to become subject to FERS.

\* \* \* \* \*

(d) *Exceptions.* (1) An individual who is an employee of the government of the District of Columbia may not elect to become subject to FERS except an individual so employed who is covered by CSRS and eligible for FERS coverage by operation of section 11246 of Pub. L. 105-33, 111 Stat. 251, or section 7(e) of Pub. L. 105-274, 112 Stat. 2419.

\* \* \* \* \*

### PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

12. The authority citation for part 870 is revised to read as follows:

**Authority:** 5 U.S.C. 8716; § 870.302(c) also issued under 5 U.S.C. 7701(b)(2); subpart J also issued under sec. 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; § 870.302 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251 and section 7(e) of Pub. L. 105-274, 112 Stat. 2419.

13. Section 870.302 is amended by revising paragraph (a)(3) to read as follows:

### § 870.302 Exclusions.

(a) \* \* \*

(3) An individual first employed by the government of the District of Columbia on or after October 1, 1987. Exceptions:

(i) 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 (98 Stat. 3379);

(ii) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority (Authority), who makes an election under the Technical Corrections to Financial Responsibility and Management Assistance Act (section 153 of Pub. L. 104-134 (110 Stat. 1321)) to be considered a Federal employee for life insurance and other benefits purposes; employees of the Authority who are former Federal employees are subject to the provisions of §§ 870.503(d) and 870.705 of this part;

(iii) The Corrections Trustee and the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee and employees of these Trustees who accept employment with the District of Columbia government within 3 days after separating from the Federal Government;

(iv) Effective October 1, 1997, judicial and nonjudicial employees of the District of Columbia Courts, as provided by Pub. L. 105-33 (111 Stat. 251); and

(v) Effective April 1, 1999, employees of the Public Defender Service of the District of Columbia, as provided by Pub. L. 105-274 (112 Stat. 2419).

### PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

14. The authority citation for part 890 is revised to read as follows:

**Authority:** 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403(p), 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251 and section 7(e) of Pub. L. 105-274, 112 Stat. 2419.

15. Section 890.102 is amended by revising paragraph (c)(8) to read as follows:

#### § 890.102 Coverage.

\* \* \* \* \*

(c) \* \* \*

(8) An individual first employed by the government of the District of Columbia on or after October 1, 1987. However, this exclusion does not apply to:

(i) Employees of St. Elizabeths Hospital who accept offers of employment with the District of Columbia government without a break in service, as provided in section 6 of Pub. L. 98-621 (98 Stat. 3379);

(ii) The Corrections Trustee and the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee and employees of these Trustees who accept employment with the District of Columbia government within 3 days after separating from the Federal Government;

(iii) Effective October 1, 1997, judges and nonjudicial employees of the District of Columbia Courts, as provided by Pub. L. 105-33 (111 Stat. 251); and

(iv) Effective April 1, 1999, employees of the Public Defender Service of the District of Columbia, as provided by Pub. L. 105-274 (112 Stat. 2419).

[FR Doc. 99-7871 Filed 3-30-99; 8:45 am]

BILLING CODE 6325-01-P

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 723

### Commodity Credit Corporation

#### 7 CFR Part 1464

RIN 0560-AF 20

### 1998 Marketing Quotas and Price Support Levels for Fire-Cured (Type 21), Fire-Cured (Types 22-23), Maryland (Type 32), Dark Air-Cured (Types 35-36), Virginia Sun-Cured (Type 37), Cigar-Filler (Type 41), Cigar-Filler and Binder (Types 42-44 and 53-55), and Cigar Binder (Types 51-52) Tobaccos

**AGENCIES:** Farm Service Agency and Commodity Credit Corporation, USDA.

**ACTION:** Affirmation of determination and final rule.

**SUMMARY:** The purpose of this notice is to codify the national marketing quotas and price support levels for the 1998 crops for several kinds of tobacco announced by press release on February 27, 1998.

In accordance with the Agricultural Adjustment Act of 1938, as amended (the 1938 Act), the Secretary determined the 1998 marketing quotas to be as follows: fire-cured (type 21), 2.725 million pounds; fire-cured (types 22-23), 44.6 million pounds; Maryland (type 32), 5.45 million pounds; dark air-cured (types 35-36), 11.15 million pounds; Virginia sun-cured (type 37), 165,000 pounds; cigar-filler (type 41), 0.665 million pounds; cigar-filler and

binder (types 42-44 and 53-55), 6.63 million pounds; and cigar binder (types 51-52), 1.31 million pounds.

Quotas are necessary to adjust the production levels of certain tobaccos to more fully reflect supply and demand conditions, as provided by statute.

In accordance with the Agricultural Act of 1949 as amended (the 1949 Act), the Secretary determined the 1998 levels of price support to be as follows (in cents per pound): fire-cured (type 21), 153.6; fire-cured (types 22-23), 168.1; dark air-cured (types 35-36), 145.0; Virginia sun-cured (type 37), 136.0; and cigar-filler and binder (types 42-44 and 53-55), 121.2. Price support for Maryland (type 32), cigar-filler (type 41), and cigar binder (types 51-52) were not announced because producers of each of these kinds of tobacco had disapproved marketing quotas for many years and were not expected to approve quotas in separate referenda held on March 23-26, 1998. This notice also fixes a technical error in a section heading.

**EFFECTIVE DATE:** February 27, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250-0514, telephone 202-720-5346. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This notice has been determined to be significant and was reviewed by OMB under Executive Order 12866.

##### Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Commodity Loans and Purchases—10.051.

##### Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

##### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Farm Service Agency (FSA) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of these determinations.

### Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

### Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### Statutory Background

This final rule is issued pursuant to the provisions of the 1938 Act and the 1949 Act.

On February 27, 1998, the Secretary determined and announced the national marketing quotas and price support levels for the 1998 crops of fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42-44 and 53-55) tobaccos. In addition, the Secretary announced marketing quotas for Maryland (type 32), cigar-filler (type 41) and cigar-binder (types 51-52). A number of related determinations were made at the same time which this final rule affirms. On the same date, the Secretary also announced that referenda would be conducted by mail with respect to Maryland (type 32), Virginia sun-cured (type 37), cigar-filler (type 41), and cigar-binder (types 51-52) tobaccos.

During March 23-26, 1998, eligible producers of Maryland (types 32), Virginia sun-cured (type 37), cigar-filler (type 41), and cigar binder (types 51-52) tobacco voted in separate referenda to determine whether such producers approved marketing quotas for the 1998, 1999, and 2000 marketing years (MY) for these tobaccos. Of the producers voting, 14.8 percent favored marketing quotas for Maryland (type 32) tobacco; 96.7 percent favored marketing quotas for Virginia sun-cured (type 37) tobacco; 9.1 percent favored marketing quotas for cigar-filler (type 41) tobacco; and 2.5 percent favored marketing quotas for cigar-filler (types 51-52) tobacco. Accordingly, among these tobaccos, quotas and price supports for only Virginia sun-cured (type 37) tobacco are in effect for the 1998 through 2000 MYs. For the other three kinds, neither marketing quotas nor price supports will be in effect for the next 3 MYs.

In accordance with section 312 of the 1938 Act, for tobaccos other than flue-