

specified on the notice, within the 30-day time period.

* * * * *

12. Amend § 416.1555 by revising the first sentence to read as follows:

§ 416.1555 Withdrawing charges against a representative.

The Deputy Commissioner for Disability and Income Security Programs (or other official the Commissioner may designate), or his or her designee, may withdraw charges against a representative. * * *

13. Amend § 416.1565(l) by adding a second sentence, to read as follows:

§ 416.1565 Hearing on charges.

* * * * *

(l) *Representation.* * * * The Deputy Commissioner for Disability and Income Security Programs (or other official the Commissioner may designate), or his or her designee, will be represented by one or more attorneys from the Office of the General Counsel.

* * * * *

14. Amend § 416.1570 by redesignating existing paragraphs (a)(2) and (a)(3) as (a)(3) and (a)(4), by adding new paragraph (a)(2), and revising redesignated paragraph (a)(3)(ii), to read as follows:

§ 416.1570 Decision by hearing officer.

(a) * * *

(2) In deciding whether an individual has been, by reason of misconduct, disbarred or suspended by a court or bar, or disqualified from participating in or appearing before any Federal program or agency, the hearing officer will consider the reasons for the disbarment, suspension, or disqualification action. If the action was taken for solely administrative reasons (e.g., failure to pay dues or to complete continuing legal education requirements), that will not disqualify the individual from acting as a representative before SSA. However, this exception to disqualification does not apply if the administrative action was taken in lieu of disciplinary proceedings (e.g., acceptance of a voluntary resignation pending disciplinary action). Although the hearing officer will consider whether the disbarment, suspension, or disqualification action is based on misconduct when deciding whether an individual should be disqualified from acting as a representative before us, the hearing officer will not re-examine or revise the factual or legal conclusions that led to the disbarment, suspension or disqualification. For purposes of determining whether an individual has been, by reason of misconduct, disqualified from participating in or

appearing before any Federal program or agency—

(i) *Disqualified* refers to any action that prohibits an individual from participating in or appearing before a Federal program or agency, regardless of how long the prohibition lasts or the specific terminology used.

(ii) *Federal program* refers to any program established by an Act of Congress or administered by a Federal agency.

(iii) *Federal agency* refers to any authority of the executive branch of the Government of the United States.

(3) * * *

(ii) Disqualify the representative from acting as a representative in dealings with us until he or she may be reinstated under § 416.1599. Disqualification is the sole sanction available if the charges have been sustained because the representative has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or disqualified from participating in or appearing before any Federal program or agency, or because the representative has collected or received, and retains, a fee for representational services in excess of the amount authorized.

* * * * *

15. Amend § 416.1590 by revising paragraph (b) to read as follows:

§ 416.1590 Appeals Council's decision.

* * * * *

(b) The Appeals Council, in changing a hearing officer's decision to suspend a representative for a specified period, shall in no event reduce the period of suspension to less than 1 year. In modifying a hearing officer's decision to disqualify a representative, the Appeals Council shall in no event impose a period of suspension of less than 1 year. Further, the Appeals Council shall in no event impose a suspension when disqualification is the sole sanction available in accordance with § 416.1570(a)(3)(ii).

* * * * *

16. Amend § 416.1599 by revising paragraph (d) to read as follows:

§ 416.1599 Reinstatement after suspension or disqualification —period of suspension not expired.

* * * * *

(d)(1) The Appeals Council shall not grant the request unless it is reasonably satisfied that the person will in the future act according to the provisions of section 206(a) of the Act, and to our rules and regulations.

(2) If a person was disqualified because he or she had been disbarred or suspended from a court or bar, the

Appeals Council will grant a request for reinstatement as a representative only if the criterion in paragraph (d)(1) of this section is met and the disqualified person shows that he or she has been admitted (or readmitted) to and is in good standing with the court or bar from which he or she had been disbarred or suspended.

(3) If a person was disqualified because he or she had been disqualified from participating in or appearing before a Federal program or agency, the Appeals Council will grant the request for reinstatement only if the criterion in paragraph (d)(1) of this section is met and the disqualified person shows that he or she is now qualified to participate in or appear before that Federal program or agency.

(4) If the person was disqualified as a result of collecting or receiving, and retaining, a fee for representational services in excess of the amount authorized, the Appeals Council will grant the request only if the criterion in paragraph (d)(1) of this section is met and the disqualified person shows that full restitution has been made.

* * * * *

[FR Doc. 05-7353 Filed 4-12-05; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF THE TREASURY

31 CFR Part 29

RIN 1505-AB55

Federal Benefit Payments Under Certain District of Columbia Retirement Plans

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Treasury proposes to amend its DC Pensions rules promulgated pursuant to the Balanced Budget Act of 1997, as amended (the Act). The Act was effective on October 1, 1997. The Act assigns to the Secretary of the Treasury responsibility for payment of benefits based on service accrued as of June 30, 1997, under the retirement plans for District of Columbia teachers and police officers and firefighters, and payment of benefits under the retirement plan for District of Columbia judges regardless of when service accrued. The amended regulations will implement the Secretary's authority under the Act to ensure the accuracy of payments made to annuitants before the effective date of the Act. The amended regulations will also reflect changes made in the District of Columbia Retirement Protection

Improvement Act of 2004 (the 2004 Act). In addition, the amended regulations will include several technical changes as specified below.

DATES: Written comments must be received on or before June 13, 2005.

ADDRESSES: Submit comments to the Office of the Assistant General Counsel for General Law and Ethics, Attention: DC Pensions Rulemaking Project, Room 2209A, Main Treasury Building, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Because paper mail in the Washington, DC, area may be subject to delay, it is recommended that comments be submitted electronically to: dcpensions@do.treas.gov. All comments should be captioned with "DC Pensions Rulemaking Comments." Please include your name, affiliation, address, e-mail address, and telephone number in your comment. Comments will be available for public inspection by appointment only at the Reading Room of the Treasury Library, Room 1318, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To make appointments, call (202) 622-0990.

FOR FURTHER INFORMATION CONTACT: Elizabeth Cuffe, Office of the General Counsel, MT Room 2209A, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220 (202-622-1682, not a toll-free call).

SUPPLEMENTARY INFORMATION: Title XI of the Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251, 712-731, 756-759, as amended (the Act), transferred certain pension liabilities from the District of Columbia Government to the Federal Government. The Act requires that the Secretary of the Treasury (the Secretary) pay certain benefits based on service accrued on or before June 30, 1997, under the retirement plans for District of Columbia teachers (Teachers Plan) and police officers and firefighters (Police and Firefighters Plan), and for benefits under the retirement plan for District of Columbia judges (Judges Plan) regardless of when service accrued. On December 23, 2004, the District of Columbia Retirement Protection Improvement Act of 2004, Public Law 108-489, 118 Stat. 3966 (the 2004 Act) was enacted. The 2004 Act amended the Act, in part, to create a new fund from the two funds that had financed the Teachers Plan and the Police and Firefighters Plan and to provide the Judges Plan with procedures for resolving denied benefit claims.

1. Federal Government's Responsibilities

The Act provides the Secretary with authority to ensure the accuracy of Federal Benefit Payments made before October 1, 1997, under the Police and Firefighters Plan and the Teachers Plan. Section 11012 of the Act requires the Secretary to make benefit payments under the Police and Firefighters Plan and Teachers Plan based on service accrued on or before June 30, 1997. An annuitant's entitlement to the correct payment amount based on that service, but not more than that amount, does not expire. Thus, the Secretary's authority to review and ensure the accuracy of all payments based on service accrued on or before June 30, 1997, extends to all such payments whether made before or after the October 1, 1997, effective date of the Act.

In the case of the Judges Plan, section 11251(a) of the Act (codified at DC Official Code § 11-1570(c)(2)(A)) vests in the Secretary authority over Federal Benefit Payments made under the Judges Plan before the October 1, 1997, effective date of the Act. Accordingly, the Secretary has authority to ensure the accuracy of payments made before October 1, 1997, under the Judges Plan, the Police and Firefighters Plan, and the Teachers Plan.

The proposed amendments to Part 29 reflect the authority of the Secretary as provided in the sections of the Act discussed above and the manner in which that authority is being administered by the Treasury Department.

The 2004 Act amended the Act to create the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund with the assets transferred from the District of Columbia Federal Pension Liability Trust Fund and the Federal Supplemental District of Columbia Pension Fund, which funds were terminated. The 2004 Act also amended the Act to provide the Judges Plan with procedures for resolving denied benefit claims.

2. Proposed Regulations

The Secretary has the authority under section 11083 and paragraph 11251(b) (codified as DC Official Code § 11-1572(a)) of the Act "to issue regulations to implement, interpret, administer and carry out the purposes of this [Act], and, in the Secretary's discretion, those regulations may have retroactive effect." The current regulations by their terms apply only to Federal Benefit Payments made on or after October 1, 1997, the effective date of the Act. See 31 CFR

29.101(c). Therefore, the Department of the Treasury proposes to amend current regulations to implement the Secretary's authority under the Act to ensure the accuracy of payments made to annuitants prior to the October 1, 1997, effective date of the Act. The Department also proposes to amend the current regulations to reflect the changes made in the 2004 Act and to make several technical changes as specified below.

The **Authority** paragraph supplies the reference to the provisions of the Act that provide the statutory authority for Part 29. This paragraph is amended to simplify the citation.

Section 29.101(a) provides the statutory basis of the Part 29 rules. This paragraph is amended to conform to the amended language of the **Authority** provision and the definition of Act in section 29.103(a).

Section 29.101(c) provides the scope of coverage of the Part 29 D.C. Pensions regulations. This paragraph is amended to delete the current limitation to payments made on or after October 1, 1997, and thereby to include payments made before October 1, 1997, under the Teachers Plan, the Police and Firefighters Plan, and the Judges Plan.

Section 29.101(e) is added to specify that the regulations do not apply to the District of Columbia replacement plan, which covers payments based on service accrued after June 30, 1997, pursuant to section 11042 of the Act.

Section 29.103(a) provides a definition for Act. This definition is amended to simplify the definition and to accurately reflect the applicable sections of the Act.

Section 29.103(a) provides a definition for Benefits Administrator. This definition is amended to include citations to the District of Columbia Retirement Protection Improvement Act of 2004, Public Law 108-489, 118 Stat. 3966 (the 2004 Act) and to clarify that the interim benefits administration period under the Judges Plan is independent of the interim District benefits administration period under the Teachers Plan and the Police and Firefighters Plan.

Section 29.103(a) provides a definition for Federal Benefit Payment. This definition is amended to include payments made before October 1, 1997, under the Teachers Plan, the Police and Firefighters Plan, and the Judges Plan and to make clear that, pursuant to section 11012(b) of the Act, service accrued after June 30, 1997, shall not be credited for purposes of determining the amount of any Federal Benefit Payment under the Teachers Plan and the Police and Firefighters Plan.

Section 29.103(a) also provides a definition for Retirement Funds. This definition is amended to include the funds used to make payments under the Teachers Plan, the Police and Firefighters Plan, and the Judges Plan before October 1, 1997, and to reflect changes to the funds made in the 2004 Act.

Section 29.201(a) is amended to use the word "Act" rather than the full name of the Act.

Section 29.401(a)(2) and (3) are amended to include citations to the portions of the 2004 Act that provide the Judges Plan with procedures for resolving denied benefit claims.

Section 29.401(c) is added to exclude from the coverage of Subpart D claims and appeals that were filed against the District of Columbia before the effective date of the Act. This limitation is based on section 11723 of the Act, which requires the District of Columbia to continue to defend civil actions and proceedings already in process and which prohibits claims against the United States for civil actions and proceedings already begun against the District of Columbia before the effective date of the Act.

Section 29.402 provides a definition for Act. This definition is deleted and the definition in § 29.103(a) will be in effect for all of Part 29.

Section 29.402 provides a definition for Benefits Administrator. This definition is deleted and the definition in § 29.103(a) will be in effect for all of Part 29.

Section 29.501(e) is added to exclude from the coverage of Subpart E debt collection claims asserted by the District of Columbia before the effective date of the Act and requests for waiver of collection filed with the District of Columbia before the effective date of the Act. This limitation is based on section 11723 of the Act, which requires the District of Columbia to continue to defend civil actions and proceedings already in process and which prohibits claims against the United States for civil actions and proceedings already begun against the District of Columbia before the effective date of the Act.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation only affects the determination of the Federal portion of retirement benefits to certain former employees of the District of Columbia. Accordingly, a regulatory flexibility analysis is not required by the

Regulatory Flexibility Act (5 U.S.C. chapter 6).

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, a regulatory assessment is not required.

List of Subjects in 31 CFR Part 29

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Intergovernmental relations, Law enforcement officers, Pensions, Retirement, Teachers.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend Title 31, Part 29, Code of Federal Regulations, as follows:

PART 29—FEDERAL BENEFIT PAYMENTS UNDER CERTAIN DISTRICT OF COLUMBIA RETIREMENT PROGRAMS

1. The authority citation for Part 29 is revised to read as follows:

Authority: Subtitle A, Subchapter B of Chapter 4 of Subtitle C, and Chapter 3 of Subtitle H, of Pub. L. 105–33, 111 Stat. 712–731, 756–759, and 786–787; as amended.

2. In § 29.101, paragraphs (a) and (c) are revised, and paragraph (e) is added, to read as follows:

§ 29.101 Purpose and scope.

(a) This part contains the Department's regulations implementing Subtitle A, Subchapter B of Chapter 4 of Subtitle C, and Chapter 3 of Subtitle H, of Title XI of the Balanced Budget Act of 1997, Pub. L. 105–33, 111 Stat. 251, 712–731, 756–759, enacted August 5, 1997, as amended.

(c) This part applies to Federal Benefit Payments.

(e) This part does not apply to the District of Columbia replacement plan, which covers payments based on service accrued after June 30, 1997, pursuant to section 11042 of the Act.

3. In § 29.103, definitions for Act, Benefits Administrator, Federal Benefit Payment, and Retirement Funds in paragraph (a) are revised to read as follows:

§ 29.103 Definitions.

(a) In this part—
Act means Subtitle A, Subchapter B of Chapter 4 of Subtitle C, and Chapter 3 of Subtitle H, of Title XI of the Balanced Budget Act of 1997, Pub. L. 105–33, 111

Stat. 251, 712–731, 756–759, as amended.

Benefits Administrator means:

(1) For the Teachers Plan and the Police and Firefighters Plan under section 11041(a) of the Act:

(i) During the interim benefits administration period, the District of Columbia government; or

(ii) After the end of the interim benefits administration period:

(A) The Trustee selected by the Department under sections 11035(a) or 11085(a) of the Act;

(B) The Department, if a determination is made under sections 11035(d) or 11085(d) of the Act that, in the interest of economy and efficiency, the function of the Trustee shall be performed by the Department rather than the Trustee; or

(C) Any other agent of the Department designated to make initial benefit determinations and/or to recover or recoup or waive recovery or recoupment of overpayments of Federal Benefit Payments, or to recover or recoup debts owed to the Federal Government by annuitants; or

(2) For the Judges Plan under section 11252(b) of the Act:

(i) During the interim benefits administration period, the District of Columbia government; or

(ii) After the end of the interim benefits administration period for the Judges Plan:

(A) The Trustee selected by the Department under section 11251(a) of the Act;

(B) The Department, if a determination is made under section 11251(a) of the Act that, in the interest of economy and efficiency, the function of the Trustee shall be performed by the Department rather than the Trustee; or

(C) Any other agent of the Department designated to make initial benefit determinations and/or to recover or recoup or waive recovery or recoupment of overpayments of Federal Benefit Payments, or to recover or recoup debts owed to the Federal Government by annuitants.

Federal Benefit Payment means a payment for which the Department is responsible under the Act, to which an individual is entitled under the Judges Plan, the Police and Firefighters Plan, or the Teachers Plan, in such amount and under such terms and conditions as may apply under such plans, including payments made under these plans before, on, or after the October 1, 1997, effective date of the Act. Service after June 30, 1997, shall not be credited for purposes of determining the amount of

any Federal Benefit Payment under the Teachers Plan and the Police and Firefighters Plan.

* * * * *

Retirement Funds means the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund established under section 11081 of the Act, the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11252 of the Act, and their predecessor funds.

* * * * *

4. Section 29.201 is revised to read as follows:

§ 29.201 Purpose and scope.

This subpart contains information concerning the relationship between the Department and the District government in the administration of the Act and the functions of each in the administration of that Act.

5. In § 29.401, paragraphs (a)(2) and (3) are amended, and paragraph (c) is added, to read as follows:

§ 29.401 Purpose.

(a) * * *

(2) The procedures for determining an individual's eligibility for a Federal Benefit Payment and the amount and form of an individual's Federal Benefit Payment as required by sections 11021 and 11251(a) (codified at D.C. Official Code § 11-1570(c)(2)(a)) of the Act;

(3) The appeal rights available under section 11022(a) of the Act and section 3 of the 2004 Act (codified at D.C. Official Code § 11-1570(c)(3)) to claimants whose claim for Federal Benefit Payments is denied in whole or in part; and

* * * * *

(c) This part does not apply to claims and appeals filed before October 1, 1997. Such claims must be pursued with the District of Columbia.

6. In § 29.402, the definitions for Act and Benefits Administrator are removed.

7. In § 29.501, paragraph (e) is added to read as follows:

§ 29.501 Purpose; incorporation by reference; scope.

* * * * *

(e) This part does not apply to debt collection claims asserted and requests for waivers of collection initiated before October 1, 1997. Such debt collection claims must be pursued by the District of Columbia and such requests for waivers of collection must be pursued with the District of Columbia.

Dated: April 6, 2005.

Rochelle F. Granat,

Director, Office of DC Pensions.

[FR Doc. 05-7291 Filed 4-12-05; 8:45 am]

BILLING CODE 4810-25-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR-2004-0411; AD-FRL-7898-9]

RIN 2060-AK80

National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards; and National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; amendments.

SUMMARY: The EPA is proposing to amend the National Emissions Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Control Technology Standards which were promulgated in June 1999 (64 FR 34863), and the National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations which were promulgated in July 2002 (67 FR 46258). The proposed amendments would clarify the compliance requirements for benzene waste streams, clarify the requirements for heat exchangers and heat exchanger systems, and stipulate the provisions for offsite waste transfer in the national emission standards for ethylene process units. The proposed amendments would also correct the regulatory language that make emissions from ethylene cracking furnaces during decoking operations an exception to the provisions and delineate overlapping requirements for storage vessels and transfer racks.

In addition, the proposed amendments would also correct errors in the proposed rule for the Acrylic and Modacrylic Fiber Production source category which were not corrected as indicated in the preamble to the June 1999 final rule (64 FR 34863).

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action on the proposed amendments because we view these revisions as noncontroversial and anticipate no adverse comments. We have explained our reasons for the amendments in the direct final rules. If

we have no adverse comments, we will take no further action on the proposed amendments. If we receive adverse comments, we will withdraw only those amendments on which we receive adverse comments. We will publish a timely withdrawal in the **Federal Register** indicating which amendments will become effective and which amendments are being withdrawn. If all or part of the direct final rules in the Rules and Regulations section of this **Federal Register** is withdrawn, all comments pertaining to those amendments will be addressed in a subsequent final rulemaking based on these proposed amendments. We will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

DATES: *Comments.* Written comments must be received on or before May 31, 2005.

Public Hearing. If anyone contacts us by April 20, 2005 requesting to speak at a public hearing, we will hold a public hearing on April 28, 2005. If a public hearing is held, it will be held at EPA's RTP Campus in Research Triangle Park, NC, or an alternate site nearby. Persons interested in attending the public hearing should contact Ms. Dorothy Apple at (919) 541-4487 to verify that a hearing will be held and its location.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR-2004-0411, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Agency Web site:* <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail:* a-and-r-docket@epa.gov.
- *Fax:* (202) 566-1741.
- *Mail:* EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.

• *Hand Delivery:* Air and Radiation Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B-108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).