

under social security (title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954).

(f) *Coverage under a retirement system for NAF employees.* An employee who has elected coverage under a retirement system for NAF employees in accordance with part 847 of this chapter is excluded from FERS coverage during that and all subsequent periods of service, including service as a reemployed annuitant.

(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.

[59 FR 64283, Dec. 14, 1994, as amended at 61 FR 41720, Aug. 9, 1996; 64 FR 15289, Mar. 31, 1999]

§ 842.105 Regulatory exclusions.

(a) OPM is authorized in 5 U.S.C. 8402(c)(1) to "exclude from the operation of this chapter an employee or group of employees in or under an Executive agency, the United States Postal Service, or the Postal Rate Commission, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2))." Therefore, under this authority, OPM is excluding the following:

(1) Employees serving under appointments limited to 1 year or less, unless such appointments meet the definition of provisional appointments contained in §§316.401 and 316.403 of this chapter; and

(2) Intermittent employees serving under other than career or career conditional appointments.

(b) When an employee who is covered by FERS moves to a position listed in paragraph (a) of this section without a break in service or after a separation of 3 days or less, his or her FERS coverage will continue, except in the case of an employee hired by the Census Bureau under a temporary, intermittent appointment to perform decennial census duties.

(c) Paragraph (a) of this section does not deny FERS coverage to an employee who receives an interim appointment under §772.102 of this chapter and was covered by FERS at the time of the separation for which interim relief is required.

[51 FR 47197, Dec. 31, 1986, as amended at 56 FR 10143, Mar. 11, 1991; 57 FR 3714, Jan. 31, 1992; 63 FR 9402, Feb. 25, 1998]

§ 842.106 Elections of retirement coverage under the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(a) *Who may elect—(1) General rule.* Any individual appointed by the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority) in a position not excluded from FERS coverage under §842.105 may elect to be deemed a Federal employee for FERS purposes unless the employee has elected to participate in a retirement, health or life

§ 842.107

5 CFR Ch. I (1-1-08 Edition)

insurance program offered by the District of Columbia.

(2) *Exception.* A former Federal employee being appointed by the Authority on or after October 26, 1996, no more than 3 days (not counting District of Columbia holidays) after separation from Federal employment cannot elect to be deemed a Federal employee for FERS purposes unless the election was made before separation from Federal employment.

(b) *Procedure for making an election.* The Authority or the agency providing administrative support services to the Authority (Administrative Support Agency) must establish a procedure for notifying employees of their election rights and for accepting elections.

(c) *Time limit for making an election.* (1) An election under paragraph (a)(1) of this section must be made within 30 days after the employee received the notice under paragraph (b) of this section.

(2) The Authority or its Administrative Support Agency will waive the time limit under paragraph (c)(1) of this section upon a showing that—

(i) The employee was not advised of the time limit and was not otherwise aware of it; or

(ii) Circumstances beyond the control of the employee prevented him or her from making a timely election and the employee thereafter acted with due diligence in making the election.

(d) *Effect of an election.* (1) An election under paragraph (a) of this section is effective on the commencing date of the employee's service with the Authority.

(2) An individual who makes an election under paragraph (a) of this section is ineligible, during the period of employment covered by that election, to participate in any retirement system for employees of the government of the District of Columbia.

(e) *Irrevocability.* An election under paragraph (a) of this section becomes irrevocable when received by the Authority or its Administrative Support Agency.

(f) *Employee deductions.* The Authority or its Administrative Support Agency must withhold, from the pay of an employee of the District of Columbia Financial Responsibility and As-

sistance Authority who has elected to be deemed a Federal employee for FERS purposes, an amount equal to the percentage withheld from Federal employees' pay for periods of service covered by FERS and, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from an employee's pay.

(g) *Employer contributions.* The District of Columbia Financial Responsibility and Assistance Authority must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions required under FERS.

[61 FR 58459, Nov. 15, 1996]

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

The following categories of employees of the District of Columbia Government are deemed to be Federal employees for FERS purposes on and after October 1, 1997:

(a) Nonjudicial employees of the District of Columbia Courts;

(b) The District of Columbia Department of Corrections Trustee, authorized by section 11202 of Pub. L. 105-33, 111 Stat. 251, 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;

(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.

[62 FR 50997, Sept. 30, 1997, as amended at 64 FR 15289, Mar. 31, 1999]

§ 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