dies, the remaining BIA will be multiplied by the age factor that was in effect at the time the completed Living Benefit application was received by the Office of Federal Employees' Group Life Insurance (OFEGLI) in order to compute the final payment of basic insurance benefits.

Once an insured has made an effective Living Benefit election, that election is irrevocable. In addition, an insured may make only one Living Benefit election. That is to say, the insured who has made a partial Living Benefit election may not make a subsequent Living Benefit election for any portion of the remaining basic insurance.

#### Assignments

This regulation stipulates that individuals who have assigned their insurance under the authority of 5 U.S.C. 8706(e) may not elect a Living Benefit and that those individuals who have elected a Living Benefit may not assign their insurance.

# **Actuarial Reduction**

OPM is required by law to assure that there is not an increase in the actuarial value of the benefit paid. This is accomplished by regulating that the amount of Living Benefit payment is actuarially reduced to account for the amount of interest lost to the Employees' Life Insurance Fund (Fund) and the time difference between when the Living Benefit payment is made and when the death benefits would have been paid in the absence of a Living Benefit election. The actuarial reduction will be based on an assumption of the interest rate and the time period that reflects the earlier payment date. Initially, the actuarial reduction will be 4.9 percent of the benefit. This 4.9 percent actuarial reduction factor will change, if necessary, after Living Benefits have been in effect long enough to analyze the experience. Any change in the actuarial reduction factor will be published in the Federal Register.

## Withholdings and Contributions

This interim regulation specifies that the withholdings and contributions for basic insurance will terminate at the end of the pay period in which a total Living Benefit election is effective. The withholdings and contributions for basic insurance after a partial Living Benefit has been elected will be based on the remaining BIA (post-election BIA) in effect at the end of the pay period in which the Living Benefit election is effective. A Living Benefit election is effective on the date the Living Benefit payment check is cashed or deposited.

# **Application Process**

OPM is required by law to regulate the application process. Therefore, this regulation provides how an insured individual may apply for the Living Benefit through OFEGLI and the subsequent steps that need to occur in order for a Living Benefit to be paid. Only the insured individual may make a Living Benefit election. No one else, e.g., a spouse, a guardian, or someone with a power of attorney, may make a Living Benefit election on the insured's behalf. It also explains that, if the physician's certification of the nature of the illness and the life expectancy of the insured are not sufficient for OFEGLI to approve or disapprove the application, OFEGLI may request additional medical evidence from the attending physician. If necessary, OFEGLI may then also request a medical examination of the insured at OFEGLI's expense.

## Additional Information

Detailed guidance will be provided to agencies and employing offices through Benefits Administration Letters (BAL's) and Payroll Office Letters. This information and guidance will address the obligations of the agencies and employing offices in the administration of the Living Benefit.

OPM believes that, at this time, it is required to withhold 10% of the Living Benefit payment for Federal and/or State taxes unless the insured requests on the application that the amount for taxes not be withheld. This policy is subject to change if applicable tax law or regulations change.

# Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. OPM must issue regulations to implement Public Law 103–409, which is effective July 25, 1995. In addition, employing offices need a certain amount of lead time in order to implement the regulations by the effective date. These concerns make it impractical to publish proposed regulations.

# Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations primarily affect individuals currently enrolled under the Federal Employees' Group Life Insurance Program and those Federal employees who would enroll during this mandated Open Season.

# List of Subjects

# 5 CFR Part 870

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

# 5 CFR Part 871

Administrative practice and procedure, Government employees, Life insurance, Retirement.

## 5 CFR Part 872

Administrative practice and procedure, Government employees, Life insurance, Retirement.

## 5 CFR Part 873

Administrative practice and procedure, Government employees, Life insurance, Retirement.

## 5 CFR Part 874

Government employees, Life insurance, Retirement.

Office of Personnel Management.

## James B. King,

#### Director.

Accordingly, OPM is amending 5 CFR parts 870, 871, 872, 873, and 874 as follows:

# PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

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

**Authority:** 5 U.S.C. 8716; § 870.202(c) also issued under 5 U.S.C. 7701(b)(2); subpart J is also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; subpart K is also issued under Pub. L. 103–409.

2. In §870.203, paragraph (e) is added to read as follows:

# §870.203 Effective dates of insurance.

(e) An open enrollment election of basic life insurance filed during the period from May 22, 1995, through July 21, 1995, is effective on the 1st day of the first pay period beginning on or after the date the employing office received the enrollment form. There is no requirement to be in a pay and duty status for the enrollment to be effective.

3. In §870.204, paragraph (h) is added to read as follows:

# §870.204 Waiver and cancellation of waiver of insurance coverage.

(h)(1) An Open Season will be held from May 22, 1995, through July 21, 1995, during which time employees otherwise eligible for coverage may