

**OFFICE OF PERSONNEL
MANAGEMENT****5 CFR Parts 831, 837, 841, 842, 843,
844, and 847**

RIN 3206-AH57

**Elections of Retirement Coverage by
Current and Former Nonappropriated
Fund Employees****AGENCY:** Office of Personnel
Management.**ACTION:** Interim rule with request for
comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the civilian-retirement provisions of the National Defense Authorization Act for Fiscal Year 1996 and to consolidate existing regulations concerning employees affected by these provisions. That statute provides certain employees with an opportunity to elect to continue vested retirement coverage after a qualifying employment move between a civil service position and a nonappropriated fund instrumentality (NAFI), and vice versa, and under limited circumstances to receive credit for past NAFI service under the Civil Service Retirement System or the Federal Employees Retirement System. These regulations establish election procedures and the methodology for computing the employee costs as required by the statute.

DATES: Interim rules effective August 10, 1996; comments must be received on or before October 8, 1996.

ADDRESSES: Send comments to John E. Landers, Chief, Retirement Policy Division; Retirement and Insurance Service; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington DC.

FOR FURTHER INFORMATION CONTACT: Cynthia Reinhold, (202) 606-0299.

SUPPLEMENTARY INFORMATION:

1. Overview

Section 1043 of the National Defense Authorization Act for Fiscal Year 1996, Public Law 104-106 approved February 10, 1996, amends the existing provisions of law under which certain employees who are vested in the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), or a retirement plan established for employees of nonappropriated fund instrumentalities (NAFI) described in section 2105(c) of title 5, United States Code, may elect to continue coverage in

a vested retirement system upon a move between appropriated and nonappropriated fund employment. Additionally, section 1043 provides a 1-year period for certain employees who would have been eligible to elect to continue vested retirement benefits had the new requirements been in effect at the time of the change in employment, to retroactively elect to continue the retirement coverage they had before a qualifying employment move that occurred after December 31, 1965, and before the effective date of implementing regulations. During the retroactive election period, certain employees now covered by a NAFI retirement system who have prior service under CSRS or FERS may elect to return to CSRS or FERS coverage or to receive credit under the NAFI retirement system for FERS service. [Note: The following sentence and § 847.415 may be amended depending on the response to our inquiry to the IRS.] NAFI employees who elect to return retroactively to CSRS coverage will receive full CSRS coverage for the retroactive period and will be prospectively covered by the CSRS Offset provisions, which are applicable to CSRS employees who are mandatorily covered by Social Security, because the Social Security coverage in effect during their NAFI service will continue. Certain employees who have been continuously covered by FERS and have prior service with a NAFI may be eligible to elect to return to coverage under the NAFI retirement system, or to receive credit under FERS for the NAFI service.

2. Qualifying Moves

The Portability of Benefits for Nonappropriated Fund Employees Act of 1990 (sections 8347(q) and 8461(n) of title 5, United States Code), Public Law 100-508 provided that certain NAFI employees within the Department of Defense (DoD) and the U.S. Coast Guard may elect to continue vested coverage under a retirement system for NAFI employees upon a move to a DoD or Coast Guard appropriated fund position. Likewise, certain DoD or Coast Guard appropriated fund employees could elect to continue vested retirement coverage under CSRS or FERS upon a move to a DoD or Coast Guard NAFI position.

The right to make an election under the 1990 Portability Act is linked to conditions surrounding the employment move. Only those employees whose move between civil service and NAFI employment, or vice versa, met certain criteria set out in the law were granted the opportunity to elect to continue

retirement coverage; the law did not make NAFI service creditable under CSRS or FERS.

Section 1043 of Public Law 104-106 expands the opportunities for employees to elect to continue retirement coverage upon a change in employment status. Except in limited circumstances explained below, the changes made by section 1043 have not made service with a NAFI creditable for CSRS or FERS purposes.

3. Qualifying Moves for Prospective Elections

An employment move triggers an opportunity to elect to continue retirement coverage under the provisions of the 1996 Act if it meets all of the following four criteria:

- The employee must not have had a prior opportunity to elect to continue the same retirement coverage under the 1990 Portability provisions, and
- The employee must have been vested in a retirement plan prior to the change in employment, and
- The employee must have moved from a NAFI within the DoD or the Coast Guard to any civil service position, or have moved from a civil service position to a NAFI within the DoD or the Coast Guard, and
- The break in employment qualifying for retirement coverage was not more than 1 year.

These provisions apply to any move occurring on or after August 10, 1996. A move is considered to have been made at the time the individual enters into the new position, not at the time of separation from the prior position. For example, an individual may have separated from an appropriated fund position subject to FERS on December 31, 1995. The same individual received an appointment with a NAFI subject to the NAFI retirement plan on September 29, 1996. Assuming all other criteria are met, the individual has completed a qualifying employment move and is eligible to elect to continue FERS coverage instead of accepting NAFI plan coverage.

4. Qualifying Moves for Retroactive Elections

For certain employees who moved from a civil service position subject to CSRS or FERS to a position in a NAFI covered by a NAFI retirement system, and vice versa, at any time after December 31, 1965, and before August 10, 1996, section 1043 of Public Law 104-106 provides a limited opportunity to elect to continue retirement coverage retroactive to the date of the qualifying employment move. To be eligible to retroactively elect retirement coverage,

the move to or from civil service and NAFI employment must meet the new definition of "qualifying move" in section 847.402 of these regulations. However, the law specifically excludes three classes of individuals from making a retroactive election.

Previous Retirement Coverage Election Opportunity

Employees who had an opportunity to elect to continue retirement coverage under the provisions of the 1990 Portability Act before February 10, 1996, or who elected to continue retirement coverage before August 10, 1996, are not eligible to elect retirement coverage based on an earlier qualifying move.

Employees with a qualifying move occurring after February 10, 1996, (the date Public Law 104-106 was enacted) and before August 10, 1996, may elect to continue retirement coverage based on a qualifying move under these regulations only if they have not already exercised an election right under the provisions of the 1990 Portability Act. The DoD issued a blanket waiver of the 30-day time limit for elections under the 1990 Portability Act on March 4, 1996. Employees who delayed their election right under the waiver may now elect to continue coverage under either the 1990 Portability rules or the retroactive provisions established by these regulations. DoD will allow until December 31, 1996, for employees in this category—all of whom are DoD employees who have made a qualifying employment move under the 1990 Portability Act on or after February 10, 1996—to make their retirement coverage elections under the new regulations.

Continuous Retirement Coverage Requirement

Current NAFI employees who moved under conditions which would allow an opportunity to elect to continue retirement coverage may make a retroactive election only if they have remained continuously subject to a retirement system established for NAFI employees since the qualifying move. A break in service of 3 days or less is not considered a break in retirement coverage for retroactive election eligibility purposes. Likewise, a current FERS employee who would be eligible to retroactively elect to continue NAFI retirement system coverage is eligible to make that election only if he or she has remained continuously subject to FERS since the qualifying move. (The statute contains an inconsistent reference to continuous CSRS coverage following the employment move (section 1043(c)(2)(B)(II)), which cannot be given effect in conjunction with the plain and

unambiguous statement in section 1043(c)(2)(B)(III), as explained in the next paragraph.)

Moves to the CSRS

If the employment move on which an election would be based was from a NAFI to the CSRS, the employee is not eligible to make a retroactive election. Subclause (III) of section 1043(c)(2)(B) bars any individual from making a retroactive election—

if such election would be based on a move to the Civil Service Retirement System from a retirement system established for employees [of a NAFI].

Therefore, an employee who is currently subject to CSRS has no new opportunity under these regulations to elect to continue retirement coverage based on a move from a NAFI retirement system to CSRS.

The bar on retroactive elections based on moves to the CSRS also applies to employees now covered by FERS who elected FERS during the 1987 open season or later. If an employee moved from a NAFI retirement system to CSRS (including the CSRS Interim provisions in effect from January 1, 1984 through December 31, 1986, and the CSRS Offset provisions in effect on and after January 1, 1987), and later elected FERS coverage, he or she is not eligible to make a retroactive election of NAFI retirement system coverage. Moves from a NAFI retirement system to CSRS Interim coverage, followed by automatic, as opposed to elective, FERS coverage, with all the CSRS Interim service being retroactively converted to FERS service, will be considered a move to FERS.

5. Alternative Election of Service Credit

Section 1043 of Public Law 104-106 also provides for an alternative election for employees currently covered by FERS or a NAFI retirement system. To be eligible to alternatively elect service credit, the FERS or NAFI employee must meet all the eligibility criteria for a retroactive election of retirement coverage. However, the requirement that the employee not have had a previous opportunity to elect to continue retirement coverage under the 1990 Portability Act provisions does not apply. That is, an employee currently covered by FERS or participating in a NAFI retirement system who previously elected his or her current retirement coverage based on a past qualifying move, or who had the opportunity to elect to continue retirement coverage, is eligible to make an alternative election provided he or she meets all other criteria.

Under the alternative election opportunity, an eligible employee covered by FERS may elect to receive credit in his or her FERS retirement benefit for any prior civilian service which would be creditable for NAFI retirement system purposes and to continue coverage under FERS for all future periods of Federal service. Similarly, a NAFI employee who is participating in a NAFI retirement system may elect to receive credit toward eligibility for a NAFI retirement benefit for any prior civilian service which would be creditable for FERS purposes, without regard to redeposit, and to continue coverage under the NAFI retirement system for all future periods of Federal service. By making this election in lieu of a retroactive election of retirement coverage, an employee with multiple periods of service subject to another retirement system could combine credit for the service under his or her current retirement system. In contrast, by making a retroactive election of retirement coverage, only service performed since the date of the qualifying move becomes creditable under the new retirement system.

For example, an individual was employed in a NAFI from 1981 through 1988 and subject to the NAFI's retirement system. Five months after her separation from the NAFI, the same individual was employed in a civil service position subject to FERS. She remained subject to FERS until early 1995, and then after a 5-month break in service she became employed by a NAFI covered by the NAFI retirement system and has remained so employed to date. This employee now may choose among the following elections:

A. Elect to be covered by FERS retroactive to the effective date of her 1995 NAFI appointment. The employee would not receive FERS credit for the NAFI service from 1981 through 1988 since her qualifying move is the 1995 move from FERS to a NAFI (the move in 1988 from a NAFI to the FERS is not qualifying since she did not remain continuously covered by FERS); or

B. Elect to remain in the NAFI retirement system with retirement eligibility credit for her FERS service. Should the employee move to a FERS position in the future, she would remain covered by her NAFI retirement system. Her FERS service would cease to be creditable for any purpose under FERS.

C. Make no election. The employee would remain subject to a NAFI retirement plan with service from 1988 to 1995 subject to FERS. Should the employee move to FERS in the future, she may have an opportunity to

continue the NAFI retirement coverage if her move is qualifying.

To be eligible for the alternative election opportunity, the FERS or NAFI employee must be otherwise eligible to elect to continue retirement coverage retroactive to the date of a qualifying move. Therefore, FERS employees who are unable to elect to retroactively continue retirement coverage because they moved from a NAFI to CSRS are also unable to elect to credit previous NAFI service under FERS. A FERS or NAFI retirement system annuitant is also ineligible to elect to credit previous service toward his or her annuity benefit.

6. Service Which Is Creditable Under the Alternative Election

Under the alternative election (to remain in the current retirement system and receive credit for service performed under a previous retirement system), section 1043 provides that any service which would be qualifying for FERS or NAFI retirement purposes may be credited toward the current retirement system. In many cases, employees opted to withdraw their contributions to a retirement system upon employment in a position that was subject to another retirement system with no opportunity to combine the service. While a refund would generally terminate an individual's service credit under FERS or a NAFI retirement system, section 1043 provides for the transfer of service credit regardless of refund status. In the case of a FERS employee who has previously received a refund of his or her NAFI retirement contributions and elects FERS service credit for the NAFI service, the DoD or Coast Guard will transfer the employer contributions which were deposited on the employee's behalf during the NAFI employment. In the case of a NAFI employee who elects NAFI credit for previous FERS service, OPM will certify the periods of FERS service as qualifying to the DoD or Coast Guard if the employee has withdrawn his or her contributions for the FERS service. For service subject to FERS, transferable service would include non-contributory service performed prior to January 1, 1989. Non-contributory service performed after December 31, 1988, is not creditable FERS service and credit for such service would therefore not transfer to a NAFI retirement system. Military service is creditable under the general CSRS and FERS rules and is not affected by these regulations.

7. Effective Dates

Prospective and retroactive elections of retirement coverage made on or after

August 10, 1996, are effective on the date of appointment to a retirement-covered position which completed the qualifying move. Under no circumstances can an election take effect earlier than the first appointment subject to retirement coverage.

An alternative election to remain covered under the current FERS or NAFI retirement system, and to obtain service credit for time under the other system, is effective on the date of receipt of the election in the employing agency. The service performed subject to another retirement system becomes creditable under the current retirement system at the time the election is made.

8. Transfer of Contributions

Section 1043 of Public Law 104-106 requires that for certain elections, the current retirement system transfer to the elected retirement system all retirement deductions withheld from the employee's salary, interest on the employee's deductions, and retirement contributions contributed by the employing agency on the employee's behalf.

For elections of CSRS and FERS coverage, including elections of FERS service credit, the DoD or the Coast Guard will transfer to the Civil Service Retirement and Disability Fund the NAFI employee and employer retirement contributions credited to the employee.

Employee retirement contributions transfer with interest because this is specifically provided by section 1043(c)(2)(C)(i). No interest is includable in a transfer of employer contributions.

Any employee deductions plus interest which are transferred to the Civil Service Retirement and Disability Fund will become part of the employee's credit which is payable to the employee or survivors in the case of separation or death. The government share of the NAFI contributions, if any, is not payable to the employee or the employee's survivors under any circumstances. NAFI contributions transferred to the Fund will thereafter accrue interest under current procedures.

For retroactive elections of NAFI retirement plan coverage, the Office of Personnel Management will transfer to either the DoD or the Coast Guard the total amount withheld from the employee's salary for FERS retirement, any deposits made by the employee for civilian service, interest accrued on the employee's deductions and contributions, and amounts contributed by the employing agency without interest. For elections by NAFI

employees of NAFI retirement credit for previous periods of FERS service, section 1043 does not allow OPM to transfer any contributions associated with the FERS service to the DoD or Coast Guard.

9. Employee Costs Associated With Retroactive Elections

Section 1043 of Public Law 104-106 provides that if the total amount of the contributions transferred to the elected retirement system do not cover the increase in the "actuarial present value" of the employee's future retirement benefit attributable to the service covered by the election, the employee must fund the difference. The actuarial present value of a retirement benefit is the amount of money that would have to be set aside to finance all of the retirement benefits an employee would receive during his or her expected lifetime. Therefore, section 1043 requires employees to fully finance the increase in their retirement benefit attributable to the retroactive election which is not otherwise funded by the transfer of contributions.

The regulations require that the calculation of the actuarial present value of NAFI service made creditable under CSRS or FERS be delayed until the time a retirement or survivor benefit based on the NAFI service actually becomes payable. By delaying the calculation, the exact annuity benefit based on the employees' age, service, salary and survivor election can be determined. This method is preferable to calculating a future retirement benefit based on a set of assumed conditions which may not reflect the employee's actual circumstances. In the event the additional NAFI service does not increase the retirement benefit payable to the employee or survivor, as in some disability retirements, the employee will not be required to fund the NAFI service.

The regulations do not require that the employee fund the increase in the actuarial present value by making a deposit. Rather, the section 1043 funding requirement will be satisfied by a permanent reduction in the monthly retirement benefit. The monthly reduction will be based on actuarial factors which effectively collect the increase in the actuarial present value over the remaining life expectancy of the retiree or survivor. If the NAFI service does not create an annuity entitlement or increase the payable benefit to the employee or survivor, then the monthly reduction would be zero. If the NAFI service does increase the CSRS or FERS benefit, the employee or survivor annuity will reflect credit for

all the NAFI service attributable to the retroactive election and a permanent actuarial reduction based on the amount required to fund the annuity increase.

10. Calculation of Annuity Benefit Which Includes NAFI Service

At the time that a CSRS or FERS benefit payable to an employee or survivor includes NAFI service made creditable by a retroactive election, OPM will determine the actuarial present value of the NAFI service, if any, and the monthly reduction in the annuity benefit. In most cases the calculation will be made effective with the commencing date of the retirement or survivor benefit. However, for FERS disability annuitants and survivor annuitants, the calculation will not be made until a benefit based on the employee's years of service and salary becomes payable, usually at age 62. OPM will compare two annuity benefit computations:

(A) The actuarial present value of a CSRS or FERS annuity that includes credit for all NAFI service.

(B) The actuarial present value of a CSRS or FERS annuity without credit for the NAFI service attributed to the election.

The actuarial present value is computed by multiplying the monthly rate of annuity by a factor calculated by OPM's actuary using generally accepted actuarial standards and on the basis of assumptions used by the Board of Actuaries of the Civil Service Retirement System.

At the time OPM computes the actuarial present value of crediting the NAFI service, we will increase the amount of contributions transferred to the Fund by interest after the date of the transfer. The difference between the actuarial present value of the benefits computed under (A) and (B), above, is the actuarial present value of crediting the NAFI service. The difference between the actuarial present value of the NAFI service and the amount of contributions which were transferred, plus interest, is the amount which will be funded by a monthly annuity reduction. The regulations refer to this amount as the "deficiency."

If the additional NAFI service does not increase the annuity otherwise payable to an individual, then there will be no reduction in the annuity for the retroactive election. This could occur in cases where the benefit payable is based on factors other than years of service and salary. A disability benefit or a CSRS survivor annuity, for example, may be based on a straight percentage of average salary and additional NAFI service would not increase the benefit.

The deficiency is divided by the actuarial present value factor corresponding to the employee or survivor's age at the time of the calculation to determine the amount of the monthly annuity reduction. After the annuity is reduced in this way, any further reductions for survivor, CSRS-Offset, or the alternative form of annuity still apply. Future cost-of-living adjustments are applied to the monthly annuity payable after these reductions. If a survivor benefit becomes payable after the death of a retired employee, the monthly survivor benefit is not additionally reduced due to a deficiency. For example:

Employee retires at age 62 under FERS with 18 years of FERS service and an additional 5 years of NAFI service made creditable under FERS. High-three average salary is \$40,000. The contributions transferred from the NAFI retirement system, plus interest, equal \$5,000.

Present value factor for age 62.	161.3
Single life FERS annuity with credit for NAFI service.	\$843/month
Actuarial present value.	\$135,976 (161.3 × 843)
Single life FERS annuity without credit for NAFI service.	\$600/month
Actuarial present value.	\$96,780 (161.3 × 600)
Actuarial present value of NAFI service.	\$39,196 (135,976 – 96,780)
Unfunded amount (deficiency).	\$34,196 (39,196 – 5,000 in contributions)
Monthly reduction ...	\$212 (34,196 ÷ 161.3)
Single life FERS annuity.	\$631/month (843 – 212)
FERS annuity with survivor benefit.	\$567 (0.9 × 631)
Rate of survivor annuity.	\$315 (50% of \$631)

In the above example, the employee did not retire earlier than he would have otherwise been eligible to retire without the NAFI service. Since annuity eligibility was not affected, the increase in the single life annuity due to the NAFI service election is equal to the amount transferred to the Fund divided by the appropriate present value factor. (In the above example: \$5,000 ÷ 161.3 = \$31. Annuity without NAFI service increases \$31 by the NAFI service election.)

When the NAFI service allows an employee to retire earlier than he or she could have without the NAFI service, an additional step is added to the computation of the funding deficiency.

Because no annuity would be immediately payable if NAFI service was not combined with civil service, the present value of the immediate annuity that includes NAFI service must be compared to the present value of the deferred annuity that would have been the only benefit payable without crediting the NAFI service. To determine the deficiency at the time the actual annuity payments begin, we must therefore discount the present value of the deferred annuity benefit at the time it would commence. In other words, we begin by computing the present value of the deferred annuity on its commencing date (without credit for the NAFI service). This is computed by multiplying the deferred annuity rate by the actuarial factor for the employee's age at the time the deferred annuity would begin. By definition, the present value of the deferred annuity on its commencing date (without credit for the NAFI service) is the amount that would be required to fund such an annuity on that date. However, the present value of the future deferred annuity on the date when payments would begin, that is, the amount that would have to be set aside on the actual annuity commencing date to fund the future deferred annuity, is lower because the amount set aside would earn interest from the actual immediate commencing date to the deferred annuity commencing date. The method used to adjust the present value of the deferred annuity is set out in section 847.607.

11. Effect of FERS Refunds

These regulations allow individuals who received a refund of their FERS retirement contributions upon a move to a NAFI and elect to continue coverage under FERS an opportunity to receive credit for the FERS service represented by the refund. Employees under CSRS may repay previous refunds at any time they are subject to CSRS. A refund of FERS contributions generally cannot be repaid and the service represented by the refund is not creditable toward FERS annuity eligibility or FERS annuity computation. However, in the case of a NAFI employee who retroactively elects FERS coverage, but received a refund of his or her FERS contributions, the employee will receive credit for any periods of refunded FERS service in the computation of the FERS benefit. The amount of the FERS refund will accrue interest through the date of separation. The refund amount plus interest will be added to the amount of the funding deficiency, and therefore included in the actuarial reduction in the annuity.

12. Present Value Factors

The following three charts contain the present value factors that will apply to a CSRS or FERS annuity which includes

NAFI service made creditable by an election under section 1043 of Public Law 104-106 under the current economic assumptions of interest at 7 percent and inflation at 4.5 percent

together with the demographic assumptions adopted by the Board of Actuaries. See 58 FR 49066, September 21, 1993.

CSRS PRESENT VALUE FACTORS APPLICABLE TO AN ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104-106

Age at calculation	Present value of a monthly annuity	Age at calculation	Present value of a monthly annuity	Age at calculation	Present value of a monthly annuity
17	377.9	42	285.5	67	150.7
18	375.0	43	280.8	68	145.4
19	372.0	44	276.2	69	140.2
20	368.9	45	270.4	70	134.7
21	365.8	46	264.7	71	129.4
22	362.6	47	259.2	72	124.0
23	359.3	48	253.5	73	118.8
24	356.0	49	247.2	74	113.6
25	352.6	50	240.4	75	108.5
26	349.2	51	235.0	76	103.5
27	345.7	52	229.8	77	98.7
28	342.1	53	224.4	78	93.9
29	338.4	54	218.6	79	89.4
30	334.7	55	212.6	80	84.9
31	331.0	56	207.5	81	80.5
32	327.1	57	202.4	82	76.3
33	323.3	58	197.0	83	72.3
34	319.3	59	192.3	84	68.4
35	315.3	60	188.3	85	64.7
36	311.2	61	182.9	86	61.2
37	307.1	62	177.0	87	57.9
38	302.8	63	171.9	88	54.7
39	298.6	64	166.5	89	51.8
40	294.4	65	161.1	90	48.9
41	290.0	66	156.0		

FERS PRESENT VALUE FACTORS APPLICABLE TO AN ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104-106 WHEN ANNUITY IS INCREASED BY COLAS

Age at calculation	Present value of a monthly annuity	Age at calculation	Present value of a monthly annuity	Age at calculation	Present value of a monthly annuity
17	301.7	42	238.5	67	139.1
18	299.8	43	235.0	68	134.6
19	297.9	44	231.5	69	130.1
20	296.0	45	227.9	70	125.4
21	294.0	46	224.2	71	120.7
22	291.9	47	220.3	72	116.0
23	289.8	48	216.5	73	111.4
24	287.7	49	212.6	74	106.8
25	285.4	50	208.6	75	102.2
26	283.2	51	204.5	76	97.8
27	280.8	52	200.3	77	93.5
28	278.4	53	196.1	78	89.2
29	276.0	54	191.8	79	85.0
30	273.5	55	187.4	80	80.9
31	270.9	56	183.1	81	77.0
32	268.2	57	178.6	82	73.1
33	265.5	58	174.2	83	69.4
34	262.8	59	169.7	84	65.8
35	260.0	60	165.1	85	62.4
36	257.1	61	160.4	86	59.1
37	254.1	62	161.3	87	56.0
38	251.1	63	157.1	88	53.0
39	248.1	64	152.5	89	50.2
40	245.2	65	148.0	90	47.5
41	241.9	66	143.6		

FERS PRESENT VALUE FACTORS APPLICABLE TO AN ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104-106 WHEN ANNUITY IS NOT INCREASED BY COLAS

Age at calculation	Present value of a monthly annuity	Age at calculation	Present value of a monthly annuity
40	169.2	51	161.9
41	168.8	52	161.6
42	168.4	53	161.2
43	168.1	54	160.6
44	167.7	55	160.0
45	166.9	56	160.0
46	166.1	57	160.2
47	165.4	58	160.4
48	164.7	59	161.2
49	163.7	60	162.7
50	162.4	61	163.5

13. Effects of an Election

Any prospective or retroactive election made under these regulations is irrevocable. By electing to continue retirement coverage, the employee also consents to a permanent reduction in the future monthly annuity benefit if the benefit becomes payable at an earlier date or is increased by the NAFI service. Once an employee has elected coverage under a specific retirement system, he or she continues to be covered by that retirement system for all future periods of Federal service not otherwise excluded from retirement coverage, whether employed in a civil service position or with a NAFI. The elected retirement coverage will also apply to any service the individual may perform as a reemployed annuitant.

A retroactive election of retirement coverage will have the same effect as if it had been timely made at the time of the move. For employees who elect to continue CSRS or FERS coverage, the NAFI service performed since the move on which the election is based is fully creditable in the future CSRS or FERS annuity for title and computation, including average salary purposes. FERS employees who elect FERS service credit for previous periods of NAFI service will also receive full credit toward title and computation for any previous period of creditable NAFI service.

NAFI employees who elect to remain covered by the NAFI retirement system and receive credit for previous periods of FERS civilian service may also elect whether the FERS service will be creditable for title only, or for title and computation of the NAFI retirement benefit. If the employee elects to receive credit for the FERS service in the computation of the NAFI retirement benefit, he or she is required to pay the actuarial present value of the FERS service made creditable by the election.

An election to credit FERS civilian service for any purpose toward a NAFI retirement system will terminate an employee's eligibility for a FERS annuity based on the same service. Although the employee's contributions for the FERS service may remain to his credit, an election to credit FERS service in a NAFI retirement benefit will prevent the FERS service from remaining creditable for any purpose under FERS.

14. Time Limit for Elections

Section 1043 of Public Law 104-106 amended the definition of a qualifying move to allow retirement coverage elections when employees move to or from a NAFI and any other Federal agency and also increased the allowable break in service between retirement-covered civil service and NAFI positions from not more than 3 days to 1 year. At the time of employment, agencies will give qualifying employees 30 days in which to make their election. This time limit may be extended if the agency fails to provide a timely opportunity for the employee to make the election.

The retroactive election opportunity expires 1 year after the effective date of the regulations. Since that day (August 10, 1997) is a Sunday, the deadline stated in the regulation is the following Monday, August 11, 1997. Because section 1043 requires that eligible employees receive timely notice of the opportunity to make the retroactive election, and that employees be counselled concerning the election opportunity, the employing agency will have authority to waive the time limit in the event that an employee did not receive such notice or counselling.

Waiver of 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 to make these rules effective in less than 30 days. The regulations are effective August 10, 1996, 6 months after enactment of the statutory change. The statute requires OPM to establish by regulation the procedure for electing retirement coverage retroactive to a qualifying move and for computing the costs associated with the election and to prescribe the implementing regulations within 6 months of enactment. Elections under the new law cannot be made until the implementing regulations take effect. Therefore, delaying implementation of these regulations would unnecessarily delay the availability of the benefits of the new law.

List of Subjects

5 CFR Parts 831, 837, 841, 842, 843, and 844

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 847

Administrative practice and procedure, Disability benefits, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

James B. King,

Director.

Accordingly, OPM is amending Title 5, Code of Federal Regulations, parts 831, 837, 841, 842, 843, 844, and adding 847 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); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 381.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp.; § 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 the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66; § 831.682 also issued under section 201(d) of the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99–251, 100 Stat. 23; subpart S also issued under 5 U.S.C. 8345(k); subpart V also issued under 5 U.S.C. 8343a and section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; 104 Stat. 1388–328.

Subpart B—Coverage

2. In section 831.201(h), the reference “§ 831.204” is removed and “part 847 of this chapter” is added in its place.

§ 831.204 [Removed]

3. Section 831.204 is removed.

Subpart G—Computation of Annuities

4. Section 831.704 is added to read as follows:

§ 831.704 Annuities including credit for service with a nonappropriated fund instrumentality.

An annuity that includes credit for service with a nonappropriated fund instrumentality performed after December 31, 1965, based on an election under subpart D of part 847 of this chapter is computed under part 847 of this chapter.

Subpart T—Payment of Lump Sums

5. Section 831.2009 is added to read as follows:

§ 831.2009 Lump sum payments which include contributions made to a retirement system for employees of a nonappropriated fund instrumentality.

A lump sum payment will include employee contributions and interest as provided under subpart G of part 847 of this chapter.

PART 837—REEMPLOYMENT OF ANNUITANTS

6. 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 section 302 of Pub. L. 99–335, June 6, 1986, as amended.

Subpart A—General Provisions

7. Section 837.104 is added to read as follows:

§ 837.104 Reemployment of former employees of nonappropriated fund instrumentalities.

A former employee of a nonappropriated fund instrumentality who has made an election of retirement coverage under part 847 of this chapter will continue to be covered under the elected retirement system for all periods of service as a reemployed annuitant.

8. Section 837.506 is added to read as follows:

§ 837.506 Computation of redetermined annuity for former employees of nonappropriated fund instrumentalities.

The redetermined annuity of a former employee of a nonappropriated fund instrumentality who elected CSRS or FERS coverage under subpart D of part 847 of this chapter is recomputed under part 847 of this chapter.

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

9. The authority citation for part 841 continues to read as follows:

Authority: 5 U.S.C. 8461; § 841.108 also issued under 5 U.S.C. 552a; subpart D also issued under 5 U.S.C. 8423; § 841.504 also issued under 5 U.S.C. 8422; § 841.506 also issued under 5 U.S.C. 7701(b)(2); § 841.507 also issued under section 505 of Pub. L. 99–335; § 841.508 also issued under section 505 of Pub. L. 99–335; Subpart J also issued under 5 U.S.C. 8469.

Subpart A—General Provisions

10. In section 841.102, paragraphs (b) through (f) are redesignated as paragraphs (b)(1) through (b)(5), and paragraph (c) is added to read as follows:

§ 841.102 Regulatory structure for the Federal Employees Retirement System.

* * * * *

(c)(1) Part 831 of this chapter contains information about the Civil Service Retirement System.

(2) Part 835 of this chapter contains information about debt collection from FERS benefits.

(3) Part 837 of this chapter contains information about reemployment of FERS annuitants.

(4) Part 838 of this chapter contains information about court orders affecting FERS benefits.

(5) Part 847 of this chapter contains information about elections under the Civil Service Retirement System or FERS relating to periods of service with a nonappropriated fund instrumentality

under the jurisdiction of the armed forces.

(6) Parts 294 and 297 of this chapter and § 831.106 and 841.108 of this chapter contain information about disclosure of information from OPM records.

(7) Part 581 of this chapter contains information about garnishment of Government payments including salary and CSRS and FERS retirement benefits.

(8) Parts 870, 871, 872, and 873 of this chapter contain information about the Federal Employees Group Life Insurance Program.

(9) Part 890 of this chapter contains information about coverage under the Federal Employees Health Benefits Program.

(10) Chapter II (parts 1200 through 1299) of this title contains information about appeals to the Merit Systems Protection Board.

(11) Chapter VI (parts 1600 through 1699) of this title contains information about the Federal Employees Thrift Savings Plan.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

11. The authority citation for part 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); § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 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 the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101–239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; subpart H also issued under 5 U.S.C. 1104.

Subpart A—Coverage

12. In section 842.104(f), the reference “§ 842.106” is removed and “part 847 of this chapter” is added in its place.

§ 842.106 [Removed]

13. Section 842.106 is removed.

Subpart C—Credit for Service

14. In section 842.304, paragraph (d) is added to read as follows:

§ 842.304 Civilian Service.

* * * * *

(d) *Credit for service performed as an employee of a nonappropriated fund*

instrumentality. (1) Credit for service with a nonappropriated fund instrumentality is allowed in accordance with an election under part 847 of this chapter.

(2) Service under FERS for which the employee withdrew all deductions is creditable in accordance with an election made under part 847 of this chapter.

(3) An annuity that includes credit for service with a nonappropriated fund instrumentality or refunded service under paragraph (d)(2) of this section is computed under part 847 of this chapter.

15. Section 842.310 is added to read as follows.

§ 842.310 Service not creditable because of an election under part 847 of this chapter.

Any FERS service which becomes creditable under a retirement system established for nonappropriated fund employees due to an election made under part 847 of this chapter is not creditable for any purpose under FERS.

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

16. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; §§ 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; § 843.309 also issued under 5 U.S.C. 8442; § 843.406 also issued under 5 U.S.C. 8441.

Subpart B—One-Time Payments

17. Section 843.212 is added to read as follows:

§ 843.212 Lump-sum payments which include contributions made to a retirement system for employees of a nonappropriated fund instrumentality.

A lump-sum payment will include employee contributions and interest as provided under subpart G of part 847 of this chapter.

Subpart C—Current and Former Spouse Benefits

18. Section 843.314 is added to read as follows:

§ 843.314 Amount of survivor annuity where service includes credit for service with a nonappropriated fund instrumentality.

The survivor annuity in the case of an employee or survivor whose service includes service with a nonappropriated fund instrumentality made creditable by an election under subpart D of part 847 of this chapter is computed under part 847 of this chapter.

PART 844—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DISABILITY RETIREMENT

19. The authority citation for part 844 continues to read as follows:

Authority: 5 U.S.C. 8461.

Subpart A—General Provisions

20. Section 844.106 is added to read as follows:

§ 844.106 Disability annuities which include credit for service with a nonappropriated fund instrumentality.

A disability annuity that includes credit for service with a nonappropriated fund instrumentality performed after December 31, 1965, based on an election under subpart D of part 847 of this chapter is computed under part 847 of this chapter.

21. Part 847 is added to read as follows:

PART 847—ELECTIONS OF RETIREMENT COVERAGE BY CURRENT AND FORMER EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

Subpart A—General Provisions

Sec.

- 847.101 Purpose and scope.
- 847.102 Regulatory structure.
- 847.103 Definitions.
- 847.104 OPM responsibilities.
- 847.105 Agency responsibilities.
- 847.106 Agency decision concerning eligibility.
- 847.107 Appeals to MSPB.
- 847.108 Computation of time.

Subpart B—Elections to continue retirement coverage after a qualifying move

- 847.201 Purpose and scope.
- 847.202 Definition of qualifying move.
- 847.203 Elections of CSRS coverage.
- 847.204 Elections of FERS coverage.
- 847.205 Elections of NAFI retirement system coverage.
- 847.206 Time limit for making an election.
- 847.207 Effective dates of elections.
- 847.208 Changes of election.
- 847.209 Collection of CSRS and FERS retirement contributions from NAFI employers.
- 847.210 Collection of NAFI retirement contributions from Federal agencies.
- 847.211 Death of employee during election opportunity period.

Subpart C—Procedures for Elections Under the Retroactive Provisions

- 847.301 Purpose and scope.
- 847.302 Notice of election rights.
- 847.303 Election forms.
- 847.304 Time limit.
- 847.305 Basic records.

Subpart D—Elections of Coverage Under the Retroactive Provisions

General Provisions

- 847.401 Purpose and scope.
 - 847.402 Definition of qualifying move.
- Elections of CSRS or FERS Coverage Based on a Move from CSRS or FERS to NAFI
- 847.411 Election requirements.
 - 847.412 Elections of FERS instead of CSRS.
 - 847.413 Effective date of an election.
 - 847.414 Crediting future NAFI service.
 - 847.415 OASDI coverage.
 - 847.416 Credit for refunded FERS service.
- Elections to Remain in FERS Coverage with Credit for NAFI Service Based on a Move from NAFI to FERS
- 847.421 Election requirements.
 - 847.422 Crediting future NAFI service.
 - 847.423 Credit for refunded FERS service.
- Elections to Remain in NAFI Coverage with Credit for FERS Service Based on a Move from FERS to NAFI
- 847.431 Election requirements.
 - 847.432 Effect of a refund of FERS deductions.
 - 847.433 Exclusion from FERS for future service.
- Elections of NAFI Coverage Based on a Move from NAFI to FERS
- 847.441 Election requirements.
 - 847.442 Effective date.
 - 847.443 Exclusion from FERS for future service.

Subpart E—Transfers of Contributions Under the Retroactive Provisions

- 847.501 Purpose and scope.
- 847.502 Transfers to the CSR Fund.
- 847.503 Transfers from the CSR Fund.
- 847.504 Amount of transfer.
- 847.505 When transfer occurs.
- 847.506 Procedures for transfer.
- 847.507 Earnings after transfer.

Subpart F—Additional Employee Costs Under the Retroactive Provisions

- 847.601 Purpose and scope.
- 847.602 Present value factors.
- 847.603 Date of present value and deficiency determinations.
- 847.604 Methodology for determining deficiency.
- 847.605 Methodology for determining the present value of annuity with service credit.
- 847.606 Methodology for determining the present value of annuity without service credit—credit not needed for title.
- 847.607 Methodology for determining the present value of annuity without service credit—credit needed for title.
- 847.608 Reduction in annuity due to deficiency.

Appendix A to Subpart F of Part 847—List of Events for Which Inclusion of NAFI Service May Affect the Rate of Annuity Payable

Subpart G—Computation of Benefits Under the Retroactive Provisions

- 847.701 Purpose and scope.
- 847.702 Lump-sum payments and refunds.
- 847.703 Reductions in annuity.

847.704 Maximum survivor annuity election.

847.705 Cost-of-living adjustments.

Authority: 5 U.S.C. 8347(a) and 8461(g) and section 1043(b) of Pub. L. 104-106, Div. A, Title X, Feb. 10, 1996, 110 Stat. 434. Subpart B also issued under 5 U.S.C. 8347(q) and 8461(n).

Subpart A—General Provisions

§ 847.101 Purpose and scope.

(a) This part contains the regulations issued by the Office of Personnel Management (OPM) to implement the statutory election rights under the Portability of Benefits for Nonappropriated Fund Employees Act of 1990 and section 1043 of the National Defense Authorization Act for Fiscal Year 1996 of certain current and former NAFI employees.

(b) This part establishes—

(1) The eligibility requirements for making an election;

(2) The procedures for making elections;

(3) The methodologies to determine the employee costs associated with the elections; and

(4) The methodologies to calculate benefits that include credit for NAFI service based on such elections.

(c)(1) The regulations in this part apply to individuals covered by CSRS or FERS (and their survivors) and the employers of such individuals. The Department of Defense and the U.S. Coast Guard will issue any necessary regulations to implement these election rights to the extent they affect NAFI retirement systems under their jurisdiction.

(2) The regulations in this part apply only to CSRS benefits and FERS basic benefits. They do not apply to benefits under the Thrift Savings Plan described in subchapter III of chapter 84, of title 5, United States Code.

§ 847.102 Regulatory structure.

(a)(1) Subpart A of this part contains information applicable to all elections under this part.

(2) Subpart B of this part contains information about prospective retirement coverage elections under sections 8347(q) and 8461(n) of title 5, United States Code.

(3) Subpart C of this part contains information about the procedures applicable to retroactive retirement coverage and alternative credit elections under section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

(4) Subpart D of this part contains information about the types of retroactive elections available, the eligibility requirements for each type of

election, the effects of an election on CSRS and FERS coverage during future employment, and the effective dates of CSRS and FERS coverage applicable to elections under section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

(5) Subpart E of this part contains information about transferring retirement contributions in connection with elections under section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

(6) Subpart F of this part contains information about determining the employee costs associated with elections under section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

(7) Subpart G of this part contains information about benefits indirectly affected by elections under section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

(b) Section 831.305 of this chapter contains information about CSRS credit for NAFI service performed after June 18, 1952, but before January 1, 1966.

(c)(1) Part 831 of this chapter contains information about the Civil Service Retirement System.

(2) Parts 841 through 844 of this chapter contain information about FERS basic benefits.

(3) Part 837 of this chapter contains information about reemployment of annuitants.

(4) Parts 870, 871, 872, and 873 of this chapter contain information about the Federal Employees Group Life Insurance Program.

(5) Part 890 of this chapter contains information about coverage under the Federal Employees Health Benefits Program.

(6) Chapter II (parts 1200 through 1299) of this title contains information about appeals to the Merit Systems Protection Board.

(7) Chapter VI (parts 1600 through 1699) of this title contains information about the Federal Employees Thrift Savings Plan.

§ 847.103 Definitions.

(a) Except as provided in paragraph (b) of this section, the definitions in sections 8331 and 8401 of title 5, United States Code, apply throughout this part.

(b) In this part—

Actuarial present value means the amount of money (earning interest at an assumed rate) required at the time of retirement to finance an annuity that is payable in monthly installments for the annuitant's lifetime based on mortality rates for annuitants under CSRS and FERS; and increases each year at an assumed rate of inflation. Interest,

mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of CSRS and FERS, based on dynamic assumptions.

Age means the number of years an individual has been alive as of his or her last birthday.

Agency means an executive agency as defined in section 105 of title 5, United States Code; a legislative branch agency; a judicial agency; and the U.S. Postal Service and Postal Rate Commission.

Annuitant means a retiree or a survivor.

CSRS or FERS means the Civil Service Retirement System or the Federal Employees Retirement System as described in chapters 83 and 84 of title 5, United States Code.

Deferred annuity date means the earliest date on which a retiree would be eligible, without credit for the NAFI service, to receive a deferred annuity based on his or her actual date of separation.

Deficiency means the remainder of the actuarial present value or crediting NAFI service, after subtracting the amount credited to the employee from a transfer to the Fund under subpart E of this part, and earnings under § 847.507 of the transferred amount.

Employee contributions with interest means the dollar amount deducted from an employee's pay for retirement system participation, plus any amounts the employee deposited for civilian service credit under the retirement system, and interest, if any, payable under § 841.605 of this chapter (for FERS) or under applicable NAFI retirement system rules.

Fund means the Civil Service Retirement and Disability Fund established in section 8348 of title 5, United States Code.

Government contributions means the dollar amount which was contributed on behalf of an employee by his or her employer for retirement system participation.

Monthly annuity rate means the amount of the monthly single life annuity under CSRS or FERS (computed without regard to any survivor benefit reductions computed under sections 8339 (j) or (k), and 8418 through 8420 of title 5, United States Code), before any offset relating to benefits under the Social Security Act under section 8349 of title 5, United States Code, but after including any reduction for age (5 U.S.C. 8339(h) or 8415(f)) or for crediting nondeduction civilian service performed before October 1, 1982 (5 U.S.C.A. 8339(i), note).

NAFI means a nonappropriated fund instrumentality described in section 2105(c) of title 5, United States Code.

Retiree means a former employee who, on the basis of his or her service meets all the requirements for title to a CSRS or FERS annuity and files claim therefor.

Survivor means a widow, widower, or former spouse entitled to a CSRS or FERS annuity based on the service of a deceased employee, separated employee, or retiree.

§ 847.104 OPM responsibilities.

(a) OPM will issue guidance to employing agencies to use when notifying their employees about the opportunity to make an election under this part and for counselling employees in connection with the election.

(b) OPM will issue instructions to agencies concerning the transfer of funds and recordkeeping in connection with these elections.

§ 847.105 Agency responsibilities.

(a) Each agency is responsible for notifying its employees of the opportunity to make an election under this part and for determining if an employee who wishes to make an election is qualified to do so, and for counselling employees in accordance with guidance issued by OPM.

(b) If an agency determines that an employee is not eligible to make an election under this part, the agency shall issue a final decision to the employee that meets the requirements of § 847.106, including notice of the right to appeal under § 847.107.

§ 847.106 Agency decision concerning eligibility.

(a) If the agency determines that the employee is not eligible to make an election under this part, it must issue a final decision to the employee.

(b) A final decision shall be in writing, shall fully set forth the findings and conclusions of the agency, and shall contain notice of the right to request an appeal provided in § 847.107.

§ 847.107 Appeals to MSPB.

(a) An individual whose rights or interests under the CSRS or FERS are affected by a final decision of the employing agency may request the Merit Systems Protection Board to review such decision in accordance with procedures prescribed by the Board.

(b) Paragraph (a) of this section is the exclusive remedy for review of agency decisions concerning eligibility to make an election under this part. An agency decision must not allow review under any employee grievance procedures, including those established by chapter

71 of title 5, United States Code, and part 771 of title 5, Code of Federal Regulations.

§ 847.108 Computation of time.

In computing a period of time for filing documents, the day of the action or event after which the designated period of time begins to run is not included. The last day of the period is included unless it is a Saturday, a Sunday, or a legal holiday; in this event, the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

Subpart B—Elections to continue retirement coverage after a qualifying move

§ 847.201 Purpose and scope.

This subpart contains OPM's regulations on the procedures, eligibility requirements, time limits and effects of elections under sections 8347(q) and 8461(n) of title 5, United States Code.

§ 847.202 Definition of qualifying move.

(a) A qualifying move occurring on or after August 10, 1996, which would allow an opportunity to elect to continue retirement coverage under CSRS and FERS must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue CSRS or FERS retirement coverage;

(2) The employee must have been vested in CSRS or FERS prior to the move to a NAFI;

(3) The employee must have moved from a position covered by CSRS or FERS to a retirement-covered position in a NAFI; and

(4) The employee must begin employment in a retirement-covered position in a NAFI no later than 1 year after separation from CSRS- or FERS-covered employment.

(b) A qualifying move occurring on or after August 10, 1996, which would allow an opportunity to elect to continue retirement coverage under a NAFI retirement system must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue NAFI retirement system coverage;

(2) The employee must have been a vested participant in the NAFI retirement system (as the term "vested participant" is defined by that retirement system) prior to the move to a CSRS- or FERS-covered position;

(3) The employee must have moved from a NAFI to a civil service position subject to CSRS or FERS coverage; and

(4) The employee must be appointed to a CSRS- or FERS-covered position no

later than 1 year after separation from retirement-covered NAFI employment.

(c) A qualifying move occurring between January 1, 1987, and August 9, 1996, which would allow an opportunity to elect to continue retirement coverage under CSRS or FERS must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue CSRS or FERS retirement coverage;

(2) The employee must have been vested in CSRS or FERS prior to the move to a NAFI;

(3) The employee must have moved from a CSRS- or FERS-covered position within the Department of Defense or the U.S. Coast Guard to a retirement covered position with a NAFI; and

(4) The employee must begin employment in a retirement-covered position in a NAFI no later than 4 days after separation from CSRS- or FERS-covered employment.

(d) A qualifying move occurring between January 1, 1987, and August 9, 1996, which would allow an opportunity to elect to continue retirement coverage under a NAFI retirement system must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue NAFI retirement system coverage;

(2) The employee must have been a vested participant in the NAFI retirement system (as the term "vested participant" is defined by that retirement system) prior to the move to the civil service;

(3) The employee must have moved from a NAFI to a CSRS- or FERS-covered position within the Department of Defense or the U.S. Coast Guard; and

(4) The employee must be appointed to a CSRS- or FERS-covered position no later than 4 days after separation from retirement-covered NAFI employment.

(e) A qualifying move under paragraphs (a) and (b) of this section is considered to occur on the date the individual enters into the new position, not at the time of separation from the prior position.

(f) A retroactive election opportunity under subpart D of this part (pertaining to elections of CSRS, FERS, or NAFI retirement coverage) is not considered a prior opportunity to elect retirement coverage under this section.

§ 847.203 Elections of CSRS coverage.

(a) An employee who completes a qualifying move (under § 847.202(a) or (c)) from a CSRS-covered position to a NAFI may elect to continue CSRS coverage.

(b) An employee who elects CSRS coverage under this section will be

covered by CSRS (or FERS, if the employee subsequently transfers to FERS under part 846 of this chapter) during all periods of future service not excluded from coverage by CSRS, including any periods of service with a NAFI.

(c) An employee who makes an election under paragraph (a) of this section and who has had a break in service exceeding 3 days is eligible to elect FERS under part 846 of this chapter.

§ 847.204 Elections of FERS coverage.

(a) An employee who completes a qualifying move under § 847.202(a) and (c) from a FERS-covered position to a NAFI may elect to continue FERS coverage.

(b) An employee who elects FERS coverage under this section will be covered by FERS during all periods of future service not excluded from coverage by FERS, including any periods of service with a NAFI.

§ 847.205 Elections of NAFI retirement system coverage.

(a) An employee who completes a qualifying move under § 847.202(b) and (d) from a NAFI position to a CSRS- or FERS-covered position may elect to continue coverage under the NAFI retirement system.

(b) An employee who elects NAFI retirement system coverage under this section is excluded from coverage under CSRS or FERS during that and all subsequent periods of employment, including any periods of service as a reemployed annuitant.

§ 847.206 Time limit for making an election.

(a) Except as provided in paragraph (b) of this section, the time limit for making the election is 30 days after the qualifying move.

(b) Agencies may waive the time limit if it finds that the employee was not timely given the opportunity to make the election, or, despite due diligence, was prevented by circumstances beyond his or her control from making an election within the time limit.

(c) An agency decision to waive the time limit must comply with the provisions of § 847.106, including notification of the right of appeal under § 847.107.

§ 847.207 Effective dates of elections.

Elections under this subpart are effective on the date of the qualifying move.

§ 847.208 Changes of election.

An election under this subpart is irrevocable when received by the employing agency.

§ 847.209 Collection of CSRS and FERS retirement contributions from NAFI employers.

CSRS and FERS salary deductions and contributions for NAFI employees who have elected CSRS or FERS coverage under this subpart must be made and submitted to OPM in the manner currently prescribed for the transmission of withholdings and contributions.

§ 847.210 Collection of NAFI retirement contributions from Federal agencies.

The Department of Defense and the U.S. Coast Guard will establish procedures for agencies to withhold and submit retirement contributions to the retirement systems for employees who elect to be covered by a retirement system for NAFI employees under this subpart.

§ 847.211 Death of employee during election opportunity period.

(a) When an employee eligible to make an election under this subpart dies before expiration of the time limit under § 847.206, the employee is deemed to have made the election and to be covered, at time of death, by the retirement system that covered the employee before the qualifying move.

(b) The deemed election under paragraph (a) of this section does not apply if the eligible survivor elects to have it not apply.

(c) An election by the survivor to decline the deemed election must be in writing and filed no later than 30 days after the employing agency notifies the survivor of the right to decline the deemed election.

Subpart C—Procedures for Elections Under the Retroactive Provisions

§ 847.301 Purpose and scope.

This subpart establishes the procedures applicable to elections section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

§ 847.302 Notice of election rights.

The employing agency must provide notice to all eligible employees of the opportunity to elect to continue retirement coverage under subpart D of this part. Failure to provide notice to the employee is justification for waiving the time limit under § 847.304.

§ 847.303 Election forms.

(a) Eligible employees may make an election under subpart D of this part on

a form prescribed by OPM and filed with the employing agency.

(b) For elections of retirement coverage under subpart D of this part, the election form will require that the employee obtain a certification from his or her previous retirement system showing dates of service, amounts transferable from the previous retirement system to the elected retirement system under subpart E of this part, and that the employee became vested in the retirement system. If an employee was covered by more than one retirement system, he or she must obtain certification from each retirement system.

§ 847.304 Time limit.

(a) Except as provided in paragraph (b) of this section, the time limit for making an election under subpart D of this part is August 11, 1997.

(b) Because Public Law 104-106 requires that eligible employees receive timely notice of the opportunity to make the election under subpart D of this part, and that employees must be counselled concerning the election opportunity, the employing agency must waive the time limit in paragraph (a) of this section in the event that an employee did not receive such notice or counselling.

§ 847.305 Basic records.

(a) Agencies must establish and maintain retirement accounts for employees subject to CSRS or FERS in the manner prescribed by OPM.

(b) The individual retirement record (Standard Form 2806 for CSRS, or Standard Form 3100 for FERS) is the basic record for action on all claims for annuity or refund, and those pertaining to deceased employees and annuitants.

Subpart D—Elections of Coverage Under the Retroactive Provisions

General Provisions

§ 847.401 Purpose and scope.

This subpart contains OPM's regulations concerning the types of elections available, the eligibility requirements for each type of election, the effects of an election on CSRS and FERS coverage during future employment, and the effective dates of CSRS and FERS coverage applicable to retroactive retirement coverage and credit elections under section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

§ 847.402 Definition of qualifying move.

(a) A qualifying move occurring after December 31, 1965, and before August 10, 1996, which would allow an employee the opportunity to elect to

continue retirement coverage under CSRS or FERS retroactive to the date of the move must meet all the following criteria:

(1)(i) For moves occurring before February 10, 1996, the employee must not have had a prior opportunity to elect to continue CSRS, FERS, or NAFI retirement coverage under § 847.202 (c) or (d);

(ii) For moves occurring on or after February 10, 1996, the employee must not have made an election under § 847.202 (c) or (d);

(2) The employee must have been vested in CSRS or FERS prior to the move to a NAFI;

(3) The employee must have moved from a position covered by CSRS or FERS to a retirement-covered position in a NAFI;

(4) The employee must have begun employment in a retirement-covered position in a NAFI no later than 1 year after separation from CSRS- or FERS-covered employment; and

(5) The employee must, since moving to the NAFI position, have continuously participated in a retirement system established for NAFI employees, disregarding any break in service of not more than 3 days.

(b) A qualifying move occurring after December 31, 1965, and before August 10, 1996, which would allow an employee the opportunity to elect to continue retirement coverage under a NAFI retirement system retroactive to the date of the qualifying move must meet all the following criteria:

(1)(i) For moves occurring before February 10, 1996, the employee must not have had a prior opportunity to elect to continue CSRS, FERS, or NAFI retirement coverage under § 847.202(c) or (d);

(ii) For moves occurring on or after February 10, 1996, the employee must not have made an election under § 847.202(c) or (d);

(2) The employee must have been a vested participant in the NAFI retirement system (as the term "vested participant" is defined by that retirement system) prior to the move to a FERS-covered position;

(3) The employee must have moved from a NAFI to a civil service position subject to FERS coverage or CSRS/SS coverage, as defined in § 846.102 of this chapter, followed by the employee's automatic conversion to FERS coverage;

(4) The employee must have been appointed to a FERS-covered position no later than 1 year after separation from retirement-covered NAFI employment; and

(5) The employee must, since moving to the FERS position, have been

continuously covered by FERS, disregarding any break in service of not more than 3 days.

(c) A move from a NAFI to CSRS, including CSRS/SS as defined under § 846.102 of this chapter followed by an election of FERS coverage under § 846.201 of this chapter, is not a qualifying move for an election of retirement coverage under § 847.431 (pertaining to elections of NAFI service credit for FERS service) and § 847.441 (pertaining to elections of NAFI retirement coverage).

(d) A qualifying move under paragraphs (a) and (b) of this section is considered to occur on the date the individual entered into the new position, not at the time of separation from the prior position.

ELECTIONS OF CSRS OR FERS COVERAGE BASED ON A MOVE FROM CSRS OR FERS TO NAFI

§ 847.411 Election requirements.

(a) An employee who completed a qualifying move under § 847.402(a) may elect to be covered by CSRS, if the qualifying move was from a CSRS-covered position, or FERS, if the qualifying move was from a FERS-covered position, for all Federal service following the qualifying move.

Employees who elect to be covered by CSRS will be prospectively covered by the CSRS Offset provisions set out in subpart J of part 831 of this chapter.

(b) A survivor eligible for benefits under the NAFI retirement system which covered an employee at the time of death may make an election under this section if the employee was otherwise eligible to make an election, but died before expiration of the time limit under § 847.304.

§ 847.412 Elections of FERS instead of CSRS.

(a) An employee who elects CSRS coverage under § 847.411(a) may, during the 6-month period beginning on the date the election under § 847.411(a) is filed with the employing agency, elect to become subject to FERS.

(b) An election of FERS under this section is subject to the provisions of part 846 of this subchapter and takes effect on the first day of the first pay period after the employing agency receives the election.

§ 847.413 Effective date of an election.

(a) An election under § 847.411 is effective on the first day of NAFI employment subject to retirement coverage following CSRS- or FERS-covered employment.

(b) Deductions and contributions for CSRS or FERS coverage under § 831.111

or § 841.501 of this chapter begin effective on the first day of the next pay period after the agency receives the employee's election under § 847.411(a).

(c) An election under § 847.411 is irrevocable when received by the employing agency.

(d) NAFI service performed on and after the effective date of an election under § 847.411 becomes fully creditable for retirement eligibility and computation of the annuity benefit, including computation of average pay.

847.414 Crediting future NAFI service.

An employee who elects CSRS or FERS coverage under § 847.411 will be covered by CSRS or FERS during all periods of future service not excluded from coverage by CSRS or FERS, including any periods of service with a NAFI and service as a reemployed annuitant.

§ 847.415 OASDI coverage.

An employee who elects CSRS coverage under § 847.411 is prospectively subject to both the Old Age, Survivors, and Disability Insurance (OASDI) tax and CSRS as described in subpart J of part 831 of this chapter, known as CSRS Offset, effective from the first day of the next pay period after the employing agency receives the employee's election under § 847.411(a).

§ 847.416 Credit for refunded FERS service.

(a) An employee or survivor who elects FERS coverage under § 847.411 will receive credit in the FERS annuity for the service represented by any refund of the unexpended balance under § 843.202 of this chapter.

(b) The amount of the refund, increased by interest as computed under § 842.305(e) of this chapter, will be added to the deficiency computed under § 847.604 and collected in accordance with the provisions of § 847.609 (pertaining to a monthly reduction in the annuity benefit).

ELECTIONS TO REMAIN IN FERS COVERAGE WITH CREDIT FOR NAFI SERVICE BASED ON A MOVE FROM NAFI TO FERS

§ 847.421 Election requirements.

(a)(1)(i) A FERS employee who completed a qualifying move under § 847.402(b) may, instead of the election provided by § 847.441 (pertaining to elections of NAFI retirement coverage), elect to remain subject to FERS for all subsequent periods of service.

(ii) Prior service under a NAFI retirement system becomes creditable under FERS rules without regard to whether a refund of contributions for

such period has been paid by the NAFI retirement system.

(2) A FERS employee who has had a previous opportunity to elect retirement coverage under § 847.202(c) and (d) is not excluded from making this election.

(b) A survivor may make an election under paragraph (a) of this section if the employee was otherwise eligible to elect FERS coverage and FERS service credit, but died before expiration of the time limit under § 847.304.

(c) NAFI service made creditable under FERS by an election under this section become creditable for FERS retirement eligibility and FERS annuity computation, including average pay, upon receipt of the election by the employing agency.

(d) A election under this section is irrevocable when received by the employing agency.

§ 847.422 Crediting future NAFI service.

An employee who elects to remain in FERS coverage with credit for NAFI service under § 847.421(a) will be covered by FERS during all periods of future service not excluded from coverage by FERS, including any periods of service with a NAFI and service as a reemployed annuitant.

§ 847.423 Credit for refunded FERS service.

(a) An employee or survivor who elects FERS coverage with credit for NAFI service under § 847.421 will receive credit in the FERS annuity for the service represented by any refund of the unexpended balance under § 843.202 of this chapter.

(b) The amount of the refund, increased by interest as computed under § 842.305(e) of this chapter, will be added to the deficiency computed under § 847.604 and collected in accordance with the provisions of § 847.609 (pertaining to a monthly reduction in the annuity benefit).

ELECTIONS TO REMAIN IN NAFI COVERAGE WITH CREDIT FOR FERS SERVICE BASED ON A MOVE FROM FERS TO NAFI

§ 847.431 Election requirements.

(a)(1)(i) A NAFI employee who completed a qualifying move from FERS under § 847.402(a) may, instead of the election provided by § 847.411 (pertaining to elections of CSRS and FERS coverage), elect to remain subject to the current NAFI retirement system for all subsequent periods of service.

(ii) Prior service under FERS becomes creditable under the NAFI retirement system rules.

(2) A NAFI employee who has had a previous opportunity to elect retirement

coverage under § 847.202(c) and (d) is not excluded from making this election.

(b) A survivor may make an election under paragraph (a) of this section if the employee was otherwise eligible, but died before expiration of the time limit under § 847.304.

(c) An election under this section is irrevocable when received by the employing agency.

§ 847.432 Effect of a refund of FERS deductions.

OPM will inform the NAFI retirement system of the amount of service performed under FERS, without regard to whether a refund of contributions for such period has been paid under FERS.

§ 847.433 Exclusion from FERS for future service.

(a) An employee who elects NAFI retirement system coverage with credit for FERS service under § 847.431(a) is excluded from coverage under FERS during that and all subsequent periods of employment, including any periods of service as a reemployed annuitant.

(b) FERS service which becomes creditable in a NAFI retirement benefit based on an election under § 847.431 is not creditable for any purpose under FERS.

ELECTIONS OF NAFI COVERAGE BASED ON A MOVE FROM NAFI TO FERS

§ 847.441 Election requirements.

(a) An employee who completed a qualifying move under § 847.402(b) may elect to be covered by a NAFI retirement system for all Federal service following the qualifying move.

(b) A survivor eligible for benefits under FERS may make an election under this section if the employee was otherwise eligible to make an election, but died before expiration of the time limit under § 847.304.

§ 847.442 Effective date.

(a) An election under § 847.441 is effective on the first day of FERS-covered employment following NAFI employment subject to retirement coverage.

(b) Deductions and contributions for NAFI retirement system coverage begin effective on the first day of the next pay period after the agency receives the employee's election under § 847.441(a).

(c) An election under § 847.441 is irrevocable when received by the employing agency.

§ 847.443 Exclusion from FERS for future service.

An employee who elects NAFI retirement system coverage with credit

for FERS service under § 847.441(a) is excluded from coverage under FERS during that and all subsequent periods of employment, including any periods of service as a reemployed annuitant.

Subpart E—Transfers of Contributions Under the Retroactive Provisions

§ 847.501 Purpose and scope.

This subpart regulates transferring retirement contributions and crediting those contributions to offset the employee costs in connection with elections section 1043(c)(2) of the National Defense Authorization Act for Fiscal Year 1996.

§ 847.502 Transfers to the CSR Fund.

For elections of CSRS or FERS coverage under § 847.411 or FERS coverage and service credit under § 847.421, the amount under § 847.504 will be transferred to the Fund using the procedures established under § 847.506.

§ 847.503 Transfers from the CSR Fund.

For elections of NAFI retirement system coverage under § 847.441, the amount under § 847.504 will be transferred from the Fund using the procedures established under § 847.506.

§ 847.504 Amount of transfer.

(a) All transfers must include employee contributions with interest, if not previously refunded, and Government contributions for civilian service which becomes creditable under the elected retirement system due to an election under §§ 847.411, 847.421, and 846.441.

(b) If the employee has withdrawn his or her contributions to the retirement system, the amount required by paragraph (a) of this section, less the amount refunded, will be transferred.

§ 847.505 When transfer occurs.

(a) OPM, the Department of Defense, and the U.S. Coast Guard will transfer the amount specified in § 847.504 as soon as practicable after receipt of an election of retirement coverage under subpart D of this part.

(b) The transfer of contributions may not be delayed until the employee retires or separates from service.

§ 847.506 Procedures for transfer.

OPM, the Department of Defense, and the U.S. Coast Guard will jointly determine the procedure for transfer of contributions.

§ 847.507 Earnings after transfer.

Amounts transferred to the Fund under § 847.502 that are used to determine the deficiency under § 847.604 accrue interest at the rate

prescribed under § 841.603 of this chapter from the date of receipt in OPM through the date determined under § 847.603 (pertaining to the date of calculation of any deficiency).

Subpart F—Additional Employee Costs Under the Retroactive Provisions

§ 847.601 Purpose and scope.

(a) The purpose of this subpart is to establish the methodology that OPM will use to determine—

(1) The cost of an employee's election under § 847.411 or § 847.421; and

(2) The amount by which annuity payments may be affected as a result of the election.

(b) This subpart applies only to CSRS and FERS benefits. The Departments of Defense, and the U.S. Coast Guard will issue regulations providing methodologies for NAFI's under their jurisdictions.

§ 847.602 Present value factors.

(a) OPM publishes the following tables (available at personnel and payroll offices):

(1) One table of present value factors for all CSRS annuities;

(2) One table of present value factors for FERS annuities that do not receive cost-of-living adjustments before the retiree attains age 62; and

(3) One table of present value factors for FERS annuities that receives cost-of-living adjustments before the retiree attains age 62.

(b)(1) Each present value factor will equal the amount of money (earning interest at an assumed rate) required at the date of computation to fund an annuity that starts out at the rate of \$1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for annuitants paid from the Fund; and increases each year, assuming a certain rate of inflation.

(2) Interest, mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of CSRS and FERS, based on dynamic assumptions.

(3) The present value factors are unisex factors obtained by averaging distinct present value factors, which take into account mortality for retirees and survivors under CSRS and FERS.

(c)(1) When OPM publishes in the Federal Register notice of normal cost percentages under § 841.407 of this chapter, it will also publish the CSRS and FERS tables of present value factors for use for this part.

(2) The present value factors will be based on the assumptions used to compute the normal cost percentages.

(3) Changes in the tables of present value factors will be effective on the first day of the month in which the changes in the normal cost percentages become effective.

§ 847.603 Date of present value and deficiency determinations.

(a) For determining the deficiency under § 847.604, OPM will determine, under §§ 847.605 through 847.607, the present values of future retirement benefits (with and without credit for the NAFI service) as of the first date on which inclusion of credit for the NAFI service will affect the rate of annuity payable.

(b) Appendix A to this subpart contains a table in which the left column is a list of events for which inclusion of credit for the NAFI service will affect the rate of annuity payable and the right column indicates the date on which the deficiency will be determined.

§ 847.604 Methodology for determining deficiency.

(a) When an event listed in the left column of the table in Appendix A to this subpart occurs, OPM will compute the deficiency, as follows:

(1) As of the date of computation under § 847.603, OPM will determine—

(i) The present value of the annuity including credit for the NAFI service under § 847.605;

(ii) The present value of the annuity without credit for the NAFI service under § 847.606 or § 847.607, as applicable; and

(iii) The amount credited to the employee from a transfer to the Fund under subpart E of this part including earnings under § 847.507.

(2) OPM will add the amount determined under paragraphs (a)(1)(ii) and (iii) of this section and subtract that sum from the amount determined under paragraph (a)(1)(i) of this section.

(b) If the amount determined under paragraph (a)(2) of this section is greater than zero, the deficiency is equal to that amount.

(c) If no event listed in the left column of the table in Appendix A to this subpart occurs—that is, the additional service credit does not cause an increase in an employee annuity or a survivor annuity actually paid—or, if the amount determined under paragraph (a)(2) of this section is less than or equal to zero, the deficiency equals zero.

§ 847.605 Methodology for determining the present value of annuity with service credit.

(a) OPM will determine the present value of the annuity including service credit for NAFI service under paragraph (b) or (c) of this section.

(b) In cases in which the annuity is payable to a retiree, the present value under paragraph (a) of this section equals the monthly annuity rate including credit for the NAFI service as of the date of computation under § 847.603 times the present value factor for the retiree's age on that date.

(c) In cases in which the annuity is payable to a survivor, the present value under paragraph (a) of this section equals the monthly annuity rate including credit for the NAFI service as of the date of computation under § 847.603 times the present value factor for the survivor's age on that date.

§ 847.606 Methodology for determining the present value of annuity without service credit—credit not needed for title.

(a) If credit for the NAFI service is not necessary to provide title to an annuity payable on the date of computation under § 847.603, OPM will determine the present value of the annuity without credit for the NAFI service under paragraph (b) or (c) of this section.

(b) In cases in which the annuity is payable to a retiree, the present value under paragraph (a) of this section equals the monthly annuity rate without credit for the NAFI service as of the date of computation under § 847.603 times the present value factor for the retiree's age on that date.

(c) In cases in which the annuity is payable to a survivor, the present value under paragraph (a) of this section equals the monthly annuity rate including credit for the NAFI service as of the date of computation under § 847.603 times the present value factor for the survivor's age on that date.

§ 847.607 Methodology for determining the present value of annuity without service credit—credit needed for title.

(a) If credit for the NAFI service is necessary to provide title to an annuity payable on the date of computation under § 847.603, OPM will determine the present value of the annuity without credit for the NAFI service under paragraph (b) or (c) of this section.

(b)(1) In cases in which the annuity is payable to a retiree, the present value under paragraph (a) of this section equals the present value of the deferred annuity without credit for the NAFI service as of the deferred annuity date discounted for interest to that date determined under § 847.603.

(2) The present value of the deferred annuity without credit for the NAFI

service as of the deferred annuity date equals the retiree's monthly annuity rate without credit for the NAFI service as of the deferred annuity date times the present value factor for the retiree's age on that date.

(3) The present value under paragraph (b)(2) of this section is discounted for interest by dividing that amount by a factor equal to the value of exponential function in which—

(i) The base is one plus the assumed interest rate under § 841.405 of this chapter on the date determined under § 847.603, and

(ii) The exponent is one-twelfth of the number of months between the date determined under § 847.603 and the deferred annuity date.

(c) In cases in which the annuity is payable to a survivor, the present value under paragraph (a) of this section equals zero, that is, no survivor annuity would ever become payable without credit for the NAFI service.

§ 847.608 Reduction in annuity due to deficiency.

Any annuity payable in the case of an employee who has made an election under subpart D of this part will include credit for the NAFI service. The monthly annuity rate on the date determined under § 847.603 will be permanently reduced by an amount equal to the amount of any deficiency divided by the present value factor for the annuitant's age on that date.

Appendix A to Subpart F of Part 847—List of Events for Which Inclusion of NAFI Service May Affect the Rate of Annuity Payable

Type of event	Date deficiency will be determined
FERS disability retirement.	First day of month following 62nd birthday. ²
CSRS death in service.	Commencing date of survivor annuity. ³
FERS death in service.	Commencing date of survivor annuity.
FERS death of disability annuitant prior to age 62.	Commencing date of survivor annuity.
FERS death of separated employee.	Commencing date of survivor annuity.
CSRS or FERS re-determination of annuity.	Commencing date of re-determined annuity benefit.

¹ Disability annuity with and without credit for NAFI service must be computed. If annuity payable under each computation is identical due to guaranteed minimum annuity, then deficiency is zero.

² Generally, the date the deficiency is determined will be the disability retiree's 62nd birthday. However, if an annuity benefit based on the retiree's actual years of service and salary becomes payable prior to age 62, the deficiency is computed at that time.

³ Deficiency amount could be zero if survivor is eligible for the guaranteed minimum annuity amount under both computations.

Subpart G—Computation of Benefits Under the Retroactive Provisions

§ 847.701 Purpose and scope.

This subpart establishes the methodology that OPM will use to determine benefit payable in connection with an election made under subpart D of this part.

§ 847.702 Lump-sum payments and refunds.

(a) Employee contributions with interest which are transferred to the Fund under subpart E of this part are included in any lump-sum credit or unexpended balance payable to the employee or the employee's survivors under subpart T of part 831 of this chapter or under part 843 of this chapter.

(b) Government contributions which are transferred to the Fund under subpart E of this part are not included in any lump-sum credit or unexpended balance and are not payable to the employee or the employee's survivors.

§ 847.703 Reductions in annuity.

The CSRS or FERS basic annuity of an employee or survivor who has elected retirement coverage under subpart D of this part is reduced in the following order—

(a) For age, if applicable, as provided under sections 8339(h) and 8415(f) of title 5, United States Code.

(b) For noncontributory service performed before October 1, 1982, if applicable, as provided under 5 U.S.C.A. 8339(i), note.

(c) For deficiency, as determined under subpart F of this part.

(d) To provide a survivor annuity to a spouse or former spouse, if applicable, as provided under sections 8339(j)(4) and 8419(a) of title 5, United States Code.

(e) Any other reductions which may apply.

§ 847.704 Maximum survivor annuity election.

The amount of the employee's benefit after reduction for any deficiency under § 847.608 is—

(a) For CSRS, the maximum amount that may be designated as the survivor base under section 8339 (j) or (k) to title 5, United States Code;

(b) For FERS, the employee annuity (for survivor benefit purposes) under sections 8416 through 8420 of title 5, United States Code.

§ 847.705 Cost-of-living adjustments.

Cost-of-living adjustments are applied to the rate payable to the retiree or survivor, including the reduction for any deficiency described in § 847.608.

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Type of event	Date deficiency will be determined
CSRS or FERS non-disability retirement.	Commencing date of annuity.
CSRS disability retirement.	Commencing date of annuity. ¹