

the minimum retirement age. Using that commencing date for the deferred annuity maximizes the present value of the deferred annuity.

5. FERS Annuity Supplement

An FERS annuity supplement is not payable to FERS employees who elect to use NAFI service to qualify for an immediate FERS retirement.

6. Reemployment

If a retiree who elected to credit NAFI service to qualify for an immediate retirement returns to work for the Government, the following rules will apply to any benefit earned as the result of the reemployment.

- If the retiree qualifies for a supplemental annuity under 5 CFR part 837, the supplemental annuity will not be subject to the reduction outlined in 5 CFR part 847, subpart I.

- If the retiree qualifies for a redetermined annuity under 5 CFR part 837, the redetermined annuity will be computed with the reduction outlined in 5 CFR part 847, subpart I, if the retiree needs to credit NAFI service to qualify for the redetermined annuity. The reduction under 5 CFR part 847, subpart I, will be recomputed based on the retiree's age as of the commencing date of the redetermined annuity. The retiree does not need to make a new election to credit NAFI service under 5 CFR part 847, subpart H. The original election will remain in effect.

- If the retiree qualifies for a redetermined annuity under 5 CFR part 837, the redetermined annuity will not be subject to the reduction outlined in 5 CFR part 847, subpart I, if the retiree qualifies for the redetermined annuity without crediting the NAFI service. If the retiree elects the redetermined annuity, the election the retiree made to credit the NAFI service under 5 CFR part 847, subpart H, when the retiree originally retired will not remain in effect.

- If the retiree's annuity terminated upon reemployment, and if the retiree qualifies for a new immediate annuity when the reemployment ends, the new annuity will be computed with the reduction outlined in 5 CFR part 847, subpart I, if the retiree needs to credit NAFI service to qualify for the new annuity. The retiree must submit a new election to credit the NAFI service in accordance with 5 CFR part 847, subpart H.

- If the retiree's annuity terminated upon reemployment, and if the retiree qualifies for a new immediate annuity when the reemployment ends, the new annuity will not be subject to the reduction outlined in 5 CFR part 847,

subpart I, if the retiree qualifies for the new annuity without crediting the NAFI service. The election the retiree made to credit the NAFI service under 5 CFR part 847, subpart H, when the retiree originally retired will not remain in effect.

- If the retiree's annuity terminated upon reemployment, and if the retiree qualifies for a deferred annuity, but not a new immediate annuity when the reemployment ends, the deferred annuity will not be subject to the reduction outlined in 5 CFR part 847, subpart I. The election the retiree made to credit the NAFI service under 5 CFR part 847, subpart H, when the retiree originally retired, will not remain in effect.

- If the retiree's annuity terminated upon reemployment, and if the retiree does not qualify for either a new immediate annuity or a deferred annuity when the reemployment ends, the old annuity will be reinstated. The retiree does not need to make a new election to credit NAFI service under 5 CFR part 847, subpart H. The original election will remain in effect.

7. Survivor Annuity Rate

The amount of the survivor annuity provided by a retiring employee who elects to credit NAFI service under 5 CFR part 847, subpart H, to qualify for immediate CSRS or FERS retirement is also subject to reduction. The reduction is computed in the same way that the reduction to the employee's annuity rate is computed. The present value of the initial survivor rate generated by the immediate annuity computation (with credit for NAFI service) equals the initial survivor rate multiplied by the present value factor corresponding to the employee's age as of the commencing date of the immediate annuity. The present value of the initial survivor rate generated by the deferred annuity computation (without credit for NAFI service) equals the initial survivor rate multiplied by the present value factor corresponding to the employee's age as of the deferred annuity date, multiplied by the discount factor corresponding to the amount of time between the immediate annuity commencing date and the deferred annuity date. The difference between the two present values is then divided by the present value factor corresponding to the employee's age as of the immediate annuity commencing date. The result, rounded up to the higher dollar, equals the reduction that applies to the initial survivor rate generated by the immediate annuity computation.

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 December 28, 2001, the date the President signed the statute. The statute requires OPM to establish by regulation the procedure for computing an annuity when NAFI service is used to qualify for an immediate retirement. Delaying implementation of these regulations would unnecessarily delay the availability of the benefits of the new law.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

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

Lists of Subjects in 5 CFR Parts 831, 837, 842, 843, 844, and 847

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.

Office of Personnel Management.

Kay Coles James,
Director.

Accordingly, OPM is amending 5 CFR parts 831, 837, 842, 843, 844 and 847 as follows:

PART 831—RETIREMENT

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

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174, 112 Stat. 58; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under section 102(e) of Pub. L. 104–