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individual (survivor) of the election right.

(C) The agency may waive the 60-day time limit under paragraphs (b)(2)(ii)(A) and (B) of this section if the individual (if living, otherwise the appropriate survivor) exercised due diligence in making the election but was prevented by circumstances beyond his or her control from making the election within the time limit. An agency decision not to waive the time limit under this paragraph must include notice to the individual of the individual's right to request OPM to reconsider the denial of the waiver of the time limit. OPM's reconsideration decision on denial of a waiver of the time limit will notify the individual of the right to appeal to the Merit Systems Protection Board under chapter II of this title.

(iii) The employing agency must document the individual's records to reflect his or her decision concerning retirement coverage.

(c) *OPM's reconsideration.* An agency decision concerning an individual's opportunity to elect FERS coverage or the effective date of an election of FERS coverage is subject to reconsideration by OPM under §846.205.

(d) *Correction of other administrative errors.* Failure to begin employee deductions and Government contributions on the effective date of coverage must be corrected in accordance with §841.505 of this chapter.

[52 FR 19235, May 21, 1987, as amended at 58 FR 47822, Sept. 13, 1993]

§846.205 Reconsideration and appeal rights.

(a) *Who may file.* An individual may request OPM to reconsider a decision of an employing office affecting his or her election of coverage under FERS. A request for reconsideration of a decision by OPM regarding extension of the time limit or a waiver under §846.202 or refunds under §846.401 must be made in accordance with §841.305 of this chapter.

(b) *Reconsideration.* A request for reconsideration of an agency decision must be filed within the time limit given in paragraph (c) of this section. A request for reconsideration must be made in writing and must include the claimant's name, address, date of birth, and the reason for the request.

(c) *Time limit.* A request for reconsideration of an agency decision must be filed within 30 calendar days from the date of the agency's decision stating the right to reconsideration. OPM may extend the time limit on filing when a person shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

(d) *OPM's decision.* After reconsideration, OPM issues its final decision in writing, setting forth its findings and conclusions.

(e) *Appeals to MSPB.* A person whose rights or interests under this part are affected by OPM's decision under paragraph (d) of this section may request the Merit Systems Protection Board (MSPB) to review such decision in accord with procedures prescribed by MSPB.

Subpart C—Effect of an Election to Become Subject to FERS

§846.301 General rules.

(a) An individual who becomes covered by FERS as a result of an election under §846.201 is subject to the provisions of chapter 84 of title 5, United States Code and parts 841 through 845 of this chapter, except as provided in this part.

(b) Civilian service performed before the effective date of the election under §846.201 is not creditable under FERS except as provided in this part.

§846.302 Crediting civilian service.

(a) Civilian service performed before the effective date of FERS coverage which is CSRS/SS service is creditable under FERS if—

(1) For service performed before January 1, 1987, 1.3 percent of basic pay was withheld as CSRS deductions (or if not withheld or if withheld and later refunded, 1.3 percent of basic pay for the period is deposited with interest computed under §831.105(e) of this chapter); and

(2) For service performed after December 31, 1986, and before the effective

date of the election, the employee contributes an amount equal to the percentage of basic pay for such service required to be withheld under part 841, subpart E of this chapter, whether by withholdings from pay or by later deposit (if not withheld or withheld and later refunded) with interest computed under § 831.105(e) of this chapter.

(b) Civilian service performed before the effective date of the FERS coverage which is not CSRS/SS service is creditable under FERS (subject to the deposit requirements of part 842, subpart C of this chapter) if—

(1) The service would be creditable under CSRS except for § 846.306 (determined without regard to whether the service was performed before, on, or after January 1, 1989, and without regard to the provisions of part 842, subpart C of this chapter requiring that deposit be made for nondeduction or refunded service to be credited); and

(2) The service, in the aggregate, is equal to less than 5 years.

(c) Civilian service performed before the effective date of FERS coverage which is not CSRS/SS service is creditable under FERS only for the purposes specified in paragraph (d) of this section if—

(1) The service would be creditable under CSRS except for § 846.306 (determined without regard to whether the service was performed before, on, or after January 1, 1989, and without regard to the provisions of part 842, subpart C of this chapter, requiring that deposit be made for nondeduction or refunded service to be credited); and

(2) The service, in the aggregate, is equal to 5 years or more.

(d) The service described in paragraph (c) of this section is creditable under FERS for the following purposes:

(1) The 5 years of civilian service required to be eligible for a basic annuity under FERS as set forth in § 842.203 of this chapter.

(2) The minimum period of service for entitlement to—

(i) An immediate voluntary annuity under FERS as set forth in § 842.204 of this chapter;

(ii) An early retirement under FERS as set forth in § 842.205 of this chapter;

(iii) An involuntary retirement under FERS as set forth in § 842.206 of this chapter;

(iv) A Member retirement under FERS as set forth in § 842.209 of this chapter;

(v) A military reserve technician retirement under FERS as set forth in § 842.210 of this chapter;

(vi) A Senior Executive Service, Defense Intelligence Senior Executive Service, or Senior Cryptological Executive Service retirement under FERS as set forth under § 842.211 of this chapter;

(vii) A deferred annuity under FERS as set forth in § 842.212 of this chapter;

(viii) A survivor annuity under FERS based on the death in service of an employee with at least 10 years of service as set forth in § 843.310 of this chapter, but only if the survivor is entitled to the basic employee death benefit described in § 843.309 of this chapter;

(ix) A disability retirement under FERS as set forth in subchapter V of chapter 84 of title 5 United States Code;

(x) A firefighter or law enforcement annuity under FERS as set forth in § 842.208 of this chapter, but only to the extent that the service was as a law enforcement officer or firefighter as described in § 842.809(b) of this chapter;

(xi) An air traffic controller annuity under FERS as set forth in § 842.207 of this chapter, but only to the extent that the service was as an air traffic controller as described in § 842.809(a) of this chapter;

(3) The computation of benefits under § 846.304(b); and

(4) The computation of average salary under § 846.304(d).

§ 846.303 Crediting military service.

(a) Military service performed before the effective date of the election under § 846.201 creditable as provided under FERS, except as provided in paragraphs (b) and (c) of this section.

(b) Military service described in paragraph (a) of this section which would be creditable under CSRS except for the provisions of § 846.306 and performed by an individual who is subject to an annuity computation under § 846.304(b) is creditable for—