

(2) For the purposes of paragraph (d)(1) of this section, service is considered creditable if it is creditable under either CSRS or FERS.

(e)(1) The cost-of-living adjustments for the annuities of individuals electing FERS coverage are made as follows:

(i) The portion of the annuity computed under paragraph (b) of this section is adjusted as provided under CSRS.

(ii) The portion of the annuity computed under paragraph (c) of this section is adjusted as provided under FERS.

(2) An annuity initially payable to an annuitant's survivor (other than a child under part 843, subpart D of this chapter) is increased by the total percent by which the annuitant's annuity was increased under this paragraph. Thereafter, the survivor annuity is adjusted for cost-of-living increases under 5 U.S.C. 8462.

(f) In computing an annuity under paragraph (a) of this section for an employee retiring under § 842.204(a)(1) or § 842.212(b) of this chapter, any reduction for age required by § 842.404 of this chapter applies to the sum computed under paragraph (a) of this section. No reduction under CSRS is applicable.

(g) In computing an annuity under paragraph (a) of this section for an employee retiring early under § 842.205 of this chapter or involuntarily under § 842.206 of this chapter, the reduction for age required by 5 U.S.C. 8339(h) applies to the portion of the annuity computed under CSRS provisions.

(h) In computing an annuity under paragraph (a) for an employee retiring as a firefighter or law enforcement officer under § 842.208 of this chapter or as an air traffic controller under § 842.207 of this chapter, there is no applicable reduction for age.

(i) An annuity supplement under part 842, subpart E of this chapter, is computed using the same civilian service used for the computation under paragraph (c) of this section.

(j) An alternative form of annuity for a basic annuity computed under paragraph (a) of this section is computed as follows:

(1) The alternative benefit for the portion of the annuity computed under

paragraph (b) of this section is computed under CSRS as provided in part 831, subpart V of this chapter, except that a refund of CSRS contributions based on a refund application filed after the individual elects FERS coverage may not be deemed to be redeposited under § 831.2206 of this chapter if the individual is entitled to a deferred annuity under § 842.212 of this chapter.

(2) The alternative benefit for the portion of the annuity computed under paragraph (c) of this section is computed under FERS as provided in part 842, subpart G of this chapter.

#### § 846.305 General inapplicability of CSRS provisions.

(a) Except as provided by this part, CSRS provisions are not applicable with respect to an individual who elects FERS coverage.

(b) An employee (or an employee's survivor for the purposes of a survivor annuity) may make a deposit under CSRS for any civilian service under § 846.302(c) of this part or military service under § 846.303.

(c) Nothing in paragraph (a) of this section precludes the payment of any lump-sum credit (as defined in 5 U.S.C. 8331(8)) in accordance with part 831, subpart T of this chapter.

[52 FR 19235, May 21, 1987. Redesignated at 58 FR 48273, Sept. 15, 1993]

### Subpart D—Refunds of CSRS Contributions

#### § 846.401 Refunds of excess contributions.

(a) An individual who elects FERS coverage is entitled to a refund of CSRS contributions made prior to the effective date of the election for service that is subject to FERS computation under § 846.304(c) (if not already refunded) which exceed the contributions required under FERS, as provided by this section.

(b) The refund is equal to—

(1) For service described in § 846.302(a) and performed on or after January 1, 1984, and before January 1, 1987, the amount by which the amount contributed exceeds 1.3 percent of basic pay;

(2) For service described in § 846.302(a) and performed on or after January 1, 1987, the amount by which the amount

**§ 846.402**

contributed exceeds the amount required under §841.503 of this chapter; and

(3) For service described in §846.302(b), the amount by which the amount contributed exceeds 1.3 percent of basic pay.

(c) A refund made under this section is payable with interest computed as prescribed under §831.105 (d) and (e) of this chapter. Interest is payable regardless of the length of the period of service for which refund is being made or the total amount of service the employee has.

(d) A refund described in this section is payable upon the receipt of an application by OPM or its designee.

**§ 846.402 Refunds of all CSRS contributions.**

(a) An individual who elects to transfer to FERS is entitled to a refund of all CSRS contributions in accordance with the provisions of part 831, subpart T of this chapter.

(b) An application for refund of FERS retirement contributions under §843.202 of this chapter is deemed to also be an application for refund of CSRS retirement contributions under part 831, subpart T of this chapter.

**Subpart E—Cancellation of Designations of Beneficiary**

**§ 846.501 Cancellation upon transfer to FERS.**

A designation of beneficiary made under §831.2005 of this chapter is cancelled on the effective date of an election of FERS coverage. Designations of beneficiary under FERS must be made in accordance with §843.205 of this chapter and apply to an employee's contributions under both CSRS and FERS.

**Subpart F [Reserved]**

**Subpart G—1998 Open Enrollment Elections**

SOURCE: 63 FR 33233, June 18, 1998, unless otherwise noted.

**5 CFR Ch. I (1–1–05 Edition)**

**§ 846.701 Purpose and scope.**

This subpart contains OPM's regulations applicable to elections of FERS coverage during the 1998 open enrollment period, including—

(a) The requirements that an individual must satisfy to be eligible to make an election; and

(b) The procedures that—

(1) Employees must follow to make an election;

(2) Agencies must follow in advising employees about making an election and in processing employees' elections; and

(3) OPM will follow in cases subject to the former spouse consent requirement.

**§ 846.702 Definitions.**

In this subpart—

*Election* means an election of FERS coverage during the 1998 open enrollment period.

*Former spouse consent requirement* means the condition that must be satisfied under section 301(d) of the FERS Act for an employee with a former spouse to be eligible to elect FERS coverage.

*Qualifying court order* means a court order acceptable for processing as defined in §838.103 of this chapter or a *qualifying court order* as defined in §838.1003 of this chapter subject to the following conditions:

(1) If OPM has not received (as explained in §838.131 of this chapter) a copy of the court order and identifying information required under §838.221(b)(3), §838.421(b)(3), §838.721(b)(1)(iii), or §838.1005(b)(3) of this chapter prior to the date on which the employing office receives the election to be covered by FERS, the court order is not a *qualifying court order*.

(2) If the former spouse loses entitlement to all CSRS benefits under the court order, the court order ceases to be a *qualifying court order*.

*Social security coverage* means coverage under the Old Age, Survivors, and Disability Insurance program under the Social Security Act.

*1998 open enrollment period* means July 1, 1998, through December 31, 1998.