

§ 1620.40

as having separated from Government service. If the employee subsequently elects not to be covered by CSRS or FERS, the NAF instrumentality must submit an Employee Data Record to report the employee as having separated from Federal Government service as of the date of the move.

Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)—Covered Military Service

§ 1620.40 Scope.

To be covered by this subpart, an employee must have:

- (a) Separated from Federal civilian service or entered leave-without-pay status in order to perform military service; and
- (b) Become eligible to seek reemployment or restoration to duty by virtue of a release from military service, discharge from hospitalization, or other similar event that occurred on or after August 2, 1990; and
- (c) Been reemployed in, or restored to, a position covered by CSRS or FERS pursuant to the provisions of 38 U.S.C. chapter 43.

§ 1620.41 Definitions.

As used in this subpart:

Current contributions means contributions that must be made for the current pay date which is reported on the journal voucher that accompanies the payroll submission.

Nonpay status means an employer-approved temporary absence from duty.

Reemployed or returned to pay status means reemployed in or returned to a pay status, pursuant to 38 U.S.C. chapter 43, to a position that is subject to 5 U.S.C. 8351 or chapter 84.

Retroactive period means the period for which an employee can make up missed employee contributions and receive missed agency contributions. It begins the day after the employee separates or enters nonpay status to perform military service and ends when the employee is reemployed or returned to pay status.

Separate from civilian service means to cease employment with the Federal Government, the U.S. Postal Service,

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or with any other employer from a position that is deemed to be civilian Government employment for purposes of participating in the TSP, for 31 or more full calendar days.

[67 FR 49525, July 30, 2002]

§ 1620.42 Processing TSP contribution elections.

(a) *Current contribution election.* If the employee entered nonpay status with a valid contribution election on file, the agency must immediately reinstate that election for current contributions when the employee returns to pay status, unless the employee files a new contribution election. If the employee separated to perform military service, he or she must make a new contribution election to begin current contributions.

(b) *Makeup contribution election.* Upon reemployment or return to pay status, an employee has 60 days to elect to make up missed contributions. An employee's right to make retroactive TSP contributions will expire if an election is not made within 60 days of the participant's reemployment or return to pay status.

(c) *Makeup contributions.* Makeup contributions will be processed as follows:

(1) If the employee had a valid contribution election on file when he or she separated or entered nonpay status to perform military service, that election form will be reinstated for purposes of determining the makeup contributions, unless the employee submits a new contribution election which he or she could otherwise have made but for the performance of military service.

(2) An employee who terminated contributions within two months of entering military service will also be eligible to make a retroactive contribution election to be effective on the date the contributions were terminated.

[70 FR 32213, June 1, 2005]

§ 1620.43 Agency payments to record keeper; agency ultimately responsible.

(a) *Agency making payments to record keeper.* The current employing agency is responsible for making payments to