

OPM disagrees with the commenters' recommendations. Employees, within the meaning of 5 U.S.C. 5546(a), are entitled to Sunday premium pay when they work a "regularly scheduled" 8 hour period of service which is not overtime work, a part of which falls on Sunday. OPM, by regulation, has defined "intermittent employment" as "employment without a regularly scheduled tour of duty." (See 5 CFR 340.401(b)). Accordingly, employees who are correctly classified as intermittent employees may not receive Sunday premium pay because, by definition, they do not perform regularly scheduled work.

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects

5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements.

5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

U.S. Office of Personnel Management.

John Berry,
Director.

Accordingly, OPM amends 5 CFR parts 532 and 550 as follows:

PART 532—PREVAILING RATE SYSTEMS

- 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

- 2. Revise § 532.509 to read as follows:

§ 532.509 Pay for Sunday work.

A wage employee whose regular work schedule includes a period of service of up to 8 hours which is not overtime work, a part of which is on Sunday, is entitled to additional pay under the provisions of section 5544 of title 5, United States Code.

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

- 3. The authority citation for subpart A of part 550 continues to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5504(d), 5541(2)(iv), 5545a(h)(2)(B) and (i), 5547(b) and (c), 5548, and 6101(c); sections 407 and 2316, Pub. L. 105–277, 112 Stat. 2681–101 and 2681–828 (5 U.S.C. 5545a); E.O. 12748, 3 CFR, 1992 Comp., p. 316.

- 4. In § 550.103, revise the definition of *Sunday work* to read as follows:

§ 550.103 Definitions.

* * * * *

Sunday work means nonovertime work performed by an employee during a regularly scheduled daily tour of duty when any part of that daily tour of duty is on a Sunday. For any such tour of duty, not more than 8 hours of work are Sunday work, unless the employee is on a compressed work schedule, in which case the entire regularly scheduled daily tour of duty constitutes Sunday work.

* * * * *

- 5. In § 550.171, revise paragraph (a) to read as follows:

§ 550.171 Authorization of pay for Sunday work.

(a) An employee is entitled to pay at his or her rate of basic pay plus premium pay at a rate equal to 25 percent of his or her rate of basic pay for each hour of Sunday work (as defined in § 550.103).

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[FR Doc. 2011–21397 Filed 8–22–11; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

RIN 3206–AM29

Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities, and to revise the annuity

factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees' Retirement System (FERS) Act of 1986. These rules are necessary to ensure that the tables conform to the economic, demographic and mortality assumptions adopted by the Board of Actuaries and published in the **Federal Register** on June 3, 2011, as required by 5 U.S.C. 8461(i).

DATES: This rule is effective August 23, 2011.

FOR FURTHER INFORMATION CONTACT:

Roxann Johnson, (202) 606–0299.

SUPPLEMENTARY INFORMATION: OPM has published a notice in the Federal Register at 76 FR 32242 (June 3, 2011) to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, as amended, based on economic assumptions, new demographic factors and mortality assumptions adopted by the Board of Actuaries of the Civil Service Retirement System. By statute under 5 U.S.C. 8461(i), the demographic factors, economic and mortality assumptions require corresponding changes in factors used to produce actuarially equivalent benefits when required by the FERS Act.

Section 843.309 of title 5, Code of Federal Regulations, regulates the payment of the basic employee death benefit. Under 5 U.S.C. 8442(b), the basic employee death benefit may be paid as a lump sum or as an equivalent benefit in 36 installments. These rules amend 5 CFR 843.309(b)(2) to conform the factor used to convert the lump sum to 36-installment payments with the revised economic assumptions.

Section 843.311 of title 5, Code of Federal Regulations, regulates the benefits for the survivors of separated employees under 5 U.S.C. 8442(c). This section provides a choice of benefits for eligible current and former spouses. If the current or former spouse is the person entitled to the unexpended balance under the order of precedence under 5 U.S.C. 8424, he or she may elect to receive the unexpended balance instead of an annuity.

Alternatively, an eligible current or former spouse may elect to receive an annuity commencing on the day after the employee's death or on the deceased separated employee's 62nd birthday. If the annuity commences on the deceased separated employee's 62nd birthday, the annuity will equal 50 percent of the annuity that the separated employee would have received had he or she

attained age 62. If the current or former spouse elects the earlier commencing date, the annuity is reduced using the factors in Appendix A to subpart C of part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former spouse would have received if the annuity had commenced on the retiree's 62nd birthday. These rules amend that appendix to conform to the revised economic assumptions.

Waiver of General Notice of Proposed Rulemaking

Under section 553(b)(B) and (d)(3) of title 5, United States Code, I find that good reason exists for waiving the general notice of proposed rulemaking and for making these amendments effective in less than 30 days. The amendments made by this rule are statutorily mandated as a result of changes in economic assumptions that were published on June 3, 2011. Providing a comment period on the result of mathematical computations resulting from the changed economic assumptions is unnecessary and, to the extent that it would delay benefit payments, is contrary to the public interest.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order (E.O.) 12866, as amended by E.O. 13258 and E.O. 13422.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement payments to surviving current and former spouses of former employees and Members who separated from Federal service with title to a deferred annuity.

List of Subjects in 5 CFR Part 843

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

John Berry,
Director.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR part 843 as follows:

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

■ 1. 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 C—Current and Former Spouse Benefits

■ 2. In § 843.309, revise paragraph (b)(2) to read as follows:

§ 843.309 Basic employee death benefit.

* * * * *

(b) * * *

(2) For deaths occurring on or after October 1, 2004, 36 equal monthly installments of 3.01643 percent of the amount of the basic employee death benefit.

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■ 3. Revise Appendix A to subpart C of part 843 to read as follows:

Appendix A to Subpart C of Part 843—Present Value Conversion Factors for Earlier Commencing Date of Annuities of Current and Former Spouses of Diseased Separated Employees

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26	.0581
27	.0620
28	.0687
29	.0723
30	.0807
31	.0869
32	.0933
33	.1013
34	.1086
35	.1186
36	.1273
37	.1376
38	.1474
39	.1612
40	.1737
41	.1877
42	.2026
43	.2192
44	.2365
45	.2550
46	.2757
47	.2987
48	.3222
49	.3488
50	.3767
51	.4079
52	.4410
53	.4776
54	.5176
55	.5609
56	.6081

Age of separated employee at birthday before death	Multiplier
57	.6588
58	.7152
59	.7767
60	.8441
61	.9183

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36	.1516
37	.1636
38	.1756
39	.1915
40	.2066
41	.2233
42	.2410
43	.2606
44	.2811
45	.3032
46	.3279
47	.3549
48	.3829
49	.4143
50	.4475
51	.4843
52	.5235
53	.5669
54	.6139
55	.6652
56	.7208
57	.7811
58	.8476
59	.9203

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
46	.4213	.4572
47	.4557	.4943
48	.4918	.5335
49	.5318	.5768
50	.5744	.6231
51	.6213	.6738
52	.6714	.7282
53	.7267	.7880
54	.7866	.8528
55	.8518	.9233
56	.9227	1.0000

[FR Doc. 2011–21396 Filed 8–22–11; 8:45 am]

BILLING CODE 6325–38–P