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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 841, 842, and 843

RIN 3206-AK57

#### Federal Employees' Retirement System; Death Benefits and Employee Refunds

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim 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 conform the tables to the previously published economic assumptions adopted by the Board of Actuaries.

**DATES:** This interim rule is effective October 1, 2004. We must receive your comments by January 3, 2005.

**ADDRESSES:** You may submit comments, identified by RIN number 3206-AK57, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [combox@opm.gov](mailto:combox@opm.gov). Include RIN number 3206-AK57 in the subject line of the message.
- Mail: Mary Ellen Wilson, Chief, Retirement Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-3200.

**FOR FURTHER INFORMATION CONTACT:** Patrick Jennings, (202) 606-0299.

**SUPPLEMENTARY INFORMATION:** On September 24, 2003, OPM published a notice in the **Federal Register** at 68 FR 55296 to revise the normal cost percentage under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99-335, 100 Stat. 514, based on changed economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. Those changed economic assumptions (principally the change in expected investment return from 6.75 percent to 6.25 percent) 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, it equals 50 percent of the annuity that the separated employee would have received when 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 annuity that he or she would have received if it commenced on the retiree's 62nd birthday. These rules amend that appendix to conform with the revised economic assumptions.

We are removing the table of normal cost percentages in Appendix A to subpart D of part 841 because it has no regulatory effect. Updated normal cost rates are published by OPM through a notice in the **Federal Register**. The table in Appendix A merely provides information about the historic rates that have already been published through **Federal Register** notices and is no longer required in the regulation.

We are removing the table of the National Average Wage Index in Appendix B to subpart C of part 843, and we are amending 5 CFR 842.504 and 843.308 to delete references to Appendix B. Since the Social Security Administration publishes a notice of the National Average Wage Index annually in the **Federal Register**, we are removing this information from the regulations. The National Average Wage Index is used in 5 CFR 842.504, to determine supplementary benefits payable to a retiree, and in 5 CFR 843.308, to determine supplementary benefits payable on the death of a retiree. Since Appendix B is removed, we are amending sections 842.504 and 843.308 to refer to the National Average Wage Index.

#### Waiver of General Notice of Proposed Rulemaking

Under section 553(b)(3)(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 required by changes in economic assumptions that have already been published. 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 12866.

#### 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 retired

employees, spouses, and former spouses.

**List of Subjects in 5 CFR Parts 841, 842 and 843**

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

**Kay Coles James,**  
Director.

■ For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR parts 841, 842 and 843 as follows:

**PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION**

■ 1. The authority citation for part 841 continues to read as follows:

**Authority:** 5 U.S.C. 8461; Sec. 841.108 also issued under 5 U.S.C. 552a; subpart D also issued under 5 U.S.C. 8423; Sec. 841.504 also issued under 5 U.S.C. 8422; Sec. 841.507 also issued under section 505 of Pub. L. 99-335; subpart J also issued under 5 U.S.C. 8469; Sec. 841.506 also issued under 5 U.S.C. 7701(b)(2); Sec. 841.508 also issued under section 505 of Pub. L. 99-335; Sec. 841.604 also issued under Title II, Pub. L. 106-265, 114 Stat. 780.

**Subpart D—Government Costs**

■ 2. Remove Appendix A to subpart D of part 841.

**PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY**

■ 3. The authority citation for part 842 is revised to read as follows:

**Authority:** 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under section 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by section 153 of Pub. L. 104-134, 110 Stat. 1321-102; Sec. 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251, and section 7(b) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.108 also issued under section 7(e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 1313(b)(5) of Pub. L. 107-296, 116 Stat. 2135; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under section 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388; Sec.

842.707 also issued under section 6001 of Pub. L. 100-203, 101 Stat. 1300; Sec. 842.708 also issued under section 4005 of Pub. L. 101-239, 103 Stat. 2106 and section 7001 of Pub. L. 101-508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under section 636 of Appendix C to Pub. L. 106-554 at 114 Stat. 2763A-164.

**Subpart E—Annuity Supplement**

■ 4. In § 842.504, revise paragraph (b)(2)(iv)(A) and paragraph (b)(2)(iv)(B)(2) to read as follows:

**§ 842.504 Amount of annuity supplement.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) \* \* \*

(A) The National Average Wage Index (as determined by the Commissioner of the Social Security Administration) corresponding to that year, multiplied by

(B) \* \* \*

(2) The denominator of which is the National Average Wage Index (as determined by the Commissioner of the Social Security Administration) corresponding to the retiree's first full year of service creditable under FERS.

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

■ 5. 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**

■ 6. In §843.308, revise paragraph (b)(2)(iii)(B) to read as follows: §843.308 Supplementary benefits on death of a retiree.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(B) For each year after age 21 for which the retiree did not work under FERS, the retiree's wages are deemed to equal the National Average Wage Index (as determined by the Commissioner of the Social Security Administration) corresponding to that year, multiplied by the retiree's basic pay for his or her first full year of employment under FERS, divided by the National Average Wage Index corresponding to the retiree's first full year of employment under FERS.

\* \* \* \* \*

■ 7. 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 3.03771 percent of the amount of the basic employee death benefit.

\* \* \* \* \*

■ 8. 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 Deceased Separated Employees**

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

Age of separated employee at birthday before death	Multiplier
26	0.0600
27	.0640
28	.0696
29	.0738
30	.0810
31	.0865
32	.0925
33	.0995
34	.1067
35	.1155
36	.1238
37	.1334
38	.1426
39	.1551
40	.1667
41	.1800
42	.1940
43	.2097
44	.2260
45	.2437
46	.2634
47	.2855
48	.3082
49	.3343
50	.3615
51	.3922
52	.4251
53	.4616
54	.5018
55	.5455
56	.5936
57	.6452
58	.7033
59	.7669
60	.8369
61	.9144

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

Age of separated employee at birthday before death	Multiplier
36	0.1489
37	.1601
38	.1714
39	.1858
40	.2001

Age of separated employee at birthday before death	Multiplier	Age of separated employee at birthday before death	Multiplier	Age of separated employee at birthday before death	Multiplier
41 .....	.2161	49 .....	.4005	57 .....	.7717
42 .....	.2328	50 .....	.4332	58 .....	.8407
43 .....	.2516	51 .....	.4698	59 .....	.9165
44 .....	.2709	52 .....	.5090	With at least 30 years of creditable service—	
45 .....	.2922	53 .....	.5527		
46 .....	.3159	54 .....	.6005		
47 .....	.3423	55 .....	.6526		
48 .....	.3695	56 .....	.7098		

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth		
	After 1966	From 1950 through 1966	Before 1950
46 .....	0.4110	0.4477	0.4872
47 .....	.4449	.4844	.5270
48 .....	.4805	.5231	.5691
49 .....	.5204	.5666	.6162
50 .....	.5630	.6130	.6667
51 .....	.6101	.6641	.7221
52 .....	.6609	.7194	.7822
53 .....	.7172	.7805	.8486
54 .....	.7787	.8472	.9209
55 .....	.8458	.9202	1.0000
56 .....	.9194	1.0000	1.0000

■ 9. Remove Appendix B to subpart C of part 843.

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2004-NE-10-AD; Amendment 39-13885; AD 2004-24-09]

RIN 2120-AA64

**Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) (RRC) 250-B and 250-C Series Turboshift and Turboprop Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain RRC 250-B and 250-C series turboshift and turboprop engines. This AD requires a onetime inspection of the fuel nozzle screen for contamination, and if contamination is found, inspection and cleaning of the entire aircraft fuel system before further flight. This AD also requires replacing the fuel nozzle with a new design fuel nozzle, at the next fuel nozzle overhaul or by June 30, 2006, whichever occurs first. This AD results from 10 reports of engine power

loss with accompanying collapse of the fuel nozzle screen, due to fuel contamination. We are issuing this AD to minimize the risk of sudden loss of engine power and uncommanded shutdown of the engine due to fuel contamination and collapse of the screen in the fuel nozzle.

**DATES:** This AD becomes effective January 5, 2005.

**ADDRESSES:** You can get the service information identified in this proposed AD from Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206-0420; telephone (317) 230-6400; fax (317) 230-4243.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, IL 60018-4696; telephone (847) 294-8180; fax (847) 294-7834.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to certain RRC 250-B and 250-C series turboshift and turboprop engines. We published the proposed AD in the **Federal Register** on May 7, 2004 (69 FR 25501). That action proposed to require:

- A onetime inspection of the fuel nozzle screen for contamination, within 150 operating hours after the effective date of the proposed AD; and

- Inspection and cleaning of the entire aircraft fuel system before further flight, if contamination is found; and
- Replacement of the fuel nozzle with a serviceable (new design) fuel nozzle, at the next fuel nozzle overhaul or by June 30, 2006, whichever occurs first.

**Examining the AD Docket**

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

**Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

**Request To Add Sikorsky Model S-76A Helicopter to the Applicability**

One commenter asks us to add the Sikorsky Model S-76A helicopter to the Applicability. The commenter states that the S-76A helicopter uses RRC model 250-C30 and 250-C30S engines. We agree. Although this AD is applicable to the RRC model 250-C30 and 250-C30S engines, we list airframes that might use the engines as an aid to the operators. We added the Sikorsky model S-76A helicopters to the "used on but not limited to" sentence in paragraph (c) of the final rule.

**Request To Expand the Discussion Section of the Preamble**

One commenter asks us to expand the background information in the