

Proposed Rules

Federal Register

Vol. 85, No. 215

Thursday, November 5, 2020

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206-A007

Civil Service Retirement System and Federal Employees Retirement System; Correcting Miscalculations in Veterans' Pension Act

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this proposed rule to implement the provisions of the "Correcting Miscalculations in Veterans' Pensions Act." This Act provides authority for agencies and OPM to pay, at their discretion, interest on certain deposits (post-1956 military service deposits and service credit deposits for voluntary service with the Peace Corps and Volunteers in Service to America (VISTA)) when additional interest is assessed due to administrative error. Agencies need to establish their own guidelines for waiver, subject to funding limitations that may prevent reimbursement by the agency. These regulations also pertain to payments made by OPM with regard to service credit deposits for volunteer service.

DATES: We must receive your comments by January 4, 2021.

ADDRESSES: You may submit comments identified by docket number and/or Regulatory Information Number (RIN) and title, by either of the following methods:

- *Electronic:* Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov>

www.regulations.gov as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Jane Bancroft, (202) 606-0299, Email: Comboboxinternet@opm.gov. Include Docket No. or RIN in the subject line of the email.

SUPPLEMENTARY INFORMATION:

Background

Public Law 115-352, 132 Stat. 5067 (2018) (codified at 5 U.S.C. 101), also known as the "Correcting Miscalculations in Veterans' Pensions Act," was enacted on December 21, 2018. Under this law, if an employing agency makes an administrative error in processing certain annuity deposits for post-1956 military service or certain volunteer service with the Peace Corps or Volunteers in Service to America (VISTA), the employing agency, or OPM in certain situations, may, at its discretion, pay on behalf of the employee any additional interest assessed due to its administrative error.

Agencies are responsible for establishing their own guidelines for what constitutes administrative error and whether a payment is made. OPM has no role or authority in the agency's decision. Also, OPM is responsible for establishing its own guidelines for what constitutes administrative error and whether a payment is made.

Employees covered under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) with post-1956 military service may pay a deposit plus interest to their employing agency for post-1956 military service. Payment of the deposit guarantees that the employee and survivors will continue to receive retirement credit for the post-1956 military service, regardless of entitlement to Social Security benefits at age 62. Interest on deposits for post-1956 military service accrues and compounds annually after a 2-year interest-free grace period after the individual first becomes an employee or Member.

Deposits for post-1956 military service are paid to the employing agency. The employing agency is responsible for counseling the employee regarding paying the deposit and the consequences of not paying the deposit, processing the application, calculating

the deposit amount, billing the employee, and collecting the payment. Administrative error by the agency may result in an increase in the amount of interest due. If the administrative error results in an increase in interest due, then the employing agency may, at its discretion, pay on behalf of the employee any additional interest assessed due to its administrative error.

After a CSRS or FERS employee's retirement, OPM has a responsibility to ensure that retirement documents are not in conflict regarding payment of the deposit for post-1956 military service. If there is conflict, then it is OPM's responsibility to resolve the deposit status with the agency. If the retiring employee's statements on the application are in conflict with the agency's certification of service or any other documents submitted by the agency regarding payment of the deposit for post-1956 military service, then it is OPM's responsibility to resolve the deposit status with the retiring employee. Administrative error by OPM may result in an increase in the amount of interest due. If additional interest was assessed due to administrative error on OPM's part, then OPM may pay on behalf of the employee any additional interest assessed due to its administrative error.

Full-time volunteer service as a volunteer or volunteer leader with the Peace Corps or VISTA that was performed at any time before separation from federal civilian service is generally creditable under CSRS or FERS with payment of a service credit deposit. Though considered civilian service, the treatment of Peace Corps and VISTA volunteer service is similar to that of military service (see 5 CFR 831, 842.307 and 842.308) in that the credit is tied to eligibility for Social Security benefits. Payment of the deposit guarantees that the employee and survivors will continue to receive retirement credit for the volunteer service, regardless of entitlement to Social Security benefits. Like the calculation of interest for military deposits, the interest on deposits for volunteer service accrues and compounds annually after a 2-year interest-free grace period. For both current and former employees, interest begins to accrue on deposits for volunteer service on October 1, 1995, or 2 years after the date on which the

individual first becomes an employee or Member, whichever is later.

Deposits for Peace Corps and VISTA volunteer service are paid directly to OPM. The employing agency is responsible for counseling the employee regarding the deposit, and for verifying the earnings. OPM is responsible for processing the service credit deposit application, calculating the deposit, billing the employee, and collecting the payment.

The decision to pay or not pay interest due to its administrative error on a deposit for post-1956 military service is made by the employing agency or OPM, depending on who is making the administrative error determination. The decision to pay or not pay interest due to its administrative error for a service credit deposit for Peace Corps/VISTA volunteer service is up to the employing agency or OPM, whichever agency is making the decision regarding administrative error. OPM has no role or authority in another agency's decision.

Currently, employees interested in making service credit deposits for Peace Corps or VISTA volunteer service submit the service credit application to the employing agency for development and review. The agency then forwards the application to OPM for processing and billing. The employee pays the service credit deposit amount directly to OPM. This process will not change due to the implementation of Public Law 115–352. Since both the agency and OPM have a role in processing service credit deposits for Peace Corps or VISTA volunteer service, either the employing agency or OPM could make an administrative error. If an administrative error results in an increase in interest due, then the employing agency or OPM, may, at its discretion, pay on behalf of the employee any additional interest assessed due to its administrative error.

Public Law 115–352 specifies that if an employing agency makes an administrative error in processing deposits for post-1956 military service or full-time volunteer service as a volunteer or volunteer leader with the Peace Corps or VISTA that increases the amount of interest owed on the deposit, the employing agency or OPM (as described above) may pay on behalf of the employee any additional interest assessed due to the administrative error. Agencies are responsible for establishing their own guidelines for what constitutes administrative error and whether a payment is made. OPM has no role or authority in the decision.

Public Law 115–352 also provides that, for volunteer service deposits, if

the administrative error is committed by OPM, then OPM may pay on behalf of the employee any additional interest assessed due to the administrative error. Any payment of additional interest OPM may make on behalf of the employee is paid from the Civil Service Retirement and Disability Fund.

This proposed rule is necessary to implement the authority so the employing agency or OPM, on behalf of an employee, may make interest payments on interest accrued due to administrative error. Until this legislation, there was no authority to permit payment by an agency or OPM of interest that accrued due to its administrative error. The burden to pay the additional interest was on the employee. This legislation should be an incentive for agencies and OPM to perform better and, therefore, result in fewer findings of administrative error.

Regulatory Impact Analysis

OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity. This proposed rule is not a “significant regulatory action,” under Executive Order 12866.

Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not an Executive Order 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

Regulatory Flexibility Act

The Office of Personnel Management certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this proposed rule in accordance with Executive Order 13132, Federalism, and have determined that this proposed rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) requires rules to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this proposed rule before its effective date, as required by 5 U.S.C. 801. This rule is not a major rule as defined by the Congressional Review Act (CRA) (5 U.S.C. 804).

Paperwork Reduction Act

This proposed rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects

5 CFR Part 831

Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

For the reasons stated in the preamble, the Office of Personnel Management proposes to amend 5 CFR parts 831 and 842 as follows:

PART 831—RETIREMENT

- 1. Revise the authority citation for part 831 to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under Secs. 7(b) and (e) of Pub. L.

105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.202 also issued under Sec. 111 of Pub. L. 99–500, 100 Stat. 1783, and Sec. 111 of Pub. L. 99–591, 100 Stat. 3341–348, and also Sec. 1 of Pub. L. 110–279, 122 Stat. 2602, as amended by Sec. 1(a) of Pub. L. 116–21, 133 Stat. 903; Sec. 831.204 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under Sec. 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.206 also issued under Sec. 1622(b) of Pub. L. 104–106, 110 Stat. 515; Sec. 831.301 also issued under Sec. 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and Sec. 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337, and under Sec. 1(3), E.O. 11228, 3 CFR 1965–1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under Sec. 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under Sec. 201(d) of Pub. L. 99–251, 100 Stat. 23; Sec. 831.912 also issued under Sec. 636 of Appendix C to Pub. L. 106–554, 114 Stat. 2763A–164; Subpart P also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Subpart Q also issued under 5 U.S.C. 8336a; Subpart V also issued under 5 U.S.C. 8343a and Sec. 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328; Pub. L. 115–352, 132 Stat. 5067.

Subpart A—Administration and General Provisions

■ 2. Amend § 831.105 by adding paragraph (k) to read as follows:

§ 831.105 Computation of interest.

* * * * *

(k) If OPM determines that additional interest was assessed on a deposit for full-time volunteer service as a volunteer or a volunteer leader with the Peace Corps or VISTA due to its own administrative error, OPM may pay, on behalf of the employee, Member, or annuitant, any additional interest assessed due to the administrative error.

Subpart U—Deposits for Military Service

■ 3. Amend § 831.2107 by adding paragraph (c) to read as follows:

§ 831.2107 Payments on deposits.

* * * * *

(c) *Administrative error.* (1) When an administrative error occurs by the employing agency in calculating or processing a military service deposit, interest assessed as a result of the administrative error may be paid by the agency, the Clerk of the House of Representatives, or the Secretary of the Senate on behalf of the employee. The agency, Clerk of the House of

Representatives, or the Secretary of the Senate will determine if administrative error occurred.

(2) When an administrative error occurs by OPM in calculating or processing a military service deposit, interest assessed as a result of the administrative error may be paid by OPM on behalf of the employee. OPM will determine if administrative error occurred. Any payment of additional interest of behalf of the employee is paid from the Civil Service Retirement and Disability Fund.

■ 4. Add Subpart X to part 831 to read as follows:

Subpart X—Peace Corps

Sec.

831.2401 Purpose.
831.2402 Allowable service.
831.2403 Deposits for service.
831.2404 Additional interest due to administrative error.

§ 831.2401 Purpose.

This subpart contains regulations of the Office of Personnel Management (OPM) to supplement chapter 34 of title 22, United States Code, concerning CSRS retirement service credit eligibility for satisfactory Peace Corps volunteer and volunteer leader service.

§ 831.2402 Allowable service.

(a) Service credit deposits are not allowed for training periods prior to actual enrollment.

(b) Service credit deposits can only be made for satisfactory volunteer and volunteer leader service.

(c) Annuitants enrolling as a volunteer or volunteer leader are not deemed reemployed annuitants. Service as a volunteer or volunteer leader performed after retiring under a CSRS or FERS retirement is not creditable service for retirement purposes.

§ 831.2403 Deposits for service.

(a) An employee or Member subject to CSRS may make a deposit for volunteer and volunteer leader service by filing an application in a form prescribed by OPM.

(b) The deposit is based upon the amount of the stipend that was received. If an educational award was elected in lieu of the stipend, then the deposit is based on the amount of the stipend that would have been received.

(c) An application to make a deposit is filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

(d) Upon receipt and review of the application from the employee, the

agency, Clerk of the House of Representatives, or Secretary of the Senate will submit the application to OPM for processing.

(e) Interest begins to accrue on deposits for volunteer service on October 1, 1995, or 2 years after the date on which the individual first becomes an employee or Member, whichever is later.

(f) After becoming federally employed, there is a 2-year interest-free grace period on Peace Corps volunteer and volunteer leader service deposits. After the 2-year period, interest is accrued and compounded annually at the variable rate beginning on the date of the expiration of the 2-year period.

§ 831.2404 Additional interest due to administrative error.

(a) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, may pay any additional interest due on the deposit for volunteer or volunteer leader service as a result of its administrative error. OPM may pay any additional interest due on the deposit for Peace Corps service as a result of its administrative error.

(b) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall set their own procedures for employees or Members to claim there was administrative error. OPM shall set its own procedures for claims of administrative error on its part.

(c) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall determine if administrative error on its part caused an increase in interest due on the deposit amount. OPM shall determine if administrative error on its part caused an increase in interest due on the deposit amount.

(d) OPM's final determination regarding a claim of administrative error on its part is not subject to the due process procedures described in 5 U.S.C. 8461(e).

■ 5. Add subpart Y to part 831 to read as follows:

Subpart Y—Volunteers in Service to America (VISTA)

Sec.

831.2501 Purpose.
831.2502 Allowable service.
831.2503 Deposits for service.
831.2504 Additional interest due to administrative error.

§ 831.2501 Purpose.

This subpart contains regulations of the Office of Personnel Management (OPM) to supplement chapter 66, title

42, United States Code, concerning CSRS retirement service credit eligibility for Volunteers in Service to America (VISTA) volunteers.

§ 831.2502 Allowable service.

(a) Service credit deposits are not allowed for training periods prior to actual enrollment.

(b) Service credit deposits can only be made for satisfactory volunteer service.

(c) Annuitants enrolling as VISTA volunteers are not deemed reemployed annuitants. Service as a volunteer or volunteer leader performed after retiring under a CSRS or FERS retirement is not creditable serviced for retirement purposes.

(d) Retirement credit is not allowable for training period(s) prior to actual enrollment.

§ 831.2503 Deposits for service.

(a) An employee or Member subject to CSRS may make a deposit for volunteer service by filing an application in a form prescribed by OPM.

(b) The deposit is based upon the amount of the stipend that was received. If an educational award was elected in lieu of the stipend, then the deposit is based on the amount of the stipend that would have been received.

(c) An application to make a deposit is filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

(d) Upon receipt and review of the application, the agency, Clerk of the House of Representatives, or Secretary of the Senate will submit the application to OPM for processing.

(e) Interest begins to accrue on deposits for volunteer service on October 1, 1995, or 2 years after the date on which the individual first becomes an employee or Member, whichever is later.

(f) After becoming federally employed, there is a 2-year interest-free grace period on VISTA volunteer service deposits. After the 2-year period, interest is accrued and compounded annually at the variable rate beginning on the date of the expiration of the 2-year period.

(g) A deposit is required in order to obtain service credit for VISTA volunteer service for which the volunteer chose to receive an educational award in lieu of a stipend. The deposit is based upon the amount of the stipend that would have been received if he/she had elected to receive the stipend rather than an educational award.

§ 831.2504 Additional interest due to administrative error.

(a) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, may pay any additional interest due on the deposit for volunteer or volunteer leader service as a result of its administrative error. OPM may pay any additional interest due on the deposit for VISTA service as a result of its administrative error.

(b) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall set their own procedures for employees or Members to claim there was administrative error. OPM shall set its own procedures for claims of administrative error on its part.

(c) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall determine if administrative error on its part caused an increase in interest due on the deposit amount for their employees. OPM shall determine if administrative error on its part caused an increase in interest due on the deposit amount.

(d) OPM's final determination regarding a claim of administrative error on its part is not subject to the due process procedures described in 5 U.S.C. 8461(e).

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

■ 1. Revise the authority citation for part 842 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 Secs. 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 Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321–102; Sec. 842.107 also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251, and Sec. 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under Sec. 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.109 also issued under Sec. 1622(b) of Pub. L. 104–106, 110 Stat. 515; Sec. 842.110 also issued under Sec. 111 of Pub. L. 99–500, 100 Stat. 1783, and Sec. 111 of Pub. L. 99–591, 100 Stat. 3341–348, and also Sec. 1 of Pub. L. 110–279, 122 Stat. 2602, as amended by Sec. 1(a) of Pub. L. 116–21, 133 Stat. 903; Sec. 842.208 also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.304 and 842.305 also issued under Sec. 321(f) of Pub. L. 107–228, 116 Stat. 1383, 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 Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under Sec. 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under Sec. 4005 of Pub. L. 101–239, 103 Stat. 2106 and Sec. 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 Sec. 636 of Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–164; Sec. 842.811 also issued under Sec. 226(c)(2) of Pub. Law 108–176, 117 Stat. 2529; Subpart J also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Pub. L. 115–352, 132 Stat. 5067.

Subpart C—Credit

■ 2. Amend § 842.305 by adding paragraph (k) to read as follows:

§ 842.305 Deposits for civilian service.

* * * * *

(k) *Administrative error.* If OPM determines that additional interest was assessed on a deposit for full-time volunteer service as a volunteer or a volunteer leader with the Peace Corps or VISTA due to its own administrative error, OPM may pay, on behalf of the employee, Member, or annuitant, any additional interest assessed due to the administrative error.

■ 3. Amend § 842.307 by adding paragraph (e) to read as follows:

§ 842.307 Deposits for military service.

* * * * *

(e) *Administrative error.* (1) When an administrative error occurs by the employing Agency in calculating or processing a military service deposit, interest assessed as a result of the administrative error may be paid by the agency, the Clerk of the House of Representatives, or the Secretary of the Senate on behalf of the employee. The agency, Clerk of the House of Representatives, or the Secretary of the Senate will determine if administrative error occurred.

(2) When an administrative error occurs by OPM in calculating or processing a military service deposit, interest assessed as a result of the administrative error may be paid by OPM on behalf of the employee. OPM will determine if administrative error occurred. Any payment of additional interest of behalf of the employee is paid from the Civil Service Retirement and Disability Fund.

■ 4. Add subpart K to part 842 to read as follows:

Subpart K—Peace Corps

Sec.
842.1101 Purpose.

- 842.1102 Allowable service.
 842.1103 Deposits for service.
 842.1104 Additional interest due to administrative error.

§ 842.1101 Purpose.

This subpart contains regulations of the Office of Personnel Management (OPM) to supplement chapter 34 of title 22, United States Code, concerning FERS retirement service credit eligibility for satisfactory Peace Corps volunteer and volunteer leader service.

§ 842.1102 Allowable service.

(a) Service credit deposits are not allowed for training periods prior to actual enrollment.

(b) Service credit deposits can only be made for satisfactory volunteer and volunteer leader service.

(c) Annuitants enrolling as a volunteer or volunteer leader are not to be deemed reemployed annuitants. Service as a volunteer or volunteer leader performed after retiring under a CSRS or FERS retirement is not creditable serviced for retirement purposes.

§ 842.1103 Deposits for service.

(a) An employee or Member subject to FERS may make a deposit for volunteer and volunteer leader service by filing an application in a form prescribed by OPM.

(b) The deposit is based upon the amount of the stipend that was received. If an educational award was elected in lieu of the stipend, then the deposit is based on the amount of the stipend that would have been received.

(c) An application to make a deposit is filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

(d) Upon receipt and review of the application, the agency, Clerk of the House of Representatives, or Secretary of the Senate will submit the application to OPM for processing.

(e) Interest begins to accrue on deposits for volunteer service on October 1, 1995, or 2 years after the date on which the individual first becomes an employee or Member, whichever is later.

(f) After becoming federally employed, there is a 2-year interest-free grace period on Peace Corps volunteer and volunteer leader service deposits. After the 2-year period, interest is accrued and compounded annually at the variable rate beginning on the date of the expiration of the 2-year period.

§ 842.1104 Additional interest due to administrative error.

(a) The agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, may pay any additional interest due on the deposit for volunteer or volunteer leader service as a result of its administrative error. OPM may pay any additional interest due on the deposit for Peace Corps service as a result of its administrative error.

(b) The agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall set their own procedures for employees or Members to claim there was administrative error. OPM shall set its own procedures for claims of administrative error on its part.

(c) The agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall determine if administrative error on its part caused an increase in interest due on the deposit amount. OPM shall determine if administrative error on its part caused an increase in interest due on the deposit amount.

(d) OPM's final determination regarding a claim of administrative error on its part is not subject to the due process procedures described in 5 U.S.C. 8461(e).

■ 5. Add subpart L to part 842 to read as follows:

Subpart L—Volunteers in Service to America (VISTA)

Sec.

- 842.1201 Purpose.
 842.1202 Allowable service.
 842.1203 Deposits for service.
 842.1204 Additional interest due to administrative error.

§ 842.1201 Purpose.

This subpart contains regulations of the Office of Personnel Management (OPM) to supplement chapter 66, title 42, United States Code, concerning CSRS retirement service credit eligibility for Volunteers in Service to America (VISTA) volunteers.

§ 842.1202 Allowable service.

(a) Service credit deposits are not allowed for training periods prior to actual enrollment.

(b) Service credit deposits can only be made for satisfactory volunteer service.

(c) Annuitants enrolling as VISTA volunteers are not deemed reemployed annuitants. Service as a volunteer or volunteer leader performed after retiring under a CSRS or FERS retirement is not creditable serviced for retirement purposes.

(d) Retirement credit is not allowable for training period(s) prior to actual enrollment.

§ 842.1203 Deposits for service.

(a) An employee or Member subject to CSRS may make a deposit for volunteer service by filing an application in a form prescribed by OPM.

(b) The deposit is based upon the amount of the stipend that was received. If an educational award was elected in lieu of the stipend, then the deposit is based on the amount of the stipend that would have been received.

(c) An application to make a deposit is filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

(d) Upon receipt and review of the application, the agency, Clerk of the House of Representatives, or Secretary of the Senate will submit the application to OPM for processing.

(e) Interest begins to accrue on deposits for volunteer service on October 1, 1995, or 2 years after the date on which the individual first becomes an employee or Member, whichever is later.

(f) After becoming federally employed, there is a 2-year interest-free grace period on VISTA volunteer service deposits. After the 2-year period, interest is accrued and compounded annually at the variable rate beginning on the date of the expiration of the 2-year period.

(g) A deposit is required in order to obtain service credit for VISTA volunteer service for which the volunteer chose to receive an educational award in lieu of a stipend. The deposit is based upon the amount of the stipend that would have been received if he/she had elected to receive the stipend rather than an educational award.

§ 842.1204 Additional interest due to administrative error.

(a) The agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, may pay any additional interest due on the deposit for volunteer or volunteer leader service as a result of its administrative error. OPM may pay any additional interest due on the deposit for VISTA service as a result of its administrative error.

(b) The agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall set their own procedures for employees or Members to claim there was administrative error. OPM shall set its

own procedures for claims of administrative error on its part.

(c) The agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall determine if administrative error on its part caused an increase in interest due on the deposit amount. OPM shall determine if administrative error on its part caused an increase in interest due on the deposit amount.

(d) OPM's final determination regarding a claim of administrative error on its part is not subject to the due process procedures described in 5 U.S.C. 8461(e).

[FR Doc. 2020-24034 Filed 11-4-20; 8:45 am]

BILLING CODE 6325-38-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[NRC-2020-0033]

RIN 3150-AK46

Non-Substantive Amendments to Adjudicatory Proceeding Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to revise and clarify the agency's rules of practice and procedure to reflect current Atomic Safety and Licensing Board Panel practice, Commission case law, and a decision of the Supreme Court of the United States and to enhance consistency within the NRC's regulations.

DATES: Submit comments by December 7, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0033. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: Dawn.Forder@nrc.gov. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* Rulemaking.Comments@nrc.gov. If you do not receive an automatic email reply

confirming receipt, then contact us at 301-415-1677.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemaking and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Ian Irvin, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-287-9193; email: 2020_Part_2_Rulemaking@usnrc.onmicrosoft.com.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Obtaining Information and Submitting Comments
- II. Rulemaking Procedure
- III. Background
- IV. Plain Writing
- V. Paperwork Reduction Act

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2020-0033 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0033.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *Attention:* The PDR, where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at PDR.Resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the

Federal Rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2020-0033 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on January 19, 2021. However, if the NRC receives any significant adverse comments by December 7, 2020, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

- (1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

- (a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

- (b) The comment raises an issue serious enough to warrant a substantive