additional 1/2 percent of salary that was included in the computation of a deposit or redeposit to the retirement fund—for nondeduction or refunded service, respectively-OPM has no authority to add interest.

Waiver of General Notice of Proposed Rulemaking

Under section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking for the changes to 5 CFR part 842. These changes conform to the changes we are making to part 831. The notice of interim rulemaking in part 831 stated that the changes were designed to conform the delegation of authority under CSRS (part 831) to the delegation under FERS (part 842) and the changes we are now making to part 842 will accomplish that purpose. Another notice of rulemaking is unnecessary, because we have already requested comments on the underlying issue as part of this rulemaking.

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 Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Parts 831 and 842

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

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is adopting its interim regulations under 5 CFR part 831 published at 58 FR 64366 on December 7, 1993, as final with the following changes, and is amending 5 CFR part 842, as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 of title 5, United States Code, continues to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; §831.108 also issued under 5 U.S.C. 8336(d)(2); §831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); §831.204 also issued under

section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 105-508, 104 Stat. 1388-339; §831.303 also issued under 5 U.S.C. 8334(d)(2): §831.502 also issued under 5 U.S.C. 8337; §831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964-1965 Comp.; §831.621 also issued under section 201(d) of the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99-251, 100 Stat. 23; subpart S also issued under 5 U.S.C. 8345(k); subpart V also issued under 5 U.S.C. 8343a and section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, 101 Stat. 1330-275; §831.2203 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; 104 Stat. 1388-328.

Subpart I—Law Enforcement Officers and Firefighters

2. In §831.902, the definition of agency head is revised to read as follows:

§831.902 Definitions.

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For purposes of this subpart, agency head is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department.

* * * 3. In section 831.907 paragraph (c) is revised to read as follows:

§831.907 Withholdings and contributions. * * *

(c) Upon proper application from an employee, former employee or eligible survivor of a former employee, an employing agency or former employing agency will pay a refund of erroneous additional withholdings for service that is found not to have been covered service. If an individual has paid to OPM a deposit or redeposit, including the additional amount required for covered service, and the deposit or redeposit is later determined to be

erroneous because the service was not covered service, OPM will pay the refund, upon proper application, to the individual, without interest.

4. Section 831.910 is revised to read as follows:

§831.910 Review of decisions.

The following decisions may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board:

(a) The final decision of an agency or OPM issued to an employee, former employee, or survivor as the result of a request for determination filed under §831.906; and

(b) The final decision of an agency that a break in service referred to in §831.904(a)(2) did not begin with an involuntary separation within the meaning of 5 U.S.C. § 8336(d)(1).

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

5. The authority citation for part 842 of title 5, United States Code, continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); §842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508 and 5 U.S.C. 8402(c)(1); §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; §842.607 also issued under 5 U.S.C. 8416 and 8417; §842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203; §842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101-239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; subpart H also issued under 5 U.S.C. 1104.

Subpart H—Law Enforcement Officers, Firefighters, and Air Traffic Controllers

6. In §842.802, the definition of agency head is revised to read as follows:

*

§842.802 Definitions. *

*

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. § 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the