

withdrawal elections. This is referred to as the "notice requirement." Section 1650.19(b) states that the required notice will be sent to the last known mailing address for the spouse, but that it is the responsibility of the participant to provide that address. Since the TSP does not maintain account information for spouses, and since spouses are usually not employed with the Federal Government, the TSP must rely on the participant to provide this information. The participant who provides false information is subject to criminal prosecution. Section 1650.19(c) confirms that the notice requirement does not apply to CSRS participants whose account balances are \$3,500 or less.

Section 1650.20 describes the spousal rights rules that apply when either FERS or CSRS participants change their withdrawal elections. Section 1650.20(a) describes the rules that apply to spouses of FERS participants. The basic rule, as required by 5 U.S.C. 8435, is that spouses of FERS participants must waive their right to the annuity described in § 1650.18 with respect to a changed withdrawal election if the spouse did not waive the annuity right with respect to the original election. Therefore, the regulation states that, unless the same spouse has already signed a waiver of the prescribed form of annuity, the participant cannot change that withdrawal election without obtaining a waiver. If the participant has previously obtained an exception to the same spouse's signature, as described in § 1650.22, the exception is deemed applicable for one year from the date the participant signed the request form. After that date, either a waiver or a new exception must be obtained, because the circumstances surrounding the granting of the earlier exception may have changed.

Section 1650.20(b) states that the spouse of a married CSRS participant must be notified when that participant changes his or her withdrawal election. 5 U.S.C. 8351 requires another notice whenever a change of withdrawal election is made. However, if an exception to the notice requirement for the same spouse has been granted pursuant to § 1650.21, that exception is good for one year, and notice of a changed withdrawal election will not be necessary during that period.

Section 1650.21 provides that the Executive Director may grant an exception to the notice requirement for spouses of CSRS employees (as described in § 1650.19) where the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be

determined. Section 1650.21 describes the process for establishing that a spouse's whereabouts are unknown. This section has been revised to allow participants who are seeking an exception to the notice requirement based on whereabouts unknown to submit statements in lieu of affidavits or declarations in support of their requests. These statements must be made pursuant to 18 U.S.C. 1001, which provides that:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

To ensure that the persons making statements are aware of the possible penalty, § 1650.21(c) requires inclusion of the following on each statement: I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both. The Board has determined that this statement and the sanctions of 18 U.S.C. 1001 provide adequate protection against false statements, and therefore participants seeking exceptions can be relieved of the burden of providing notarized affidavits.

Section 1650.22 allows the Executive Director to grant an exception to the requirement to obtain the signature of the spouse of a FERS employee if the spouse's whereabouts cannot be determined (based on the same requirements as stated in § 1650.21) or if "exceptional circumstances warrant the exception." Section 1650.22 describes how a participant can establish that "exceptional circumstances" exist.

Section 1650.22(b)(2)(iii) has been revised to clarify the wording that must be included in a court order to justify the granting of an exception based on the express language of the order.

To ease the burden on participants further, §§ 1650.21 and 1650.22 are also being revised to delete the requirement that the participant seeking an exception from the spouse notice or signature requirements obtain and provide only documents bearing an original signature or which are embossed or which bear the imprint of a seal. Participants may not submit photocopies of documents.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only the ability of Federal employees to withdraw their TSP accounts and Board procedures relating to those withdrawals.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of 30-Day Delay of Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making these regulations effective in less than 30 days. The new withdrawal rules will be implemented during the March 1995 payment cycle, which will begin on March 10, 1995. Therefore, the new withdrawal rules must be in place by that date.

List of Subjects in 5 CFR Part 1650

Employee benefit plans, Government employees, Retirement, Pensions.

Roger W. Mehle,
Executive Director.

Federal Retirement Thrift Investment Board

For the reasons set out in the preamble, part 1650 of chapter VI of title 5 of the Code of Federal Regulations is revised to read as follows:

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

Subpart A—General

- 1650.1 Definitions.
- 1650.2 Eligibility.
- 1650.3 Separation from Government employment.
- 1650.4 Rehired employees.
- 1650.5 Outstanding loans.
- 1650.6 Frozen accounts.
- 1650.7 Monthly cycle for withdrawal payments.

Subpart B—Withdrawal Options

- 1650.8 Single payment.
- 1650.9 Monthly payments.
- 1650.10 Annuities.
- 1650.11 Transfer of withdrawal payments.
- 1650.12 Deferred withdrawal elections.
- 1650.13 Required date for making withdrawal election.
- 1650.14 Changes and cancellation of withdrawal election.

Subpart C—Procedures for Withdrawing TSP Accounts

- 1650.15 Information to be provided by agency.
- 1650.16 Accounts of more than \$3,500.
- 1650.17 Accounts of \$3,500 or less.