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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Temporary Waiver of Notarization Requirement for Spousal Consent

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: With this final rule, the Federal Retirement Thrift Investment Board ("FRTIB") is withdrawing its temporary waiver of the requirement to notarize a spouse's signature on withdrawal election forms.

DATES: This rule is effective October 1, 2020.

FOR FURTHER INFORMATION CONTACT: *For press inquiries*, contact Kim Weaver at (202) 942-1641. *For further information*, contact Laurissa Stokes at (202) 942-1645.

SUPPLEMENTARY INFORMATION: The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

A spouse of a FERS or uniformed services TSP participant has an automatic legal entitlement to a survivor annuity. Annuities are purchased with the balance of the participant's TSP account, and such purchases are made pursuant a withdrawal election. Consequently, the default TSP withdrawal election is a joint life annuity with the 50% survivor benefit. The participant cannot make any other type of withdrawal unless the

participant's spouse signs a written statement waiving his or her entitlement to a survivor annuity. This signed, written waiver ("spousal consent") is a statutory requirement. 5 U.S.C. 8435(b) and (c).

The protection of spousal rights is of the utmost importance to the FRTIB. Indeed, although not statutorily required to do so, the FRTIB generally requires spousal consent to be notarized.¹ However, on April 17, 2020, the FRTIB issued an interim rule temporarily waiving this requirement for withdrawal election forms (85 FR 21311). The temporary suspension of the notarization requirement for spousal consent was necessitated by the coronavirus pandemic, which disrupted day-to-day life in an unprecedented way and made it difficult and unsafe to have forms notarized in person. The uncertainty caused by the evolution of state laws permitting remote notarization coupled with the TSP's lack of a technological workflow to allow participants to submit remotely notarized forms electronically created an extraordinary hurdle for married TSP participants who needed to request a withdrawal during this difficult time.

As of September 1, 2020, 48 states plus the District of Columbia have either adopted laws that enable notaries to perform remote notarizations or temporarily waived certain provisions of law that would otherwise impede the availability of remote notarization. TSP participants have now had time to familiarize themselves with applicable legal requirements and the technology used for remote notarization. In addition, participants are now able to submit remotely notarized forms electronically to the TSP. Moreover, states have increasingly lifted business and school closures, stay-at-home/shelter-in-place orders, and other coronavirus pandemic-related restrictions, allowing TSP participants to access services such as in-person notaries (mobile or otherwise) that were not available to them in April when the FRTIB temporarily waived the notarization requirement for spousal consent. Therefore, the Executive Director has determined that this

¹ The FRTIB Executive Director has the authority to issue regulations to administer the TSP. 5 U.S.C. 8474(b)(5). In 2003, the Executive Director published a regulation requiring spousal consent to be notarized. 68 FR 74450 (December 23, 2003).

temporary waiver is no longer necessary. A married TSP participant who completes a withdrawal election form on or after October 1, 2020, must have his or her spouse's signature notarized.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees, members of the uniformed services who participate in the TSP, and beneficiary participants.

Paperwork Reduction Act

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

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501-1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB amends 5 CFR part 1650 as follows:

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

■ 1. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

■ 2. Amend § 1650.61 by revising paragraph (c)(4) to read as follows:

§ 1650.61 Spousal rights applicable to post-employment withdrawals.

* * * * *

(c) * * *

(4) Unless the TSP granted the participant an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal form is processed by the TSP, to show that the spouse has consented to a different total or partial withdrawal election or installment payment change and waived the right to this annuity with respect to the applicable amount, the participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. If the TSP granted the participant an exception to the signature requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form.

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■ 3. Amend § 1650.62 by revising paragraph (c) to read as follows:

§ 1650.62 Spousal rights applicable to in-service withdrawals.

* * * * *

(c) Unless the participant was granted an exception under this subpart to the signature requirement within 90 days of the date the withdrawal form is processed by the TSP, before obtaining an in-service withdrawal, a participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse and waiver of the spouse's right to a joint and survivor annuity described in § 1650.61(c) with respect to the applicable amount. To show the spouse's consent and waiver, a participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. Once a form containing the spouse's consent and waiver has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 9

[Docket ID: FSA-2020-0004]

RIN 0503-AA65

Coronavirus Food Assistance Program; Correction

AGENCY: Office of the Secretary, USDA.

ACTION: Correcting amendments.

SUMMARY: The Secretary of Agriculture implemented the Coronavirus Food Assistance Program (CFAP), which provides assistance to agricultural producers impacted by the effects of the COVID-19 outbreak, through a final rule published in the **Federal Register** on May 21, 2020. This correction clarifies the eligibility of barley and livestock.

DATES: Effective September 21, 2020.

FOR FURTHER INFORMATION CONTACT:

William L. Beam; telephone: (202) 720-3175; email: Bill.Beam@usda.gov. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720-2600 (voice).

SUPPLEMENTARY INFORMATION: This document corrects the CFAP regulations in 7 CFR part 9, which were implemented in the final rule that was published in the **Federal Register** on May 21, 2020 (85 FR 30825-30835). This is the fourth set of corrections. The first set of corrections was published in the **Federal Register** on June 12, 2020 (85 FR 35799-35800), the second set of corrections was published in the **Federal Register** on July 10, 2020 (85 FR 41328-41330), and the third set of corrections was published in the **Federal Register** on August 14, 2020 (85 FR 49593-49594). This document augments those corrections.

This document corrects 7 CFR 9.1(a) to clarify the meaning of “produced in the United States” as it relates to imported livestock. CFAP payments to livestock producers are based on the sum of two calculations. The first calculation is intended to compensate producers for losses due to price declines that occurred between mid-January 2020 and mid-April 2020, and is based on livestock sold between January 15, 2020, and April 15, 2020. The second calculation is intended to address on-going market disruptions and assist with the transition to a more orderly marketing system. It is based on the producer's highest livestock inventory owned on a date between April 16, 2020, and May 14, 2020. This document specifies that to be

considered “produced in the United States,” livestock sold between January 15, 2020, and April 15, 2020, must have been physically located in the United States as of January 15, 2020, and must have remained in the United States until they were sold. For imported livestock inventory owned between April 16, 2020, and May 14, 2020, “produced in the United States” means that the livestock must have been physically located in the United States on the applicable date for which the producer is reporting their highest owned inventory, because producers have been incurring and continue to incur additional marketing costs related to the COVID-19 pandemic for those livestock.

This document amends the definition of “non-specialty crop” in § 9.2 and Table 2 in § 9.5(h) to specify that CFAP eligibility for barley is not limited only to malting barley. All barley is eligible for CFAP assistance.

The changes in this document are consistent with the original intent of USDA in creating and administering CFAP and are not expected to increase expected costs.

List of Subjects in 7 CFR Part 9

Agricultural commodities, Agriculture, Disaster assistance, Indemnity payments.

Accordingly, 7 CFR part 9 is corrected by making the following correcting amendments:

PART 9—CORONAVIRUS FOOD ASSISTANCE PROGRAM

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; and Division B, Title I, Pub. L. 116-136.

■ 2. In § 9.1, revise paragraph (a) to read as follows.

§ 9.1 Applicability and administration.

(a) This part specifies the eligibility requirements and payment calculations for the Coronavirus Food Assistance Program (CFAP). CFAP will provide payments with respect to commodities that have been significantly impacted by the effects of the COVID-19 outbreak. Payments will be made with respect to only commodities produced in the United States; commodities other than livestock that are imported into the United States may not be used to determine any payment made under this part. For livestock, “produced in the United States” means physically located in the United States:

(1) On January 15, 2020, and remaining in the United States until sold for livestock sold between January 15, 2020, and April 15, 2020; or