

Proposed Rules

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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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1630

Privacy Act Regulations; Implementation

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a proposed amendment to the Board's Privacy Act regulations. Under the proposed amendment, procedures will be added to cover records maintained for spouses, former spouses, and beneficiaries of Thrift Savings Plan (TSP) participants.

DATES: Comments must be received on or before November 15, 1999.

ADDRESSES: Comments may be sent to Thomas L. Gray, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005. FAX (202) 942-1676.

FOR FURTHER INFORMATION CONTACT: Thomas L. Gray, (202) 942-1662.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99-335, 100 Stat. 514. The provisions governing the TSP are codified, as amended, largely at 5 U.S.C. 8351 and 8401-8479 (1994). The TSP is a taxdeferred retirement savings plan for Federal employees which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. Sums in a participant's TSP account are held in trust for the participant. 5 U.S.C. 8437(g).

The Board is an independent agency established in the executive branch of the United States Government that is subject to the Privacy Act, 5 U.S.C. 552a. On May 7, 1990, initial Board regulations implementing the Privacy Act were published in the **Federal**

Register at 55 FR 18851. An amendment to these regulations was published in the May 20, 1994, **Federal Register** at 59 FR 26409, to allow the disclosure of participant records in response to a copy of an authorization signed by the subject of the records, instead of an original signed statement.

In addition to records similar to other Federal agencies, the Board maintains FRTIB-1, Thrift Savings Plan Records, which is a Government-wide system of records of participants in the TSP. For purposes of this part, the definition of TSP participant includes former participants, *i.e.*, participants whose accounts have been closed, unless otherwise noted. The TSP records system may be maintained for the Board by a private contractor or by a Federal agency (record keeper or TSP record keeper). The current record keeper is the National Finance Center, U.S. Department of Agriculture, New Orleans, LA 70161-1500. In addition to writing or calling the TSP record keeper, participants may also determine whether this system contains records about them and may access those records through the TSP Web site and the ThriftLine (the TSP's automated telephone system). Because these features require the use of the participant's TSP Personal Identification Number (PIN), as well as the participant's Social Security number (SSN), they are not available to former participants, whose PINs are canceled when their accounts are closed.

This proposed amendment to the Board's rules is necessary because the Board is updating its computerized data base for the TSP record keeping system. Under the new TSP record keeping system, in addition to records on participants, FRTIB-1 will include records on spouses, former spouses, and beneficiaries of participants. The Privacy Act defines a record as "any item, collection, or grouping of information about an individual that is maintained by an agency * * *." 5 U.S.C. 552a(a)(4). A system of records is defined as "a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual." *Id.* 552a(a)(5).

A spouse or former spouse may be entitled to a payment from a

participant's account as the result of an award made under a qualifying domestic relations court order. Under the new TSP record keeping system, a record that is retrieved by the Social Security number (SSN) of the spouse or former spouse will be created in the FRTIB-1 system of records at the same time that the decision letter is mailed, if the SSN is known. If the individual's SSN is not known, a record will be created as soon thereafter as the SSN is provided to the TSP record keeper.

In addition, following a participant's death, the amount remaining in the account will be paid as a death benefit payment to the participant's beneficiary or beneficiaries in accordance with 5 U.S.C. 8424(d). A record that is retrieved by the SSN of the beneficiary or beneficiaries will be created in the FRTIB-1 system of records at the same time that a notice of pending Thrift Savings Plan payment and tax withholding information is mailed, if the SSN is known (or as soon thereafter as the SSN is provided to the TSP record keeper).

Proposed rule changes to 5 CFR 1630 establish procedures for granting access to records regarding a spouse, former spouse, or beneficiary. In addition, technical changes have been made to conform the regulations to this change and to remove, except where necessary for mailing purposes, the name of the TSP Service Office as the record keeper. This latter change will mean that the regulations do not have to be amended if a new record keeper is appointed.

Regulatory Flexibility Act

I certify that this amendment will not have a significant economic impact on a substantial number of small entities. It will affect only spouses, former spouses, and beneficiaries of TSP participants.

Paperwork Reduction Act

I certify that this regulation does not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104-4, 109 Stat. 48, 64, the effect of this regulation on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one

year of \$100 million or more by any State, local, and tribal governments in the aggregate, or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

List of Subjects in 5 CFR Part 1651

Employee benefit plans, Government employees, Pensions, Privacy, Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, part 1630 of chapter VI of title 5 of the Code of Federal Regulations is amended as follows:

PART 1630—PRIVACY ACT REGULATIONS

1. The authority citation for part 1630 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 1630.2 is amended as follows:

a. In paragraph (e) by adding the words “or the record keeper” after the word “Board”; and

b. By redesignating paragraphs (f), (g), (h), (i), (j), (k), (l), (m), and (n) as paragraphs (g), (h), (i), (j), (k), (l), (n), (o), and (p), respectively, and by adding paragraphs (f) and (m) to read as follows:

§ 1630.2 Definitions.

* * * * *

(f) *Record keeper* means the entity that is engaged by the Board to perform record keeping services for the TSP;

* * * * *

(m) *TSP participant* means any individual for whom a TSP account has been established. This includes former participants, *i.e.*, participants whose accounts have been closed;

* * * * *

3. Section 1630.4 is amended by revising paragraph (a)(1) and the chart which follows that paragraph, by redesignating paragraphs (a)(2), (a)(3), and (a)(4) as paragraphs (a)(3), (a)(4) and

(a)(5), and by adding a new paragraph (a)(2) to read as follows:

§ 1630.4 Request for notification and access.

(a) *TSP records.* (1) Records on TSP participants and the spouses, former spouses, and beneficiaries of TSP participants are maintained in the Governmentwide system of records, FRTIB–1, Thrift Savings Plan Records. A participant or a spouse, former spouse, or beneficiary of a participant must make his or her inquiry in accordance with the chart set forth in this paragraph. The mailing address of the Thrift Savings Plan Service Office is: National Finance Center, PO Box 61500, New Orleans, LA, 70161–1500. Telephone inquiries are subject to the verification procedures set forth in § 1630.7. A written inquiry must include the name and Social Security number of the participant or of the spouse, former spouse, or beneficiary of the participant, as appropriate.

To obtain information about or gain access to TSP records about you

If you want:	If you are a participant who is a current Federal employee:	If you are a participant who has separated from Federal employment or a spouse, former spouse, or beneficiary:
To make inquiry as to whether you are a subject of this system of records.	Call or write to your employing agency in accordance with agency procedures for personnel or payroll records.	Call or write to TSP record keeper.
To gain access to a record about you	Call or write to your employing agency to request access to personnel and payroll records regarding the agency's and the participant's contributions, and adjustments to contributions. Call or write to the TSP record keeper to gain access to loan status and repayments, earnings, contributions allocation elections, interfund transfers, and withdrawal records.	Call or write to TSP record keeper.
To learn the history of disclosures of records about you to entities other than the participant's employing agency or the Board or auditors see § 1630.4(a)(4).	Write to TSP record keeper	Write to TSP record keeper.

(2) Participants may also inquire whether this system contains records about them and access certain records through the account access section of the TSP Web site and the ThriftLine (the TSP's automated telephone system). The TSP Web site is located at www.tsp.gov. To use the TSP ThriftLine, the participant must have a touch-tone telephone and call the following number (504) 255–8777. The following information is available on the TSP Web site and the ThriftLine: Account balance; available loan amount; the status of a monthly withdrawal payment; the current status of a loan or withdrawal application; and an interfund transfer request. To access

these features the participant will need to provide his or her SSN and PIN.

* * * * *

§ 1630.5 [Amended]

4. Section 1630.5 is amended in paragraphs (a) and (b) by adding the words “or the TSP record keeper” after the word “Board”.

§ 1630.6 [Amended]

5. Section 1630.6 is amended in paragraph (a) by removing at the end of the first sentence the phrase “by the Board”.

6. Section 1630.7 is amended as follows:

a. In paragraph (a), by adding the words “or record keeper designee,” after the words “Privacy Act Officer” in the third sentence;

b. In paragraph (b), by adding the words “or record keeper designee,” after the words “Privacy Act Officer” in the second sentence; and

c. By revising paragraph (c) to read as follows:

§ 1630.7 Identification requirements.

* * * * *

(c) *By telephone.* (1) Telephone identification procedures apply only to requests from participants and spouses, former spouses, or beneficiaries of participants for information in FRTIB–1,

Thrift Savings Plan Records, which is retrieved by their respective Social Security numbers.

(2) A participant or a spouse, former spouse, or beneficiary of a participant must identify himself or herself by providing to the record keeper designee his or her name, Social Security number, and any other information requested. If the record keeper designee determines that any of the information provided by telephone is incorrect, the requester will be required to submit a request in writing.

(3) A participant may also access the TSP Web site or call the TSP ThriftLine to obtain account information. These

systems require the participant's Social Security number and PIN. Because a PIN is required to use these features, they are not available to former participants, whose PINs are canceled when their accounts are closed.

§ 1630.8 [Amended]

7. Section 1630.8 is amended as follows:

a. In paragraph (a), by removing the second sentence;

b. In paragraph (b)(1), by adding the words "or the record keeper" after the word "Board"; and

c. In paragraph (b)(5), by adding the words "or the record keeper" after the word "Board" in the first sentence, and

by adding the words "or record keeper designee" after the words "Privacy Act Officer" in the second sentence.

§ 1630.11 [Amended]

8. Section 1630.11 is amended as follows:

a. In paragraph (a)(1), by adding the following sentence at the beginning of the paragraph:

(a) * * * (1) A spouse, former spouse or beneficiary of a TSP participant who wants to correct or amend his or her record must write to the TSP record keeper. * * *

b. In paragraph (a)(1) by revising the chart to read as follows:

To correct or amend a TSP record		
If the type of record is:	If you are a participant who is a current Federal employee write to:	If you are a participant who has separated from Federal employment write to:
Personnel or personal records (e.g., age, address, Social Security number, date of birth). The agency's and the participant's contributions, and adjustments to contributions.	Write to your employing agency	Write to TSP record keeper.
Earnings, investment allocation, interfund transfers, loans, loan repayments, and withdrawals.	Write to your employing agency	Write to your former employing agency.
	Write to TSP record keeper	Write to TSP record keeper.

c. In paragraph (a)(3), by removing the following language from the first sentence, "the procedures set forth for agencies and the Board (including the TSP Service Office which is the Board's record keeper) in"; and

d. In paragraph (a)(5), by revising the last two sentences to read as follows:

(a) * * *

(5) * * * The employing agency also has custody of the election form (which is maintained in the Official Personnel Folder). Requests for amendment or correction of records described in this paragraph should be made to the employing agency.

* * * * *

§ 1630.14 [Amended]

9. Section 1630.14 is amended in paragraph (c) by adding the words "or the record keeper" after the word "Board" in the first sentence.

§ 1630.16 [Amended]

10. Section 1630.16 is amended in paragraph (d)(1) by adding the words "to be" after the word "amount".

§ 1630.2, 1630.4, 1630.6, 1630.11, 1630.12 and 1630.16 [Amended]

11. The words "Thrift Savings Plan Service Office", "TSP Service Office" and "Head, TSP Service Office" are revised to read "record keeper" in the following sections:

1630.2(n);
1630.4(a)(2) in all three sentences;
1630.6(a) in sentence two;
1630.11(a)(2);
1630.12(a) in sentences one and two;
and
1630.16(c).

§ 1630.6 and 1630.10 [Amended]

12. The words "Head, TSP Service Office, or designee" are revised to read "record keeper designee" in the following sections:

1630.6(a) in sentence one;
1630.10(a); and
1630.10(a)(1).

* * * * *

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 98-095-2]

Pork and Pork Products From Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; and notice of extension of comment period.

SUMMARY: In a proposed rule published in the **Federal Register** on July 19, 1999, we proposed to amend the regulations to allow fresh (chilled or frozen) pork and pork products from the Mexican States of Baja California Sur, Coahuila, Nuevo Leon, Tamaulipas, Sinaloa, Campeche, and Quintana Roo to transit the United States, under certain conditions, for export to another country. Although we proposed to allow in-transit movements of pork from the above States under the same conditions currently required under 9 CFR part 94 for pork from the Mexican States of Sonora, Chihuahua, Yucatan, and Baja California, it was also our intent to propose that such movements be allowed via land border ports only. This document amends our proposal accordingly.

DATES: We invite you to comment on Docket No. 98-095-1 as amended by this docket. We will consider all comments that we receive by November 15, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98-095-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238