

entertain a petition for enforcement from an aggrieved employee who is not a party only if the employee seeks and is granted party status as a permissive intervenor under § 1201.34(c) of this part. The employee must file a motion to intervene at the time of filing the petition for enforcement. The petition for enforcement must describe specifically why the petitioner believes there is noncompliance and in what way the petitioner is aggrieved by the noncompliance. The motion to intervene will be considered in accordance with § 1201.34(c) of this part.

(2) Under § 1201.33(c) of this part, a nonparty witness who has obtained an order from a judge that his or her employing agency provide the witness with official time may petition the Board for enforcement of the order.

(3) Under § 1201.55(d) of this part, a nonparty witness or other individual who has obtained a protective order from a judge during the course of a Board proceeding for protection from harassment may petition the Board for enforcement of the order.

(4) A petition for enforcement under paragraph (c)(1), (c)(2), or (c)(3) of this section must be filed promptly with the regional or field office that issued the order or, if the order was issued by the Board, with the Clerk of the Board. The petitioner must serve a copy of the petition on each party or the party's representative. If the petition is filed under paragraph (c)(1) of this section, the motion to intervene must be filed and served with the petition.

Dated: September 12, 1997.

**Robert E. Taylor,**

*Clerk of the Board.*

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**FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**

**5 CFR Part 1605**

**Correction of Administrative Errors**

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Final rule; amendment.

**SUMMARY:** The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing an amendment to final rules on correction of administrative errors affecting Thrift Savings Plan (TSP) accounts. The effect of the amendment will be that earnings on contributions made to the TSP by a person who is ineligible to participate will be returned to that person and not

used to offset TSP administrative expenses.

**EFFECTIVE DATE:** This amendment is effective December 27, 1996.

**FOR FURTHER INFORMATION CONTACT:** John J. O'Meara, (202) 942-1661.

**SUPPLEMENTARY INFORMATION:** A final rule governing the correction of administrative errors affecting Thrift Savings Plan accounts was published in the **Federal Register** on December 27, 1996 (61 FR 68464). That rule revised the final regulations that were published in the **Federal Register** on December 4, 1987 (52 FR 46314). In both sets of regulations the Board provided that when an individual who was not eligible to participate in the TSP nevertheless contributed funds to the TSP, the individual's contributions would be returned, but the earnings on those contributions would be forfeited and used to pay administrative expenses of the TSP. Upon review of this matter, the Board has decided that in promulgating this regulation insufficient emphasis was placed on the ineligible participant's equitable claim to these earnings.

For this reason, § 1605.9(a)(1) of the error correction regulations is being amended to provide that these earnings will be paid to the ineligible participant. Because the equity interest in these earnings by the ineligible participant is so substantial, this amendment is being given retroactive effect to the effective date (December 27, 1996) of the current error correction regulations.

**Regulatory Flexibility Act**

I certify that this amendment will not have a significant economic impact on a substantial number of small entities. It will only affect Thrift Savings Plan participants.

**Paperwork Reduction Act**

I certify that these regulations do 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, Public Law 104-4, 109 Stat. 48, 64, the effect of these regulations 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.

**Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A), the Board 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 the publication of this rule in today's **Federal Register**. This rule is not a major rule as defined in section 804(2).

**List of Subjects in 5 CFR Part 1605**

Administrative practice and procedure, Employee benefit plans, Government employees, Pensions, Retirement.

**Roger W. Mehle,**

*Executive Director, Federal Retirement Thrift Investment Board.*

For the reasons set forth in the preamble, part 1605 of chapter VI of title 5 of the Code of Federal Regulations is amended as follows:

**PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS**

1. The authority citation for Part 1605 continues to read as follows:

**Authority:** 5 U.S.C. 8351 and 8474.

2. Section 1605.9 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

**§ 1605.9 Miscellaneous provisions.**

(a)(1) \* \* \* In that case, the earnings will be removed from the account and paid to the ineligible participant. \* \* \*

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**DEPARTMENT OF AGRICULTURE**

**Grain Inspection, Packers and Stockyards Administration**

**7 CFR Part 800**

**RIN 0580-AA56**

**Fees for Official Inspection and Official Weighing Services**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is implementing, effective October 1, 1997, a 12.5-percent increase in the administrative service fee for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The fee