Proposed Rules

Federal Register

Vol. 85, No. 31

Friday, February 14, 2020

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Hardship Withdrawals for Expenses Related to Natural Disasters

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (''FRTIB'') proposes to allow participants to take hardship withdrawals for expenses related to natural disasters.

DATES: Comments must be received on or before March 16, 2020.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of General Counsel, Attn: Megan G. Grumbine, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.
- *Hand Delivery/Courier:* The address for sending comments by hand delivery or courier is the same as that for submitting comments by mail.
- *Facsimile:* Comments may be submitted by facsimile at (202) 942–1676.

FOR FURTHER INFORMATION CONTACT: Jessica Bradford, (202) 864–8699.

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)).

FERSA regulations permit in-service withdrawals from TSP accounts based upon four different types, or conditions, of financial hardship experienced by participants: (1) Negative monthly cash flow; (2) certain medical expenses of participant and his or her spouse or dependents; (3) payments for repairs or replacement of property resulting from personal casualty losses; and (4) attorney's fees and court costs associated with a participant's separation or divorce.

In the past, expenses and lost income resulting from natural disasters were not one of the four authorized hardship expenses. Instead, in order to allow participants to take hardship withdrawals based on natural disaster expenses and losses, the TSP relied on relief and guidance issued by the Internal Revenue Service (IRS), which made disaster relief announcements to allow participants in private sector 401(k) plans to take hardship withdrawals for natural disaster expenses and losses. However, the IRS recently announced that it will discontinue its practice of issuing disaster relief announcements. Rather than issuing such an announcement after a natural disaster to permit plans to authorize such hardship withdrawals, it amended its regulation to add to its safe harbor list of financial hardship expenses a new type of expense incurred as a result of certain disasters.

Specifically, on September 23, 2019, the IRS amended Treasury Regulation § 1.401(k)–1(d)(3), adding to the safe harbor financial hardship expenses, losses (including loss of income) and expenses incurred by a participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) if the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by the FEMA for individual assistance with respect to the disaster.

Because the TSP has relied on the IRS' disaster relief announcements to authorize hardship withdrawals for expenses and lost income relating to natural disasters, and because those announcements will no longer be made by the IRS in light of its amended regulation, the FRTIB proposes to add to its list of authorized hardship expenses, the expenses and losses (including loss of income) resulting from a natural disaster as declared by the FEMA in order to allow TSP participants to make financial hardship withdrawals for such natural disaster expenses. The FRTIB intends for this proposed regulation to mirror Treasury Regulation § 1.401(k)–1(d)(3)(ii)(B)(7) to the extent it is applicable.

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 Thrift Savings Plan, and their beneficiaries. The TSP is a Federal defined contribution retirement savings plan created FERSA and is administered by the Agency.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under 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, 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 1532 is not required.

List of Subjects in 5 CFR Part 1650

Taxes, Claims, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB proposes to amend 5 CFR chapter VI 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 § 1650.32 by revising paragraph (b) introductory text and adding paragraph (b)(5) to read as follows:

§ 1650.32 Financial hardship withdrawals.

* * * * *

(b) To be eligible for a financial hardship withdrawal, a participant must have a financial need that results from at least one of the following five conditions:

* * * * *

(5) The participant has incurred expenses and losses (including loss of income) on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100–707, provided that the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by the FEMA for individual assistance with respect to the disaster.

* * * * *

[FR Doc. 2020–03041 Filed 2–13–20; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0062]

RIN 1904–AE84

Energy Conservation Program for Appliance Standards: Procedures for Evaluating Statutory Factors for Use in New or Revised Energy Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy (EERE), Department of Energy.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing amendments to its decision-making process for selecting energy conservation standards. More specifically, DOE is proposing changes that would require DOE to conduct a comparative analysis of the relative costs and benefits of all of the proposed alternative levels for potentially establishing or amending an energy conservation standard in order to make a reliable determination that the chosen alternative is economically justified.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking on or before March 16, 2020.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov.* All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at: *https://www.regulations.gov/docket?D=EERE-2017-BT-STD-0062.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Ms. Francine Pinto, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (202) 586–7432. Email: *Francine.Pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Supplemental Notice of Proposed Rulemaking
II. Authority and Background
A. Authority
B. Background
III. Discussion of Revisions to DOE's Policies on Selecting Standard Levels
A. Consumer Impacts on Economic Justification
B. The ''Walk-Down'' Process
C. Proposed Changes
IV. Procedural Issues and Regulatory Review
A. Review Under Executive Orders 12866 and 13563
B. Review Under Executive Orders 13771 and 13777
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act of 1995
E. Review Under the National Environmental Policy Act of 1969
F. Review Under Executive Order 13132
G. Review Under Executive Order 12988
H. Review Under the Unfunded Mandates Reform Act of 1995
I. Review Under the Treasury and General Government Appropriations Act, 1999
J. Review Under Executive Order 12630
K. Review Under the Treasury and General Government Appropriations Act, 2001
L. Review Under Executive Order 13211
M. Review Consistent With OMB's Information Quality Bulletin for Peer Review
V. Approval of the Office of the Secretary

I. Summary of the Supplemental Notice of Proposed Rulemaking

On February 13, 2019, the United States Department of Energy (''DOE'' or ''the Department'') published a Notice of Proposed Rulemaking (''NOPR'') to update and modernize its ''Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products'' (*i.e.,* ''Process Rule'') found in 10 CFR part 430, subpart C, appendix A. 84 FR 3910. Among other changes, DOE proposed a process to determine whether a trial standard level (''TSL'') would be economically justified when compared to the set of other feasible TSLs. Further, in the NOPR DOE explained that in making that determination it would consider whether an economically rational consumer would choose a product meeting the TSL over products meeting the other feasible TSLs after considering relevant *statutory* factors, including but not limited to, energy savings, efficacy, product features, and life-cycle costs. DOE received numerous comments asking for clarification on how this concept would be implemented and what effect it would have on DOE's ''walk-down'' process for selecting standard levels. In response, DOE did not finalize that proposal when it issued a final rule in the proceeding to update the Process Rule. Rather, in this document, DOE proposes to revise Section 7 of the Process Rule, Policies on Selection of Standards, to clarify its earlier proposal and explain how this approach would be incorporated into DOE's decisionmaking process for selecting energy conservation standards. More specifically, DOE clarifies that its revisions to Section 7 would require the agency to conduct a comparative analysis of the relative costs and benefits of all of the proposed TSLs in order to make a reliable determination that the chosen TSL is economically justified. This comparative analysis includes assessing the incremental changes in costs and benefits for each TSL's benefits and burdens relative to other TSLs and as part of an holistic analysis across all TSLs. 42 U.S.C. 6295(o)(2)(B).

II. Authority and Background

A. Authority

Title III, Parts B [1] and C [2] of the Energy Policy and Conservation Act, as amended, (''EPCA'' or ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6317, as codified), established the Energy Conservation Program for consumer products and certain industrial equipment.[3] Under EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) Testing; (2) certification and

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[3] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).