

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

**AWP CA E5 Willits, CA [Revised]**

Ells Field-Willits Municipal Airport, CA  
(Lat. 39°27'03" N, long. 123°22'12" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Ells Field-Willits Municipal Airport and that airspace bounded by a line beginning at lat. 39°28'00" N, long. 123°30'15" W; to lat. 39°48'30" N, long. 123°42'00" W; to lat. 39°53'30" N, long. 123°28'30" W; to lat. 39°32'11" N, long. 123°17'27" W, thence clockwise along the 6.3-mile radius of the Ells Field-Willits Municipal Airport, to the point of beginning.

\* \* \* \* \*

Issued in Los Angeles, California, on April 25, 2000.

**William D. Marino, Jr.,**

*Acting Manager, Air Traffic Division,  
Western-Pacific Region.*

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**DEPARTMENT OF LABOR**

**Pension and Welfare Benefits Administration**

**29 CFR Part 2584**

**RIN 1210-AA79**

**Rules and Regulations For the Allocation of Fiduciary Responsibility, Federal Retirement Thrift Investment Board**

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Direct final rule.

**SUMMARY:** This document includes amendments authorizing the Executive

Director of the Federal Retirement Thrift Investment Board (Board) to allocate certain fiduciary responsibilities for two new investment funds to investment managers. It also provides definitions for the two new funds, updates the definition of investment manager and makes other miscellaneous corrections to the regulations.

**DATES:** This rule is effective on July 14, 2000 without further notice, unless the Department receives significant adverse written comment by July 29, 2000. If the Department receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments (preferably at least three copies) should be submitted to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5671, U.S. Department of Labor, Washington, DC 20210, and marked “Attention: FERSA Allocation Regulation.” All submissions will be available for public inspection in the Public Documents Room, Pension and Welfare Benefits Administration, Room N–5507, 200 Constitution Avenue NW, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:**

Rudy Nuissl, Pension and Welfare Benefits Administration, U.S. Department of Labor, Rm 5669, 200 Constitution Ave., N.W., Washington, DC 20210, tel. (202) 219–7461. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:**

Subchapter III of the Federal Employees’ Retirement System Act of 1986 (FERSA), Pub. L. No. 99–335, 100 Stat. 514, codified largely at 5 U.S.C. 8351 and 8401–8479, created a retirement savings plan for Federal employees known as the Thrift Savings Plan (TSP). As provided at 5 U.S.C. 8437, the TSP is funded by the Thrift Savings Fund (Fund).

Pursuant to 5 U.S.C. 8474(b)(5) and (c)(1), the Executive Director of the Board is granted authority to prescribe such regulations as may be necessary for the administration of the Fund. However, these statutory provisions expressly prohibit the Executive Director from prescribing any regulations relating to fiduciary responsibilities with respect to the Fund. Instead, at 5 U.S.C. 8477(e)(1)(E), the Secretary of Labor is directed to prescribe, in regulations, procedures by which fiduciary responsibilities may be allocated among fiduciaries, including investment managers. The Secretary of Labor published regulations setting forth such procedures in final form in

the **Federal Register** on December 29, 1988 (53 FR 52664). These regulations comprise 29 CFR part 2584.

Pursuant to 29 CFR 2584.8477(e)–2(b), the Executive Director may allocate certain fiduciary responsibilities in connection with the management and investment of the Fixed Income Investment Fund (F Fund) to a qualified professional asset manager(s). Section 2584.8477(e)–2(c) of title 29, Code of Federal Regulations, provides that the Executive Director may also allocate certain fiduciary responsibilities in connection with the management and investment of the Government Securities Investment Fund (G Fund) and the Common Stock Index Investment Fund (C Fund) to an investment manager(s). Section 2584.8477(e)–6 of title 29, Code of Federal Regulations, provides definitions for these investment funds.

The Thrift Savings Investment Funds Act of 1996, Pub. L. 104–208, 110 Stat. 3009–372, authorized the creation of two new investment funds. The new funds are the Small Capitalization Stock Index Investment Fund (S Fund) and the International Stock Index Investment Fund (I Fund).

This document provides in § 2584.8477(e)–2 that, in addition to the G, C, and F Funds, the Executive Director may allocate certain fiduciary responsibilities in connection with the management and investment of the two new funds (S and I Funds) to an investment manager(s). The rule also provides definitions for these two new funds in § 2584.8477(e)–6, which conform to the definitions in sections of the Thrift Savings Investment Funds Act of 1996.

Because part 2584 originally adopted the definition of investment manager provided in the Employee Retirement Income Security Act of 1974 (ERISA), Pub. L. 93–406, 88 Stat. 829, 29 U.S.C. 1002, which was later amended by Act of November 10, 1997, § 1(a), Pub. L. 105–72, 111 Stat. 1457, this document replaces the old definition of investment manager in 29 CFR 2584.8477(e)–6 with the amended definition as currently provided in ERISA.

Furthermore, this rule adds the word “Fund” to § 2584.8477(e)–2(c), which was inadvertently omitted from “Common Stock Index Investment Fund” in the final rule, and updates the United States Code citation for FERSA in § 2584.8477(e)–6(a).

**Direct Final Rulemaking Procedure**

The Department has determined that this rule shall be effective as a final rule 45 days after publication in the **Federal Register**. As explained more fully above,

the purpose of this rulemaking is to conform the existing regulation with the creation of two new investment funds authorized by the Thrift Savings Investment Funds Act of 1996, and to make certain other minor changes and corrections.

As a result, the Department anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. The amendment will enhance the ability of federal employees to diversify their account balances in the Thrift Investment Fund. In accordance with 5 U.S.C. 553(b), the Department for good cause finds that notice and public procedure on this rule are unnecessary.

Unless a written adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. If the Department does receive, within the comment period, an adverse or negative comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

#### Executive Order 12866 Statement

The regulation set forth in this document is not classified as a "significant regulatory action" under Executive Order 12866 because it is not likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. As a result this rule is not subject to review by the Office of Management and Budget.

#### Regulatory Flexibility Act Statement

Because this rule is being promulgated without a notice of proposed rulemaking it is not covered by the Regulatory Flexibility Act. Nevertheless, the Department has determined that it will not have a significant economic impact on a substantial number of small entities. The rule merely makes changes necessary to permit the operation of two new investment funds authorized under the Thrift Savings Investment Funds Act of 1996 in the same manner as the existing investment funds.

#### Paperwork Reduction Act

The rule being issued here is not subject to the requirements of the Paperwork Reduction Act of 1996 (44 U.S.C. 3501 *et seq.*) because it does not contain an information collection request as defined in 44 U.S.C. 3502(3).

#### Executive Order 13132 Federalism

This rule affects only the authority of the Executive Director of the Thrift Investment Board and has no federalism implications.

#### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, § 201, 109 Stat. 48, 64, 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 § 202, 109 Stat. 48, 64-65, is not required.

#### Small Business Regulatory Enforcement Fairness Act—Congressional Review

The rule being issued here is subject to the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and has been transmitted to Congress and the Comptroller General for review. The rule is not a "major rule" as that term is defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Statutory Authority

The regulation set forth herein is issued pursuant to 5 U.S.C. 8477(e)(1)(E) and under Secretary of Labor's Order No. 1-87.

#### List of Subjects in 29 CFR Part 2584

Employee benefit plans, Fiduciary, Government employees, Pensions, Retirement, Trusts and trustees.

In view of the foregoing, the Department of Labor amends 29 CFR part 2584 as follows:

#### PART 2584—[AMENDED]

1. The authority citation for part 2584 continues to read as follows:

**Authority:** 5 U.S.C. 8477(e)(1)(E) and Secretary of Labor's Order 1-87, 52 FR 13139 (April 21, 1987).

2. Section 2584.8477(e)-2 is amended by revising paragraph (c) to read as follows:

#### § 2584.8477(e)-2 Allocation of fiduciary duties.

\* \* \* \* \*

(c) The Executive Director may allocate authority and responsibility for the investment and management of the Government Securities Investment Fund, the Common Stock Index Investment Fund, the International Stock Index Investment Fund and the Small Capitalization Stock Index Investment Fund to an investment manager(s).

\* \* \* \* \*

3. Section 2584.8477(e)-6 is amended as follows:

a. by redesignating paragraphs (h), (i) and (j) as (i), (j) and (l), respectively;

b. by removing the periods in paragraph (e)(2) and the newly redesignated paragraph (j), and by inserting semicolons in their places; and

c. by revising paragraph (a) and the newly redesignated paragraph (i)(2) and inserting new paragraphs (h) and (k) to read as follows:

#### § 2584.8477(e)-6 Definitions.

\* \* \* \* \*

(a) *Act* means the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8401 *et seq.* (Supp. III 1997);

\* \* \* \* \*

(j) \* \* \*

(1) \* \* \*

(2) Is:

(i) Registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1),

(ii) Not registered as an investment adviser under such Act by reason of paragraph (1) of section 203A(a) of such Act (15 U.S.C. 80b-3a) but is registered as an investment adviser under the laws of the state (referred to in such paragraph (1)) in which it maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such state in order to maintain the fiduciary's registration under the laws of such state, also filed a copy of such form with the Secretary of Labor,

(iii) A bank, as defined in that Act, or

(iv) An insurance company qualified to perform services described in

paragraph (i)(1) of this section under the laws of more than one state, and

(3) \* \* \*

(h) *International Stock Index Investment Fund* means the fund established under 5 U.S.C. 8438(b)(1)(E);

(k) *Small Capitalization Stock Index Investment Fund* means the fund established under 5 U.S.C. 8438(b)(1)(D);

Signed at Washington, DC, this 22nd day of March, 2000.

**Leslie Kramerich,**

*Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.*

[FR Doc. 00-13250 Filed 5-26-00; 8:45 am]

BILLING CODE 4510-29-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OH135-1a, FRL-6600-8]

### Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving, as set forth below, a request from Ohio for a revision to the Ohio State Implementation Plan (SIP) for transportation conformity. The transportation conformity SIP revision enables the State of Ohio to implement and enforce the Federal transportation conformity requirements at the State or local level. The submitted amendments to Ohio Administrative Code reflect the third set of EPA revisions to the federal transportation conformity rules. These rule changes will assure conformity of transportation improvement programs, transportation plans and transportation projects to the SIP. On October 6, 1999, the State of Ohio submitted the adopted rules and public hearing documentation to EPA and requested a revision to the federally approved SIP.

**DATES:** This rule is effective on July 31, 2000, unless EPA receives adverse written comments by June 29, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs

Branch (AR-18)), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the material submitted by the State in support of this request is available for inspection at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Patricia Morris at (312) 353-8656 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:**

Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, Chicago, Illinois 60604, (312) 353-8656.

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever "we," "us," or "our" is used we mean EPA.

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#### I. Background

##### A. What is Transportation Conformity?

The purpose of transportation conformity is to assure that transportation plans, programs and projects, approved by the United States Department of Transportation conform to the purpose of the SIP to attain and maintain the public health based air quality standards. Conformity provisions first appeared in the Clean Air Act (CAA) amendments of 1977 (Public Law 95-95). Although these provisions did not define the term conformity, they provided that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP that has been approved

or promulgated for the nonattainment or maintenance areas.

The CAA Amendments of 1990 expanded the scope and content of the conformity provisions by defining conformity to an implementation plan. Conformity is defined in section 176(c) of the CAA as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that affected activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions in the nonattainment or maintenance areas to the SIP. Actions under title 23 United States Code (U.S.C.) or the Federal Transit Act are covered under the transportation conformity rules codified at 40 CFR part 51, subpart T and part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The criteria and procedures developed for all other federal actions are called "general conformity" rules.

##### B. Why Must the State Submit a Transportation Conformity SIP?

The original 1993 conformity rule required the States and local agencies to adopt and submit a transportation conformity SIP revision to the EPA not later than November 24, 1994 (40 CFR 51.396). Ohio submitted its SIP revision for state transportation conformity rules on August 17, 1995.

The federal transportation conformity rule however, was amended on August 8, 1995, and again on November 14, 1995. The November 14, 1995, amendments allow 12 months, or until November 14, 1996, for States to submit a transportation conformity SIP revision consistent with these amendments. Ohio had submitted state conformity rules consistent with the original November 24, 1994, conformity rules on August 17, 1995, and these rules were conditionally approved by EPA on May 16, 1996 (61 FR 24702). The condition of the approval was that Ohio update the State transportation conformity rules to be consistent with the federal amendments. Ohio updated its State