

because it pertains only to Federal agencies and employees.

### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

### List of Subjects in 5 CFR Parts 317 and 335

Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,  
Director.

Accordingly, OPM is amending 5 CFR part 317 as follows:

### PART 317—EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

1. The authority citation for part 317 continues to read as follows:

**Authority:** 5 U.S.C. 3392, 3393, 3393a, 3395, 3397, 3593, and 3595.

2. In § 317.901, the text in paragraph (c) and (c)(1) is republished for the convenience of the reader, paragraph (c)(2) is revised to read as follows:

#### § 317.901 Reassignments.

\* \* \* \* \*

(c) A career appointee may not be involuntarily reassigned within 120 days after the appointment of the head of an agency, or within 120 days after the appointment of the career appointee's most immediate supervisor who is a noncareer appointee and who has the authority to make an initial appraisal of the career appointee's performance under subpart C of part 430 of this chapter.

(1) *In this paragraph—*

(i) *Head of an agency* means the head of an executive or military department or the head of an independent establishment.

(ii) *Noncareer appointee* includes an SES noncareer or limited appointee, an appointee in a position filled by Schedule C, or an appointee in an Executive Schedule or equivalent position that is not required to be filled competitively.

(2) These restrictions do not apply to the involuntary reassignment of a career appointee under 5 U.S.C. 4314(b)(3) based on a final performance rating of "Unsatisfactory" that was issued before the appointment of a new agency head or a new noncareer supervisor as defined in paragraph (c)(1) of this section. If a moratorium is already underway at the time the final rating is issued, then that moratorium must be completed before the reassignment action can be effected.

### PART 335—PROMOTION AND INTERNAL PLACEMENT

2. The authority citation for part 335 continues to read as follows:

**Authority:** 5 U.S.C. 3301, 3302, 3330, and E.O. 10577 (3 CFR 1957–58 Comp., p. 218).

3. In § 335.103(c)(3) the text is republished for the convenience of the reader, a new paragraph (c)(3)(vii) is added to read as follows.

#### § 335.103 Agency Promotion Programs.

\* \* \* \* \*

(c) \* \* \*

(3) *Discretionary actions.* Agencies may at their discretion except the following actions from competitive procedures of this section:

\* \* \* \* \*

(vii) Appointments of career SES appointees with competitive service reinstatement eligibility to any position for which they qualify in the competitive service at any grade or salary level, including Senior-Level positions established under 5 CFR Part 319—Employment in Senior-Level and Scientific and Professional positions.

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### DEPARTMENT OF THE INTERIOR

#### 5 CFR Part 3501

#### 43 CFR Part 20

RINS 1090–AA38, 3209–AA15

### Supplemental Standards of Ethical Conduct for Employees of the Department of the Interior and Residual Employee Responsibilities and Conduct Regulations

**AGENCY:** Department of the Interior (Department).

**ACTION:** Final rule.

**SUMMARY:** The Department of the Interior, with the concurrence of the Office of Government Ethics (OGE), is issuing a final rule for employees of the Department that supplements the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) issued by OGE. This final rule is a necessary supplement to the Standards because it addresses ethical issues unique to the Department. The final rule adopts prior interim regulations as final, with amendments deleting the provision specifying the title of an employee to serve as the Designated Agency Ethics Official and a typographical correction. The portion of the interim rule concerning the

Department's separate employee responsibilities and conduct regulation is being amended by this final rule by changing the reference to the Designated Agency Ethics Official as well and by making technical revisions to the authority citation.

**EFFECTIVE DATE:** June 24, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mason Tsai or Linda T. Sullivan, Department Ethics Office, (202) 208–5916.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards). See 57 FR 35006–35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, and amended at 61 FR 42965–42970 (as corrected at 61 FR 48733), 61 FR 50689–50691 (interim rule revisions adopted as final at 62 FR 12531), and 62 FR 48746–48748, with additional grace period extensions at 59 FR 4779–4780, 60 FR 6390–6391, 60 FR 66857–66858, and 61 FR 40950–40952. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct for executive branch personnel.

On October 16, 1997, the Department, with OGE's concurrence, issued an interim rule with a request for comments, setting forth the Supplemental Standards of Ethical Conduct for Employees of the Department of the Interior and revising the Department's employee responsibilities and conduct regulations at 43 CFR part 20. See 62 FR 53713–53726. The Department's separate employee responsibilities and conduct regulations at 43 CFR part 20 had previously been revised in a final rule published on June 10, 1993 at 58 FR 32446–32449. The interim rule prescribed a 60-day comment period and invited comments from all interested parties. The Department received no comments in response to its requests for comments on the interim rule. The comment period closed on December 15, 1997.

The Department, with OGE's concurrence, is now publishing as final, with a few minor technical amendments, the interim Supplemental Standards of Conduct for Employees of the Department of the Interior and the Department's separate employee responsibilities and conduct interim regulations. The Department has determined that these supplemental regulations are necessary to the success of its ethics program.

## II. Analysis of Amendments

This final rule amends two provisions in the interim rule which are located at 5 CFR 3501.101(b)(3) and 43 CFR 20.201(a), respectively, dealing with the designation of the Department's Designated Agency Ethics Official. These two provisions in the interim rule state that "Designated Agency Ethics Official" (DAEO) means the Assistant Secretary—Policy, Management and Budget.

Because future administrations and reorganizations may change the position title of the Assistant Secretary—Policy, Management and Budget, or result in the DAEO responsibilities being assigned to an employee in a different position, the Department has determined that it is not practical or cost efficient to publish in this rule the title of the officer who has been assigned the responsibilities of the DAEO. As a result, the final rule in 5 CFR 3501.101(b)(3) has been amended to delete the provision specifying the title of the employee who serves as the DAEO. As the procedure for designation of the DAEO is already referenced in the definition section of the Standards at 5 CFR 2635.102(f), no substitute for the deleted supplemental provision is necessary. In the Department's separate residual regulation at 43 CFR 20.201(a), the final rule has been amended to read that the DAEO means the official designated under 5 CFR 2638.201 to coordinate and manage the Department's ethics program. The authority citation to the Department's residual regulation is also being revised by adding a reference to 5 U.S.C. 7301 and by revising the citation to 43 U.S.C. 31 to 43 U.S.C. 31(a). Other than these amendments to the Department's residual regulation, the final rule adopts the revisions to the Department's residual regulation made in the interim rule without change.

## III. Correction of Typographical Error

The Department is also correcting in this final rule a typographical error that appeared in the interim rule which was published in the **Federal Register** on October 16, 1997 (62 FR 53720). The citation mentioned in 5 CFR 3501.105(b)(4)(ii)(E) is incorrect and is being amended to read "(b)(4)(ii) (A) through (D) of this section."

## IV. Matters of Regulatory Procedure

### *Executive Order 12886*

In promulgating this final rule, the Department has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order

12866, Regulatory Planning and Review. This regulation has not been reviewed by the Office of Management and Budget under that Executive Order since it deals with agency organization, management, and personnel matters and is not, in any event, deemed "significant" thereunder.

### *Administrative Procedure Act*

The Department has found good cause, pursuant to 5 U.S.C. 553(d)(3), for waiving the 30-day delay in effectiveness as to this final rule. The reason for this determination is that it is important that these minor technical amendments effective as soon as possible.

### *Regulatory Flexibility Act*

The Department has determined that these regulations will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605).

### *Paperwork Reduction Act*

The Department has determined that these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35).

### **List of Subjects in 5 CFR Part 3501 and 43 CFR Part 20**

Conflict of interests, Government employees.

Dated: June 11, 1998.

**John D. Lesly,**

*Solicitor, Department of the Interior.*

Approved: June 17, 1998.

**Stephen D. Potts,**

*Director, Office of Government Ethics.*

Accordingly, for the reasons set forth in the preamble, the Department of the Interior, with the concurrence of the Office of Government Ethics, is adopting the interim rule adding 5 CFR chapter XXV, consisting of part 3501, and amending 43 CFR part 20 which was published at 62 FR 53713-53726 on October 16, 1997, as a final rule with the following changes:

### CHAPTER XXV—DEPARTMENT OF THE INTERIOR

#### **PART 3501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF THE INTERIOR**

1. The authority citation for part 3501 continues to read as follows:

**Authority:** 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 30

U.S.C. 1211; 43 U.S.C. 11, 31(a); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803.

### **§ 3501.101 [Amended]**

2. Section 3501.101 is amended by removing paragraph (b)(3) and redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(3) and (b)(4), respectively.

### **§ 3501.105 [Amended]**

3. Section 3501.105 is amended by removing the cross-reference "(c)(4)(ii) (A) through (D)" in paragraph (b)(4)(ii)(E) and adding in its place the cross-reference "(b)(4)(ii)(A) through (D)".

## **TITLE 43—[AMENDED]**

### **SUBTITLE A—[AMENDED]**

#### **PART 20—EMPLOYEE RESPONSIBILITIES AND CONDUCT**

4. The authority citation for part 20 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 7301; 5 U.S.C. App. (Reorganization Plan No. 3 of 1950); 30 U.S.C. 1211; 43 U.S.C. 11, 31(a); 5 CFR 2634.903, 2634.905.

5. Section 20.201 is amended by revising paragraph (a) to read as follows:

### **§ 20.201 Ethics officials.**

(a) *Designated Agency Ethics Official* refers to the official designated under 5 CFR 2638.201 to coordinate and manage the Department's ethics program.

\* \* \* \* \*

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## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

#### **9 CFR Part 50**

[Docket No. 98-033-1]

#### **Tuberculosis in Cattle, Bison, and Captive Cervids; Indemnity for Suspects**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations concerning animals destroyed because of tuberculosis to provide for the payment of Federal indemnity to owners of cattle, bison, and captive cervids that have been