

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.
Janice R. Lachance, Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

Subpart E—Premium Pay and Differentials

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343.

2. Appendix A to subpart E of part 532 is amended by adding a new

category to the schedule of environmental differentials at the end of Part II of the appendix to read as follows:

Appendix A to Subpart E of Part 532—Schedule of Environmental Differentials Paid for Exposure to Various Degrees of Hazards, Physical Hardships, and Working Conditions of an Unusual Nature

PART II.—PAYMENT ON BASIS OF HOURS IN PAY STATUS

Table with 3 columns: Differential rate (percent), Category for which payable, Effective date. Row 8: 8, 17. Working at high altitudes. Performing work at a land-based work site more than 3900 meters (12,795 feet) in altitude...

[FR Doc. 99-8107 Filed 4-1-99; 8:45 am] BILLING CODE 6325-01-U

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1200

Board Organization

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is amending its organization and functions statement to reflect a change in responsibilities for performance of its human resources management functions.

EFFECTIVE DATE: April 2, 1999.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

SUPPLEMENTARY INFORMATION: Effective September 28, 1998, the Board entered into a cross-servicing arrangement with APHIS Business Services (ABS), a unit of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, under which ABS provides most human resources management services to MSPB. The MSPB Financial and Administrative Management Division (FAMD) administers the cross-servicing arrangement with ABS and has direct responsibility for certain personnel functions, including policy, training, drug testing, and the Employee Assistance Program. FAMD also administers the cross-servicing arrangement with USDA's National Finance Center (NFC) for accounting and payroll services. The NFC continues to process personnel actions, which are now entered by ABS. This amendment

to 5 CFR part 1200 reflects these changes by removing all references to the Human Resources Management Division and by revising the description of FAMD functions.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1200

Organization and functions (Government agencies).

Accordingly, the Board amends 5 CFR part 1200, subpart B, as follows:

PART 1200—[AMENDED]

Subpart B—Offices of the Board—[Amended]

1. The authority citation for part 1200, subpart B, continues to read as follows:

Authority: 5 U.S.C. 1204(h) and (j).

2. Section 1200.10 is amended by removing paragraph (a)(9) in its entirety, by redesignating paragraph (a)(10) as paragraph (a)(9), by removing paragraph (b)(9) in its entirety, by redesignating paragraph (b)(10) as paragraph (b)(9), and by revising paragraph (b)(8) to read as follows:

§ 1200.10 Staff Organizations and Functions.

* * * * *
(b) * * *
* * * * *

(8) Financial and Administrative Management Division. The Financial and Administrative Management Division administers the budget, procurement, property management, physical security, and general services functions of the Board. It develops and coordinates internal management programs and projects, including review of internal controls agencywide. It performs certain personnel functions,

including policy, training, drug testing, and the Employee Assistance Program. It also administers the agency's cross-servicing arrangements with the U.S. Department of Agriculture's National Finance Center for accounting, payroll, and personnel action processing services and with the U.S. Department of Agriculture's APHIS Business Services for most human resources management services.

* * * * *

Dated: March 26, 1999.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 99-8091 Filed 4-1-99; 8:45 am]

BILLING CODE 7400-01-U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98-113-2]

Pine Shoot Beetle; Addition to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the pine shoot beetle regulations to add 19 counties in Indiana, Michigan, New York, Ohio, Pennsylvania, and West Virginia to the list of quarantined areas. This action was necessary to prevent the spread of

the pine shoot beetle, a pest of pine products, into noninfested areas of the United States.

EFFECTIVE DATE: The interim rule became effective on December 29, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Christine K. Markham, Regional Program Manager, PPQ, APHIS, 505 South Lenola Road, Suite 201, Moorestown, NJ, 08057-1549; (609) 757-5073; e-mail: Christine.Markham@usda.gov; or Ms. Coanne O'Hern, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247; e-mail: Coanne.E.O'Hern@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective December 29, 1998, and published in the **Federal Register** on January 5, 1999 (64 FR 385-387, Docket No. 98-113-1), we amended the pine shoot beetle regulations in 7 CFR 301.50 by designating Hancock, Howard, and Tipton Counties, IN; Chippewa, Delta, Leelanau, Marquette, and Schoolcraft Counties, MI; Cortland, Chemung, and Onondaga Counties, NY; Belmont, Coshocton, Morgan, Noble, and Paulding Counties, OH; Blair and Greene Counties, PA; and Tyler County, WV, as quarantined areas, and adding them to the list of quarantined areas provided in § 301.50-3(c). In addition, we removed paragraph (d) of § 301.50-

3 from the regulations. Paragraph (d) contained a map that showed the quarantined counties listed in § 301.50-3(c).

Comments on the interim rule were required to be received on or before March 8, 1999. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This document makes final an interim rule effective December 29, 1998, and published in the **Federal Register** on January 5, 1999 (64 FR 385-387, Docket No. 98-113-1). As part of the interim rule, we performed an Initial Regulatory Flexibility Analysis, in which we invited comments about the interim rule as it related to small entities. In particular, we asked for information on the benefits or costs that small entities may incur from the implementation of this interim rule and the economic impact of those benefits or costs. We did not receive any comments on the interim rule, and therefore, received no

information of the type we requested. We have therefore based this Final Regulatory Flexibility Analysis on the data available to us. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic impact on a substantial number of small entities.

Under the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167), the Secretary of Agriculture is authorized to regulate the interstate movement of articles to prevent the spread of injurious plant pests in the United States.

The PSB regulations impose restrictions on the interstate movement of certain regulated articles from quarantined areas in order to prevent the spread of PSB into noninfested areas of the United States. The interim rule amended these regulations by adding 19 counties in IN, MI, NY, OH, PA, and WV to the list of quarantined areas. This action was necessary to prevent the spread of PSB, a pest of pine products, into noninfested areas of the United States.

Currently, there are approximately 223 entities in the 19 newly regulated counties that may be affected by the quarantine. Of those, 82 are Christmas tree growers, 85 are tree nurseries, and 28 are commercial timber companies or commercial sawmills. Approximately 212 of the 223 entities are considered small. The following table shows these entities by type and state.

DISTRIBUTION OF AFFECTED ENTITIES IN 19 COUNTIES THAT WERE ADDED TO THE QUARANTINED AREA FOR PINE SHOOT BEETLE

Entities	State						Total
	NY	PA	IN	MI	OH	WV	
Christmas tree farms	14	3	3	46	16	0	82
Tree nurseries	15	2	1	45	22	0	85
Commercial timber companies or commercial sawmills	12	5	0	7	4	0	28
Other types	0	23	2	0	0	3	28
Total entities	41	33	6	98	42	3	223
Small entities	41	25	6	95	42	3	212

The Small Business Administration (SBA) defines tree nurseries with annual sales of less than \$150,000 as small entities. Most tree nurseries specialize in production of deciduous landscape products, but some also produce pine nursery stock and some produce rooted pine Christmas trees. For most of the tree nurseries that produce pine nursery stock and rooted pine Christmas trees, these commodities comprise a minor share of their products or they service

largely local populations within the quarantined area. Therefore, we do not expect that they will be notably affected by this rule.

The SBA defines Christmas tree farms with annual sales of less than \$500,000 as small entities. Most of the Christmas tree farms in the newly regulated counties are small entities. Of the 82 Christmas tree farms that are in the newly regulated counties, most sell locally to choose-and-cut markets.

Therefore, they would not be affected by this rule. Those Christmas tree farms that ship their Christmas trees and tree products outside of the quarantined area would be most affected by the quarantine. In some newly quarantined areas, up to 5 percent of the Christmas trees are sold through the wholesale market. Christmas tree farms in the newly quarantined areas in Michigan, New York, and Ohio shipped 6 percent, 12 percent, and 10 percent, respectively,

of their Christmas trees and tree products to markets outside the quarantined areas in 1997. In Pennsylvania, Christmas tree farms in the newly quarantined counties shipped all of their Christmas trees and tree products outside the quarantined area in 1997. Therefore, the Christmas tree farms in the newly quarantined counties in Pennsylvania will be most affected by the quarantine.

Affected businesses can maintain markets outside the regulated areas by arranging for inspections and the issuance of certificates or limited permits or by fumigating or cold treating the regulated articles. Inspection is provided at no cost during normal business hours. However, there may be imputed costs to the businesses in preparing for the inspections and possible marketing delays. Such costs and inconveniences may be more likely for producers of live pine nursery stock, since inspection is required of each live plant before it may be moved to a nonregulated area. For producers in these counties who already have their trees inspected for other pests, another inspection may be a relatively small burden, especially when compared to the societal benefits of minimizing the human-assisted movement of PSB.

The alternative to the interim rule was to make no changes in the regulations. After consideration, we rejected this alternative because the quarantine of the 19 counties listed in this document is necessary to prevent the artificial spread of PSB.

This rule contains no reporting or recordkeeping requirements.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR 301 and that was published at 64 FR 385-387 on January 5, 1999.

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 29th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-8154 Filed 4-1-99; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 3

[Docket No. 93-076-13]

RIN 0579-AA59

Animal Welfare; Marine Mammals; Swim-with-the-Dolphin Programs

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reconsideration of final rule and suspension of enforcement.

SUMMARY: We are hereby suspending the enforcement of those provisions of the Animal Welfare regulations and standards that deal with "swim-with-the-dolphin programs." In addition, we are soliciting public comment on all aspects of the suspended regulations and on all human/marine mammal interactive programs.

DATES: This suspension of enforcement is effective April 2, 1999. We invite you to comment on this docket. We will consider all comments that we receive by June 1, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 93-076-13, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 93-076-13.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Ave., SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1234; (301) 734-7833.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*), the Secretary of

Agriculture is authorized to promulgate standards and other requirements regarding the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers. The Secretary has delegated responsibility for administering the AWA to the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA). Regulations established under the AWA are contained in the Code of Federal Regulations (CFR) in 9 CFR parts 1, 2, and 3. Part 1 contains definitions for terms used in parts 2 and 3; part 2 contains general requirements for regulated parties; and part 3 contains specific requirements for the care and handling of certain animals.

On January 23, 1995, we published in the **Federal Register** a proposal (60 FR 4383-4389, Docket No. 93-076-2) to amend the regulations in 9 CFR part 3, subpart E (referred to below as the regulations), by establishing standards for "swim-with-the-dolphin" (SWTD) programs. After reviewing comments from the public on the proposal, we published a final rule in the **Federal Register** on September 4, 1998 (63 FR 47128-47151, Docket No. 93-076-10), that made final certain of the proposed provisions, along with changes we made based on the comments received. The final rule became effective October 5, 1998.

Following publication of the final rule, a number of parties affected by the rule contacted us and asked us to address issues not specifically raised in the final rule or the proposed rule regarding shallow water interactive programs. We are using the term "shallow water interactive program" because it has come to our attention that a number of facilities have different names for their programs in which a member of the public enters the primary enclosure of an SWTD cetacean to interact with the animal and in which the participants remain primarily stationary and non-buoyant. For purposes of this notice, it is our intent that the term "shallow water interactive program" encompass wade programs, encounter programs, or any other program as described above.

The regulated parties stated that it had not been clear to them that we intended the provisions of the rule to apply to shallow water interactive programs, and that, because of this misunderstanding, they had not been able to participate fully in the rulemaking process.

Although the definition of an SWTD program set forth in the proposed rule