

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 730

RIN 3206-AK60

#### Notification of Post-Employment Restrictions

**AGENCY:** Office of Personnel Management.

**ACTION:** Final Rule.

**SUMMARY:** The Office of Personnel Management is issuing final regulations requiring agencies to notify members of the Senior Executive Service (SES) and other employees in senior positions of certain post-employment conflict-of-interest restrictions. Agencies must provide written notification to affected employees of the new salary-based threshold for determining the applicability of the post-employment conflict-of-interest restrictions.

**DATES:** The final regulations are effective on April 17, 2006.

**FOR FURTHER INFORMATION CONTACT:** Brenda Roberts by telephone at (202) 606-2858; by FAX at (202) 606-0824; or by e-mail at [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** On October 15, 2004, the Office of Personnel Management published interim regulations (69 FR 61143) to implement section 1125(b) of Public Law 108-136 to establish a new salary-based threshold for determining the applicability of certain post-employment conflict-of-interest restrictions under 18 U.S.C. 207(c). The new salary-based threshold became effective on the first day of the first applicable pay period beginning on or after January 1, 2004 (January 11, 2004, for most employees).

Section 1125(b)(1) of Public Law 108-136 amended 18 U.S.C. 207(c)(2)(A)(ii) to require SES members and other

individuals who are paid at a rate of basic pay equal to or greater than 86.5 percent of the rate of level II of the Executive Schedule to be subject to the post-employment restrictions in 18 U.S.C. 207(c). Most members of the Senior Executive Service (SES) are subject to these post-employment restrictions.

The law also included a grandfather provision in section 1125(b)(1) that applies to certain SES members and other individuals for a period of 2 years, through November 24, 2005. If such individuals, on November 23, 2003, were subject to 18 U.S.C. 207(c) and were employed in positions whose rate of basic pay, exclusive of locality payments under 5 U.S.C. 5304, was equal to or greater than the rate of basic pay payable for level 5 of the SES, they are subject to the 1-year post-employment restrictions in 18 U.S.C. 207(c) through November 24, 2005, without regard to any subsequent changes in position or pay.

If, at the end of the extended coverage period (November 24, 2005), a covered employee is paid at a rate of basic pay equal to or greater than 86.5 percent of the rate for level II of the Executive Schedule as of that date (i.e., \$140,217), he or she will continue to be subject to the post-employment restrictions in 18 U.S.C. 207(c). Agencies should review the pay of all SES members and other individuals who are covered by the grandfather provision in section 1125(b)(1) to determine whether they are subject to the new post-employment restrictions applicable after November 24, 2005. Agencies must provide written notification to senior executives and other individuals covered by 18 U.S.C. 207(c)(2)(A)(ii) reflecting whether they are subject to the post-employment conflict-of-interest restrictions, including when employment or service in a covered position is terminated. OPM has provided guidance to agencies on the expiration of the grandfather provision.

The 60-day comment period for the interim regulations ended on December 14, 2004. OPM received no comments on the interim regulations. Therefore, we are adopting the interim regulations as final.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities

because they will affect only Federal agencies and employees.

#### E.O. 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 Part 730

Government employees.

Office of Personnel Management.

**Linda M. Springer,**  
*Director.*

Accordingly, the interim rule amending part 730 of title 5 of the Code of Federal Regulations, which was published at 69 FR 61143 on October 15, 2004, is adopted as final without any changes.

[FR Doc. 06-2540 Filed 3-15-06; 8:45 am]

**BILLING CODE 6325-39-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 05-067-2]

#### **Emerald Ash Borer; 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 emerald ash borer regulations by adding areas in Indiana, Michigan, and Ohio to the list of areas quarantined because of emerald ash borer. As a result of the interim rule, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the emerald ash borer from infested areas in the States of Indiana, Michigan, and Ohio into noninfested areas of the United States.

**DATES:** Effective on March 16, 2006, we are adopting as a final rule the interim rule that became effective on October 25, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah McPartlan, Operations Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road