

taken in accordance with subpart D of part 752 of this chapter if the individual has completed one year of current continuous service under other than a temporary appointment limited to 1 year or less and is not otherwise excluded by the provisions of that subpart.

- 3. Revise § 315.804(a) to read as follows:

**§ 315.804 Termination of probationers for unsatisfactory performance or conduct.**

(a) Subject to § 315.803(b), when an agency decides to terminate an employee serving a probationary or trial period because his work performance or conduct during this period fails to demonstrate his fitness or his qualifications for continued employment, it shall terminate his services by notifying him in writing as to why he is being separated and the effective date of the action. The information in the notice as to why the employee is being terminated shall, as a minimum, consist of the agency's conclusions as to the inadequacies of his performance or conduct.

\* \* \* \* \*

- 4. Revise § 315.805 introductory text to read as follows:

**§ 315.805 Termination of probationers for conditions arising before appointment.**

Subject to § 315.803(b), when an agency proposes to terminate an employee serving a probationary or trial period for reasons based in whole or in part on conditions arising before his appointment, the employee is entitled to the following:

\* \* \* \* \*

**PART 752—ADVERSE ACTIONS**

- 1. The authority citation for part 752 continues to read as follows:

**Authority:** 5 U.S.C. 7504, 7514, and 7543.

- 2. Revise § 752.401 (c)(1) and (2), (d)(11) and (12), and add (d)(13) to read as follows:

**§ 752.401 Coverage.**

\* \* \* \* \*

(c) \* \* \*

(1) A career or career conditional employee in the competitive service who is not serving a probationary or trial period;

(2) An employee in the competitive service who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less;

\* \* \* \* \*

(d) \* \* \*

(11) A nonpreference eligible employee serving a probationary or trial period under an initial appointment in the excepted service pending conversion to the competitive service, unless they meet the requirements of paragraph (c)(5) of this section;

(12) An employee whose agency or position has been excluded from the appointing provisions of title 5, United States Code, by separate statutory authority in the absence of any provision to place the employee within the coverage of chapter 75 of title 5, United States Code; and

(13) An employee in the competitive service serving a probationary or trial period, unless they meet the requirements of paragraph (c)(2) of this section.

- 3. Revise § 752.402 (b) to read as follows:

**§ 752.402 Definitions.**

\* \* \* \* \*

(b) *Current continuous employment* means a period of employment or service immediately preceding an adverse action without a break in Federal civilian employment of a workday.

\* \* \* \* \*

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**OFFICE OF PERSONNEL MANAGEMENT**

**5 CFR Parts 550 and 892**

**RIN 3206-AJ88**

**Allotments From Federal Employees**

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing final regulations dealing with the use of OPM's allotment authority to allow for pretax salary reductions as part of OPM's flexible benefits plan. Using an allotment from an employee's pay to the employing agency allows certain payments (e.g., employee health insurance premiums, contributions to a flexible spending arrangement, and contributions to a health savings account) to be paid with pretax dollars, as provided under section 125 of the Internal Revenue Code. In addition, these regulations finalize certain policy clarifications and changes to make the regulations more readable.

**DATES:** *Effective Date:* The final regulations are effective on March 10, 2008.

**FOR FURTHER INFORMATION CONTACT:** Kevin Kitchelt by telephone at (202) 606-2858; by fax at (202) 606-0824; or by e-mail at *pay-performance-policy@opm.gov*.

**SUPPLEMENTARY INFORMATION:** On November 17, 2006, the U.S. Office of Personnel Management (OPM), issued interim regulations (71 FR 66827) on OPM's allotment authority at 5 CFR part 550, subpart C, to allow for pretax salary reductions as part of OPM's flexible benefits plan. Using an allotment from an employee's pay to the employing agency allows certain payments (e.g., employee health insurance premiums, contributions to a flexible spending arrangement, and contributions to a health savings account) to be paid with pretax dollars, as provided under section 125 of the Internal Revenue Code. The interim regulations also made certain policy clarifications and changes to make the regulations more readable

The 60-day comment period ended on January 16, 2007. During the comment period, OPM received one comment that was outside the scope of these regulations. Therefore, we are adopting the interim regulations as final with a correction to a section title.

**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 apply only to Federal agencies and employees.

**E.O. 12866, Regulatory Review**

The Office of Management and Budget has reviewed this rule in accordance with E.O. 12866.

**List of Subjects in 5 CFR Parts 550 and 892**

Administrative practice and procedure, Claims, Government employees, Wages, Health insurance, and Taxes.

U.S. Office of Personnel Management.

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

- Accordingly, the interim rule amending 5 CFR parts 550 and 892 which was published at 71 FR 66827 on November 17, 2006, is adopted as final with the following change:

**PART 550—PAY ADMINISTRATION (GENERAL)**

**Subpart C—Allotments From Federal Employees**

- 1. The authority citation for subpart C of part 550 continues to read as follows:

**Authority:** 5 U.S.C. 5527; E.O. 10982, 3 CFR 1959-1963 Comp., p.502.

- 2. The heading of subpart C is revised to read as set forth above.
- 3. The undesignated center heading "Allotments for Savings" following § 550.351 is removed.
- 4. Revise the heading to § 550.361 to read as follows:

**§ 550.361 Scope.**

\* \* \* \* \*

[FR Doc. E8-2131 Filed 2-6-08; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2006-0129]

RIN 0579-AC32

#### Wood Packaging Material; Treatment Modification

**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 regulations for the importation of unmanufactured wood articles to bring the methyl bromide treatment schedule into alignment with current international phytosanitary standards. The interim rule was necessary because international phytosanitary standards had changed, and our regulations needed to be updated to reflect the current standards.

**DATES:** Effective on February 7, 2008, we are adopting as a final rule the interim rule published at 72 FR 30460-30462 on June 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. John T. Jones, II, Forestry Products Trade Director, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-8860.

**SUPPLEMENTARY INFORMATION:**

#### Background

In an interim rule<sup>1</sup> effective and published in the **Federal Register** on June 1, 2007 (72 FR 30460-30462, Docket No. APHIS-2006-0129), we amended the regulations for the importation of unmanufactured wood articles to bring the methyl bromide treatment schedule into alignment with

current international phytosanitary standards.

Comments on the interim rule were required to be received on or before July 31, 2007. We received one comment by that date, from a State agriculture department. The commenter stated that methyl bromide treatments do not control deep wood insects, but did not provide any evidence to support that assertion. The commenter also stated that more effective treatments should be required, but did not offer any suggestions for such treatments.

We agree that the methyl bromide treatment standards adopted in the interim rule would be inappropriate for the treatment of logs or large pieces of lumber. However, these standards apply specifically to wood packaging materials, such as pallets, crating, and boxes, which are typically made of stock 1/2-inch to 3 inches in thickness. Research has demonstrated that fumigation of wood packaging material in accordance with these standards will be sufficient to penetrate wood stock of the sizes typically used for wood packaging materials and will provide an appropriate level of phytosanitary protection. We are making no changes to the interim rule in response to this comment.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988 and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

#### Regulatory Flexibility Act

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

We invited the public to comment on the potential effects of the interim rule on small entities, in particular the number and kind of small entities that may incur benefits or costs from the implementation of the interim rule. However, we did not receive any additional information or data in response to those requests.

The rule affects foreign exporters of goods that are shipped using wood packaging materials. No U.S. entities involved in the production or supply of unmanufactured wood packaging materials are expected to be negatively

affected by the rule because the revised treatment must occur in the country of origin. The impact on foreign entities is not expected to be large because only the treatment time and concentration reading have been changed; the methyl bromide dosage rate remains the same. It is possible that some foreign entities might pass on additional treatment costs, if any, to U.S. buyers.

The rule has no mandatory reporting, recordkeeping, or other compliance requirements for U.S. entities, other than the requirements that normally pertain to commodity importation. APHIS has not identified any duplication, overlap, or conflict of the interim rule with other Federal rules.

We do not foresee the rule having a significant economic impact on small entities, and therefore have not proposed significant alternatives to minimize impacts. The rule simply aligns the U.S. methyl bromide treatment requirements for wood packaging materials with the standards established by the International Plant Protection Convention. The rule benefits the United States by reducing the risk of introduction of pests via unmanufactured wood packaging materials. It may impact foreign exporters of goods to the United States who use unmanufactured wood packaging materials, which in turn may affect importers of these goods. However, cost increases, if any, due to the revised treatment requirements are not expected to significantly affect domestic entities and thus will not have a measurable impact on the flow of trade.

#### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

#### PART 319—FOREIGN QUARANTINE NOTICES

- Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 319 and that was published at 72 FR 30460-30462 on June 1, 2007.

Done in Washington, DC, this 1st day of February 2008.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

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<sup>1</sup> To view the interim rule and the comment we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0129>.