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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Federal Labor Relations Authority

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Member, GS-301-14, is excepted under Schedule B because it is impracticable to hold competitive examination for it.

EFFECTIVE DATE: April 3, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3292(a) is added as set out below:

§ 213.3292 Federal Labor Relations Authority.

(a) One position of Special Assistant to Members, GS-301-14.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-12617 Filed 4-23-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Credit Union Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Managerial and supervisory positions in the National Credit Union Administration Central Liquidity Facility at pay levels greater than the

equivalent of GS-13 are excepted under Schedule B because it is impracticable to hold a competitive examination for them.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3257(a)(1) is added as follows:

§ 213.3257 National Credit Union Administration.

(a) *Central Liquidity Facility.* (1) All managerial and supervisory positions at pay levels greater than the equivalent of GS-13.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-12618 Filed 4-23-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service, Office of Personnel Management

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C five positions of Associate Director in the Office of Personnel Management because each of the positions are confidential in nature.

EFFECTIVE DATE: January 28, 1979.

FOR FURTHER INFORMATION CONTACT: Donna J. Ashurst, Office of Personnel Management, 202-632-3782.

Accordingly, 5 CFR 213.3391 (c) through (g) are added as set out below:

§ 213.3391 Office of Personnel Management

* * * * *

(c) Associate Director for Agency Relations

(d) Associate Director for Compensation

(e) Associate Director for Executive Personnel and Management Development

(f) Associate Director for Staffing Services

(g) Associate Director for Workforce Effectiveness and Development.

(5 CFR 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-12619 Filed 4-23-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Treasury

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Counselor on Legislative and Intergovernmental Policy, Office of the Secretary, because the position is confidential in nature.

EFFECTIVE DATE: March 12, 1979.

FOR FURTHER INFORMATION CONTACT: Donna J. Ashurst, Office of Personnel Management, 202-632-3782.

Accordingly, 5 CFR 213.3305(a)(82) is added as set out below:

§ 213.3305 Department of the Treasury

(a) Office of the Secretary. * * *
(82) Counselor on Legislative and Intergovernmental Policy.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-12620 Filed 4-23-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Domestic Quarantine Notices; Japanese Beetle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: This document revises the Japanese beetle quarantine and regulations as proposed April 21, 1978 (43 FR 16984). The intended effect of the

action is to regulate only the interstate movement of aircraft in or from regulated airports in quarantined States which pose a threat to spread the Japanese beetle into Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington. This revision of the Federal regulations is necessary in order to prevent the spread of the Japanese beetle by means of such aircraft.

EFFECTIVE DATE: April 24, 1979.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, 301/436-8247.

SUPPLEMENTARY INFORMATION:

Infestations of Japanese beetles are known to occur in 24 States and the District of Columbia. The movement of articles which present a hazard to spread the Japanese beetle from infested areas into noninfested areas are regulated by the Federal Japanese Beetle Quarantine and regulations (7 CFR 301.48 *et seq.*) in cooperation with the quarantined States.

A notice of the Department's intent to prepare a draft environmental impact statement (DEIS) on the Japanese beetle program at airports was published in the *Federal Register* on April 25, 1978 (43 FR 17515). Comments received were discussed in the notice of availability of the DEIS published May 19, 1978 (43 FR 21709).

On April 21, 1978, the Department proposed to regulate only the interstate movement of aircraft which posed a threat to spread the Japanese beetle into certain States (43 FR 16984). The proposal was based on the Department's belief that the States have the capability to prevent the spread of the Japanese beetle by articles other than aircraft that can spread the pest and that additional Federal regulations are not necessary, except for those regarding the interstate movement of aircraft. Comments were received in response to this proposal, from the Idaho Department of Agriculture, the Michigan Department of Agriculture, the Western Plant Board, the National Plant Board, the American Association of Nurserymen and the Henry Field and Seed Nursery Company of Iowa, and two were received from the California Department of Food and Agriculture. All comments received during the comment period have been considered in the preparation of this final rule.

Two of these comments did not address any specific aspects of the proposal—one of these supported the program and one was seeking further information. One comment questioned if all States have the current capability to prevent the spread of the Japanese beetle by means other than regulated

aircraft. As was maintained in the preamble of the proposal, it is believed the States have this capability.

One of the comments expressed concern about piecemeal State regulations with which to comply. However, regulations will be only imposed in a limited number of States, and variations in these regulations should not be extensive. To further avoid any problems in this regard, the Department has written a "model" State Japanese beetle quarantine which has been provided to State plant regulatory officials. The adoption of this "model" will further serve to create uniformity in this area.

Another comment requested that the final regulation establish additional authority for individual States to enact exterior Japanese beetle quarantines for articles other than aircraft. The individual States retain the authority to enact Japanese beetle quarantines so long as the State regulations do not conflict with Federal regulations. Since the Federal regulations only concern the treatment of aircraft, the States are therefore free to exercise their own authority with regard to the regulation of other products or articles for the purposes of Japanese beetle control.

Another comment suggested that the revised regulations include a definition for the term "Japanese beetle hazardous airports." Plant Protection and Quarantine Programs has determined that the term "regulated airport" should be adopted for use in the final regulations instead of the term "hazardous airport." The latter term, when employed in documents such as press releases, could promote unnecessarily negative connotations and mislead the public regarding the purposes of the program. This change will have no substantive effect upon the regulations. In conformity with this change in terminology, these regulations include a definition of "regulated airport." The Japanese Beetle Program Manual which is incorporated by reference as part of the regulation discusses how airports are declared regulated.

Another editorial change was made in the section which deals with the authorization to designate and terminate designation of regulated airports (§ 301.48-2). The term "aircraft" was substituted for the phrase "regulated articles" since the latter phrase, by definition, applies only to aircraft at an airport which has already been declared regulated.

Other comments included a request that the regulations state an intent to treat Japanese beetle regulated airports

in cooperation with States and airlines and to state an intent to use the most efficient EPA-approved chemicals to treat aircraft and airports. The Department intends to treat airport environments in cooperation with the States and airlines, and the EIS and the Japanese Beetle Program Manual include the information and procedure regarding such treatments. Only insecticides registered with EPA after having been established as safe and efficacious will be used to treat aircraft and airports under the quarantine and regulations.

On September 12, 1978, the Japanese beetle quarantine and regulations were amended to remove from the regulations all references to regulated articles except means of conveyance. It has now been determined that aircraft moving from regulated airports destined for the seven western States of Arizona, California, Idaho, Nevada, Oregon, Utah, or Washington will be the only articles which will be treated for Japanese beetles pursuant to these regulations. These areas are believed to be higher risk areas due to favorable ecological conditions, such as the amount of moisture present in the soil and the temperature. The ecological conditions do not appear to be favorable for the establishment of the beetle in the nonlisted, nonquarantined States. Therefore, §§ 301.48 and 301.48-1 through 301.48-4 are adopted as proposed. Former §§ 301.48-4 through 301.48-7 are no longer applicable because of the revision of the regulations and are deleted. Former §§ 301.48-8, 301.48-9, and 301.48-10 are redesignated as 301.48-5, 301.48-6, and 301.48-7 respectively.

Since regulated, suppressive and generally infested areas are no longer designated under the regulations, section 301.48-2a is deleted. Additionally, since aircraft moving from regulated airports to certain western States are the only regulated articles specified, and, therefore, § 301.48-2b, which formerly named exempted articles, is no longer applicable and is deleted.

The Director of the Federal Register approved the "Plant Protection and Quarantine Treatment Manual" and the "Japanese Beetle Program Manual" for incorporation by reference on June 15, 1978. Footnote 1 relating to the definition for "treatment manual" in section 301.48-1 is therefore amended by adding the statement that these manuals have been incorporated by reference and are on file at the *Federal Register*. A new footnote 2 is added stating that an incorporation by reference provision

was approved by the Director, Office of the Federal Register, and footnotes 2 and 3 are accordingly redesignated as footnotes 3 and 4 respectively. These are editorial changes and do not affect the substance of the regulations.

An Environmental Impact Statement (EIS) on the Department's Japanese beetle control program was prepared and sent to the Environmental Protection Agency on November 13, 1978. A notice of availability of the final EIS was published in the *Federal Register* (43 FR 52755) on November 14, 1978.

Since there was a substantial duplication of issues in the development of the EIS and in the proposed revision of the quarantine and regulations, all relevant comments regarding the EIS were also considered in connection with this rulemaking proceeding. These comments are discussed in the EIS.

Accordingly, the Japanese Beetle Quarantine and regulations (7 CFR 301.48 *et seq.*) are revised and for the convenience of interested persons, the entire subpart is set forth as follows:

Subpart—Japanese Beetle

Quarantine and Regulations

Sec.

301.48 Notice of Quarantine; quarantine regulations on interstate movement of regulated articles.

301.48-1 Definitions.

301.48-2 Authorization to designate, and terminate designation of, regulated airports.

301.48-3 Notification of designation and termination of designation of regulated airports.

301.48-4 Conditions governing the interstate movement of regulated articles from quarantined States.

301.48-5 Inspection and disposal of regulated articles and pests.

301.48-6 Movement of live Japanese beetles

301.48-7 Nonliability of the Department.

Subpart—Japanese Beetle

Quarantine and Regulations

§ 301.48 Notice of quarantine, quarantine restrictions on interstate movement of regulated articles.

(a) Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, and 150ee), the Secretary of Agriculture heretofore determined after public hearing to quarantine the States of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina,

Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia in order to prevent the spread of the Japanese beetle, a dangerous insect injurious to cultivated crops and not theretofore widely prevalent or distributed within or throughout the United States.

(b) No person shall move any regulated article interstate from any regulated airport destined to any of the following States except in accordance with the conditions prescribed in this subpart: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

§ 301.48-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. The following terms, when used in this subpart shall be construed, respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, for the Plant Protection and Quarantine Programs, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority has heretofore been, or may heretofore be, delegated to act in his stead.

Inspector. Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

Interstate. From any State into or through any other State.

Japanese beetle. The live insect known as the Japanese beetle (*Popillia japonica* Newm.) in any stage of development (egg, larva, pupa, or adult).

Person. Any individual, corporation, company, partnership, society, or association, or other organized group of any of the foregoing.

Plant Protection and Quarantine Programs. The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and quarantines and regulations promulgated thereunder.

Regulated airport. Any airport in a quarantined State declared regulated in accordance with provisions in § 301.48-2 of this subpart.

Regulated articles. Aircraft at or from regulated airports.

State. Any State, territory, or district of the United States, including Puerto Rico.

Treatment manual. The provisions currently contained in the "Japanese Beetle Program Manual," and the "Plant Protection and Quarantine Treatment Manual" which are incorporated by reference.^{1 2}

State Plant Regulatory Official. The authorized official of a State who has responsibility for the operation of the State plant regulatory program.

§ 301.48-2 Authorization to designate, and terminate designation of, regulated airports.

(a) An inspector may declare any airport within a quarantined State to be a regulated airport when he determines that adult populations of Japanese beetle exist during daylight hours at the airport to the degree that aircraft constitute a threat to spread the Japanese beetle and aircraft destined for the States listed in § 301.48(b) may be leaving the airport.

(b) An inspector shall terminate the designation provided for under paragraph (a) of this section when he determines that adult populations of Japanese beetle no longer exist at the airport to the degree that the aircraft pose a threat to spread the Japanese beetle.

§ 301.48-3 Notification of designation, and termination of designation, of regulated airports.

Upon designating, or terminating the designation of, an airport as regulated, the inspector shall give written notice to the official in charge of the airport that the airport has been designated as a regulated airport or that the designation has been terminated. The inspector shall also give the same information in writing to the official at the airport in charge of each airline or the operator of any other aircraft, which will move a regulated article to any State designated in § 301.48(b). The Deputy Administrator shall also give the same information to the State Plant Regulatory Official of each State designated in § 301.48(b) to which any regulated article will move.

§ 301.48-4 Conditions governing the interstate movement of regulated articles from quarantined States.³

A regulated article may only be moved interstate from a regulated airport to any State designated in

¹ Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, DC 20250, or from an inspector and are on file at the Federal Register.

² Note.—Incorporation by reference provisions approved by the Director, Office of the Federal Register, on June 15, 1978.

³ Requirements under all other applicable Federal domestic plant quarantines must also be met.

§ 301.48(b) if: (a) The regulated article has been treated in accordance with the Treatment Manual, or (b) if the inspector, upon visual inspection, determines that the regulated article does not present a threat to spread the Japanese beetle because adult beetle populations are not present with regard to the particular regulated article, or (c) if the regulated article arrives and leaves the regulated airport during the same non-daylight period.

§ 301.48-5 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of or require disposal of regulated articles and Japanese beetles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.48-6 Movement of live Japanese beetles.

Regulations requiring a permit for and otherwise governing the movement of live Japanese beetles in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.48-7 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart other than for the services of the inspector.

(Secs. 8 and 9; 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions heretofore imposed, and should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. Also, it does not appear that additional relevant information would be made available to the Department by further public participation in rulemaking proceedings on the amendment.

Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this amendment are unnecessary, and good cause is found for making it effective less than 30 days after publication in the Federal Register.

Done at Washington, D.C., this 20th day of April 1979.

This rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations," and has been designated "significant." A Draft Impact Analysis Statement has been prepared and is available from Plant Protection and Quarantine Programs, APHIS, Room 633, Federal Building, Hyattsville, MD 20782.

James O. Lee, Jr.,

Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-12752 Filed 4-23-79; 8:45 am]

BILLING CODE 3410-10-M

7 CFR Part 331

Emergency Plant Pest Regulations Governing Interstate Movement of Certain Products and Articles; West Indian Sugarcane Root Borer

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document gives notice of the existence of an emergency situation and regulations related thereto due to the discovery of the West Indian sugarcane root borer in shipments of plants to noninfested areas of the United States from Puerto Rico and the Virgin Islands of the United States (U.S. Virgin Islands). The emergency regulations regulate the movement from Puerto Rico and the U.S. Virgin Islands of plants and plant parts and plant products capable of propagation, and cut flowers. These emergency regulations are needed in order to prevent the spread of the West Indian sugarcane root borer.

EFFECTIVE DATE: April 24, 1979.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Infestations of the West Indian sugarcane root borer occur in Puerto Rico and the U.S. Virgin Islands. The pest is native to the West Indies, causing serious damage to agricultural crops, chiefly sugarcane. It also attacks citrus and other commercial crops including seed corn, sweetpotatoes, cotton, and peppers. The first infestation in the continental United States was found in Florida in 1968. The pest has been confined to a small portion of Florida in parts of Broward, Orange, and Seminole Counties. The State of Florida has promulgated regulations against this pest, and the Animal and Plant Health Inspection Service cooperates with Florida in its program to prevent artificial spread of the pest. Puerto Rico

has regulations governing the growing and movement of nursery grown plants, but in spite of the inspection procedures in Puerto Rico, the West Indian sugarcane root borer continues to be found in shipments of nursery grown plants coming into the mainland U.S. Shipments of infested plants arriving in mainland ports of entry pose a threat of spreading the pest in the United States. Although at present there is minimal movement of plants and plant parts and plant products capable of propagation, and cut flowers directly from the U.S. Virgin Islands into other areas of the United States, there are frequent movements of these articles from the U.S. Virgin Islands into Puerto Rico. This presents opportunity for exposure to infestation and also for transshipments of infested plants and plant parts and plant products capable of propagation, and cut flowers to those other areas of the United States. Consequently, it is necessary to quarantine the U.S. Virgin Islands as well as Puerto Rico because of the risk of spreading the pest. Therefore, Federal regulations are needed to prevent the spread of the West Indian sugarcane root borer with nursery grown plants and plant parts and plant products capable of propagation, and cut flowers from Puerto Rico and the U.S. Virgin Islands to other areas of the United States.

Based on the above information, Mr. James O. Lee, Jr., Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, has determined that, in order to prevent the possibility of artificially spreading the West Indian sugarcane root borer with plants and plant parts and plant products capable of propagation, and cut flowers to noninfested areas of the United States, emergency regulations restricting the movement of such regulated articles from Puerto Rico and the U.S. Virgin Islands to other areas of the United States must be promulgated immediately. The emergency exists because there is a possibility that those articles listed as regulated articles can carry the West Indian sugarcane root borer to other areas of the United States, unless they have been treated or have not been exposed to the infestation.

Therefore, Chapter III, Title 7 of the Code of Federal Regulations, is hereby amended by adding to Part 331, a new § 331.7 and a subpart heading preceding said section, as follows: