Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1653

Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Agency) proposes to amend the Thrift Savings Plan's (TSP's) regulations to improve processing of court orders that seek to divide a TSP account pursuant to a divorce. The proposed change would limit the types of court orders the Agency would accept to either one that requires payment of a specific dollar amount or that requires payment of a stated percentage or fraction of the account. The change would no longer allow formula court orders.

DATES: Comments must be received on or before September 8, 2006.

ADDRESSES: Comments may be sent to Thomas K. Emswiler, General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005. The Agency's fax number is (202) 942–1676.

FOR FURTHER INFORMATION CONTACT: Megan Graziano on (202) 942–1659.

SUPPLEMENTARY INFORMATION: The Agency administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The Executive Director proposes to amend the Agency's regulations to limit acceptable court orders that divide a TSP account to those that either require payment of a specific dollar amount or that require payment of a stated percentage or fraction of the account.

Currently, the Agency will also accept a court order that requires payment of an amount determined by a formula that yields a mathematically possible result. All variables in the formula must have values that are readily ascertainable.

Formula-based court order are overly complex and often are not acceptable by the Agency or, if acceptable, would result in payments that were not anticipated by either party to the order. As a consequence, the parties must return to court and obtain an amended order. Additionally, the formula court order requires the Agency to interpret the order and results in considerable administrative expense. These expenses are borne by all TSP participants.

The proposed regulation will make it easier for the parties in a divorce to ensure that the Agency will divide a TSP account in accordance with their wishes. The proposed regulation simplifies the types of court orders the Agency will accept. The proposed regulation contains model paragraphs that attorneys can use to ensure that, in drafting orders, the language they select will both produce the intended result and meet the Agency's processing requirements.

Consequently, in order to ensure accuracy of court order payments and to ensure that the administrative expenses of the court order program are reasonable for a retirement savings plan, the Executive Director proposes to amend Agency regulations to limit the types of court orders the Agency will accept to those that either require payment of a specific dollar amount or that require payment of a stated percentage or fraction of the account.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

Submission to Congress and the Government Accountability Office

Pursuant to 5 U.S.C. 801(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. section 804(2).

List of Subjects in 5 CFR Part 1653

Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts.

Gary A. Amelio,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, the Agency proposes to amend 5 CFR chapter VI as follows:

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

1. The authority citation for part 1653 continues to read as follows:

Authority: 5 U.S.C. 8435, 8436(d), 8437(e), 8439(a)(3), 8474(b)(5), and 8474(c)(1).

2. Amend § 1653.2 by revising paragraphs (a)(3)(iii) and (a)(3)(iv) to read as follows:

§ 1653.2 Qualifying retirement benefits court order.

(a) * * *
(3) * * *
(i) * * *
(ii) * * *
(iii) A survivor annuity as provided in 5 U.S.C. 8435(d).
(iv) The following examples would qualify to require payment from the TSP, although ambiguous or conflicting language used elsewhere could cause the order to be rejected.

Example (1). ORDERED: [payee's name, Social Security number (SSN), and address] is awarded $_____ from the [civilian or uniformed services] Thrift Savings Plan account of [participant's name, SSN, and address].

Example (2). ORDERED: [payee's name, SSN, and address] is awarded _____% of the [civilian and/or uniformed services] Thrift Savings Plan account[s] of [participant's name, SSN, and address] as of [date].

Example (3). ORDERED: [payee's name, SSN, and address] is awarded [fraction] of the [civilian and/or uniformed services] Thrift Savings Plan account[s] of [participant's name, SSN, and address] as of [date].

Note: The following optional language can be used in conjunction with any of the above examples. FURTHER ORDERED: Earnings will be paid on the amount of the entitlement under this ORDER until payment is made.

* * * * *

[FR Doc. E6–12895 Filed 8–8–06; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. APHIS–2006–0044]

Animal Welfare; Elephants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of petition and request for comments.

SUMMARY: We are notifying the public that the Animal and Plant Health Inspection Service has received a petition from In Defense of Animals requesting that we issue an interpretive rule or policy to clarify the space and living conditions required for captive elephants, and that we enforce the Animal Welfare Act and its implementing regulations by requiring that exhibitors fully comply with the regulations. We are soliciting comments from the public regarding the petition, and whether we should continue to regulate the handling, care, treatment, and transport of elephants covered by the Animal Welfare Act under the general standards in the regulations or promulgate specific standards for elephants. We are also requesting comments regarding what should be included in any such standards.

DATES: We will consider all comments that we receive on or before October 10, 2006.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0044 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0044, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0044.

Reading Room: 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 Avenue 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

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

The Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and other regulated entities. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Currently, part 3 consists of subparts A through E, which contain specific standards for dogs and cats, guinea pigs and hamsters, rabbits, nonhuman primates, and marine mammals, respectively, and subpart F, which sets forth the general standards for warmblooded animals not otherwise specified in that part, including elephants.

In a petition [1] dated February 2, 2006, In Defense of Animals (the petitioner) stated that exhibited elephants have chronic foot and joint problems due to inadequate space (indoor and outdoor enclosures) and inadequate living conditions (including amount of time confined, type of substrate, and cleanliness of floors). The petitioner requested that APHIS issue an interpretive rule or policy that clarifies the space and living conditions required for captive elephants, and that APHIS enforce the AWA and its implementing regulations by requiring that exhibitors fully comply with the regulations.

We are requesting comments from the public on the petition. We are also requesting comments on whether specific standards should be promulgated for elephants and what should be included in such standards. In particular, we invite responses to the following questions:

1. What are the causes of arthritis in elephants?

2. What, if any, foot care practices have been used on captive elephants to maintain healthy feet?

3. What substrates are best for captive elephants? Are there any substrate conditions that promote foot problems?

4. Do captive elephants require a certain amount of exercise (*i.e.*, walking) to maintain healthy feet?

5. What industry/professional standards are available for elephant care and husbandry?

6. Are there any other health or care issues related to elephants that should be specifically addressed in the AWA standards?

We welcome all comments on the issues outlined above and encourage the submission of scientific data, studies, or research to support your comments and position, including scientific data or

[1] The petition is available on the Regulations.gov Web site. Go to *http://www.regulations.gov,* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0044. The petition will appear in the resulting list of documents. A copy of the petition may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.