

Rules and Regulations

Federal Register

Vol. 77, No. 88

Monday, May 7, 2012

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 week.

OFFICE OF PERSONNEL MANAGEMENT

RIN 3206-AM44

5 CFR Part 733

Political Activity—Federal Employees Residing in Designated Localities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: OPM is amending its regulations to grant Federal employees residing in King George County, Virginia, a partial exemption from the political activity restrictions in the Hatch Act, and to add King George County to its regulatory list of designated localities. The amendment reflects OPM's determination that King George County meets the criteria in the Hatch Act and OPM regulations for a partial exemption to issue.

DATES: This rule is effective June 6, 2012.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot, Office of the General Counsel, United States Office of Personnel Management, (202) 606-1700.

SUPPLEMENTARY INFORMATION: The Hatch Act, at 5 U.S.C. 7323(a)(2) and (3), prohibits Federal employees from becoming candidates for partisan political office and from soliciting, accepting, or receiving political contributions. However, 5 U.S.C. 7325, authorizes OPM to prescribe regulations permitting employees in certain communities to participate in local elections for partisan political office without regard to the prohibitions in 5 U.S.C. 7323(a)(2) and (3) only if the requirements described in section 7325 are met. The first requirement is that the community or political subdivision must be located in Maryland or Virginia, and in the immediate vicinity of the District of Columbia. Alternatively, the

majority of the community's registered voters must be employed by the United States Government. The second requirement is that OPM must determine that it is in the domestic interest of the employees to permit that political participation because of special or unusual circumstances existing in the community or political subdivision. These statutory requirements are reflected in 5 CFR 733.107(a). Under 5 CFR part 733, the exemption from the prohibitions in 5 U.S.C. 7323(a)(2) and (3) is a partial exemption because in 5 CFR 733.103-733.106, OPM has established limitations on political participation by most Federal employees residing in these designated municipalities and subdivisions.

On August 22, 2011, OPM issued a proposed rule at 72 FR 39582 to add King George County, Virginia, to this regulatory list of designated localities at 5 CFR 733.107(c). In its notice of proposed rulemaking, OPM noted that King George County, Virginia, had fulfilled the statutory requirements for a partial exemption to issue and proposed the addition of King George County to the regulatory list of designated localities. 76 FR 52287 (August 22, 2011). OPM also placed a legal notice in the print edition of *The Free Lance Star* on September 9, 2011. OPM did not receive any comments on the proposed rule during the 60-day notice and comment period.

Therefore, OPM is adding King George County to its list of designated localities at 5 CFR 733.107(c). When this rule becomes effective, Federally employed residents of King George County will be permitted under 5 CFR 733.103 to participate in the following activities:

- (1) Run as independent candidates for election to partisan political office in elections for local county office in King George County;
- (2) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in King George County;
- (3) Accept or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;
- (4) Solicit, accept, or receive uncompensated volunteer services as an independent candidate, or on behalf of an independent candidate, for local partisan political office, in connection with the local elections of King George County; and

- (5) Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party.

Under 5 CFR 733.104 of title 5, however, Federally employed residents of King George County may not:

- (1) Run as the representative of a political party for local partisan political office;
- (2) Solicit a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;
- (3) Knowingly solicit a political contribution from any Federal employee, except as permitted under 5 U.S.C. 7323(a)(2)(A)-(C).
- (4) Accept or receive a political contribution from a subordinate;
- (5) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose;
- (6) Participate in political activities:
 - While they are on duty;
 - While they are wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;
 - While they are in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or
 - While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

Moreover, candidacy for, and service in, a partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent conflict, of interest.

Sections 733.103 and 733.104 of Title 5, Code of Federal Regulations, do not apply to individuals, such as career senior executives and employees of the Federal Bureau of Investigation, who are employed in the agencies or positions listed in 5 CFR 733.105(a). These individuals are subject to the more stringent limitations described in 5 CFR 733.105 and 733.106.

Individuals who require advice concerning specific political activities, and whether an activity is permitted or prohibited under 5 CFR 733.103-733.106, should contact the United States Office of Special Counsel at (800) 854-2824 or (202) 254-3650. Requests for Hatch Act advisory opinions may be made by email to: hatchact@osc.gov.

King George County will be listed after Herndon, Virginia, and before

Loudoun County, Virginia, at 5 CFR 733.107(c).

E.O. 12866, Regulatory Review

This regulation has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the changes will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 733

Political activities (Government employees).

U.S. Office of Personnel Management.

John Berry,
Director.

Accordingly, the Office of Personnel Management amends 5 CFR part 733 as follows:

PART 733—POLITICAL ACTIVITY— FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

■ 1. The authority citation for part 733 continues to read as follows:

Authority: 5 U.S.C. 7325; sec. 308 of Pub. L. 104–93, 109 Stat. 961, 966 (Jan. 6, 1996)

■ 2. Section 733.107(c) is amended by adding King George County, Virginia, alphabetically to the list of designated Virginia municipalities and political subdivisions as set forth below.

§ 733.107 Designated localities.

* * * * *

(c) * * *

In Virginia

* * * * *

King George County June 6, 2012.

* * * * *

[FR Doc. 2012–10951 Filed 5–4–12; 8:45 am]

BILLING CODE 6325–48–P

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

7 CFR Part 3203

RIN 0599–AA13

Guidelines for the Transfer of Excess Computers or Other Technical Equipment Pursuant to Section 14220 of the 2008 Farm Bill

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Final rule.

SUMMARY: The Office of Procurement and Property Management (OPPM) of the U.S. Department of Agriculture (USDA) is establishing and implementing procedures for the transfer of excess computers or other technical equipment for the purposes of distribution to a city, town, or local government entity in a rural area.

DATES: *Effective Date:* June 6, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Michael R. Johnson, Office of Procurement and Property Management, USDA on (202) 720–9779 or by Email at michaelr.johnson@dm.usda.gov.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the **Federal Register** on May 16, 2011 (76 FR 28188–28191, FR Doc No: 2011–11601) soliciting comments on the establishment of Guidelines for the Transfer of Excess Computers or Other Technical Equipment Pursuant to Section 14220 of the 2008 Farm Bill. The proposed rule would have established 7 CFR part 3201, but the final rule will be establishing part 3203. The proposed rule had a comment period of 60 days ending July 15, 2011. No comments were received through email, fax, mail, or hand delivery/courier. A total of 12 comments were received through the Federal eRulemaking Portal. Of the comments received, two were sent as tests, nine were submitted to the wrong docket and subsequently moved to the correct docket, and one comment had multiple questions and comments that were put into one of three categories: (1) Comments on the Farm Bill itself, which will not be addressed; (2) Questions on personal property disposal which are covered by Federal Management Regulations, Agriculture Property Management Regulations and internal agency regulations and policies, and will not be addressed; and (3) A question that asked who is responsible and what happens to the equipment if the items are refurbished and the intended recipient changes its mind or cannot pay the cost (go to www.Regulations.gov to see entire comment). Two revisions have been made as a result of the comment referenced above: 1. The word ‘designated’ has been added before ‘organization’ in sections 3203.6(c), 3203.7 and 3203.8; and 2. Additional language has been added to section 3203.4(e)(5) stating that the recipient needs to furnish a copy of the agreement between the recipient and its designated organization.

B. Executive Orders Number 12866 and 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a non-significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

This rule implements Section 14220 of the 2008 Farm Bill. It is expected that the benefits that accrue to cities, towns, and local government entities in rural areas from the receipt of excess USDA computers and technical equipment will exceed the costs to USDA in providing such equipment.

C. Regulatory Flexibility Act

USDA certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The impact of this regulation will be primarily limited to rural towns and government entities. The Department estimates that 400 eligible entities will submit requests for donated equipment annually. As small businesses are not considered eligible entities under this regulation, the rule will not have a significant impact on the small business community or on a substantial number of small businesses. The Department invited comments on its estimates for the potential impact of this rule on small businesses and did not receive any comments.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3520), the information collection is currently approved under OMB control number 0505–0023.

E. Executive Order 12630

This rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.