

# 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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 735

RIN: 3206-AJ74

### Employee Responsibilities and Conduct

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing a plain language rewrite of its regulations regarding the standards that govern employee responsibilities and conduct as part of a broader review of OPM's regulations. The purpose of the revisions is to make the regulations more readable.

**DATES:** Comments must be submitted on or before March 17, 2003.

**ADDRESSES:** Send or deliver written comments to Wade Plunkett, Principal Deputy Ethics Official, Office of the General Counsel, Office of Personnel Management, Room 7532, 1900 E St., NW., Washington, DC 20415, or FAX: 202-606-0082 or e-mail them to [wmplunke@opm.gov](mailto:wmplunke@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Wade Plunkett, by telephone at 202-606-1700; or by FAX at 202-606-0082 or by e-mail at [wmplunke@opm.gov](mailto:wmplunke@opm.gov).

**SUPPLEMENTARY INFORMATION:** OPM is revising part 735, which deals with employee responsibility and conduct, as part of a larger review of OPM regulations for plain language purposes. The purpose of this revision to part 735 is not to make substantive changes, but rather to make part 735 more readable. The proposed regulations have been converted to a question-and-answer format, and we have made minor changes to the wording to enhance clarity.

### 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 E.O. 12866.

### List of Subjects in 5 CFR Part 735

Conflicts of interest, Government employees.

Office of Personnel Management.

**Kay Coles James,**

*Director.*

Accordingly, OPM proposes to revise part 735 as follows:

### PART 735—EMPLOYEE RESPONSIBILITIES AND CONDUCT

**Note:** Part 1001, added to this subchapter at 31 FR 873, January 22, 1966, and revised at 32 FR 11113, August 1, 1967, 36 FR 6874, April 9, 1971, and 61 FR 36996, July 16, 1996, supplement this part 735.

#### Subpart A—General Provisions

Sec.

735.101 Definitions.

735.102 What are the grounds for disciplinary action?

735.103 What other regulations pertain to employee conduct?

#### Subpart B—Standards of Conduct

Sec.

735.201 What are the restrictions on gambling?

735.202 What are the restrictions that safeguard the examination process?

735.203 What are the restrictions on conduct prejudicial to the Government?

**Authority:** 5 U.S.C. 7301; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

#### Subpart A—General Provisions

##### § 735.101 Definitions.

In this part:

*Agency* means an Executive agency (other than the General Accounting Office) as defined by 5 U.S.C. 105, the Postal Service, and the Postal Rate Commission.

*Employee* means any officer or employee of an agency, including a special Government employee, but does not include a member of the uniformed services.

*Government* means the United States Government.

*Special Government employee* means those officers or employees specified in 18 U.S.C. 202(a) except those employed in the legislative branch or by the District of Columbia.

*Uniformed services* has the meaning given that term by 5 U.S.C. 2101(3).

##### § 735.102 What are grounds for disciplinary action?

An employee's violation of any of the regulations in subpart B of this part may be cause for disciplinary action by the employee's agency, which may be in addition to any penalty prescribed by law.

##### § 735.103 What other regulations pertain to employee conduct?

In addition to the standards of conduct in subpart B of this part, an employee shall comply with the standards of ethical conduct in 5 CFR part 2635, as well as any supplemental regulation issued by the employee's agency under 5 CFR 2635.105. An employee's violation of those regulations may cause the employee's agency to take disciplinary action, or corrective action as that term is used in 5 CFR part 2635. Such disciplinary action or corrective action may be in addition to any penalty prescribed by law.

#### Subpart B—Standards of Conduct

##### § 735.201 What are the restrictions on gambling?

(a) While on Government-owned or leased property or on duty for the Government, an employee shall not conduct or participate in any gambling activity, including operating a gambling device, conducting a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket.

(b) This section does not preclude activities:

(1) Necessitated by an employee's official duties; or

(2) Occurring under section 7 of Executive Order 12353 and similar agency-approved activities.

##### § 735.202 What are the restrictions that safeguard the examination process?

(a) An employee shall not, with or without compensation, teach, lecture, or write for the purpose of the preparation of a person or class of persons for an examination of the Office of Personnel Management (OPM) or Board of

Examiners for the Foreign Service that depends on information obtained as a result of the employee's Government employment.

(b) This section does not preclude the preparation described in paragraph

(a) of this section if:

(1) The information upon which the preparation is based has been made available to the general public or will be made available on request; or

(2) Such preparation is authorized in writing by the Director of OPM, or his or her designee, or by the Director General of the Foreign Service, or his or her designee, as applicable.

**§ 735.203 What are the restrictions on conduct prejudicial to the Government?**

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

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**DEPARTMENT OF AGRICULTURE**

**Rural Utilities Service**

**7 CFR Part 1794**

**RIN 0572-AB73**

**Environmental Policies and Procedures**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Utilities Service (RUS) is proposing to amend its existing environmental regulations, Environmental Policies and Procedures, which have served as RUS' implementation of the National Environmental Policy Act (NEPA) in compliance with the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA. Based on a greater use of small-scale and distributed generation and renewable resources, and the agency's experience and review of its existing procedures, RUS has determined that several changes are necessary for its environmental review process to operate in a more effective and efficient manner.

**DATES:** Written comments must be received by RUS or bear a postmark or equivalent, no later than February 14, 2003.

**ADDRESSES:** Written comments should be sent to F. Lamont Heppie, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities

Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Ave., SW., Washington, DC 20250-1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:**

Lawrence R. Wolfe, Senior Environmental Protection Specialist, Engineering and Environmental Staff; Rural Utilities Service, Stop 1571, 1400 Independence Ave., SW., Washington, DC 20250-1571. Telephone (202) 720-1784. E-mail address: [lwolfe@rus.usda.gov](mailto:lwolfe@rus.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore has not been reviewed by the Office of Management and Budget (OMB).

**Executive Order 12372**

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which requires consultation with State and local officials. See the final rule related notice titled "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule, and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeals procedures, if any are required, must be exhausted before an action against the Department or its agencies.

**Regulatory Flexibility Act Certification**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator of RUS has determined that this proposed rule, if adopted, would not have significant impact on a substantial number of small entities. The proposed rule would serve to clarify the existing regulation and to

change the existing classification of selected minor actions to generally streamline the environmental review process for such actions. Most of the proposed changes in the proposed rule should result in modest cost savings and ease the regulatory compliance burden for affected applicants.

**Information Collection and Recordkeeping Requirements**

This rule contains no additional information collection or recordkeeping requirements under OMB control number 0572-0117 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

**Unfunded Mandates**

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments of the private sector. Thus, this proposed rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandates Reform Act.

**National Environmental Policy Act Certification**

RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) Therefore, this action does not require an environmental impact statement or assessment.

**Program Affected**

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance programs under numbers 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the U.S. Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

**Background**

On December 11, 1998, the Rural Utilities Service (RUS) published 7 CFR Part 1794, Environmental Policies and Procedures, as a final rule in the **Federal Register** (63 FR 68648) covering the actions of the electric, telecommunications, and water and waste programs. Based on a greater emphasis within the electric industry on the use of small-scale and distributed generation and renewable resources, and the agency's experience and review of its existing procedures, RUS has