

# Rules and Regulations

Federal Register

Vol. 73, No. 95

Thursday, May 15, 2008

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

### 5 CFR Part 733

RIN 3206-AL32

#### Political Activity—Federal Employees Residing in Designated Localities

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** OPM is amending its regulations at 5 CFR part 733 to grant Federal employees residing in Fauquier County, Virginia, a partial exemption from the political activity restrictions in the Hatch Act, and to add Fauquier County to its regulatory list of designated localities. The amendment reflects OPM's determination that Fauquier County meets the criteria in the Hatch Act and OPM regulations for a partial exemption to issue.

**DATES:** This rule is effective June 16, 2008.

**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 July 19, 2007, OPM issued a proposed rule at 72 FR 39582 to add Fauquier County, Virginia, to this regulatory list of designated localities at 5 CFR 733.107(c). In its notice of proposed rulemaking, OPM noted that Fauquier County, Virginia, had fulfilled the statutory requirements for a partial exemption to issue and proposed the addition of Fauquier County to the regulatory list of designated localities. 72 FR 39582 (July 19, 2007). OPM also placed a legal notice in *The Fauquier Times Democrat* on September 12, 2007.

OPM received only one comment. In this comment, an individual identifying himself as a resident of Fauquier County stated that he feared interference every four years from residents who had no long range plans to stay in the community, or had no understanding of the ancestral history of the area. This individual also noted that he had nothing against the potential expertise of the county's Federally employed residents. He also stated, however, that he was "sick of gerrymandering of" the election process. OPM notes that most Federal civilian employees are individuals who have made a career of public service and reside in the same communities for many years. This individual, moreover, did not submit to OPM any evidence that political participation of Federal employees in connection with local elections would result in any "gerrymandering" of the election process, and OPM has not received any such evidence from any other source.

Therefore, OPM is adding Fauquier County to its list of designated localities at 5 CFR 733.107(c). When this rule

becomes effective, Federally employed residents of Fauquier 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 office in the municipality or political subdivision;

(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 the municipality or political subdivision;

(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 the municipality or subdivision; 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 Fauquier 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 e-mail to: *hatchact@osc.gov*.

Fauquier County will be listed after Falls Church, Virginia, and before Herndon, 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).

Office of Personnel Management.

Linda M. Springer,

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 Fauquier County, Virginia, alphabetically to the list of designated Virginia municipalities and political subdivisions as set forth below.

**§ 733.107 Designated localities.**

\* \* \* \* \*  
(c) \* \* \*  
In Virginia  
\* \* \* \* \*

Fauquier County  
\* \* \* \* \*

[FR Doc. E8–10774 Filed 5–14–08; 8:45 am]

BILLING CODE 6325–48–P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Parts 56 and 70**

[Docket No. AMS–PY–08–0030; PY–06–002]

**Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading; Correction**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations that were published in the **Federal Register** on Wednesday, March 14, 2007 (72 FR 11773) related to the fees and charges for Federal voluntary egg, poultry, and rabbit grading found in sections 7 CFR 56.54(a)(2), 7 CFR 70.76(a)(2) and 7 CFR 70.77(a)(5). The final regulations that are the subject of these corrections were to increase the minimum fees for rabbit grading and for non-resident egg and poultry grading services that had been effective since September 25, 2005. Although the increases were included in the supplementary information, they were inadvertently omitted in the regulatory language.

DATES: *Effective Date:* May 15, 2008.

FOR FURTHER INFORMATION CONTACT: David Bowden, Jr., Chief, USDA, AMS, PY, Standards, Promotion and Technology Branch (202) 690–3148.

SUPPLEMENTARY INFORMATION: The docket provides correcting amendments to Marketing Orders 56 and 70, found respectively at 7 CFR part 56 and part 70.

**List of Subjects**

**7 CFR Part 56**

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

**7 CFR Part 70**

Food grades and standards, Food labeling, Poultry and Poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

Accordingly, 7 CFR, parts 56 and 70 are corrected by making the following correcting amendments:

**PART 56—VOLUNTARY GRADING OF SHELL EGGS**

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

**§ 56.54 [Amended]**

2. In § 56.54, paragraph (a)(2) is amended by removing the figure “\$260” and adding the figure “\$275” in its place.

**PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS**

3. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

**§ 70.76 [Amended]**

4. In § 70.76, paragraph (a)(2) is amended by removing the figure “\$260” and adding the figure “\$275” in its place.

**§ 70.77 [Amended]**

5. In § 70.77, paragraph (a)(5) is amended by removing the figure “\$260” and adding the figure “\$275” in its place.

Dated: May 9, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–10821 Filed 5–14–08; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF HOMELAND SECURITY**

**8 CFR Parts 103 and 299**

[CIS No. 2074–00; DHS Docket No. USCIS–2005–0013]

**RIN 1615–AB19**

**Establishment of a Genealogy Program**

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Final rule.

SUMMARY: This rule establishes a fee-for-service Genealogy Program within U.S. Citizenship and Immigration Services (USCIS) to streamline and improve the process for acquiring historical records of deceased individuals. Currently, USCIS processes such requests through its Freedom of Information Act/Privacy Act (FOIA/PA) program, thereby adding unnecessary delays to the process.

USCIS expects that this Genealogy Program will ensure a timely response to requests for genealogical and historical records and will relieve