

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.

DEPARTMENT OF AGRICULTURE

7 CFR Part 3201

RIN 0599-AA13

Office of Procurement and Property Management; 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: Proposed rule.

SUMMARY: The Office of Procurement and Property Management (OPPM) of the U.S. Department of Agriculture (USDA) proposes to establish and implement 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: Interested parties should submit comments on or before July 15, 2011 to be considered in the formulation of a final rule.

ADDRESSES: You may submit comments, identified by RIN 0599-AA13, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* Sect14220.2008FarmBill@dm.usda.gov. Include RIN 0599-AA13 in the subject line of the message.

- *Fax:* (202) 720-8972.

- *Mail:* USDA, OPPM, PMD, Attn: Michael R. Johnson, 300 7th Street, SW, Suite 316, Washington, DC 20024.

- *Hand Delivery/Courier:* Reporter's Building, 300 7th Street, SW., Washington, DC.

- *Instructions:* All submissions received must include the agency name and RIN 0599-AA13 for this proposed rulemaking. Please include your name, company name (if applicable) e-mail address and/or phone number where you can be contacted if additional clarification is required on your comment(s).

FOR FURTHER INFORMATION CONTACT:

Mr. Michael R. Johnson, Office of Procurement and Property Management, USDA on (202) 720-9779 or by mail at USDA, OPPM, PMD, 300 7th Street, SW., Suite 316, Washington, DC 20024. Please cite RIN 0599-AA13.

SUPPLEMENTARY INFORMATION:

A. Background

7 U.S.C. 2206b Availability of excess and surplus computers in rural areas, states that in addition to any other authority, the Secretary of Agriculture may make available to an organization excess or surplus computers or other technical equipment of the Department of Agriculture for the purposes of distribution to a city, town, or local government entity in a rural area (as defined in section 7 U.S.C.

1991(a)(13)(A) of this title). It should be noted that, although 7 U.S.C. 2206b gives the Secretary of Agriculture this authority, activities authorized under this section are in addition to, and would not replace, activities conducted under other existing authorities of the Secretary with regard to property disposal. Other authorities include: 7 CFR 2812, Donation of excess research equipment to educational institutions and non-profit organizations for the conduct of technical and scientific education and research activities as authorized by 15 U.S.C. 3710(i); and 7 CFR 3200, Acquisition and transfer of excess property to the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions in support of research, educational, technical, and scientific activities or for related programs as authorized by 7 U.S.C. 2206a. Although computers and other technical equipment are available under all three programs, this program targets all cities, towns and local government entities in rural areas, whereby the other authorities are targeted to educational institutions, or certain non-profit organizations, only. USDA plans to use this authority to make available excess computers or other technical equipment to an organization that is able to refurbish such equipment for the purposes of distribution to a city, town or local government entity, including independent school districts, in rural areas. USDA's preference under this program is for organizations that

refurbish the equipment to donate such equipment to cities, towns and local government entities in rural areas, including rural schools, libraries and city halls in need.

USDA's goals for this authority are to: make computers available in classrooms to assist in giving children the education needed in today's technical environment; assist rural areas with their planning, coordination, and implementation of community and economic development programs by using modern technology; use the equipment to support training, business plan development, community outreach and other productive activities designed to establish or improve services to the public therefore promoting and improving economic development in the rural areas.

USDA agencies will designate an official who will approve transfers under this part as well as function as the point of contact. Eligible recipients will contact a USDA office to get information on the availability of needed or other closely matched USDA excess computers or other technical equipment. Eligible recipients will be notified if USDA has excess computers or other technical equipment available that would fulfill their needs. The eligible recipient will send a letter to the USDA office with information regarding the request for the excess. This information submission will be subject to the Paperwork Reduction Act information collection notice included in this proposed rule. The USDA agency official will perform a review of the request to establish eligibility of the recipient and the availability of excess computers or other technical equipment. The USDA agency official will inform the requestor of the outcome of the review. The selected recipient may then work with the designated organization of its choosing to determine the schedule for receipt and refurbishing of any donated computer or technical equipment. Transfers will be accomplished using a USDA form that will be filled out by USDA and which must be signed by an authorized official of the USDA agency and an official of the eligible recipient. Eligible recipients are responsible for following up with the organization they have designated, for the final receipt of the property. The city, town, local government entity or organization must pay any costs

associated with packaging and transportation of the property.

B. Executive Order Number 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 of Budget.

C. Regulatory Flexibility Act

USDA certifies that this proposed 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 invites comment on its estimates for the potential impact of this rulemaking on small businesses.

D. Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and any recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for USDA/DM, Washington, DC 20250. Please state that your comments refer to RIN 0599-AA13. Please send a copy of your comments to: RIN 0599-AA13, USDA, OPPM, PMD, 300 7th Street, SW., Suite 316, Washington, DC 20024. A comment to OMB is best assured of having its full effect if OMB receives it within 60 days of publication of this proposed rule.

Title: Guidelines for Transfer of Excess Computers and Technical Equipment.

OMB Control Number: 0505-New.

Type of Request: New information collection.

Expiration Date: 3 years from date of approval.

Abstract: Under this proposed rule USDA requires eligible recipients to express their interest in receiving property by submitting a request which must include: (1) Type of excess computers or other technical equipment requested; (2) Justification for eligibility; (3) Contact information of the requestor; (4) Logistical information such as when and how the property will be picked up;

and (5) Information on the organization that is designated to receive the property for the eligible recipient.

USDA is requesting approval from OMB for the use of this information collection in order to ensure that excess computers or other technical equipment are transferred to eligible recipients only and that the excess computers or other technical equipment is the type and kind the recipient can use.

Estimate of burden: Public burden for this collection of information is estimated to average .167 hours per request.

Respondents: Cities, towns, or local government entities in rural areas.

Estimated annual number of respondents: 400.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 400.

Estimated total annual burden on respondents: 67 hours.

USDA is soliciting comments from the public (as well as affected agencies) concerning the proposed information collection and recordkeeping requirements. These comments will help:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of USDA agency functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the estimate of the burden of the proposed information collection;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond.

E. Executive Order 12630

This proposed 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.

F. Executive Order 13132

This proposed rule has been reviewed in accordance with Executive Order 13132, Federalism, and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this proposed rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

G. Unfunded Mandates Reform Act of 1995

This proposed rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), and therefore a written statement is not required.

H. Executive Order 12372

This proposed rule has been reviewed in accordance with Executive Order 12372, Intergovernmental review of Federal programs, and does not establish Federal financial assistance or direct Federal development with State and local governments, and is therefore outside the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

I. Executive Order 13175

This proposed rule has been reviewed in accordance with Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and does not have Tribal implications or impose unfunded mandates with Indian Tribes.

J. E-Government Act Compliance

USDA is committed to compliance with the E-Government Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. This proposed rule requires one letter from requestors which can be sent electronically to USDA. USDA will continue to seek other avenues to increase electronically submitted information.

List of Subjects in 7 CFR 3201

Computers, Excess, Excess computers, Excess government property, Government property, Other technical equipment, Personal property, Technical equipment.

For the reasons set forth in the preamble, the Department of Agriculture proposes to add 7 CFR part 3201 as follows:

PART 3201—GUIDELINES FOR THE TRANSFER OF EXCESS COMPUTERS OR OTHER TECHNICAL EQUIPMENT PURSUANT TO SECTION 14220 OF THE 2008 FARM BILL

Sec.	
3201.1	Purpose.
3201.2	Eligibility.
3201.3	Definitions.
3201.4	Procedures.
3201.5	Dollar limitation.
3201.6	Restrictions.
3201.7	Title.

- 3201.8 Costs.
 3201.9 Accountability and recordkeeping.
 3201.10 Disposal.
 3201.11 Liabilities and losses.

Authority: 7 U.S.C. 2206b.

§ 3201.1 Purpose.

This part sets forth the procedures to be utilized by USDA when transferring excess USDA computers or other technical equipment to an organization for the purposes of distribution to a city, town, or local government entity in a rural area as authorized by 7 U.S.C. 2206b.

§ 3201.2 Eligibility.

To be eligible under this part:

- (a) A city, town, or local government entity must be located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A).
 (b) A designated organization must:
 (1) Have the documented capability to refurbish and distribute excess computers or other technical equipment;
 (2) Serve the interest of cities, towns, or local government entities in rural areas; and
 (3) Have been designated by an official of a city, town, or local government entity in a rural area to receive excess computers or other technical equipment under this part.

§ 3201.3 Definitions.

Cannibalization means to remove serviceable parts from one item of equipment in order to install them on another item of equipment in order to repair or enhance its operability.

City, town, or local government entity in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) means any area other than:

- (1) A city or town that has a population of greater than 50,000 inhabitants; and
 (2) Any urbanized area contiguous and adjacent to such a city or town described in paragraph (1) of this definition.

Computers or other technical equipment means central processing units, laptops, desktops, computer mice, keyboards, monitors, related peripheral tools (e.g., printers, modems, routers, servers, multimedia projectors, multifunctional devices, external hard drives) and fax machines. This term may also include computer software where the transfer of a license is permitted.

Designated Organization means an organization that has been selected by an official of a city, town, or local government entity in a rural area to provide refurbishing services on donated computer and technical equipment.

Excess means any property under the control of a USDA agency that is no longer required for that agency's or another USDA agency's needs, as determined by the agency head or designee.

Property Management Officer (PMO) is an eligible recipient's designated point of contact, responsible for adherence to procedures described in this part.

Recipient means a city, town, or local government entity located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) that may receive excess computers or other technical equipment under this part.

Refurbish means to make 'like new' by the process of major maintenance or minor repair of an item, either aesthetically or mechanically.

§ 3201.4 Procedures.

(a) Each agency head will designate, in writing, an authorized official to approve transfers of excess computers or other technical equipment under this part consistent with the Department's policies on personal property management.

(b) Excess computers or other technical equipment must first be internally screened to ensure it is not needed elsewhere in the Department.

(c) To receive information concerning the availability of USDA excess computers or other technical equipment, an eligible recipient's PMO should contact any USDA office near to its location.

(d) The USDA employee responsible for personal property, at the office contacted, will review the request for eligibility of the recipient and the availability of excess computers or other technical equipment. The USDA employee will inform the requestor of the outcome of the review (e.g. eligibility, the availability of excess computers or other technical equipment).

(e) Eligible recipients will express their interest in receiving property under this part by submitting a request, on letterhead paper (electronic copy is acceptable), to a USDA authorized official. All requests must originate from, and be signed by, a representative of an eligible recipient city, town, or local government entity. Requests must include:

- (1) Type of excess computers or other technical equipment requested (should include specifications);
 (2) Justification for eligibility (see § 3201.2);
 (3) Contact information of the requestor;

(4) Logistical information such as when and how the property will be picked up; and

(5) Information on the recipient's designated organization (company name, contact person and phone number) that is designated to receive and refurbish the property for the eligible recipient.

(f) Excess computers or other technical equipment should be inspected before the property is transferred or the USDA agency should be contacted to verify the condition of the property.

(g) If the condition of the property is acceptable, the recipient or its designated organization will coordinate with the USDA contact for transfer of the property. Since the USDA agency office may have several requests for property, it is critical that the recipient or its designated organization contact USDA as soon as possible. Property will usually be allocated on a first-come, first served basis, taking into account fair and equitable distribution of excess computers or other technical equipment to all eligible recipients.

(h) Transfers will be accomplished using the appropriate USDA property transfer form. The transfer form must contain the following statement: "Property listed on this form is being transferred pursuant to the provisions in 7 CFR Part 3201." The form must be signed by an authorized official of the USDA agency and an official of the recipient organization.

(i) A copy of the request that transferred the property must be attached to the transfer order and kept in the USDA agency's files.

(j) When property is transferred to a designated organization, a copy of the completed transfer document will be sent to the eligible recipient government entity for its records. Eligible recipients are responsible for following up with the designated organization they have designated for the final receipt of the property.

(k) In cases where an agency receives competing requests for excess computers or other technical equipment, to the extent permitted by law, the agency shall give full consideration to such factors as national defense requirements, emergency needs, energy conservation, preclusion of new procurement, fair and equitable distribution, transportation costs, and retention of title in the Government.

(l) Prior to transferring any property pursuant to this Act, the transferring agency must remove data from the excess computers or other technical equipment (memory or any kind of data storage device) according to accepted

sanitization procedures. To the maximum extent practicable, the transferring agency must remove data using a means that does not remove, disable, destroy, or otherwise render unusable the excess computers or other technical equipment or components. It is imperative that agencies take the necessary steps to ensure that no personal computer, server, external storage device, or related electronic component is transferred that might contain sensitive or confidential information. See Departmental Manual 3575-001, Security Controls in the System Life Cycle/System Development Life Cycle, for additional guidance.

§ 3201.5 Dollar limitation.

There is no dollar limitation on excess computers or other technical equipment obtained under this part.

§ 3201.6 Restrictions.

(a) Only an authorized USDA official may approve the transfer of excess computers or other technical equipment under this part.

(b) Excess computers or other technical equipment may be transferred for the purpose of cannibalization, provided that the requestor submits a statement clearly indicating that cannibalization of the requested property will have greater benefit than utilization of the item in its existing form. Cannibalization is a secondary use of equipment and, therefore, these requests are considered subordinate to requests for primary use.

(c) Organizations will only receive property for cannibalization when it has been specifically requested by the recipient and the cannibalized parts must only be used in computers or other technical equipment destined for eligible recipients.

§ 3201.7 Title.

Title of ownership to excess computers or other technical equipment transferred under this part shall automatically pass to the recipient once the transferring agency and recipient or designated organization sign the transfer form indicating that the organization has received the property.

§ 3201.8 Costs.

The organization must pay any costs associated with packaging and transportation of the property unless it has made other arrangements. The organization must remove property from the USDA agency's premises within 15 calendar days after being notified that the property is available for pickup, unless otherwise coordinated with the USDA agency. If the recipient decides

prior to picking up or removing the property that it no longer wants the property, it must notify the USDA agency that approved the transfer request that the property is no longer needed.

§ 3201.9 Accountability and recordkeeping.

(a) USDA requires all excess computers or other technical equipment received by an eligible recipient pursuant to this part be placed into use within one year of receipt of the property and used for at least one year thereafter. The recipient's PMO must maintain accountable records for such property during this time period.

(b) GSA requires that all excess personal property given to non-Federal recipients be reported each fiscal year. USDA agencies that transfer property under this part must report the transfers in their annual reports to OPPM and include both the recipient and organization names. OPPM will review the reports for accuracy, as well as fair and equitable distribution of the excess computers or other technical equipment, before submitting to GSA.

§ 3201.10 Disposal.

When property received under this part is no longer needed by the recipient, it must be disposed of in an environmentally sound manner that is not detrimental or dangerous to public health or safety and in accordance with all Federal, state and local laws.

§ 3200.11 Liabilities and losses.

USDA assumes no liability with respect to accidents, bodily injury, illness, or any other damages or loss related to excess computers or other technical equipment transferred under this part. The recipient/designated organization is advised to insure or otherwise protect itself and others as appropriate.

Dated: May 6, 2011.

Lisa M. Wilusz,

Director.

[FR Doc. 2011-11601 Filed 5-13-11; 8:45 am]

BILLING CODE 3410-TX-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM-26-6; NRC-2010-0310]

Petition for Rulemaking Submitted by Mr. Erik Erb and 91 Cosigners

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; consideration in the rulemaking process.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has decided to consider the issues raised in a petition for rulemaking (PRM) submitted by Erik Erb, the petitioner, and 91 cosigners, in the planned "Quality Control/Quality Verification" (QC/QV) rulemaking (Docket ID: NRC-2009-0090). The petitioner requested that the NRC amend its regulations to decrease the minimum days off requirement for security officers working 12 hour shifts from an average of 3 days per week to 2.5 or 2 days per week.

ADDRESSES: Further NRC action on the issues raised by this petition will be accessible at the Federal rulemaking Web site, <http://www.regulations.gov>, by searching on the QC/QV rulemaking Docket ID: NRC-2009-0090.

You can access publicly available documents related to the petition using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>.

From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this petition can be found at <http://www.regulations.gov> by searching on the QC/QV rulemaking Docket ID: NRC-2009-0090. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

SUPPLEMENTARY INFORMATION: On November 23, 2010, (75 FR 71368), the NRC published a Notice of Receipt of a PRM filed on August 17, 2010, by Erik Erb and 91 cosigners, and request for public comment. The comment period closed on February 7, 2011. The NRC received five public comments.

The NRC determined that the issues raised in PRM-26-6 are appropriate for