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 Parts 151, 733, and 734
RIN 3206–AM87

Political Activity—State or Local Officers or Employees; Federal Employees Residing in Designated Localities; Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: OPM is issuing proposed regulations that incorporate recent amendments to the Hatch Act, update the contact information for the United States Office of Special Counsel, and update sections to conform to the Act’s current provisions.

DATES: Written comments must be received on or before September 23, 2013.

ADDRESSES: Comments may be mailed to Sharon M. McGowan, Acting General Counsel, Room 7355, United States Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.


SUPPLEMENTARY INFORMATION: The Hatch Act, codified at 5 U.S.C. 1501–1508, concerns the political activities of State and local employees. Section 1502 previously prohibited candidacy for elective office certain State and local employees whose principal employment was connected with an activity financed in whole or in part with loans or grants from the United States or a Federal agency. Section 2 of Public Law 112–230 amends 5 U.S.C. 1502 by applying the prohibition against candidacy for elective office only to certain State or local employees whose salaries are paid completely, directly or indirectly, by loans or grants made by the United States or a Federal agency. OPM’s proposed revision to 5 CFR 151.151 reflects this change.

Section 3 of Public Law 112–230 amends 5 U.S.C. 1501, 1502, and 1506 by treating employees of the Government of the District of Columbia as State and local employees, rather than as Federal employees. These changes are reflected in the proposed 5 CFR 151.101 and 151.122.


Section 7325 of title 5, U.S.C., authorizes OPM to permit the Federally employed residents of certain localities to participate in some political activities that the Hatch Act otherwise would prohibit when OPM determines that, in view of special or unusual circumstances, it would be in the employees’ domestic interest to permit such participation. Section 7325 specifies that these Federal employees must reside in: (1) a municipality or political subdivision in Maryland or Virginia or in the immediate vicinity of the District of Columbia, or (2) a municipality in which the majority of voters are employed by the Government of the United States. Section 3 of Public Law 112–230 amends section 7325 by including the District of Columbia as a third category. Consequently, OPM proposes to amend 5 CFR 733.107(a) to reflect this change in the statute.

Under 5 U.S.C. 7326, the penalty for violating the political activity prohibitions in 5 U.S.C. 7323 and 7324 is removal, unless the Merit Systems Protection Board by a unanimous vote imposes a penalty of not less than a 30-day suspension without pay. Section 3 of Public Law 112–230 amends section 7326 by adding a variety of lesser penalties and abolishing the requirement that the Merit Systems Protection Board must vote unanimously to impose a lesser penalty than removal. OPM proposes to revise 5 CFR 734.102(b) by adding these lesser penalties and removing the requirement for a unanimous vote in cases involving penalties other than removal. OPM also proposes to revise paragraph (a) of section 734.102 to update the contact information for the U.S. Office of Special Counsel, the Federal agency that investigates and prosecutes alleged Hatch Act violations, and provides advice concerning permissible and prohibited political activities.

Under 5 U.S.C. 7323(a), the majority of Federal employees may participate actively in most partisan political activities, except for using their official authority or influence to interfere with, or affect the result of an election; running for public office in a partisan campaign; soliciting, accepting, or receiving political contributions; and, participating in political activities while on duty, on Federal premises, in uniform, or using a Government owned or leased vehicle. Individuals in the positions or agencies identified in section 7323(b)(2) and (3), however, are more restricted and may not participate actively in partisan political activities. OPM regulations at 5 CFR 733.102, 733.105, and 734.401 no longer conform with section 7323(b)(2) and (3) because Congress had enacted various amendments to section 7323(b)(2) and (3). OPM proposes to update sections 733.102, 733.105, and 734.401 to conform to the current provisions in 5 U.S.C. 7323.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

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

5 CFR Part 151

Political activity—State or local officers or employees.

5 CFR Part 733

Political activity—Federal employees residing in designated localities.

5 CFR Part 734

Political activity—Federal employees.
§ 151.122 Candidacy; exceptions.

4. In § 151.122, paragraph (c) is revised to read as follows:

(c) A duly elected head of an executive department of a State, municipality, or the District of Columbia, who is not classified under a merit or civil service system of a State, municipality, or the District of Columbia:

...
§ 734.101 Definitions.

Employee means any individual (other than the President, Vice President, or a member of the uniformed services) employed or holding office in—

(1) An Executive agency other than the General Accounting Office;
(2) A position within the competitive service which is not in an Executive agency; or
(3) The United States Postal Service or the Postal Rate Commission.

Employing office shall have the meaning given by the head of each agency or instrumentality of the United States Government covered by this part. Each agency or instrumentality shall provide notice identifying the appropriate employing offices within it through internal agency notice procedures.

On Duty means the time period when an employee is:

(1) In a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or
(2) Representing any agency or instrumentality of the United States Government in an official capacity.

§ 734.102 Jurisdiction.

(a) The United States Office of Special Counsel has exclusive authority to investigate allegations of political activity prohibited by the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, prosecute alleged violations before the United States Merit Systems Protection Board, and render advisory opinions concerning the applicability of 5 CFR part 734 to the political activity of Federal employees. (5 U.S.C. 1212 and 1216). Advice concerning the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, to the political activity of Federal employees, may be requested from the Office of Special Counsel:

(1) By letter addressed to the Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036–4505;
(2) By telephone on (202) 254–3650, or (1–800) 854–2824;
(3) By fax on (202) 254–3700; or
(4) By email at Hatchact@osc.gov.

(b) The Merit Systems Protection Board has exclusive authority to determine whether a violation of the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, has occurred and to impose a penalty of removal, reduction-in-grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000, for violation of the political activity restrictions regulated by this part. (5 U.S.C. 1204 and 7326).

§ 734.203 Participation in nonpartisan activities.

(d) Participate fully in public affairs, except as prohibited by other Federal law, in a manner which does not compromise his or her efficiency or neutrality, efficiency, or integrity of the agency or instrumentality of the United States Government in which he or she is employed.

§ 734.305 Soliciting or discouraging the political participation of certain persons.

(c) Each agency or instrumentality of the United States shall determine when a matter is pending and ongoing within employing offices of the agency or instrumentality for the purposes of this part.

§ 734.401 Coverage.

(a) This subpart applies to employees in the following agencies and positions:

(1) The Federal Election Commission;
(2) The Election Assistance Commission;
(3) The Federal Bureau of Investigation;
(4) The Secret Service;
(5) The Central Intelligence Agency;
(6) The National Security Council;
(7) The National Security Agency;
(8) The Office of the Director of National Intelligence;
(9) The Office of the Director of National Reconnaissance;
(10) The Office of Special Counsel;
(11) The Office of Criminal Investigation of the Internal Revenue Service;
(12) The Office of Investigative Programs of the United States Customs Service;
(13) The Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;
(14) The Criminal Division of the Department of Justice;
(15) The National Security Division of the Department of Justice;
(16) The National Geospatial-Intelligence Agency;
(17) The Office of the Director of National Intelligence;
(18) Career Senior Executive Service positions described in 5 U.S.C. 3132(a)(4);
(19) Administrative Law Judge positions described in 5 U.S.C. 5372;
(20) Contract Appeals Board Member positions described in 5 U.S.C. 5372a; or
(21) Administrative Appeals Judge positions described in 5 U.S.C. 5732b.

§ 734.502 Participation in political activity while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle.

(b) For the purposes of this subpart, normal duty hours and normal duty post will be determined by the head of each agency or instrumentality of the United States.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39


RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to all BAE Systems (Operations) Limited Model BAe 146 series airplanes and Model Avro 146–RJ series airplanes. The existing AD currently requires revising the maintenance program by incorporating certain airworthiness limitations that require new life limits on certain main landing gear (MLG) components. Since we issued that AD, we have determined that reduced safe life limits on certain nose landing gear (NLG) fittings are necessary. Analysis of these fittings showed the presence of forging indications in the flash line, which might reduce the life limits of these fittings. This proposed AD would require revising the maintenance program to...