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OFFICE OF PERSONNEL MANAGEMENT

RIN 3206–AF78

5 CFR Part 733

Political Activity: Federal Employees Residing in Designated Localities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule regarding the political activity of Federal employees residing in designated localities. The final rule will inform Federal employees of the political activities which are permitted and prohibited under the Hatch Act Reform Amendments of 1993 for employees who reside in localities designated by OPM, and in connection with elections for local partisan political office in these localities. The regulation also includes a list of the designated localities.

EFFECTIVE DATE: March 2, 1998.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot at (202) 606–1700.

SUPPLEMENTARY INFORMATION: On October 6, 1993, President Clinton signed the Hatch Act Reform Amendments of 1993. The Reform Amendments became effective on February 3, 1994 and specifically authorize OPM to issue regulations on the political activities of Federal employees regarding matters described in 5 U.S.C. 7325, as amended, concerning Federal employees' participation in the local elections of the localities in which they reside. On February 4, 1994, OPM published an interim regulation on the political activities of Federal employees residing in specified localities designated by OPM. 59 FR 5313. In view of the comments that it received concerning the interim regulation, OPM published a proposed rule on June 24, 1997. 62 FR 34017. OPM received comments concerning the proposed rule from two individuals and two Federal agencies before the comment period closed on August 25, 1997. OPM's analysis of the comments generally follows the numerical order of the regulations.

Section 733.103(b)(1) of the proposed regulation specifies that the Federally employed residents of designated localities may run for local partisan political office as independent candidates. Section 733.104(b)(1) of the proposed regulation prohibits these employees from running for local partisan political office as the representatives of a political party. An individual commented that, except for the legislative history of the Reform Amendments, OPM did not provide any reason for requiring the Federally employed residents of designated localities to run as independent candidates for local partisan political office. He states his belief that §§ 733.103(b)(1) and 733.104(b)(1) of the proposed regulation violate provisions in section 2(a) of the Reform Amendments that are codified at 5 U.S.C. 7321 and 7325. He noted that the Reform Amendments, at 5 U.S.C. 7321, state the policy of Congress that:

> [E]mployees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

He believes that the proposed regulation violates section 7321 because it discourages Federal employees from fully exercising their right to participate in the political processes of the nation.

He also noted that under the Reform Amendments, at 5 U.S.C. 7325, OPM may prescribe regulations permitting the Federally employed residents of designated localities to take an active part in local partisan political campaigns, ''without regard to'' the prohibition against candidacy for partisan political office specified in 5 U.S.C. 7323(a)(3). He believes that Congress expressed its intent through 5 U.S.C. 7325 that Federal employees in designated localities should be permitted to run for partisan political office as the representatives of political parties. Accordingly, he also believes that §§ 733.103(b)(1) and 733.104(b)(1) of the proposed regulation violate 5 U.S.C. 7325 by requiring Federal employees to run as independent candidates for local partisan political office.

Finally, he noted that, although § 733.103(b)(3) of the proposed regulation permits the Federally employed residents of designated localities to accept and receive political contributions on behalf of candidates for local partisan political office who represent political parties, § 733.104(b)(2) prohibits Federal employees from soliciting political contributions on behalf of such candidates. He also believes that there is a minimal difference between soliciting political contributions and accepting and receiving such contributions. Thus, he believes that OPM should permit Federal employees to solicit political contributions on behalf of candidates who represent political parties.

OPM notes in response that section 7325 of title 5, United States Code, provides OPM with discretionary authority to permit Federal employees to run for local ''partisan political office'' when certain statutory prerequisites are fulfilled, and does not include language reflecting any Congressional intent to permit these employees to run for local partisan political office as the candidates of political parties. According to the Reform Amendments, at 5 U.S.C. 7322(2), a ''partisan political office'' includes ''any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.'' Under this definition, a public office becomes a ''partisan political office'' when any candidate for election to that office represents a political party whose candidates for Presidential elector received votes in the last Presidential election. Accordingly, an independent candidate becomes a candidate for ''partisan political office'' when he or she opposes the candidates of such political parties in an election for public office. Thus, OPM concluded that permitting employees to run as independent candidates for local partisan political office while prohibiting them from running as the representatives of political parties does not violate 5 U.S.C. 7325 or ignore the

intent of Congress in enacting this provision.

Although section 2(a) of the Reform Amendments provides that Federal employees should be encouraged to participate fully in the political processes of the nation ''to the extent not expressly prohibited by law,'' section 10 of the Reform Amendments (the Sense of the Senate) limits section 2(a) by providing that Federal employees should not be authorized to solicit political contributions from the general public, or run for the nomination or as a candidate for a local partisan political office, except as expressly provided under current law. It is clear from the language of the Reform Amendments, particularly section 10, and from the legislative history of the Reform Amendments that Congress was especially concerned about candidacy for partisan political office and soliciting political contributions. As OPM stated in its notice of proposed rulemaking, the legislative history of the Reform Amendments shows that Congress was well acquainted with the provisions concerning candidacy for local partisan political office that were in effect under the Hatch Act and that Congress intended to preserve those provisions in enacting the Reform Amendments. See 62 FR 34017, 34018–19 (June 24, 1997). Under those provisions, the Federally employed residents of designated localities were required to run as independent candidates for local partisan political office. OPM believes that the proposed regulation, at §§ 733.103(b)(1) and 733.104(b)(1), complies with the Reform Amendments and reflects the intent of Congress in enacting the Reform Amendments.

Similarly, Federal employees residing in designated localities prior to the enactment of the Reform Amendments were permitted to solicit, accept, and receive political contributions only on behalf of independent candidates for local partisan political office. Although section 10 of the Reform Amendments provides that Federal employees should not be authorized to solicit political contributions, it does not include any provision concerning the acceptance or receipt of political contributions. Therefore, the proposed regulation permits Federal employees to accept and receive political contributions on behalf of candidates who represent political parties but prohibits Federal employees from contributions for such candidates. OPM also believes that §§ 733.103(b)(3) and 733.104(b)(2) of the proposed regulation comply with the Reform Amendments and reflect the intent of Congress in enacting the Reform Amendments.

In commenting on OPM's regulatory proposal, another individual asked: ''Does the Constitution [of the United States] mean anything'' to OPM? The individual did not respond to OPM's request to elaborate on that comment. OPM notes in response to this comment that the Supreme Court of the United States upheld the constitutionally of the former Hatch Act's prohibitions in two decisions. *United Public Workers of America* v. *Mitchell*, 330 U.S. 75 (1947); *United States Civil Service Commission* v. *National Association of Letter Carriers AFL–CIO*, 413 U.S. 548 (1973). These more stringent prohibitions are almost identical to the prohibitions that currently apply to employees in sensitive agencies and positions under the Reform Amendments. Moreover, these prohibitions are significantly more restrictive than the prohibitions that currently apply to the majority of Federal employees under the Reform Amendments.

Section 733.105(a) of the proposed regulation describes certain sensitive agencies and positions whose employees and incumbents are prohibited from partisan political participation under the Reform Amendments, except for participation in elections for local partisan political office in localities designated by OPM. The Central Imagery Office currently appears in the list of sensitive agencies and positions at § 733.105(a)(13) of the OPM regulatory proposal for 5 CFR part 733. Officials at two Federal agencies commented that section 1111 (a) and (b) of the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, consolidated the Central Imagery Office listed in § 733.105(a)(13) with the Defense Mapping Agency to form the National Imagery and Mapping Agency. Section 1122(a)(1) of Pub. L. 104–201 further amends the Hatch Act Reform Amendments at 5 U.S.C. 7323(b)(2)(B)(I)(XIII) by substituting the National Imagery and Mapping Agency for the Central Imagery Office. Accordingly, § 733.105(a)(13) of the final rule identifies the National Imagery and Mapping Agency, rather than the Central Imagery Office, as an agency whose employees are subject to the Reform Amendments' more restrictive prohibitions against partisan political participation.

OPM notes in this regard that the Reform Amendments, at 5 U.S.C. 7323(b)(2) and 7325, prohibit employees in specified sensitive agencies and positions from participating actively in partisan political activities, except for those activities connected with elections to local partisan political offices in the localities designated by OPM. Under 5 U.S.C. 7323(b)(2), individuals who have been appointed by the President, by and with the advice and consent of the Senate (PAS employees), have been excluded from the prohibition on active participation in partisan political activities, even though these individuals are employed in the sensitive agencies or positions described in section 7323(b)(2)(B).

Sections 733.105 and 733.106 of the proposed regulation apply to individuals who are employed in sensitive agencies and positions and who also reside in the localities designated by OPM. Sections 733.105 and 733.106 permit these employees to participate in the local elections of the designated localities but only as, or on behalf of, individuals who are running as independent candidates for local partisan political offices. The proposed regulation did not adequately reflect that PAS employees are not subject to the statutory prohibition against active participation in partisan political activities and, therefore, that they also are not subject to §§ 733.105 and 733.106 of the regulation. Accordingly, OPM has amended these provisions to reflect clearly that PAS employees in sensitive agencies and positions are covered by §§ 733.103 and 733.104 of the regulation and that the provisions in §§ 733.105 and 733.106 do not apply to them.

The Reform Amendments, at 5 U.S.C. 7323(a) (2) and (3), prohibit Federal employees from becoming candidates for partisan political office and from soliciting, accepting, or receiving political contributions. However, the Reform Amendments, at 5 U.S.C. 7325, authorize 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) if the requirements specified 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 municipality or political subdivision.

Section 733.107(a) of the final regulation reflects these statutory requirements. Under part 733, the

exemption from the prohibitions in 5 U.S.C. 7323(a) (2) and (3) is a partial exemption because employees are required to run as independent candidates for local partisan political office and they are permitted to participate in other political activities connected with elections for local public office as specified in part 733. Section 733.107(c) of the final regulation includes a list of designated localities whose residents have been granted a partial exemption by OPM.

In its notice of proposed rulemaking, OPM noted that Spotsylvania County, Virginia and St. Mary's County, Maryland had fulfilled the statutory requirements for a partial exemption to issue and proposed the addition of these counties to the regulatory list of designated localities. 62 FR 34017, 34020 (June 24, 1997). OPM also placed legal notices in local newspapers to advise the residents of Spotsylvania County and St. Mary's County concerning the proposals. The legal notice regarding Spotsylvania County appeared in the Free Lance-Star on July 15, 1997 and a legal notice concerning St. Mary's County appeared in the Enterprise on July 16, 1997. OPM received only one comment concerning these proposals from a resident of St. Mary's County who supported the addition of that county to the regulatory list. Therefore, the final regulation includes Spotsylvania County, Virginia and St. Mary's County, Maryland in the list of designated localities at § 733.107(c) of the regulation. The addition of Spotsylvania County will be listed among the designated Virginia municipalities and political subdivisions after Prince William County and before Stafford County. The addition of St. Mary's County to the designated Maryland municipalities and political subdivisions will be listed after Rockville and before Seat Pleasant. Public notices concerning the addition of Spotsylvania and St. Mary's Counties to the list of designated localities in the OPM final regulation will be published in a local newspaper serving each county.

The District of Columbia currently is included in the OPM regulatory list of designated localities. The District of Columbia was added to this list on July 5, 1977, by the United States Civil Service Commission. As OPM pointed out in its proposed regulation, however, two Federal agencies submitted comments questioning whether the District of Columbia should continue to be listed as a partially exempt municipality in view of the unpublished memorandum opinion of the United States District Court for the District of Columbia in *Ward Three Democratic Committee* v. *United States*, No. 78–853 (D.D.C. Aug. 29, 1980). 62 FR 34017, 34020–21. OPM recognizes that, when the statutory exemption requirements were enacted in 1940, Congress did not foresee a need for an exemption for the District of Columbia because the District held no local elections at the time and was, instead, governed by three Commissioners appointed by the President of the United States.

In discussing the history of the district court decision, one of the Federal agencies noted that, on May 30, 1974, the Civil Service Commission added the District of Columbia to the list of exempted localities at 5 CFR 733.124, retroactively effective May 16, 1974. 39 FR 18761 (1974). In *Joseph* v. *United States Civil Service Commission*, 554 F. 2d 1140 (1977), the United States Court of Appeals for the District of Columbia declared invalid the exemption for the District of Columbia because it was not published after a notice and comment period, as required by the Administrative Procedure Act. The appeals court held that, under the Hatch Act, the District of Columbia could not qualify under the first alternative for an exemption to issue. *Id.* at 1154–1155. The appeals court stated in this regard that

> Although there can be no dispute that it is ''in the immediate vicinity of the District of Columbia,'' it is equally certain that it is not in the states of Maryland or Virginia. The legislative history of this first alternative clearly indicates that it was proposed to restrict the Civil Service Commission's exemption authority to areas adjacent to the District. (Citation omitted.) Admittedly the failure to include areas within the District may well have been due to the fact that there were no elective positions within the District Government in 1940 when the Commission was given its exemption authority. (Footnote omitted.) The literal language of the first alternative in subsection 7327(b)(1), however, clearly does not include the District, and although a court should interpret the meaning of statutory language in light of the intent of its drafters, we cannot rewrite the statute to compensate for unforeseen circumstances.

Id. The appeals court also stated that, if the Civil Service Commission republished the exemption, it should furnish statistical evidence that a majority of District of Columbia voters were employed by the Untied States Government or the District of Columbia Government. *Id.* at 1152–1157. In order to comply with the decision in *Joseph*, the Civil Service Commission subsequently proposed to add the District of Columbia to the list of exempted localities on May 6, 1977, 42 FR 23160 (1977), and the District was then added to the list of exempted localities, effective July 5, 1977. 42 FR 34308.

In a second suit challenging the validity of § 733.124, the appeals court remanded the case to the district court to gather statistical evidence to determine whether the majority of registered voters in the District of Columbia were employed by the United States or the District of Columbia Governments. *Ward Three Democratic Committee* v. *United States*, 609 F. 2d 10 (D.C. Cir. 1979). On remand, the district court found that, based upon the statistical evidence submitted by the parties, less than 50 percent of registered voters in the District of Columbia were employed by the United States Government or the District of Columbia Government. Thus, the district court held that § 733.124(b), the regulation which provided for partial exemptions at that time, was ''not applicable to the District of Columbia and shall not be applied thereto.'' *Ward Three Democratic Committee* v. *United States*, No. 78–853 (D.D.C. Aug. 29, 1980). Although this judicial decision was based upon requirements stated in the former Hatch Act for an exemption to issue, the same requirements also appear in the Reform Amendments.

OPM discussed these judicial decisions in its notice of proposed rulemaking and requested further comments from the public as well as from Federal, Postal Service, and District of Columbia Government employees who are registered voters in the District of Columbia. 62 FR 34017, 34020–34021 (June 24, 1997). OPM also placed an official notice concerning this matter in the July 14, 1997 edition of the Washington Post. Publication of the proposed regulation and official notice has not resulted in any comments concerning the District of Columbia or any evidence showing that the District of Columbia should remain on the list of designated localities.

Moreover, on several occasions, OPM corresponded with the Office of the Corporation Counsel for the District of Columbia about this matter. In correspondence to OPM dated June 12, 1995, the Office of the Corporation Counsel advised that:

> [B]ased upon the decision in Ward Three Democratic Committee v. United States, No. 78–853 (D.D.C. Aug 29, 1980), we reluctantly conclude that deletion of the District of Columbia from the list of exempt jurisdictions is not inconsistent with the Hatch Act Reform Amendments regarding political management and political campaigns involving the District.

In succeeding letters to OPM, dated September 18, 1995, and July 29, 1997,

the Office of the Corporation Counsel reaffirmed this statement.

In view of these circumstances, OPM does not have any choice except to remove the District of Columbia from the regulatory list of designated localities in § 733.107(c) of the final regulation. Accordingly, the final regulation reflects that the District of Columbia has been removed from the list of designated localities in § 733.107(c). A public notice concerning the removal of the District of Columbia from the list of designated localities in the final version of 5 CFR 733.107(c) will be published in a local newspaper serving that city.

Finally, OPM noted in its proposed rule that it would pursue a legislative solution to place the District of Columbia on the same footing as the surrounding Virginia and Maryland localities. OPM will continue to pursue a legislative solution in this matter.

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.

Janice R. Lachance,

Director.

Part 733 is revised to read as follows:

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

Sec.
733.101 Definitions.
733.102 Exclusion of employees in the Criminal Division of the United States Department of Justice.
733.103 Permitted political activities—employees who reside in designated localities.
733.104 Prohibited political activities—employees who reside in designated localities.
733.105 Permitted political activities—employees who reside in designated localities and are employed in certain agencies and positions.
733.106 Prohibited political activities—employees who reside in designated localities and are employed in certain agencies and positions.
733.107 Designated localities.

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

§ 733.101 Definitions.

In this part:

Accept means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Candidate means an individual who seeks nomination or election to any elective office whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual's nomination or election.

Campaign means all acts done by a candidate and his or her adherents to obtain a majority or plurality of the votes to be cast toward a nomination or in an election.

Election includes a primary, special, runoff, or general election.

Employee means:

Any individual (other than the President, the 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;

(3) The government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds; or

(4) The United States Postal Service or the Postal Rate Commission.

On Duty means the 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 or any agency or instrumentality of the District of Columbia Government in an official capacity.

Partisan when used as an adjective means related to a political party.

Partisan political group means any committee, club, or other organization which is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity.

Partisan political office means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but does not include any office or position within a political party or affiliated organization.

Person means an individual; a State, local, or foreign government; or a corporation and the subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity.

Political activity means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.

Political contribution means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose.

(1) A political contribution includes:

(i) Any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(ii) Any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(iii) The provision of personal services, paid or unpaid, for any political purpose.

(2) A political contribution does not include the value of services provided without compensation by any individual who volunteers on behalf of any candidate, campaign, political party, or partisan political group.

Political management means the direction or supervision of a partisan political group or campaign for partisan political office.

Political party means a national political party, a State political party, or an affiliated organization.

Political purpose means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group.

Receive means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

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 thereof includes, but is not limited to:

(1) Any Federally owned space (including, but not limited to, ''public buildings'' as defined in 40 U.S.C. 612(1)) or Federally leased space in which Federal employees perform official duties on a regular basis;

(2) Public areas as defined in 40 U.S.C. 490(a)(17) and 41 CFR 101–20.003 of buildings under the custody and control of the General Services Administration.

(3) A 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 thereof does not include rooms in the White House, or in the residence of the Vice President, which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

Solicit means to request expressly of another person that he or she contribute something to a candidate, a campaign, a political party, or partisan political group.

Subordinate refers to the relationship between two employees when one employee is under the supervisory authority, control or administrative direction of the other employee.

Uniformed services means uniformed services as defined in 5 U.S.C. 2101(3).

§ 733.102 Exclusion of employees in the Criminal Division of the United States Department of Justice.

Employees in the Criminal Division in the Department of Justice (except employees appointed by the President, by and with the advice and consent of the Senate) specifically are excluded from coverage under the provisions of this part.

§ 733.103 Permitted political activities—employees who reside in designated localities.

(a) This section does not apply to an individual who is employed in an agency or position described in § 733.105(a), unless that individual has been appointed by the President, by and with the advice and consent of the Senate.

(b) Employees who reside in a municipality or political subdivision designated by OPM under § 733.107 may:

(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.

§ 733.104 Prohibited political activities—employees who reside in designated localities.

(a) This section does not apply to an individual who is employed in an agency or position described in § 733.105(a), unless that individual has been appointed by the President, by and with the advice and consent of the Senate.

(b) Employees who reside in a municipality or political subdivision designated by OPM under § 733.107 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; or

(5) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose.

(c) An employee covered under this section may not participate in political activities:

(1) While he or she is on duty:

(2) While he or she is wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is 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

(4) While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

(d) An employee described in 5 U.S.C. 7324(b)(2) may participate in political activity otherwise prohibited by § 733.104(c) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

(e) 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.

§ 733.105 Permitted political activities—employees who reside in designated localities and are employed in certain agencies and positions.

(a) This section applies to employees who reside in designated localities and are employed in the following agencies or positions:

(1) Federal Election Commission;

(2) Federal Bureau of Investigation;

(3) United States Secret Service;

(4) Central Intelligence Agency;

(5) National Security Council;

(6) National Security Agency;

(7) Defense Intelligence Agency;

(8) Merit Systems Protection Board;

(9) United States Office of Special Counsel;

(10) Office of Criminal Investigation of the Internal Revenue Service;

(11) Office of Investigative Programs of the United States Customs Service;

(12) Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;

(13) National Imagery and Mapping Agency;

(14) Career Appointees in the Senior Executive Service;

(15) Administrative Law Judges; and

(16) Contract appeals board members described in 5 U.S.C. 5372a.

(b) This section does not apply to individuals who have been appointed by the President by and with the advice and consent of the Senate, even though they are employed in the agencies and positions described in paragraph (a) of this section.

(c) Employees who are covered under this section and who reside in a municipality or political subdivision designated by OPM under § 733.107 may:

(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) Solicit, accept, or receive uncompensated volunteer services as, or on behalf of, an independent candidate for partisan political office in elections for office in the municipality or subdivision; and

(4) Take an active part in other political activities associated with elections for local partisan political office and in managing the campaigns of candidates for election to local partisan political office in the municipality or political subdivision, but only as an independent candidate or on behalf of, or in opposition to, an independent candidate.

§ 733.106 Prohibited political activities—employees who reside designated localities and are employed in certain agencies and positions.

(a) This section does not apply to individuals who have been appointed by the President, by and with the advice and consent of the Senate, even though they are employed in the agencies and positions described in § 733.105(a).

(b) Employees who are employed in the agencies and positions described in § 733.105(a), and who reside in a municipality or political subdivision designated by OPM under § 733.107, may not:

(1) Run as the representative of a political party for local partisan political office;

(2) Solicit, 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;

(3) Knowingly solicit a political contribution from any Federal employee;

(4) Accept or receive a political contribution from a subordinate;

(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;

(6) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose; or

(7) Take an active part in other political activities associated with elections for local partisan political office, when such participation occurs on behalf of a political party, partisan political group, or a candidate for local partisan political office who represents a political party.

(c) An employee covered under this section may not participate in political activities:

(1) While he or she is on duty:

(2) While he or she is wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is 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

(4) While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

(d) Candidacy for, and service in, or 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.

§ 733.107 Designated localities.

(a) OPM may designate a municipality or political subdivision in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or a municipality in which the majority of voters are employed by the Government of the United States, when OPM determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections.

(b) Information as to the documentation required to support a request for designation is furnished by the General Counsel of OPM on request.

(c) The following municipalities and political subdivisions have been designated, effective on the day specified:

In Maryland

Annapolis (May 16, 1941).
Anne Arundel County (March 14, 1973).
Berwyn Heights (June 15, 1944).
Bethesda (Feb. 17, 1943).
Bladensburg (April 20, 1942).
Bowie (April 11, 1952).
Brentwood (Sept. 26, 1940).
Calvert County (June 18, 1992).
Capitol Heights (Nov. 12, 1940).
Cheverly (Dec. 18, 1940).
Chevy Chase, section 3 (Oct. 8, 1940).
Chevy Chase, section 4 (Oct. 2, 1940).
Chevy Chase View (Feb. 26, 1941).
Chevy Chase Village, Town of (March 4, 1941).
College Park (June 13, 1945).
Cottage City (Jan. 15, 1941).
District Heights (Nov. 2, 1940).
Edmonston (Oct. 24, 1940).
Fairmont Heights (Oct. 24, 1940).
Forest Heights (April 22, 1949).
Frederick County (May 31, 1991).
Garrett Park (Oct. 2, 1940).
Glenarden (May 21, 1941).
Glen Echo (Oct. 22, 1940).
Greenbelt (Oct. 4, 1940).
Howard County (April 25, 1974).
Hyattsville (Sept. 20, 1940).
Kensington (Nov. 8, 1940).
Landover Hills (May 5, 1945).
Martin's Additions, Village of (Feb. 13, 1941).
Montgomery County (April 30, 1964).
Morningside (May 19, 1949).
Mount Rainier (Nov. 22, 1940).
New Carrollton (July 7, 1981).
North Beach (Sept. 20, 1940).
North Brentwood (May 6, 1941).
North Chevy Chase (July 22, 1942).
Northwest Park (Feb. 17, 1943).
Prince George's County (June 19, 1962).
Riverdale (Sept. 26, 1940).
Rockville (April 15, 1948).
St. Mary's County (March 2, 1998).
Seat Pleasant (Aug. 31, 1942).
Somerset (Nov. 22, 1940).
Takoma Park (Oct. 22, 1940).
University Park (Jan. 18, 1941).
Washington Grove (April 5, 1941).

In Virginia

Alexandria (April 15, 1941).
Arlington County (Sept. 9, 1940).
Clifton (July 14, 1941).
Fairfax, City of (Feb. 9, 1954).
Fairfax County (Nov. 10, 1949).
Falls Church (June 6, 1941).
Herndon (April 7, 1945).
Loudoun County (Oct. 1, 1971).
Manassas (Jan. 8, 1980).
Manassas Park (March 4, 1980).
Portsmouth (Feb. 27, 1958).
Prince William County (Feb. 14, 1967).
Spotsylvania County (March 2, 1998).
Stafford County (Nov. 2, 1979).
Vienna (March 18, 1946).

Other Municipalities

Anchorage, Alaska (Dec. 29, 1947).
Benicia, Calif. (Feb. 20, 1948).
Bremerton, Wash. (Feb. 27, 1946).
Centerville, Ga. (Sept. 16, 1971).
Crane, Ind. (Aug. 3, 1967).
Elmer City, Wash. (Oct. 28, 1947).
Huachuca City, Ariz. (April 9, 1959).
New Johnsonville, Tenn. (April 26, 1956).
Norris, Tenn. (May 6, 1959).
Port Orchard, Wash. (Feb. 27, 1946).
Sierra Vista, Ariz. (Oct. 5, 1955).
Warner Robins, Ga. (March 19, 1948).

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 417

[Docket No. 97–082N]

Contents of HACCP Plans; Critical Control Points

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Compliance with the HACCP system regulations.

SUMMARY: The Food Safety and Inspection Service (FSIS) is publishing this document to ensure that the owners and operators of federally inspected establishments are aware that the identification of appropriate critical