

Rules and Regulations

Federal Register

Vol. 88, No. 235

Friday, December 8, 2023

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

[Docket ID: OPM-2023-0009]

RIN 3206-AO58

General Schedule Locality Pay Areas

Correction

In Rule document 2023-25153, appearing on pages 78631 through 78636, in the issue of Thursday, November 16, 2023, make the following correction:

§ 531.603 Locality pay areas. [Corrected]

■ On page 78636, in the first column, paragraph “(48)” is corrected to read as set forth below.

(48) Sacramento-Roseville, CA-NV—consisting of the Sacramento-Roseville, CA CSA and also including Alpine County, CA, Amador County, CA, Butte County, CA, Colusa County, CA, Sierra County, CA, Carson City, NV, and Douglas County, NV;

[FR Doc. C1-2023-25153 Filed 12-6-23; 8:45 am]

BILLING CODE 0099-01-D

FEDERAL MEDIATION AND CONCILIATION SERVICE

5 CFR Chapter CIII

RIN 3209-AA65

Supplemental Standards of Ethical Conduct for Employees of the Federal Mediation and Conciliation Service

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS), with the concurrence of the Office of Government Ethics (OGE), is issuing this final rule for FMCS employees. This rule supplements the Standards of Ethical Conduct for Employees of the

Executive Branch (OGE Standards) issued by OGE and is necessary because it addresses ethical issues unique to the FMCS. This rule sets forth prior approval requirements for certain outside employment and outside activities for all FMCS employees, other than special government employees.

DATES: This rule is effective January 8, 2024.

FOR FURTHER INFORMATION CONTACT:

Anna Davis, Designated Agency Ethics Official (DAEO), General Counsel, Office of General Counsel, Federal Mediation and Conciliation Service, 250 E Street SW, Washington, DC 20427; Office/Fax/Mobile 202-606-3737; register@fmcs.gov.

SUPPLEMENTARY INFORMATION:

Background

In July 2023, the FMCS issued a proposed rule to establish the Supplemental Standards of Ethical Conduct for Employees of the Federal Mediation and Conciliation Service (Supplemental Standards), which are to be codified in 5 CFR part 10300. 88 FR 45822 (July 18, 2023). The proposed rule provided a 30 day comment period, which ended on August 17, 2023. The FMCS did not receive any timely and responsive comments. The rationale for the proposed rule, which the FMCS is now adopting as final, is explained in the preamble at: <https://www.federalregister.gov/documents/2023/07/18/2023-15021/supplemental-standards-of-ethical-conduct-for-employees-of-the-federal-mediation-and-conciliation>. For those reasons, the FMCS is, with the concurrence of OGE, issuing the rule as final with no substantive changes.

I. Analysis of the Regulations

In accordance with 5 CFR 2635.803, the FMCS has determined it is necessary for the purpose of administering its ethics program to require its employees, other than special government employees, to obtain approval before engaging in certain outside employment and outside activities. The FMCS's mission is to promote labor-management peace and cooperation. The FMCS has a large and broad range of clients external to the Government. Given the volume of public and private sector clients, there is a greater likelihood that conflicts of interest, impartiality, or other concerns may arise

that employees may not be aware of and therefore it is necessary for the FMCS to screen for such conflicts. The approval requirement will help to ensure that potential ethics conflicts of interest, impartiality, or other concerns are resolved before certain employees begin outside employment or outside activities. Requiring prior approval ensures the neutrality and integrity of the FMCS' services.

Section 10300.101 General

Paragraph (a) explains that the regulation applies to all FMCS employees, other than special government employees, and supplements the OGE Standards.

Paragraph (b) notes that employees must comply with ethics guidance and procedures issued by the FMCS and should contact an FMCS ethics official if an ethics question arises. This paragraph also includes cross-references to other OGE ethics related regulations.

10300.102 Definitions

This section defines terms and phrases used throughout this supplemental regulation.

10300.103 Prior Approval for Outside Employment and Outside Activities

Paragraph (a) sets forth that an employee of the FMCS, other than a special government employee, is required to seek prior written approval before engaging in certain outside employment and outside activities.

Paragraph (b) sets out the standards and procedures for requesting approval to engage in certain outside employment and outside activities.

Paragraph (c) sets forth the requirement for submitting a revised request when there is a significant change in the nature, duties or scope of the outside employment or activity or to the employee's official duties or responsibilities.

Paragraph (d) provides that the DAEO may issue agency wide-policies, handbooks, or other written guidance governing the submission of requests for approval of outside employment and activities, which may exempt categories of employment and activities from the prior approval requirement of this section based on a determination that employment or activities within those categories would generally be approved and is not likely to involve conduct

prohibited by statute or Federal regulation, including 5 CFR part 2635.

II. Matters of Regulatory Procedure

Administrative Procedure Act

Under 5 U.S.C. 553(a)(2), rules relating to agency management or personnel are exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). In addition, under 5 U.S.C. 553(b)(3)(A), notice and comment rulemaking requirements do not apply to rules concerning matters of agency organization, procedure, or practice. Given that the rule concerns matters of agency management or personnel, and organization, procedure, or practice, the notice and comment requirements of the APA do not apply here. Nor is a public hearing required under 45 U.S.C. 160a. The public comment period on the proposed rule opened on July 18, 2023, the date of its publication in the **Federal Register**, and closed on August 17, 2023. During this period, the FMCS did not receive any comments on the proposed rule.

Executive Order 12866

This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act.

The FMCS has determined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6, that this final rule would not have a significant economic impact on a substantial number of small entities because it would primarily affect FMCS employees.

Paperwork Reduction Act.

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply to this final rule because it does not contain any information collection requirements that would require the approval of the Office of Management and Budget.

Congressional Review Act

The FMCS has determined that this final rule does not meet the definition of a rule, as defined by the Congressional Review Act, 5 U.S.C. chapter 8, and thus does not require review by Congress.

List of Subjects in 5 CFR Part 10300

Conflicts of interests, Government employees.

■ For the reasons set forth in the preamble, the FMCS, with the concurrence of OGE, amends title 5 of the Code of Federal Regulations by adding a new chapter CIII, consisting of part 10300, to read as follows:

Title 5—Administrative Personnel

CHAPTER CIII—FEDERAL MEDIATION AND CONCILIATION SERVICE

PART 10300—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE

Sec.

10300.101 General.

10300.102 Definitions.

10300.103 Prior approval for outside employment and outside activities.

Authority: 5 U.S.C. 7301, 7353; 5 U.S.C. Ch. 131 (Ethics in Government Act of 1978); 29 U.S.C. 172; 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; 5 CFR 2635.105, 5 CFR 2635.402(c), 5 CFR 2635.403(a), 5 CFR 2635.502, 5 CFR 2635.604, 5 CFR 2635.802, and 5 CFR 2635.803.

§ 10300.101 General.

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Federal Mediation and Conciliation Service (FMCS), other than special government employees as defined in 5 CFR 2635.102(l), and supplement the Standards of Ethical Conduct for Employees of the Executive Branch in 5 CFR part 2635 (Office of Government Ethics (OGE) Standards).

(b) *Cross-references.* In addition to the standards in 5 CFR part 2635 and this part, FMCS employees are required to comply with implementing guidance and procedures issued by the FMCS in accordance with 5 CFR 2635.105(c). FMCS employees are also subject to the regulations concerning executive branch financial disclosures contained in 5 CFR part 2634, the regulations concerning executive branch financial interests contained in 5 CFR part 2640, regulations concerning post-employment restrictions contained in 5 CFR part 2641, and the regulations concerning executive branch employee responsibilities and conduct contained in 5 CFR part 735. Employees should contact an FMCS ethics official if they have questions about any provision of this regulation or other ethics-related matters.

§ 10300.102 Definitions.

For purposes of this part:

Outside employment or activity means any form of non-Federal employment or business relationship, compensated or uncompensated, involving the provision of personal services by the employee. It includes, but is not limited to:

(1) Personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, professor, speaker, or writer.

(2) Active participation, including voluntary participation as defined in 5 CFR 2635.502(b)(1)(v), with a prohibited source.

(3) It does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless such activities are for compensation other than reimbursement of expenses; such activities involve the provision of professional services or advice; or the organization's activities are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E).

Note 1 to § 10300.102. There is a special approval requirement set out in both 18 U.S.C. 203(d) and 205(e) for certain representational activities otherwise covered by the conflict-of-interest restrictions on compensation and activities of employees in claims against and other matters affecting the Government. Thus, an employee who wishes to act as an agent or attorney for, or otherwise represent the employee's parents, spouse, child, or any person for whom, or any estate for which, the employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters, must obtain the approval required by law of the government official responsible for the employee's appointment, in addition to the regulatory approval required in this section.

§ 10300.103 Prior approval for outside employment and outside activities.

(a) *General requirement.* Before engaging in any outside employment or outside activity, as it is defined in § 10300.102, an employee of the FMCS, other than a special government employee, must obtain written approval.

(b) *Procedure for requesting approval.* The employee must first obtain written approval from the employee's immediate supervisor and then the Designated Agency Ethics Official (DAEO). If the employee does not obtain written approval from the employee's immediate supervisor, the employee may request review by the DAEO. Decisions by the DAEO are final and non-appealable.

(c) *Standard for approval.* Approval shall be granted only upon a determination that the outside employment or outside activity is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(d) *Revised requests.* Upon a significant change in the nature or scope of the outside employment or outside

activity or in the employee's official position with the FMCS, the employee must, within 7 calendar days of the change, submit a revised request for approval. If there are no significant changes in the nature or scope of the outside employment or outside activity or in the employee's official position with the FMCS, the employee does not need to reapply after the FMCS' initial approval.

(e) *Implementation guidance.* The DAEO may issue instructions or manual issuances governing the submission of requests for approval of outside employment or outside activities. The instructions or manual issuances may exempt categories of employment and activities from the prior approval requirement of this section based on a determination that employment or activity within those categories of employment or activities would generally be approved and is not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The DAEO may include in these instructions or issuances examples of outside employment and activities that are permissible or impermissible consistent with this part and 5 CFR part 2635.

Dated: November 28, 2023.

Anna Davis,

General Counsel & DAEO.

Shelley K. Finlayson,

Acting Director, U.S. Office of Government Ethics.

[FR Doc. 2023-26950 Filed 12-7-23; 8:45 am]

BILLING CODE 6732-01-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS-2023-0007]

Citrus Canker; Designating Alabama a Commercial Citrus-Producing Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the regulations to designate the State of Alabama as a commercial citrus-producing area in the current citrus canker regulations, and to update the scientific name for citrus canker used in the regulations. The State of Alabama has stated that it has commercial citrus production in the State, and the scientific name used in the regulations for citrus canker is obsolete and no

longer used. These actions will update the regulations in order to provide Alabama protections that are afforded under the regulations to commercial citrus-producing States and be current as to the scientific name for citrus canker.

DATES: Effective December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Dr. Derek A. Woller, Senior Regulatory Policy Specialist, RCC, IRM, PEIP, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737-1228; (480) 490-6454; Derek.A.Woller@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) imposes quarantines on citrus products in accordance with the regulatory authority provided under the Plant Protection Act (PPA or the Act) (7 U.S.C. 7701 *et seq.*). Under the Act, APHIS may prohibit or restrict the importation or interstate movement of any plant or plant product if the agency determines it is necessary to prevent the introduction into the United States or dissemination of a plant pest or noxious weed within the United States.

APHIS' regulations in 7 CFR part 301 (referred to below as the regulations) regulate the interstate movement of certain plants, plant parts, and other articles from areas of the United States quarantined because of citrus canker. These regulations are to prevent the interstate spread of citrus canker, and they are contained in "Subpart M—Citrus Canker" (7 CFR 301.75-1 through 301.75-17).

Citrus canker is a plant disease caused by strains of the bacterium *Xanthomonas citri* subsp. *citri*. The disease is known to affect plants and plant parts, including fruit, of citrus and citrus relatives (Family Rutaceae). It can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It may also make the fruit of diseased plants unmarketable by causing lesions on the fruit. Infected fruit may also drop from trees before reaching maturity. Some strains of *Xanthomonas citri* subsp. *citri* are aggressive and can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas.

Current regulations refer to the bacterium that causes citrus canker as *Xanthomonas axonopodis* pv. *citri*; however, there has been an internationally recognized change in the nomenclature. The bacterium should be listed as *Xanthomonas citri* subsp. *citri*; the term *Xanthomonas axonopodis* pv.

citri is obsolete and no longer in use. Therefore, we are revising the definition of *citrus canker* in § 301.75-1, accordingly.

Paragraph (a) of § 301.75-5 currently lists commercial citrus-producing areas in the United States. Listed States have stated to APHIS that they have commercial citrus production in their States. The State of Alabama has stated to APHIS that it has such production. Accordingly, we are adding the State of Alabama to this list.

This recognition will provide the State of Alabama with Federal protections regarding the interstate movement of regulated articles for citrus canker that are afforded to the areas currently listed in § 301.75-5(a).

Miscellaneous

We are also revising the regulations in "Subpart M—Citrus Canker" to add reference to Office of Management and Budget (OMB) control number 0579-0363 and replace references to 0579-0325 and 0579-0369. OMB control numbers 0579-0325 and 0579-0369 were discontinued, and the associated activities are currently under 0579-0363.

Effective Date

This rule updates APHIS' domestic regulations regarding citrus canker in order to update the scientific name used for citrus canker and to recognize Alabama as a commercial citrus-producing State. With regard to the former change, the scientific name listed in the regulations is obsolete and no longer in international taxonomic use. With regard to the latter change, APHIS updates the regulations in this manner whenever a State claims that commercial citrus production occurs in the State. Because the international taxonomic norms are not within APHIS' purview, and because the update to the list of commercial citrus-producing States is based on a State's self-designation and ensures that the regulations align with this designation, there is good cause pursuant to 5 U.S.C. 553 to consider notice and a comment period for this rule unnecessary and contrary to the public interest and to make it effective less than 30 days after publication in the **Federal Register**.

Further, this action is a category that OMB has designated exempt from the provisions of Executive Order 12866. Finally, this action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and, thus, it is exempt from the provisions of that Act.