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OFFICE OF SPECIAL COUNSEL

5 CFR Part 1800

Revision of Regulations To Describe Filing Requirements and Options, Including Electronic Filing

AGENCY: U.S. Office of Special Counsel.

ACTION: Final rule.

SUMMARY: The U.S. Office of Special Counsel (OSC) is revising its regulations on filing to state filing requirements and options more clearly and to provide information on where to find instructions for electronic filing with OSC.

DATES: This rule will be effective December 1, 2003.

FOR FURTHER INFORMATION CONTACT: Kathryn Stackhouse, General Law Counsel, in writing at: U.S. Office of Special Counsel, Legal Counsel and Policy Division, 1730 M Street NW., Suite 218, Washington, DC 20036-4505; by telephone at (202) 653-8971; or by facsimile at (202) 653-5151.

SUPPLEMENTARY INFORMATION: The U.S. Office of Special Counsel (OSC) is revising its regulations governing filing of: (1) complaints of prohibited personnel practices or other prohibited activity; (2) disclosures of information; and (3) requests for advisory opinions on the Hatch Act, under 5 CFR 1800.1, 1800.2, and 1800.3. These revisions are intended to more clearly describe the requirements and options for filing complaints, disclosures and requests for advisory opinions, and to direct potential filers to OSC's web site for information and instructions on electronic filing of complaints and disclosures (at <http://www.osc.gov>). The Government Paperwork Elimination Act (GPEA, Pub. L. 105-277) requires Federal agencies to provide individuals or entities that deal with agencies the option to submit information or transact with the agency electronically, and to

maintain records electronically, when practicable. OSC has been working to comply with GPEA in stages by first offering complaint and disclosure forms to be printed from OSC's web site; then adding the capability of filling the forms out on-line and submitting them by mail or fax to OSC; and finally by offering electronic filing. These options are described on the OSC Web site at <http://www.osc.gov> (under "Forms"). This revision of OSC regulations on filing complaints and disclosures with OSC is intended to present clear information on all available options for such filings.

Procedural Determinations

Administrative Procedure Act (APA)
This action is taken under the Special Counsel's authority, at 5 U.S.C. 1212(e), to publish regulations in the Federal Register. Under the Administrative Procedure Act, at 5 U.S.C. 553(b)(3)(B), statutory procedures for agency rulemaking do not apply "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." OSC finds that such notice and public procedure are unnecessary and contrary to the public interest because: (1) these revisions more clearly describe filing options at OSC; and (2) the public benefits from early notice of additional filing options, and further delay is unnecessary and contrary to the public interest.

Congressional Review Act (CRA): OSC has determined that these revisions are non-major under the Congressional Review Act, and is submitting a report on this final rule to Congress and the General Accounting Office pursuant to the act. The rule is effective December 1, 2003, as permitted by 5 U.S.C. 808.

Regulatory Flexibility Act (RFA): The Regulatory Flexibility Act does not apply, as this rule is not subject to notice and comment procedures under the APA.

Paperwork Reduction Act (PRA): OSC has received OMB approval of the Forms OSC-11 and OSC-12, which are referenced in the regulations, for use through August 31, 2006, including use of these forms for electronic filing.

Unfunded Mandates Reform Act (UMRA): This proposed revision does not impose any Federal mandates on State, local, or tribal governments, or on

the private sector within the meaning of the UMRA.

Executive Order 12866 (Regulatory Planning and Review): OSC anticipates that the economic impact of this revision will be insignificant. Thus this proposed revision is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order.

Executive Order 12988 (Civil Justice Reform): This proposed rule meets applicable standards of section 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132 (Federalism): This proposed revision does not have new federalism implications under Executive Order 13132. The Hatch Act, at title 5 of the U.S. Code, chapter 15, prohibits certain political activities of covered state and local government employees. The OSC has jurisdiction to issue advisory opinions on political activity by those employees, and to bring an enforcement action before the Merit Systems Protection Board for prohibited activity by a covered state or local government employee. However, this proposed revision does not substantively affect the rights of state and local government employees. Rather, these revised regulations simply provide information on options for filing an allegation of a violation of the Hatch Act, or a request for an advisory opinion on the Hatch Act with OSC.

List of Subjects in 5 CFR Part 1800

Administrative practice and procedure, Government employees, Investigations, Law enforcement, Political activities (Government employees), Reporting and recordkeeping requirements, Whistleblowing.

■ For the reasons stated in the preamble, OSC amends 5 CFR part 1800 as follows:

PART 1800—FILING OF COMPLAINTS AND ALLEGATIONS

■ 1. The authority citation for Part 1800 continues to read as follows:

Authority: 5 U.S.C. 1212(e).

■ 2. Section 1800.1 is revised to read as follows: