

Rules and Regulations

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Siting of Fuel Reprocessing Plants and Related Waste Management Facilities

On November 14, 1970, the Atomic Energy Commission published in the *FEDERAL REGISTER* (35 F.R. 17530), to be effective 90 days after publication, a statement of policy, in the form of a new Appendix F to 10 CFR Part 50, concerning the siting of reactor fuel reprocessing plants and related waste management facilities. The statement of policy dealt, among other things, with the question of ultimate disposal of high-level liquid radioactive fission product wastes generated in the operation of licensed fuel reprocessing plants. The policy requires that such wastes be solidified by the fuel reprocessor and transferred to a Federal repository for disposal and perpetual surveillance.

Paragraph 6 of the statement of policy provided that "With respect to fuel reprocessing plants already licensed, the licenses will be appropriately conditioned to carry out the purposes of the policy stated above." The only fuel reprocessing plant presently licensed by the Commission for operation is located at West Valley, N.Y., about 30 miles south of Buffalo, on land owned by the State of New York. The plant has been operated since 1966 by Nuclear Fuel Services, Inc. (NFS). The high-level liquid radioactive wastes generated at the NFS plant are stored underground in steel tanks which are covered by about 8 feet of soil.

In a letter to the Commission dated January 7, 1971, NFS requested that the Commission consider—in addition to solidification and offsite shipment—three alternative methods for long-term storage or disposal. These alternatives are: (1) Continued storage of the wastes in liquid form with possible transfer of the property from New York State to the United States after closing of the plant; (2) solidification of the wastes in existing tanks with appropriate conditions concerning time of solidification, permanent marking after solidification, and such other measures as may be necessary to protect the public health and safety; and (3) conversion of the wastes to AEC-approved solid form and burial thereof, with appropriate safeguards, in the silty till at West Valley, or in the underlying shales.

The Commission agrees that the matter of ultimate disposal of existing high-level liquid wastes at the West Valley facility presents complex technical problems which may require considerable time for study and resolution. Pending ultimate

disposal, the present storage method will continue to provide reasonable assurance that the health and safety of the public will be protected.

In view of the foregoing considerations, the Commission has amended paragraph 6 of the statement of policy (1) to indicate that its application to existing wastes will be the subject of a further rule making proceeding, and (2) to provide more specificity regarding its application to future high-level wastes generated at the NFS facility.

Inasmuch as the amendment is clarifying in nature the Commission has found that good cause exists for omitting notice of proposed rule making and public procedure thereon as unnecessary and for making the amendment effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to 10 CFR Part 50 is published as a document subject to codification, to be effective upon publication in the *FEDERAL REGISTER* (3-23-71).

Paragraph 6 of Appendix F is amended to read as follows:

6. With respect to fuel reprocessing plants already licensed, the licenses will be appropriately conditioned to carry out the purposes of the policy stated above with respect to high-level radioactive fission product wastes generated after installation of new equipment for interim storage of liquid wastes, or after installation of equipment required for solidification without interim liquid storage. In either case, such equipment shall be installed at the earliest practicable date, taking into account the time required for design, procurement and installation thereof. With respect to such plants, the application of the policy stated in this appendix to existing wastes and to wastes generated prior to the installation of such equipment, will be the subject of a further rule making proceeding.

(Secs. 161, 187, 68 Stat. 948, 955; 42 U.S.C. 2201, 2237)

Dated at Washington, D.C., this 19th day of March 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-3966 Filed 3-22-71; 8:50 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 30—FOREIGN TRADE STATISTICS

Delivery of the Shipper's Export Declaration to Exporting Carrier

In a notice of proposed rule making published in the *FEDERAL REGISTER* of

September 10, 1970, it was proposed to amend §§ 30.12 and 30.42 of the Foreign Trade Statistics Regulations (15 CFR Part 30) to provide that Shipper's Export Declarations must be authenticated, where authentication is required, or presented to the carrier under the NAR procedure prior to exportation or departure instead of prior to loading the merchandise onto the exporting carrier as is presently required.

As a result of comments received pursuant to the notice of proposed rule making, it has been decided to incorporate this change in the pertinent provisions of §§ 30.12 and 30.42 of the Foreign Trade Statistics Regulations but also to put a provision in § 30.20 stating that where for reasons beyond the control of the exporting carrier, a given declaration (or declarations) has not been received and the merchandise has been laden, such carrier shall not, as a result of this circumstance be required to off-load the merchandise, or to delay its clearance (where clearance is required) or departure (if clearance is not required), subject to the provisions of § 30.24. Moreover §§ 30.12 and 30.42 are also being amended to make it clear that failure on the part of the exporter (or his agent) to deliver the Shipper's Export Declaration to the exporting carrier prior to exportation (where required) is a violation of the regulations and renders such exporter (or his agent) liable to penalties as provided in § 30.95. Accordingly §§ 30.12, 30.20, and 30.42 of the Foreign Trade Statistics Regulations are amended to read as follows:

1. The third sentence of § 30.12 is hereby deleted, and the following sentences substituted therefor:

§ 30.12 Time and place Shipper's Export Declarations required to be presented.

*** For shipments by vessel or aid to foreign countries, except Canada, the Shipper's Export Declaration must be presented to the Customs Director for authentication in accordance with the procedure outlined in § 30.14(a), and an authenticated copy of the Shipper's Export Declaration delivered to the exporting carrier prior to exportation. With respect to such vessel or air shipments, it is the duty of the exporter (or his agent) to deliver the required number of copies of the Shipper's Export Declaration to the exporting carrier prior to exportation; failure of the exporter (or his agent) to do so constitutes a violation of the provisions of these regulations, and renders such exporter (or his agent) subject to the penalties provided for in § 30.95.

2. Section 30.20 is amended by the addition of the following sentence at the end thereof:

§ 30.20 General statement of requirement for the filing of manifests and Shipper's Export Declarations by carriers.

* * * Where for reasons beyond the control of the exporting carrier, a given declaration (or declarations) has not been received prior to exportation or departure, and the merchandise has been laden, such carrier shall not as a result of this circumstance be required to off-load the merchandise, or to delay its clearance (where clearance is required) or departure (if clearance is not required). However, the provisions of § 30.24 remain applicable.

3. The first sentence of § 30.42(a) (1) (ii) is hereby deleted, and the following sentences substituted therefor:

§ 30.42 Authorization for waiver of the requirements for advance presentation and authentication of Shipper's Export Declarations.

- (a) General procedure:
(1) Scope:

(ii) Except as otherwise required by the Export Control Regulations, only two copies of the Shipper's Export Declaration need be prepared by the exporter or his agent and delivered to the exporting carrier before the departure of the exporting carrier. With respect to those shipments covered under subdivision (i) of this subparagraph it is the duty of the exporter (or his agent) to deliver the required number of copies of the Shipper's Export Declaration to the exporting carrier prior to exportation; failure of the exporter (or his agent) to do so constitutes a violation of the provisions of these regulations, and renders such exporter (or his agent) subject to the penalties provided for in § 30.95.

These regulations are issued under the authority of title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, April 8, 1969, 34 F.R. 6703. In accordance with administrative procedure, 5 U.S.C. 553, postponement of the effective date of these amendments is unnecessary because (1) the amendment is a change in the substantive rules which grant or recognize exemptions or relieve restrictions, and (2) is an interpretive rule and statement of policy.

Effective date. These regulations are effective on the date of publication in the FEDERAL REGISTER (3-23-71).

GEORGE H. BROWN,
Director, Bureau of the Census.

I concur:

EUGENE ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-3928 Filed 3-22-71; 8:47 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 36—LOAN GUARANTY

Recasting

Section 36.4506 is revised to read as follows:

§ 36.4506 Recasting.

In the event of default or to avoid imminent default, the Veterans' Administration may at any time enter into an agreement with the borrower which will permit the latter temporarily to repay his obligation on a basis appropriate to his apparent current ability to pay or may enter into an appropriate recasting or extension agreement: *Provided*, That no such agreement shall extend the ultimate repayment of a loan beyond the expiration of 30 years from the date of the loan, or 40 years in the case of a loan for the construction or improvement of a farmhouse. *Provided further*, That nothing in this section shall be deemed to limit the forbearance or indulgence which the Administrator may extend in an individual case pursuant to the provisions of 38 U.S.C. 1820(f).

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective upon publication in the FEDERAL REGISTER (3-23-71).

Approved: March 17, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-3910 Filed 3-22-71; 8:46 am]

Title 39—POSTAL SERVICE

Chapter III—Postal Rate Commission

SUBCHAPTER A—PERSONNEL

PART 3000—STANDARDS OF CONDUCT

Pursuant to and in conformity with Executive Order No. 11570 of November 24, 1970 (35 F.R. 18183); Executive Order No. 11222 of May 8, 1965, 3 CFR 1964-1965, Comp., p. 306; Title 5, Chapter I, Part 735 of the Code of Federal Regulations; and sections 201 through 209 of title 18 of the United States Code, Title 39 of the Code of Federal Regulations is amended by adding a new Chapter III composed of Subchapter A and Part 3000. The new Part 3000 contains the Standards of Conduct regulations applicable to the Postal Rate Commission prepared and issued by the Civil Service Commission pursuant to Executive Order No. 11570.

Subpart A—Policy and Purpose

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3000.735-101 Policy.
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3000.735-306 Gifts, entertainment, and favors.
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3000.735-308 Use of Government services and property.
3000.735-309 Misuse of official information.
3000.735-310 Indebtedness.
3000.735-311 Gambling, betting, and lotteries.
3000.735-312 General standards of conduct; prejudicial conduct.
3000.735-313 Miscellaneous statutory provisions.
3000.735-314 Statutory provisions prescribed for the Commission.
3000.735-315 Conduct and responsibilities of special Government employees.
3000.735-316 Additional prohibitions—special Government employees.

Subpart D—Reporting Outside Employment and Financial Interests

3000.735-401 General standards.
3000.735-402 Reporting employment and financial interests—regular employees.
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3000.735-405 Reviewing statements; remedial action.

Subpart E—Ex Parte Communications

3000.735-501 Ex parte communications prohibited.
3000.735-502 Public record of ex parte communications.

AUTHORITY: The provisions of this Part 3000 issued under Executive Order 11222 of May 8, 1965, 3 CFR 1964-1965 Comp., p. 306; Executive Order 11570 of Nov. 24, 1970, 35 F.R. 18183; and 5 CFR Part 735.

Subpart A—Policy and Purpose

§ 3000.735-101 Policy.

The Postal Reorganization Act assigns to the Postal Rate Commission the responsibility of holding fair and impartial

public hearings, consistent with the requirements of the Administrative Procedure Act, and of making recommended decisions based on such hearings, as to postal rates, fees for postal services, and the classification of mail. Essential to the performance of the functions of the Postal Rate Commission and the U.S. Postal Service in the establishment of such rates, fees, and classifications under the Postal Reorganization Act, is the confidence of the American public in the honesty and integrity of the Commissioners and employees of the Postal Rate Commission. Their personal conduct must at all times be unquestionably free from taint or suspicion of partiality, favoritism, or any indicia of conflicting interests. Compliance with the legal requirements of procedural fairness in the conduct of the public hearings will not be sufficient to maintain public confidence in the rate-setting machinery authorized by the Postal Reorganization Act if doubts exist as to the personal conduct standards of the individuals who hold the hearings, and make recommended decisions based thereon, and their employees. It is, accordingly, the policy that the Commissioners and employees of the Commission shall at all times maintain the highest standards of official and personal conduct and shall scrupulously avoid every situation which may result in an actual or apparent loss of the complete independence and impartiality which is essential to command the respect and confidence of the American public. By reason of the particular trust imposed on the Commissioners and employees of the Postal Rate Commission they have a positive obligation to inform themselves of the policy in this section and the standards of conduct in this Part 3000 and to live within the letter and spirit of that policy and those standards.

§ 3000.735-102 Purpose.

(a) This Part 3000 sets forth the standards of conduct required of Commissioners, employees, and special Government employees of the Postal Rate Commission. In addition, the standards of conduct in this part are applicable to members of the uniformed services and employees of other Government agencies who are serving on assignment or detail in the Postal Rate Commission, but the applicability of this part to such members and employees does not relieve them of their responsibilities under the regulations of the service or agency from which they were assigned or detailed.

(b) This part reflects prohibitions and requirements imposed by the laws of the United States. However, the paraphrased restatements of the laws contained in this part are designed for informational purposes only and in no way constitute an interpretation or construction thereof that is binding on the Government. Moreover, this part does not purport to paraphrase or enumerate all restrictions and requirements imposed by law, Executive order, regulation, or otherwise upon Federal officers and employees and former Federal officers and employees. The omission of a reference to any such re-

striction or requirement in no way alters the legal effect of that restriction or requirement and any such restriction or requirement continues to be applicable to officers and employees and former officers and employees in accordance with its terms. Furthermore, attorneys employed by the Postal Rate Commission are subject to the Code of Professional responsibility of the American Bar Association.

Subpart B—General Provisions

§ 3000.735-201 Definitions.

In this part:

(a) "Commission" means the Postal Rate Commission.

(b) "Commissioner" means a Commissioner of the Postal Rate Commission, including the Chairman of the Commission.

(c) "Employee" or "regular employee" means an employee of the Commission, including a Commissioner of the Commission, but does not include a special Government employee.

(d) "Special Government employee" means an individual who is retained, designated, appointed, or employed by the Commission to perform with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties, either on a full-time or intermittent basis.

(e) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(f) "Counselor" means the official of the Commission designated in § 3000.735-203 to carry out the responsibilities referred to in that section and in § 735.105 (a) of the regulations of the Civil Service Commission (5 CFR 735.105(a)).

(g) "United States Postal Service" or "Postal Service" means the U.S. Postal Service established under title 39, United States Code, by the Postal Reorganization Act, Public Law 91-375, 84 Stat. 719, and, prior to the effective date of the commencement of operations by the U.S. Postal Service, means the Post Office Department.

(h) "Uniformed services" has the meaning given that term by 5 U.S.C. 2101.

§ 3000.735-202 Special Government employees; applicability of part.

Except where specifically provided otherwise, or where limited in terms or by the context to regular employees, all provisions of this Part relating to employees are applicable also to special Government employees.

§ 3000.735-203 Counseling and advisory services.

(a) The General Counsel of the Commission is the Counselor for the Commission. The Counselor shall advise employees as to the applicability and interpretation of this part, and laws and regulations referred to in this part, to factual situations for the purpose of aiding employees in avoiding conflicts of interest situations or acts or conduct that may reflect adversely on the Commission. The Counselor shall serve as the Com-

mission's liaison with the Civil Service Commission on matters covered by this part and on related laws and regulations.

(b) Communications between the Counselor and an employee shall be confidential and used only for the purpose of this part, except as determined by the Chairman of the Commission.

(c) The Counselor shall notify all employees and special Government employees of the availability of counseling services, and of how and where such services are available. Such notification shall be made within 30 days after the effective date of this part and periodically thereafter. In the case of a new employee or special Government employee appointed after the date of such notification, notification shall be given at the time of his entrance on duty.

(d) The Counselor shall have copies of this Part distributed to each employee and special Government employee within 30 days after the effective date thereof. In the case of a new employee or special Government employee entering on duty after the date of such distribution, a copy shall be furnished at the time of his entrance on duty.

(e) The Counselor shall maintain copies of Executive Orders Nos. 11222 and 11570, applicable regulations of the Civil Service Commission, the statutes referred to in this Part, and necessary explanatory materials including Part 735 of the Federal Personnel Manual for examination by employees and special Government employees during regular business hours.

§ 3000.735-204 Responsibilities of employees.

(a) Each employee and special Government employee has a positive obligation to read and become familiar with this part and with House Concurrent Resolution 175, 85th Congress, second session, 72 Stat. B12, the "Code of Ethics for Government Service," which is attached to this part as Appendix A.

(b) An employee or special Government employee who is uncertain as to the application of any regulation in this part, or of any provision of law, to any particular situation in which he is or may be involved, is obligated to contact the Counselor for advice and guidance. If an employee or special Government employee believes that the application of any regulation in this part, or any provision of law, will cause him undue hardship, he should consult the Counselor as to the possibility of obtaining a waiver of other relief under § 3000.735-302(f) or § 3000.735-304.

(c) An employee or special Government employee shall report immediately to the Counselor (1) any instance in which a person either within or outside the Commission uses or attempts to use a bribe, undue influence, or coercion to induce or attempt to induce the employee to act or neglect to act in regard to his official responsibilities, and (2) any information that causes him to believe that there has been a violation of a Federal criminal statute, the regulations in this part, or any law or regulation directly or indirectly related to the

responsibilities of the Commission. A report made under this paragraph shall be prepared in triplicate and a copy shall be sent by the employee or special Government employee to (i) the Attorney General, Department of Justice, Washington, D.C. 20530, and (ii) to the Chairman, Civil Service Commission, Washington, D.C. 20415. The report shall be sent in a sealed envelope clearly marked "Administratively Confidential—To Be Opened by Addressee Only".

§ 3000.735-205 Disciplinary action.

(a) A violation of any provision of this Part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalties prescribed by law. (As to other remedial action in cases where an employee's or special Government employee's financial interests result in a conflict or apparent conflict of interest, see § 3000.735-405(b).)

(b) Any disciplinary or remedial action taken pursuant to this part shall be effected in accordance with applicable laws, Executive orders, and regulations.

Subpart C—Conflicts of Interest and Ethical Conduct

§ 3000.735-301 Conflicts of interest.

(a) A criminal conflict of interest may exist when an employee, his spouse, minor child, partner, or person with whom he is associated or is negotiating for future employment, has a personal, private, or financial interest in a matter that involves his official duties or responsibilities.

(b) The maintenance of public confidence in the Commission clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interests or those of his spouse, minor child, or person with whom he is associated or is negotiating for future employment. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to the private advantage of himself, his spouse, minor child, or person with whom he is associated or is negotiating for future employment.

(c) Neither the pertinent statutes nor the standards of conduct prescribed in this part are to be regarded as entirely comprehensive. Each employee must, in each instance involving a personal or private interest in a matter which also involves his duties and responsibilities as an employee, make certain that his actions do not have the effect or the appearance of the use of his official position for the furtherance of his own interests or those of his family or a person with whom he is associated or is negotiating for future employment. An employee should never act on an official matter for the Commission when there exists a personal interest incompatible with the unbiased exercise of official judgment.

(d) The principal statutory provisions relating to bribery, graft, and conflicts of interest are contained in 18 U.S.C. 201-224. Severe penalties are provided for violations, including, variously, fine, imprisonment, dismissal from office, voiding transactions, and disqualification from holding any office of honor, trust, or profit under the United States.

(e) Employees shall at all times, in both their official and private lives, conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by law or regulation including this part, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Commission decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Commission.

§ 3000.735-302 Financial interests.

(a) An employee shall not, either directly or indirectly, have any financial interest (whether by ownership of any stock, bond, security, or other obligation or otherwise) in any entity or person whose interests may be significantly affected by rates of postage, fees for postal services, the classification of mail, or the operation of the Postal Service; but this paragraph does not proscribe interests in an entity or person whose use of the mails is merely an incidental or minor factor in the general conduct of its business.

(b) An employee shall not participate personally and substantially as a Government employee in a particular matter in which, to his knowledge, he has a financial interest (18 U.S.C. 208(a)), except as provided in paragraph (f) of this section.

(c) For the purposes of this section:

- (1) An employee participates personally and substantially in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise;
- (2) A particular matter is a judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter; and
- (3) A financial interest includes the financial interest of the employee himself or of his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment.

(d) An employee may not have financial interests which:

- (1) Establish a substantial personal or private interest in a particular matter

which involves his duties and responsibilities as an employee, except as provided in paragraph (f) of this section or § 3000.735-304; or

(2) Are entered into in reliance upon, or as a result of, information obtained through his employment; or

(3) Result from active and continuous trading (as distinguished from the making of bona fide investments) which is conducted on such a scale as to interfere with the proper performance of his duties or as to create the appearance of speculative dealings. Frequency of trading, the use of credit, and particularly transactions to take advantage of short-term price fluctuations, are significant indications of speculative dealings.

(e) Aside from the restrictions prescribed or cited in this part, employees are free to engage in lawful financial transactions to the same extent as private citizens. Employees should be aware that the financial interests of their wives or minor children and blood relatives who are full-time residents of their households, and interest of partners or a person or entity with whom they are associated or are negotiating for future employment, may be regarded, for the purpose of this section, as financial interests of the employees themselves.

(f) An employee who has a financial interest in a particular matter which is within the scope of his official duties shall make a full disclosure of that interest to the Counselor in writing. He shall not participate in such matter unless and until he receives a written determination by the Chairman of the Commission pursuant to section 208(b)(1) of title 18, United States Code, that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him. If the Chairman of the Commission does not make such a determination, he shall direct such remedial action as may be appropriate under the provisions of § 3000.735-405(b).

(g) This section does not apply to special Government employees, who are subject to the provisions of § 3000.735-314.

§ 3000.735-303 Additional prohibitions—regular employees.

(a) In addition to the disqualifications described in § 3000.735-302, a regular employee is subject to the following major prohibitions.

(1) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

(2) He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) He may not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which he participated personally and substantially. See subparagraph (2) of this paragraph.)

(4) He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209). (See § 3000.735-305.)

(b) Exemptions or exceptions from the prohibitions described in paragraph (a) of this section are permitted under certain circumstances. For the method of obtaining such exemptions or exceptions, see § 3000.735-304.

§ 3000.735-304 Exemptions and exceptions from prohibitions of conflict of interest statutes.

(a) Nothing in this part prohibits an employee, if it is not otherwise inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person in a disciplinary, loyalty, or other Federal personnel administration proceeding involving such person.

(b) Nothing in this part prohibits an employee from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, as defined in section 202(b) of title 18 of the United States Code, provided the Chairman of the Commission approves.

(c) Nothing in this part prohibits an employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(d) In addition to the exemptions and exceptions described in this section and in § 3000.735-302(e), the conflict of interest statutes permit certain exemptions and exceptions in specific circumstances. The procedure for effecting such exemptions or exceptions is as follows:

(1) Any regular employee or special Government employee who desires approval or certification of his activities as provided for by section 205 of title 18, United States Code, shall make application therefor in writing to the Counselor.

(2) A former employee, including a former special Government employee, who desires certification with regard to his activities under section 207 of title 18, United States Code, shall make applica-

tion therefor in writing to the Counselor.

(3) The Counselor shall report promptly to the Chairman of the Commission and the Chairman of the Civil Service Commission all matters reported to him under this part which require consideration of approvals, certifications, or determinations provided for in section 205, 207, or 208 of title 18, United States Code.

§ 3000.735-305 Salary payable only by United States.

(a) No employee, other than a special Government employee or an employee serving without compensation, shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services as an employee, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality (18 U.S.C. 209).

(b) Nothing in this section prohibits an employee from continuing to participate in a bona fide pension, retirement, group life, health, or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer, nor from accepting contributions, awards, or other expenses under Chapter 41 of title 5, United States Code, relating to employee training.

§ 3000.735-306 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (c) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, honorarium, travel or accommodation expense or the like, loan, or any other thing of value from a person who:

(1) Has, or is seeking to obtain, contractual or other business of financial relations with the Commission or the Postal Service;

(2) Conducts operations or activities which are regulated or controlled by the Commission; or

(3) Has interests which may be substantially affected by the performance or nonperformance of his official duty or the duties and responsibilities of the Commission.

(b) Notwithstanding paragraph (a) of this section, an employee may:

(1) Accept a gift, gratuity, favor, entertainment, honorarium, travel or accommodation expense or the like, loan, or other thing of value from a close personal friend, parent, spouse, child, or other close relative when the circumstances make it clear that the family or personal relationships involved are the motivating factors; and

(2) Participate (together with his wife or a member of his immediate family) as a guest speaker at a conference or convention or as a guest in an inaugural flight, a ship launching, or similar event, and accept meals, accommodations, and entertainment incidental thereto, provided there is no reasonable way to ascertain the cost thereof and the invitation is addressed to the Chairman of the Commission and the employee is selected for such participation by the Chairman

after a determination that his participation is in the interest of the Commission and the Government.

(3) Accept unsolicited advertising or promotional items such as a pen, pencil, note pad, or calendar of nominal value not in excess of \$2 per item.

(c) In an instance in which an employee, due to circumstances beyond his control, cannot graciously and without undue embarrassment decline food or refreshment at a meeting or gathering where he is properly in attendance as a part of his official responsibilities, he shall, within 48 hours thereafter, submit a written report to the Counselor concerning the matter with a description of the incident and an explanation as to why declination was not reasonable. The Counselor shall personally review each report submitted under this paragraph and when the acceptance of the food or refreshment was not justified, or when such acceptances by one particular employee are frequent, the Counselor shall submit a written report on the matter to the Chairman of the Commission and the Chairman of the Civil Service Commission with a recommendation for corrective action.

(d) A gift to or from an official superior or a subordinate fellow employee is prohibited by 5 U.S.C. 7351. However, this provision does not prohibit a voluntary gift of nominal value or a donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) A gift or gratuity, the receipt of which is prohibited by paragraph (a) of this section shall be returned to the donor with a written explanation why the return is necessary. A copy of the written explanation shall be submitted to the Counselor for filing in the employee's Official Personnel Folder. When return of a gift is not possible, the gift or gratuity shall be submitted to the Counselor with a written explanation why the return is not feasible. The Counselor shall turn the gift or gratuity over to a public or private charity or charitable institution and make a record of its disposition.

(f) The Constitution (Art. 1, sec. 9, par. 8) prohibits an employee's acceptance from a foreign government, except with the consent of Congress, of any emolument, office, or title. The Congress has provided for the receipt and disposition of foreign gifts and decorations in 5 U.S.C. 7342 which applies to each employee by reason of 39 U.S.C. 410 and 3604(d). See also Executive Order 11320, 31 F.R. 15789, and the regulations pursuant thereto in 22 CFR Part 3 (as added, 32 F.R. 6569). Any such gift or thing which cannot appropriately be refused shall be submitted to the Counselor for transmittal to the State Department.

§ 3000.735-307 Outside employment and other activity.

(a) An employee whose annual rate of basic compensation from the Commission is \$20,000 or more shall not engage in any outside employment or professional practice, either on a paid or unpaid basis, other than teaching, lecturing, or writing

as provided in paragraph (d) of this section.

(b) An employee shall not engage in outside employment or professional practice, either on a paid or unpaid basis, with or for a person whose business or other interests (1) are substantially dependent on, or may be significantly affected by, postal rates, fees, or classifications, or (2) are substantially dependent on providing property, a product, or service to, or for use in connection with, the Postal Service. The proscription in this paragraph applies whether the employee is employed by or associated with another person or is in business or practice by himself.

(c) An employee shall not engage in outside employment or other outside activity not clearly compatible with the full and proper discharge of the duties and responsibilities of his employment with the Commission. Incompatible activities include, but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest, including the receipt of any thing of value for the sale or leasing of real or personal property to the Commission or the Postal Service or for service as a consultant to a contractor or other person who has, or who the employee knows is apt to have, business with the Commission or the Postal Service;

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his Commission duties and responsibilities in an acceptable manner;

(3) Outside employment or activity that is likely to result in criticism of, or cause embarrassment to, the Commission;

(4) Contracting with the Government either directly or through an organization controlled or directed by Government employees, except when advance, express, written permission is obtained from the Counselor on the basis of a finding that the case is exceptional in that the needs of the Government cannot reasonably be otherwise obtained (see 41 CFR 1-1.302-3);

(5) Outside employment or activity including the endorsement of a commercial or business product, which involves the use or exploitation of the employee's official title, role, position, or authority, or the use of Government resources such as space, personnel, supplies, equipment, or vehicles; or

(6) Outside employment or activity involving Federal taxes if the work on such taxes extends beyond the mere preparation of a tax return or the furnishing of information to the Internal Revenue Service obtained solely from the records of a taxpayer. An employee shall not become involved either directly or indirectly in advocating a taxpayer's position, other than his own or that of his spouse.

(d) Within the limitations imposed by this section, employees are encouraged

to engage in teaching, lecturing, and writing. However, an employee shall not, either on a paid or unpaid basis, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, or for appointment in the U.S. Postal Service or the Commission, that is dependent on information obtained as a result of his employment with the Commission, except when that information has been made available to the general public or will be made available on request, or when the Counselor gives written authorization for the use of non-public information on the basis that the use is in the public interest. In addition, a Commissioner shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission or the U.S. Postal Service, or which draws substantially on official data or ideas which have not become part of the body of public information.

(e) Neither this section nor § 3000.735-306 precludes an employee from:

(1) Receipt of bona fide reimbursement, unless prohibited by law or given under conditions that would compromise or appear to compromise the integrity of the employee or the Commission, for actual expenses for travel and such other necessary subsistence as is compatible with this Part and for which no Government payment or reimbursement is made. However, an employee may not be reimbursed, and payment may not be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor may an employee be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General, 46 Comp. Gen. 689. (See § 3000.735-313(q) regarding reimbursement by a private foundation.) When an employee travels on official business he should use commercial transportation at Government expense and not accept free transportation from any person. In the event commercial transportation is not reasonably available for the needed travel, an employee may accept private transportation provided the person providing such transportation is reimbursed therefor at the standard commercial rate.

(2) Participation in the activities of national or State political parties not proscribed by law.

(3) Participation, other than as an officer at a national, statewide, regional, or comparable responsible level, in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by, a charitable, religious, professional, social, fraternal, nonprofit educational or recreational, public service, or civic organization. However, an employee may accept an

award from an organization described in this paragraph only when the Counselor determines in advance of the acceptance of the award that the award is in no way related to the employee's services with the Commission.

(f) An employee who wishes to engage in outside employment or activity, including teaching, lecturing, writing, or serving as an officer at a national, statewide, regional, or other responsible level of an organization described in paragraph (e)(3) of this section, shall obtain the prior written approval of the Counselor. A request for such approval shall be submitted to the Counselor in writing with sufficient description of the employment or activity to enable him to make an informed determination as to whether a conflict of interest or the appearance of a conflict of interests may be involved. A record of approval or disapproval made under this paragraph shall be filed in the employee's Official Personnel Folder. As a matter of general policy, outside or private professional work or practice (e.g., legal or accounting activities) by employees is discouraged and only in unusual circumstances will it be approved.

(g) The Commission may employ a person on extended leave of absence from a private employer when that is the way most advantageous to the Commission to obtain a needed, highly-qualified employee. When it is proposed to employ such a person, a written statement of the exact conditions of the leave of absence shall be submitted to the Counselor for an advanced determination as to employability in the light of the conflicts of interest statutes and this part. If employed, such an employee shall not be allowed to handle or have access to, either directly or indirectly, confidential business data of the private employer's competitors. The necessity for the continued employment of such an employee shall be reviewed annually by the Counselor.

(h) An employee who discusses or negotiates for outside employment with any person which has business or other interests of the type described in paragraph (b) of this section, shall report that discussion or negotiation to the Counselor within 24 hours after the discussion or negotiation.

(i) This section does not apply to special Government employees who are subject to the provisions of § 3000.735-315.

§ 3000.735-308 Use of Government services and property.

An employee shall not directly or indirectly use, or allow the use of, Government services or property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to him.

§ 3000.735-309 Misuse of official information.

(a) An employee shall not, particularly for the purpose of furthering a private

interest, directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public, except as provided in § 3000.735-307 (d) relating to teaching, lecturing, and writing.

(b) An employee shall not divulge restricted official information outside the Commission, except as permitted under the instructions pertaining thereto and at the time authorized for its release.

§ 3000.735-310 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee, or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Commission determines does not, under the circumstances, reflect adversely on the Commission as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Commission to determine the validity or amount of the disputed debt.

§ 3000.735-311 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Commission, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 3000.735-312 General standards of conduct; prejudicial conduct.

(a) An employee shall conduct himself on the job in such a manner that the work of the Commission is efficiently accomplished and courtesy, consideration, and promptness are observed in dealings with the Congress, the public, and other governmental agencies.

(b) An employee shall conduct himself off the job in such a manner as not to reflect adversely on the Commission or the Federal service.

(c) An employee, whether on or off the job, shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Commission or the Federal service.

(d) An employee shall not, other than as required by his official duties, recommend or suggest the use of any non-Governmental person offering services as an intermediary, consultant, agent, attorney, expeditor, specialist, or the like for the purpose of assisting in any negotiations, transactions, or other business with the Commission or the U.S. Postal Service. Acceptance of a forwarding or finder's fee from such a person is deemed to be within the prohibition in this subsection.

(e) Discrimination on the basis of race, color, religion, sex, or national origin

is conduct prejudicial to the Government. An employee, while acting in his official capacity, shall not directly or indirectly authorize, permit, or participate in any action, event, or course of conduct which subjects any person to discrimination, or results in any person being discriminated against, on the basis of race, color, religion, sex, or national origin.

§ 3000.735-313 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of the Commission and of the Government. In particular, attention of employees is directed to the following statutory prohibitions which are applicable to employees of the Commission:

(a) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriated to the employees concerned.

(b) Lobbying with appropriated funds (18 U.S.C. 1913).

(c) Striking against the Government (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) Disclosure of classified information (18 U.S.C. 798) and the disclosure of confidential information (18 U.S.C. 1905).

(e) Misuse of the franking privilege (18 U.S.C. 1719).

(f) Fraud or false statements in a Government matter (18 U.S.C. 1001).

(g) Mutilating or destroying a public record (18 U.S.C. 2071).

(h) Counterfeiting and forging transportation requests (18 U.S.C. 508).

(i) The (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason or his employment (18 U.S.C. 654).

(j) Unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(k) Political activities, solicitations, and contributions (subchapter III of chapter 73 of title 5, United States Code, and 18 U.S.C. 602, 603, 607, and 608).

(l) Acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(m) Deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(n) Employment of an individual convicted of felonious rioting or a related offense (5 U.S.C. 7313).

(o) Habitual use of intoxicants to excess (5 U.S.C. 7352).

(p) A public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(q) Self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his sale to or purchase of property from, a private foundation.

§ 3000.735-314 Statutory provisions prescribed for the Commission.

Pursuant to Executive Order No. 11570 and consistent with 39 U.S.C. 3604(d) and 410, the following regulations are prescribed for employees of the Commission on the basis of the statutory authority identified in each paragraph:

(a) Passenger motor vehicles and aircraft owned by the Commission or the Government shall be used exclusively for official purposes; and "official purposes" shall not include the transportation of employees between their domiciles and places of employment, except in cases of medical officers on out-patient medical service and except in cases of employees engaged in fieldwork the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the Chairman of the Commission. An employee who willfully uses or authorizes the use of any passenger motor vehicle or aircraft owned by the Commission or the Government, or of any passenger motor vehicle or aircraft leased by the Commission or the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended without compensation, for not less than 1 month, and shall be suspended for a longer period or removed from the Commission if circumstances warrant. (Source: 31 U.S.C. 638a(c)(2)).

(b) It shall be unlawful for any employee to communicate in any manner or by any means, to any other person whom the employee knows or has reason to believe to be an agent or representative of any foreign government or an officer or member of any Communist organization as defined in 50 U.S.C. 782(5), any information of a kind which shall have been classified by the President (or the Chairman of the Commission, the Postmaster General, or the head of an executive agency as defined in 5 U.S.C. 105 with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless the employee shall have been specifically authorized by the President or the Chairman of the Commission to make such disclosure of such information. An employee who violates this paragraph is subject to the penalties provided in 50 U.S.C. 783 and legal actions under this paragraph are governed by that section. (Source: 50 U.S.C. 783).

(c) When there is in effect a final order of the Subversive Activities Control Board determining any organization to be a Communist-action organization or a Communist-front organization, it shall be unlawful for any member of such organization, with knowledge or notice of such final order of the Board in seeking, accepting, or holding any office or employment with the Commission, to conceal or fail to disclose the fact that he is a member of such organization; or to hold an office or employment with the Commission. Also, it shall be unlawful for any employee of the Commission, with

knowledge or notice of such final order of the Subversive Activities Control Board, to contribute funds or services to such organization; or to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would constitute a violation of any provision of this paragraph. (Source: 50 U.S.C. 784.)

§ 3000.735-315 Conduct and responsibilities of special Government employees.

(a) A special Government employee shall not use his employment with the Commission for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) A special Government employee shall not use inside information obtained as a result of his employment with the Commission for private gain for himself or another person whether by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purposes of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(c) A special Government employee who engages in teaching, lecturing, or writing, whether for or without compensation, shall not for such purposes make use of information obtained as a result of his employment with the Commission, except when that information has been made available to the general public or will be made available on request, or when the Counselor gives written authorization for the use of nonpublic information on the basis that such use is in the public interest.

(d) A special Government employee shall not use his employment with the Commission to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(e) Except as provided in paragraph (f) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with the Commission anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(f) Notwithstanding paragraph (e) of this section, a special Government employee shall be allowed the same latitude as is authorized for regular employees by paragraphs (b) and (c) of § 3000.735-306.

(g) Attention of special Government employees is directed to the provisions of § 3000.735-202, making the provisions of this Part generally applicable to their activities.

§ 3000.735-316 Additional prohibitions—special Government employees.

(a) In addition to the disqualification described in § 3000.735-302, a special Government employee is subject to the following major prohibitions:

(1) He may not, except in the discharge of his official duties:

(i) Represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205), or

(ii) Represent anyone else in a matter pending before the Commission unless he served there no more than 60 days during the previous 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

(2) He may not, after his employment with the Commission has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) He may not, for 1 year after his employment with the Commission has ended, represent any one other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his employment with the Commission (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which he participated personally and substantially. See subparagraph (2) of this paragraph.)

(b) Exemptions or exceptions from the prohibitions described in paragraph (a) of this section are permitted under certain circumstances; for the method of obtaining such exemptions or exceptions, see § 3000.735-304.

Subpart D—Reporting Outside Employment and Financial Interests

§ 3000.735-401 General standards.

The provisions in this Subpart D are in addition to the general standards relative to outside employment and other activity in § 3000.735-307. Regardless of whether or not a regular employee is required to file a statement of employment and financial interests under this subpart, a regular employee shall not engage in outside employment without obtaining the approval of the Counselor required by § 3000.375-307(f).

§ 3000.735-402 Reporting employment and financial interests—regular employees.

(a) Each Commissioner and the Counselor shall file a statement of employment and financial interests with the Chairman of the U.S. Civil Service Commission, Washington, D.C. 20415. The statement shall be submitted on the date of entrance on duty on a form and

in a manner prescribed by the Chairman of the Civil Service Commission.

(b) (1) At the time of entrance on duty of an employee designated in paragraph (h) of this section, he shall submit a statement of employment and financial interest (referred to hereinafter in this subpart as the "statement") as provided in subparagraph (2) of this paragraph on the form "Confidential Statement of Employment and Financial Interests—Regular Employees" which shall be furnished by the Counselor. Changes in, or additions to, the information contained in an employee's statement shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the supplementary statement required by this subparagraph, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of 18 U.S.C. 208 or this part.

(2) The statement shall be submitted in duplicate, the original to the Counselor and the copy to the Chairman of the Civil Service Commission, Washington, D.C. 20415. The statement shall be submitted in an envelope marked "Administratively Restricted—To Be Opened Only By Authorized Reviewer".

(c) When completing a statement, an employee shall include both his own employment and financial interests, debts, and interests in real property and those of his spouse, minor child, and other member of his immediate household. For the purpose of this paragraph "member of his immediate household" means a full-time resident of the employee's household who is related to him by blood.

(d) Precise amounts of financial interests, indebtedness, and the value of real property need not be included on a statement; however, when the reviewer determines that such precise amounts are needed to make an adequate review, the employee shall disclose the precise amounts.

(e) If any information required to be included on a statement or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf, except when the trust is a blind, no-control trust in which case a copy of the trust shall be submitted for review.

(f) This section does not require an employee to submit any information relating to his connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement.

(g) The statements and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

(h) Each of the following designated employees shall submit a statement:

(1) An employee, other than a Commissioner and the Counselor who file separately under paragraph (a) of this section, who is paid basic compensation at a rate equivalent to or greater than the first step of grade GS-13 as adjusted under 5 U.S.C. 5305.

(2) An employee not required to submit a statement under subparagraph (1) of this paragraph whose position is listed in Appendix B to this part as a position which has been determined to have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and to carry out the purpose of law, Executive order, and this part.

(i) An employee who believes that his position has been improperly included as one requiring the submission of a statement is entitled to obtain a review of his complaint under the Commission's grievance procedure.

(j) The Counselor shall hold each statement of employment and financial interests in confidence. The Counselor is responsible for maintaining the statement in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this subpart. The Counselor may not disclose information from a statement outside the Commission except as the Civil Service Commission or the Chairman of the Commission may determine for good cause shown.

(k) A statement and any supplementary statements thereto shall be destroyed (1) 4 years after the employee is separated from the position which required the submission of the statement, (2) or 4 years after the employee leaves the Commission, or (3) when a position is deleted from Appendix B, 4 years after such deletion. The Counselor shall report to the Chairman of the Civil Service Commission when a statement and supplementary statements are destroyed.

§ 3000.735-403 Reporting employment and financial interests—special Government employees.

(a) At the time of appointment each special Government employee shall submit a statement as provided in § 3000.735-402(b)(2) on the form "Confidential Statement of Employment and Financial Interests—Special Government Employees" which shall be furnished by the Counselor. A special Government employee shall keep his statement current during the period of his employment and

shall submit a supplementary statement at the time of any reappointment. A negative report will suffice for the supplementary statement if no changes have occurred since the submission of the statement.

(b) Paragraphs (c), (d), (e), (f), (g), (j), and (k) of § 3000.735-402 are applicable to statements submitted under this section.

§ 3000.735-404 Reporting employment and financial interests—detailees.

(a) When a member of the uniformed services or an employee of a Government agency other than the Commission is assigned or detailed to the Commission to perform duties of a type that would require the submission of a statement if performed by an employee of the Commission, the individual so assigned or detailed (referred to in this section as a "detailee") shall submit a statement as provided in § 3000.735-402(b)(2) on the form "Confidential Statement of Employment and Financial Interests—Regular Employee" which shall be furnished by the Counselor. The detailee shall submit the statement at the start of the detail and shall submit supplementary statements as required under § 3000.735-402(b)(1).

(b) Paragraphs (c), (d), (e), (f), (g), (i), (j), and (k) of § 3000.735-402 are applicable to statements submitted under this section.

§ 3000.735-405 Reviewing statements; remedial action.

(a) Each statement submitted under this subpart shall be reviewed by the Counselor and by the Chairman of the Civil Service Commission, or the designee of the Counselor or the Chairman of the Civil Service Commission. The review is for the purpose of determining whether there exists a conflict, or appearance of conflict, between the interests of the employee or special Government employee concerned and the performance of his service for the Commission. If either the Counselor or the Chairman of the Civil Service Commission, or the designee of either, believes that such a conflict or appearance of conflict exists, the Counselor shall provide the employee with an opportunity to explain the conflict or appearance of a conflict. If the Counselor concludes that remedial action should be taken, he shall refer the statement to the Chairman of the Commission through the Chairman of the Civil Service Commission, with his recommendation for such action. The Chairman of the Commission, after consideration of the employee's explanation and such investigation as he considers appropriate, shall direct appropriate remedial action if he considers it necessary. If the Counselor concludes that remedial action is not necessary he may, with the concurrence of the Chairman of the Civil Service Commission, close the matter. If the Chairman of the Civil Service Commission concludes that remedial action is necessary, he shall recommend such action to the Chairman of the Commission.

(b) Remedial action pursuant to paragraph (a) of this section, or by reason of

the violation of any provision in this part, may include, but is not limited to:

- (1) Changes in assigned duties.
- (2) Divestment by the employee of his conflicting interest.
- (3) Disqualification for a particular action.
- (4) Exemption pursuant to § 3000.735-302(f).
- (5) Disciplinary action. (See § 3000.-735-205.)
- (6) Termination of assignment or detail in the case of a detailee under § 3000.735-404.

Subpart E—Ex Parte Communications

§ 3000.735-501 Ex parte communications prohibited.

An employee shall not, either in an official or unofficial capacity, participate in any ex parte communication—either oral or written—with any person regarding (a) a particular matter (substantive or procedural) at issue in contested proceedings before the Commission or (b) the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission. A particular matter is at issue in contested proceedings before the Commission when it is a subject of controversy in a hearing held under 39 U.S.C. 3624 or 3661(c). However, this section does not prohibit participation in off-the-record proceedings conducted under regulations adopted by the Commission for hearings held under 39 U.S.C. 3624 or 3661(c).

§ 3000.735-502 Public record of ex parte communications.

As ex parte communications (either oral or written) may occur inadvertently notwithstanding § 3000.735-501, the employee who receives such a communication, shall—within 2 workdays after the receipt of such a communication—prepare a written report concerning the communication. The report shall identify the employee and the person or persons who participated in the ex parte communication; the circumstances which resulted in the communication; the substance of the communication; and the relationship of the communication to a particular matter at issue or likely to become at issue in contested proceedings before the Commission. When the ex parte communication concerns a particular matter at issue in a proceeding before the Commission, a copy of the report shall be submitted to each party to the proceeding. The report is a public record of the Commission and a copy thereof shall be available to any member of the public on request.

Effective date. This part shall be effective upon publication in the FEDERAL REGISTER (3-23-71).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,

Executive Assistant to the Commissioners.

APPENDIX A—CODE OF ETHICS FOR GOVERNMENT SERVICE

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including office-holders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

Passed July 11, 1958.

[FR Doc. 71-3970 Filed 3-22-71; 8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-184]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Availability of Frequencies for Use by Amateur Service on Shared Basis With Loran Stations

Correction

In F.R. Doc. 71-2904 appearing at page 4264 in the issue of Thursday, March 4, 1971, under § 2.106 the second line of paragraph (1) of footnote NG15 (a) should be deleted and the following substituted therefor: "Amateur Service shall not be a bar to the".

[Docket No. 19028; FCC 71-150]

PART 73—RADIO BROADCAST SERVICES

Main Studio Location of FM and Television Broadcast Stations

Correction

In F.R. Doc. 71-2366 appearing at page 3264 in the issue of Saturday, Feb-

ruary 20, 1971, in § 73.613(b) the 17th and 18th lines reading "the community to another, may be made without first securing a modification of" should be transferred to appear following the 12th line.

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1; Amdt. No. 1-46]

PART 1—ORGANIZATION AND DELE- GATION OF POWERS AND DUTIES

Delegation of Authority With Respect to Railroad Safety and Hazardous Materials Control

The purpose of this amendment is to delegate certain of the Secretary's functions under the Federal Railroad Safety Act of 1970 (Title II of Public Law 91-458) and the Hazardous Materials Transportation Control Act of 1970 (Title III of Public Law 91-458) to the Federal Railroad Administrator and the Assistant Secretary for Safety and Consumer Affairs, respectively.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective March 12, 1971, Part 1 of Title 49, Code of Federal Regulations is amended as follows:

a. Section 1.49 is amended by adding the following new paragraph at the end thereof:

§ 1.49 Delegations to Federal Railroad Administrator.

(n) Carry out the functions vested in the Secretary by the Federal Railroad Safety Act of 1970 (Title II of Public Law 91-458; 84 Stat. 971, 45 U.S.C. 421 et seq.), except section 204(b) (84 Stat. 972, 45 U.S.C. 433(b)) with respect to highway, traffic, and motor vehicle safety and highway construction.

b. Section 1.58 is amended by adding the following new paragraph at the end thereof:

§ 1.58 Delegations to Assistant Secretary for Safety and Consumer Affairs.

(e) Carry out the functions vested in the Secretary by the Hazardous Materials Transportation Control Act of 1970 (Title III of Public Law 91-458, 84 Stat. 977, 49 U.S.C. 1761 et seq.).

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on March 12, 1971.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc. 71-3843 Filed 3-22-71; 8:45 am]

Chapter I—Hazardous Materials Reg- ulations Board, Department of Transportation

[Docket No. HM-29; Amdts. 172-8, 173-44]

PART 172—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGER- OUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170-189 OF THIS CHAPTER

PART 173—SHIPPERS

Carbon Monoxide in Cylinders and Increased Filling Limitations

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to authorize shipments of carbon monoxide in manifolded cylinders and to extend the filling limitation for carbon monoxide cylinders under specified conditions.

On July 25, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-29; Notice No. 69-21 (34 F.R. 12291), proposing to amend the regulations as stated above.

Interested parties were invited to give their views on this proposal. Although the proposed change was based on several years of experience with a number of special permits, some commenters expressed reluctance to amend the rules, preferring instead that the permits be continued in effect. No specific data was submitted. Air Products and Chemicals, Inc., however, advised they were in the midst of a test project aimed at developing specific information on the corrosive effects of carbon monoxide on certain steels. The Board delayed action to see if this project, because of its greater specificity, would develop adverse information not discovered under the special permits.

On the basis of information it now has on file, including data from Air Products, the Board is satisfied that the permit, as issued, constitute a safe method of transportation. From the data received, it appears that the charging pressure to service pressure ratio originally proposed for manifolded cylinders is quite conservative. However, on the basis of the operating pressures authorized under permits, and the pressures used in testing, charging of cylinders is being limited to five-sixths the cylinder service pressure or 2,000 p.s.i., whichever is the lesser. The Board notes that Air Products and Chemicals, Inc., has not completed testing and may develop information justifying higher filling pressures in later rule making action.

Accordingly, 49 CFR Parts 172 and 173 are amended as follows:

I. Part 172. In § 172.5 paragraph (a), the Commodity List is amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *