

Title 10—Energy

(This book contains Parts 0 to 199)

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AUTHORITY: The provisions of this Part 0 issued under E.O. 11222; 3 CFR, 1964-1965 Comp., 5 CFR 735.104.

SOURCE: The provisions of this Part 0 appear at 31 F.R. 4502, Mar. 17, 1966, unless otherwise noted.

NOMENCLATURE CHANGES: 40 FR 8774, Mar. 3, 1975.

Subpart A—General

§ 0.735-1 Policy.

(a) The personnel policy of the U.S. Nuclear Regulatory Commission states, in part, that:

The Atomic Energy Act requires the Commission to assure itself that the character, associations, and loyalty of workers in atomic energy are of a high order. Conduct and self discipline, both on and off the job, must measure up to unusual standards * * *.

(b) Section 735.101 of the Civil Service Commission regulations (5 CFR 735.101), issued pursuant to Executive Order 11222, May 8, 1965, states that:

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards * * *.

§ 0.735-2 Program objective.

(a) The program objective is to protect the interests of the public and employees by setting forth principles, practices, and standards governing conduct of employees in such a manner that they may be readily understood by the individuals involved and practicably administered by the NRC.

(b) It is expected that the provisions of this part will be observed and administered in a manner which is consistent with both their spirit and their letter.

(c) Of necessity, because of the nature of the criminal statutes and the subject matter involved, this part cannot deal with all of the problems which may arise with regard to the conduct, including conflicts of interest, of employees and former employees.

§ 0.735-3 Responsibilities and authorities.

(a) Employees shall:

(1) Comply with the statutes and the rules, standards of conduct, and other regulations set forth in this part.

(2) Consult the full text of applicable statutes as to whether an action in question may in any way violate the statutes.

(3) Be guided in all their actions by the Code of Ethics for Government Service, adopted by concurrent Resolution of the Congress (Annex A).

(4) Conduct themselves in such a manner as to create and maintain respect for the NRC and the U.S. Government and avoid situations which require or appear to require a balancing of private interests or obligations against official duties.

(5) Be mindful of the high standards of integrity expected of them in all their activities, personal and official.

(6) Not give or appear to give favored treatment or competitive advantage to any member of the public, including former employees of the NRC, appearing before them on their own behalf or on behalf of any nongovernmental interest.

(7) Recognize that violation of any of the instructions or statutes referred to in this part may subject them to disciplinary action by NRC in addition to the penalty prescribed by law for such violation.

(8) Discuss with their immediate supervisor, or counselor, as appropriate, any problem arising out of this part.

(b) Supervisors:

(1) Inform themselves of any problems of their employees arising out of this part, consult with the cognizant NRC counselor as appropriate, and take prompt action to see that the problems, if they cannot be resolved, are referred to higher authority.

(2) Relieve employees from assignments in accordance with § 0.735-22(a).

(c) The Executive Director for Operations assumes responsibilities assigned in §§ 0.735-21(b), 0.735-22(b), 0.735-23(d) and (e), 0.735-26(c) and (d), and 0.735-28.

(d) The Directors of Offices and Divisions. (1) Bring to the attention of appropriate contractors under their jurisdiction those provisions of this part (such as "Future Employment"; "Ex Parte Contacts"; "Assisting Former Employees"; "Gifts, Entertainment, and Favors"; "Cancellation of Contracts"; and others) which may affect the actions of a contractor and his employees in dealing with NRC employees.

(2) Report to the Office of Administration. All complaints concerning fraud, graft, corruption, diversion of NRC assets, and misconduct of NRC employees; take action as a result of investigations; and report on action taken, as provided in NRC Manual Chapter 0702, "Notification and Investigation of Misconduct".

(3) Assume responsibilities assigned in §§ 0.735-21(b), 0.735-22(b), 0.735-23(d), 0.735-27, 0.735-28, and 0.735-40(b).

(e) The Director, Office of Administration. (1) Provides a copy of this part to each employee and special Government employee, and to each such new employee at the time of his entrance on duty.

(2) Provides a copy of all revisions to each employee and special Government employee.

(3) Brings the provisions of this part to the attention of each employee and special Government employee annually, and at such other times as circumstances warrant.

(4) Assures the availability of counseling services under paragraph (h) of this section to each employee and special Government employee.

(5) Has available for review by employees and special Government employees, as appropriate, copies of laws, Executive Order 11222, NRC regulations, and pertinent Civil Service Commission regulations and instructions relating to ethical and other conduct.

(6) Notifies employees and special Government employees at time of entrance on duty and periodically thereafter of the availability of counseling services under paragraph (h) of this section and how and where these services are available.

(f) The Director, Office of Administration, assumes the responsibilities assigned in §§ 0.735-40(b) and 0.735-49.

(g) The Office of the Agency Inspector and Auditor investigates all questions of employees' conduct, fraud, etc., in NRC.

in accordance with NRC Manual Chapter 0702.

- (h) The Solicitor.
- (1) Is the counselor for NRC.
- (2) Serves as NRC's designee to the Civil Service Commission on matters covered by this part.
- (3) Designates deputy counselors.
- (4) Coordinates counseling services, and assures that counseling and interpretations on questions of conflicts of interest and other matters covered by the part are available to deputy counselors.
- (5) Carries out the specific responsibilities assigned in §§ 0.735-27, 0.735-28, and 0.735-49(b).

[31 FR 4502, Mar. 17, 1966, as amended at 40 FR 8775, Mar. 3, 1975; 40 FR 20268, May 9, 1975]

§ 0.735-4 Definitions.

(a) "Commission" means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974, 88 Stat. 1233.

(b) "NRC" means the agency established by Title II of the Energy Reorganization Act of 1974 comprising the members of the Commission and all offices, employees, and representatives authorized to act in any case or matter, whether clothed with final authority or not.

(c) "Employee" means an NRC officer or employee and, insofar as statutory and Executive order restrictions are concerned, a member of the Commission, but does not include (unless otherwise indicated) a special Government employee, or an employee of another Government agency assigned or detailed to the NRC.

(d) "Former employee" means a former NRC officer or employee as defined in paragraph (c) of this section, a former special Government employee, as defined in paragraph (e) of this section, a former member of the Nuclear Regulatory Commission, a former member of the Atomic Energy Commission, and a former officer or employee of the Atomic Energy Commission.

(e) "Special Government employee" means an officer or employee of the NRC who is retained, designated, appointed, or employed 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. The term includes NRC consultants, experts, and members of advisory boards, but does not

include a member of the Uniformed Services.

(f) "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(g) "Organization," as used in this part in connection with 18 U.S.C. 208, means universities, foundations, non-profit research entities and similar non-profit organizations, States, counties and municipalities and subdivisions thereof as well as business organizations.

(h) "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

[31 FR 4502, Mar. 17, 1966, as amended at 40 FR 8775, Mar. 3, 1975]

§ 0.735-5 Basic requirements.

(a) *Applicability.* The provisions of this part apply to all current and former NRC employees and special Government employees. Except for § 0.735-28, the provisions of this part are not applicable to employees of other Government agencies assigned or detailed to the NRC. Employees of other Government agencies assigned or detailed to the NRC are required by § 0.735-28 to furnish a statement of employment and financial interests if they are performing duties of a position specified in § 0.735-28(a). However, an employee of another Government agency assigned or detailed to the NRC is not relieved of his responsibilities under regulations or code of conduct prescribed by his parent agency.

(b) *Cancellation of contracts.* The Commission reserves the right to declare void, in accordance with law, any contract negotiated or administered in violation of the provisions of NRC regulations, or statute.

(c) *Scope of part.* This part incorporates the statutes, the instructions and specific procedures, pertaining to an employee's conduct.

(d) *Construction of criminal or civil statutes.* The paraphrased version of any criminal or civil statute in this part shall not constitute a binding interpretation thereof upon the NRC or the Federal Government

(e) *Certifications* Certifications called for by §§ 0.735-23(e) and

0.735-26 (c) and (d) shall be submitted for publication in the FEDERAL REGISTER.

(f) *Disciplinary and other remedial action.* (1) A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law

(2) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

(g) *Presidential appointees.* Presidential appointees covered by section 401(a) of Executive Order 11222 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 NRC, or which draws substantially on official data or ideas which have not become part of the body of public information.

[31 FR 4502, Mar. 17, 1966, as amended at 40 FR 8775, Mar. 3, 1975]

§ 0.735-6 National emergency application.

The provisions of this part continue in effect without modification in a national emergency.

Subpart B—Conflict of Interest Restrictions

§ 0.735-20 General.

(a) Part I, "Policy," of Executive Order 11222 states:

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

(b) The elimination of conflicts of interest in the Federal service is one of the most important objectives in establishing general standards of conduct. A conflict of interest situation may exist where a Federal employee's private interests, usually of an economic form, conflict, or raise a reasonable question of conflict with his public duties and responsibilities. The potential conflict is of concern whether it is real or only apparent.

(c) An employee, including special Government employee, shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or ap-

pears to conflict substantially, with his Government duties and responsibilities; or (2) engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(d) An employee, including special Government employee, is not precluded from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order 11222, Civil Service Commission regulations, or the regulations in this part.

(e) Certain provisions in 18 U.S.C. 201-209, dealing with conflicts of interest in Federal employment are referred to in §§ 0.735-21 through 0.735-27.

§ 0.735-21 Acts affecting a personal financial interest (based on 18 U.S.C. 208).

(a) *General.* Except as permitted by paragraphs (b), (c), and (d) of this section, no employee shall participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, 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, has a financial interest.

(b) *Granting of ad hoc exemptions.*

(1) If an employee desires to request an exemption from the prohibition of paragraph (a) of this section, he shall fully inform the head of his division or office, as appropriate, in writing of the nature and circumstances of the particular matter and of the financial interests involved and shall request a written determination in advance as to the propriety of his participation in such matter.

(2) The head of his division or office, as appropriate, after examining the information submitted, may relieve the employee from participation in the particular matter and so advise him in writing; or, he may approve the employee's

participation in such matter upon advising him in writing:

(1) That he has determined the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, and

(ii) That no provision of law and no regulation in this part would appear to be violated by the employee's participation in the particular matter.

(3) When the head of his division or office believes it is inappropriate for him to make a determination as provided in subparagraph (2) of this paragraph, he shall forthwith submit the information with his recommendation through channels to the Executive Director for Operations who shall make a determination as provided in subparagraph (2) of this paragraph, forwarding the original of his determination to the submitting official and a copy to the employee involved.

(4) A copy of each request and response made under the provisions of subparagraphs (1) and (2) of this paragraph shall be forthwith forwarded through channels to the Executive Director for Operations as a matter of record. Copies of all documents referred to in subparagraphs (1), (2), and (3) of this paragraph shall be filed by the holders thereof in their confidential files.

(5) Whenever it can be reasonably anticipated that there will be a need to invoke these procedures repeatedly, and where it also appears that a burden would be placed on the NRC thereby, consideration should be given by the head of his division or office to dismissal or transfer of the employee to another position where the problems will not arise, or to the elimination of the outside interest creating the difficulty. It is expected that the employee concerned will take the initiative in resolving any problem in this area.

(c) *Exemption of remote or inconsequential financial interests.*¹ (1) In accordance with the provisions of 18 U.S.C. 208(b) (2) the NRC has exempted the following financial interests from paragraph (a) of this section and from the requirements of paragraph (b) of this section, upon the ground that such interests are too remote or too inconsequential to affect the integrity of its employees' services:

(i) Financial interests in an enterprise in the form of shares in the ownership thereof, including preferred and common stocks whether voting or nonvoting, and warrants to purchase such shares;

(ii) Financial interests in an enterprise in the form of bonds, notes, or other evidences of indebtedness;

(iii) Investments in State or local government bonds and investments in shares of a widely held diversified mutual fund or regulated investment company, except holdings in mutual investment funds or regulated investment companies dealing primarily in atomic energy stocks.

Provided, That, in the case of subdivisions (i) and (ii) of this subparagraph:

(a) The total market value of the financial interests described in said subdivisions with respect to any individual enterprise does not exceed \$7,500; and
(b) the holdings in any class of shares, or bonds, or other evidences of indebtedness, of the enterprise do not exceed 1 percent of the dollar value of the outstanding shares, or bonds or other evidences of indebtedness in said class.

(2) Where a person covered by this exemption is a member of a group organized for the purpose of investing in equity or debt securities, the interest of such person in any enterprise in which the group holds securities shall be based upon said person's equity share of the holdings of the group in that enterprise.

(3) For purposes of subparagraph (1) of this paragraph, computations of dollar-value of financial interests in corporations shall be by means of:

(i) Market value in the case of stocks listed on national exchanges; or

(ii) Over-the-counter market quotations as reported by the National Daily Quotation Service in the case of unlisted stocks; or

(iii) By means of net book value (i.e. assets less liabilities) in the case of stocks not covered by the preceding two categories.

With respect to debt securities, face value shall be used for valuation purposes.

(4) The dollar value and percentage of financial interests listed above in subparagraph (1) of this paragraph shall be computed as of the date on which the employee first participated personally and substantially in any particular matter, within the meaning of 18 U.S.C.

¹ Effective upon publication in the FEDERAL REGISTER on March 14, 1964, at 29 FR 3392.

208(a), relating to the enterprise concerned. The dollar value and percentage so computed shall govern during the entire period that the employee participates in the particular matter unless, after the aforesaid date of computation, he, or other person or organization referred to in paragraph (a) of this section, acquires an additional interest in the same enterprise. In the event of such subsequent acquisition, the dollar value and percentage shall be recomputed as of the date of such acquisition. If, in such case, the dollar value and percentage computed exceeds the limitations described in subparagraph (1) of this paragraph, the general exemption provided therein shall no longer be applicable and an ad hoc exemption must be sought in accordance with paragraph (b) of this section.

(d) *Special exemption for special Government employees.* Federal Personnel Manual Chapter 735, Appendix C provides that a special Government employee should in general be disqualified from participating as such in a matter of any type the outcome of which will have a direct and predictable effect upon the financial interests covered by 18 U.S.C. 208. However, that chapter states that the power of exemption may be exercised in this situation "if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization." It is the policy of the Nuclear Regulatory Commission in conformity with the foregoing, to exercise the power of exemption pursuant to 18 U.S.C. 208(b) in such situations. The authority to grant such an exemption is delegated to the NRC official responsible for appointment or designation of the particular consultant or advisor. This exemption is noted on the form NRC-443 by the appointing official for the consultant or advisor concerned, by a statement that the employee "need not be precluded from rendering general advice in situations where no preference or advantage over others might be gained by any particular person or organization."

§ 0.735-22 Future employment (based on 18 U.S.C. 208).

(a) Solicitation, negotiation, or arrangements for private employment by an employee who is acting on behalf of the NRC in any particular matter in

which the prospective employer has a financial interest are prohibited. With the authorization of his supervisor, an employee may be relieved of any assignment which, in the absence of such relief, might preclude such solicitation, negotiation, or arrangements.

(b) No employee shall undertake to act on behalf of the NRC in any capacity in a matter that to his knowledge affects even indirectly any party outside the Government with whom he is soliciting, negotiating, or has arrangements for future employment, except pursuant to the authorization of the Commission, its designee, or the Executive Director for Operations, as appropriate, after full disclosure. (See § 0.735-21.)

[31 FR 4502, Mar. 17, 1966, as amended at 40 FR 8775, Mar. 3, 1975]

§ 0.735-23 Activities of officers and employees in claims against and other matters affecting the Government (based on 18 U.S.C. 205).

(a) No employee shall otherwise than in the proper discharge of his official duties:

(1) Act as agent or attorney for prosecuting any claim against the United States, or receive any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) Act as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest.

(b) A special Government employee shall be subject to paragraph (a) of this section only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That subparagraph (2) of this paragraph shall not apply in the case of a special Government employee who has served in such department or agency no more than 60

days during the immediately preceding period of 365 consecutive days.

(c) Nothing in paragraph (a) of this section prevents an employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

(d) Nothing in paragraph (a) of this section prevents 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, provided that the Commission, its designee, the Executive Director for Operations, or the head of an office or division, as appropriate, approves.

(e)(1) Nothing in paragraph (a) of this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States when represented by the NRC provided that the Executive Director for Operations shall certify in writing that the national interest so requires. Such certification shall be submitted for publication in the FEDERAL REGISTER.

(2) The special Government employee shall immediately notify the NRC when so designated to act as agent or attorney by his private employer.

(f) Nothing in paragraph (a) of this section prevents an employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

[31 FR 4502, Mar. 17, 1966, as amended at 40 FR 8775, Mar. 3, 1975]

§ 0.735-24 Receiving salary from source other than the U.S. Government (based on 18 U.S.C. 209).

(a) No employee shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services as an employee of the NRC from any source other than the Govern-

ment of the United States, except as may be contributed out of the treasury of any State, county, or municipality.

(b) Nothing in paragraph (a) of this section prevents an employee of the NRC 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.

(c) Paragraph (a) of this section does not apply to a special Government employee or to an employee of the Government serving without compensation, whether or not he is a special Government employee.

(d) Paragraph (a) of this section does not prohibit acceptance of contributions, awards, or other expenses for training or to attend meetings under the terms of chapter 41 of title 5, United States Code. See NRC Appendix 4150.

[31 FR. 4502, Mar. 17, 1966, as amended at 32 FR. 13651, Sept. 29, 1967]

§ 0.735-25 Compensation to employees in matters affecting the Government (based on 18 U.S.C. 203).

(a) No employee shall, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receive or agree to receive, or ask, demand, solicit, or seek, any compensation for any services rendered or to be rendered either by himself or another in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission.

(b) A special Government employee shall be subject to paragraph (a) of this section only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That subparagraph (2) of this paragraph shall not apply in the case of a special Government employee who has served in such department or agency no more than 60

days during the immediately preceding period of 365 consecutive days.

§ 0.735-26 Disqualification of former officers and employees in matters connected with former duties or official responsibilities (based on 18 U.S.C. 207).

(a) No employee, after his employment has ceased, shall knowingly act as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed.

(b) No employee, within 1 year after his employment has ceased, may appear personally before any court or department or agency of the Government as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an employee of the Government at any time within a period of 1 year prior to the termination of such responsibility.

(c) Nothing in paragraph (a) or (b) of this section prevents a former employee with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the Executive Director for Operations or the Commission, as appropriate, shall make a certification in writing, submitted for publication in the FEDERAL REGISTER, that the national interest would be served by such action or appearance by the former employee.

(d) A former NRC employee who desires to request for himself an exception to the legal restrictions set forth above on the basis of "scientific or technological" grounds may do so by submitting a written request to the head of the NRC

office with which he would do business, who in turn will forward it to the Executive Director for Operations with his recommendation. The Executive Director for Operations, if he approves the exception, shall advise the former employee in writing through the NRC office with which he applied and shall submit for publication in the FEDERAL REGISTER a statement to the effect that:

(1) The former employee has outstanding scientific or technological qualifications;

(2) The exception provided by 18 U.S.C. 207(b) is granted for a particular matter in a scientific or technological field; and

(3) The national interest would be served by granting the exception.

§ 0.735-27 Appearances by former employees before NRC.

When a former employee proposes to act as agent or attorney before an NRC office on behalf of anyone other than the United States in connection with any of the matters cited in § 0.735-26, he is expected to make known to the appropriate official of the NRC office the fact of his former assignment with NRC. The head of the office or division or employee before whom the former employee appears, before transacting business with the former employee or authorizing employees under his jurisdiction to transact any business with the former employee, shall call the former employee's attention to the restrictions and penalties contained in 18 U.S.C. 207. No NRC official or employee, except the General Counsel, shall offer to the former employee an interpretation of 18 U.S.C. 207 as applied to the situation at hand.

§ 0.735-28 Confidential statements of employment and financial interests.¹

(a) *Categories of employees required to submit statements.*² The following em-

¹ Section 401 of Executive Order 11222 establishes separate reporting requirements for an agency head, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and a full-time member of a committee, board, or commission appointed by the President.

² As used in § 0.735-28, the term "employee", except as otherwise indicated, includes regular Government employees, special Government employees, and employees of other Government agencies assigned or detailed to the NRC.

ployees shall submit statements of employment and financial interests, prepared in accordance with paragraph (d) of this section:

(1) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title V, United States Code.

(2) Employees in positions or categories of positions regardless of their official titles, identified in Annex B to this part.

(3) All consultants (including advisers and experts) (see NRC Manual Chapter 4139) and special Government employees. (A special Government employee who is not a consultant is not required to submit a statement of employment and financial interests when the operating (appointing) official finds that the duties of the position held by the special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For this purpose, "consultant" and "expert" have the meaning given those terms by Chapter 304 of the Federal Personnel Manual but do not include a physician, dentist, or allied medical specialist whose services are procured to provide care and service to the patients.)

(b) *Annex B.* (1) Annex B to this part shall be maintained and changes therein made by the Nuclear Regulatory Commission in accordance with the criteria set forth in Annex C to this part.

(2) Heads of Offices and Divisions shall, in conformity with the above referenced criteria, recommend changes in Annex B to the Commission, its designee, or the Executive Director for Operations, as appropriate, for approval.

(3) Incumbents of positions added to Annex B shall become subject to the reporting requirements of this part upon receipt of notification as to same, pursuant to paragraph (c) of this section. Annex B shall be republished to reflect changes in the list.

(c) *Notice to employees of time and place to submit statements.* Regular Government employees required to submit statements shall be notified in writing of that fact by their respective reviewing officials (see paragraph (h)), or by persons designated by them. The notice shall be accompanied by three copies of the statement form. By copy of the notification, the counselor or appropriate deputy counselor shall be informed by reviewing officials of those employees required to

submit statements. Each employee notified hereunder shall submit his statement to his reviewing official not later than:

(1) 90 days after the effective date of the regulations in this part if employed on or before that effective date; or

(2) 30 days after his entrance on duty but not earlier than 90 days after the effective date of the regulations in this part, if appointed after that effective date.

Statements of special Government employees other than consultants (including experts and advisers) shall be submitted in accordance with the foregoing. Notice to such individuals shall also be in accordance with the foregoing. Statements of consultants (including experts and advisers) shall be submitted prior to appointment, and notice to same shall be in accordance with NRC Manual Chapter 4139.

(d) *Preparation of statement.* Statements shall be prepared in accordance with the following:

(1) *Form and content of statement.* The forms prescribed by NRC are:

Regular Government employees—Form NRC 269.

Consultants (including experts and advisers) Form NRC-443.

Special Government employees (other than consultants) Form NRC-443 (excluding items 2-11).

(2) *Interests of employee's relatives.* The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this subparagraph, "member of an employee's immediate household" means those blood relations who are full-time residents of the employee's household.

(3) *Information not known by employees.* If any information required to be included on the 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 information in his behalf, and shall report such request in Part IV of Form NRC-269 or item 16b. of Form NRC-443.

(4) *Information not required to be submitted.* This section does not require an employee to submit on a statement or supplementary statement the following:

(i) Any information relating to the employee's 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 and which is not engaged in the ownership or conduct of 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.

(ii) Precise amounts of financial interests, indebtedness, or value of real property. The employee may, however, at a later time be required to reveal precise amounts if the NRC needs that information in order to carry out its responsibilities under applicable laws and regulations.

(iii) Remote or inconsequential financial interests, as set forth in § 0.735-21(c).

(iv) For special Government employees: Those financial interests which are determined by the official responsible for such employee's appointment as not to be related either directly or indirectly to the duties and responsibilities of said employee.

(5) *Supplementary statements.* Changes in, or additions to, the information contained in a regular Government employee's statement shall be reported by the employee in a supplementary statement as of June 30 each year, filed within 10 days thereof. Changes in, or additions to, the information contained in a special Government employee's statement shall be reported by the special Government employee in a supplementary statement within 10 days following the end of the calendar quarter in which the changes occur. Quarters end March 31, June 30, September 30, and December 31. The forms prescribed in subparagraph (1) of this paragraph shall be used for this purpose and plainly marked "Supplementary". The changes and additions shall be identified in terms of the specific part(s) of the statement being modified. All changes or additions occurring during the reporting period are to be reported, not merely employment and financial interests status as of the reporting date. If there are no changes in or additions to a special Government employee's statement, a negative quarterly report is not required. However,

for the purpose of annual review, a supplementary statement by regular and special Government employees, negative or otherwise, is required as of June 30 of each year. The employee shall submit his supplementary statement to the official who would be the recipient of an initial statement from the employee, as identified in paragraph (h) of this section. Notwithstanding the filing of the report(s) required by this section, 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 section 200 of title 18, United States Code, or this Part 0.

(e) *Reviewing statements and reporting in conflicts of interest.* (1) The employee shall prepare the statement in triplicate, retain one copy, and submit two copies to the appropriate reviewer (see paragraph (h) of this section).

(2) The reviewer of the statement shall assess it for conflicts or the appearance of conflicts of interests in the context of the employee's assigned duties and responsibilities in NRC.

(3) If the reviewer desires advice and guidance, he may discuss the statement with the counselor or appropriate deputy counselor.

(4) The reviewer shall discuss with the employee and point out any aspects of the statement which give rise, in the reviewer's opinion, to questions of conflict or of appearance of conflict. (The reviewer shall not take, or direct the employee to take, any action with respect to such conflict without first seeking the advice of the counselor or appropriate deputy counselor.)

(5) The reviewer shall in all cases record his opinion as to the presence or absence of a conflict on both copies of the statement, and forward same to the NRC counselor or deputy counselor, as appropriate.

(6) The NRC counselor or deputy counselor shall review the statement, and discuss any questions with the reviewer and/or employee.

(7) If the NRC counselor or deputy counselor believes that the statement evidences no question of conflict of interest, he shall record his opinion on both copies of the statement, and notify the reviewer.

(8) If the NRC counselor or deputy counselor believes there is a question of conflict of interest, he shall return the

statement to the reviewer with his opinion recorded thereon. (The counselor or deputy counselor shall make his services available to the reviewer and employee involved to assist in effecting a resolution of any conflict or appearance of conflict.) The reviewer shall report to the counselor or deputy counselor the results of endeavors to effect resolution of the conflict at the employee-reviewer level, which results shall be recorded on the employee's statement and submitted to the counselor or deputy counselor for review and approval.

(9) When a statement submitted or information from other sources indicates a conflict between the interests of an employee and the performance of his services for the NRC and when the conflict or appearance of conflict is not resolved at a lower level in the NRC, the information concerning the conflict or appearance of conflict shall be reported to the Commission, its designee, or the Executive Director for Operations, as appropriate, through the counselor. The employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(10) When, after consideration of the explanation of the employee provided for in paragraph (e) (9) of this section, the Commission, its designee, or the Executive Director for Operations, as appropriate, decides that remedial action is required, immediate action to end the conflict or appearance of conflict of interest, shall be taken. Remedial action may include, but is not limited to:

- (i) Changes in assigned duties;
- (ii) Divestment by the employee of his conflicting interest;
- (iii) Disciplinary action; or
- (iv) Disqualification for a particular assignment.

Remedial action whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations. Disciplinary remedial action with respect to an employee of another Government agency assigned or detailed to the NRC shall be effected only by the parent agency.

(11) Upon completion of processing, both NRC copies of statements shall be filed in the office of the counselor or deputy counselor, in a special file maintained for that purpose. If an NRC reviewer subsequently requires a copy of a statement for purposes of carrying out responsibilities under this part, he may re-

quest same from the counselor or deputy counselor.

(12) The required supplementary statements shall be processed in the same manner as an initial statement. When an NRC reviewer or the counselor or a deputy counselor receives a supplementary statement from an employee for whom he does not have an initial statement, he shall request the file from the counselor or deputy counselor of the employee's previous office.

(f) *Confidentiality of employees' statements.* NRC shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the NRC counselor, deputy counselor(s), and those officials to whom reports are to be submitted under paragraph (h) of this section (including those employees specifically designated by them to assist in the review as may be necessary) are authorized to review the statements as provided in this section. The foregoing employees are responsible for maintaining the statements 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 part. NRC shall not disclose information from a statement except in accordance with procedures set forth in paragraph (e) of this section, or as the Commission, its designee, or the Executive Director of Operations, as appropriate, or the Civil Service Commission shall determine for good cause shown.

(g) *Effect of employee's statements on other requirements.* The statements of employment and financial interests 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 or supplementary statement by an employee or the absence of any requirement that an employee submit such a statement 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) *To whom statements are to be submitted.* Submission of required statements shall be in accordance with the following:

- (1) Submitted to the Commission:
 - (i) Executive Director for Operations.

(ii) Director of Nuclear Reactor Regulation.

(iii) Director of Nuclear Material Safety and Safeguards.

(iv) Director of Nuclear Regulatory Research.

(v) The Secretary and Assistant Secretary.

(vi) The Chairman, Atomic Safety and Licensing Board Panel.

(vii) The Chairman, Atomic Safety and Licensing Appeal Panel.

(viii) The General Counsel.

(ix) The Solicitor.

(x) The Agency Inspector and Auditor.

(xi) Director, Office of Public Affairs.

(xii) Director, Office of Congressional Liaison.

(xiii) Chairman, Advisory Committee on Reactor Safeguards.

(2) Submitted to the Individual Commissioners: Special Assistants.

(3) Submitted to the Executive Director for Operations.

(i) Heads of Offices reporting to him.

(ii) Members of his immediate staff.

(4) Submitted to the Heads of Offices and Divisions: Employees under their respective jurisdiction.

(5) Submitted to officials responsible for their appointments: Special Government employees, consultants, experts, and advisers.

(1) *Availability of review.* Any employee who believes that his position has been improperly included under this section as one requiring the submission of a statement of employment and financial interests may utilize the grievance procedure in NRC Manual, Chapter 4157, for review of his complaint.

[31 FR 4502, Mar. 17, 1966, as amended at 32 FR 13651, Sept. 29, 1967; 40 FR 8775, Mar. 3, 1975; 40 FR 50704, Oct. 31, 1975]

§ 0.735-29 Restriction against owning certain security interests upon Commissioners, staff and other related personnel.

(a) No Commissioner or employee, including special government employees who are members of the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel, or the Atomic Safety and Licensing Appeal Panel (including a spouse, minor child or other member of the immediate household of a Commissioner, employee or such special government employee) shall own any stocks, bonds, or other securities of any corporation of the type listed in paragraph (a) (1) of this section.

(1) Corporations covered by the provisions of this section are:

(i) Any publicly or privately owned utility company engaged in the generation, distribution or sale of electric energy, or parent company of such company.

(ii) Any company manufacturing or selling nuclear power or test reactors.

(iii) Any architectural-engineering company primarily engaged in the design or construction of nuclear power or test reactor facilities.

(iv) Any company whose business consists substantially of serving as consultant to companies engaged in activities licensed or regulated by the NRC.

(2) (i) An employee presently owning stocks, bonds or other securities covered in paragraph (a) (1) shall dispose of them no later than April 30, 1975.²

(ii) Any new employee who enters on duty after March 3, 1975 shall dispose of said stocks, bonds or securities no later than 30 days after entrance on duty.

(b) Such securities acquired on or after July 1, 1974, through gift, inheritance or other similarly involuntary manner, shall be disposed of within a reasonable period of time.

(c) The Commission may exempt an employee from the restrictions of paragraph (a) of this section where divestiture of the stock, bond, or other security interest is determined to be inequitable by the Commission.

[39 FR 788, Jan. 3, 1974, as amended at 40 FR 8776, Mar. 3, 1975]

Subpart C—Other Restrictions Imposed by Statute on Conduct of Employees
§ 0.735-30 Description of statutory provisions.

Each employee has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as an employee of the NRC and of the Government. Certain of these statutes are referred to in §§ 0.735-21—0.735-27. Attention of employees is also directed to the following statutory provisions:

(a) The prohibitions contained in the following sections of the Atomic Energy

² This grace period does not apply to employees who were already subject to these restrictions prior to January 19, 1975 pursuant to regulations previously promulgated by the Atomic Energy Commission. These employees must be rid of all such stocks, bonds or other securities, except insofar as a specific exemption under paragraph (c) previously has been granted.

Act of 1954, as amended: Section 222, "Violation of Specific Sections"; Section 223, "Violation of Sections Generally"; Section 224, "Communication of Restricted Data"; Section 225, "Receipt of Restricted Data"; Section 226, "Tampering With Restricted Data"; and Section 227, "Disclosure of Restricted Data" (42 U.S.C. 2272 through 2277).

(b) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).

(c) The prohibition against the disclosure of confidential information (18 U.S.C. 1905).

(d) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(e) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(f) The prohibition against proscribed political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608. (See NRC Manual Chapter 4122, "Political Activity.")

(g) The prohibition against bribery of public officials and witnesses (18 U.S.C. 201).

(h) The prohibition against acceptance or solicitation to obtain appointive public office (18 U.S.C. 211).

(i) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). (See also NRC Manual Chapter 4121, "Oath of Office" and NRC Manual Chapter 4166, "Employee-Management Cooperation.")

(j) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(k) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)). (See also NRC Manual Chapter 5142, "Motor Vehicle and Aircraft Management.")

(l) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(m) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(n) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(o) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071). (See also NRC Appendix 0230, "Records Disposition.")

(p) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(q) The prohibition against embezzlement of Government money or property (18 U.S.C. 641). (See also NRC Manual Chapter 5101, "Personal Property and Supply Management.")

(r) The prohibition against failing to account for public money (18 U.S.C. 643).

(s) The prohibition against an employee's private use of public money (18 U.S.C. 653).

(t) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(u) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(v) The prohibition against making false entries in official records with intent to defraud or making false reports concerning moneys and securities with such intent (18 U.S.C. 2073).

(w) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(x) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B 12, the "Code of Ethics for Government Service."

[32 FR 13652, Sept. 29, 1967, as amended at 40 FR 50704, Oct. 31, 1975]

Subpart D—Restrictions Imposed by NRC Administrative Decision on Conduct of Employees

§ 0.735-40 Outside employment and other outside activity.

(a) NRC employees are entitled to the same rights and privileges with regard to outside employment and other outside activity as all other citizens. There is, therefore, no general prohibition against employees engaging in outside employment or other outside activity; except that no employee shall engage in such employment or activity if it is not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or

create the appearance of, conflicts of interests; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) In any case in which there is a question as to the propriety of outside employment in which an employee proposes to engage, and when the head of the office or division concludes that the proposed outside employment may be in violation of NRC policy, the following information shall be sent to the Office of Administration for prior approval of the proposed activity (in consultation, as appropriate, with the counselor): (1) Name, job title, and grade of the employee involved; (2) a brief summary of his official NRC duties; (3) a brief description of the proposed employment, including the compensation to be received; and (4) the name and nature of the business of the employing individual or organization.

(c) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(d) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive Order 11222, CSC regulations, or the regulations in this part. However, an employee shall not, either for or without compensation, 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, that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Executive Director for Operations, has given written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(e) Except as allowed for training or to attend meetings under section 4111 of title 5, United States Code, and Executive Order 10800, no employee shall accept a fee from an outside source on account of a public appearance, a speech, or lecture, if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties

of the employee, if the public appearance, the speech, or the lecture was made during official working hours, or if travel for the purpose of the public appearance, speech, or lecture was made at Government expense. In addition, no employee shall accept a fee for the preparation, publication, or review of an article, story, or book if it was prepared during official working hours and/or was a part of the official duties of the employee.

(f) [Reserved]

(g) An employee is not precluded by this § 0.735-40 or § 0.735-42 from:

(1) Receipt of bona fide reimbursement for expenses of travel and such other necessary subsistence for which no Government payment or reimbursement is made except when reimbursement from a person for travel on official business under AEC orders is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967, or otherwise prohibited by law. Questions concerning application of the Comptroller General's decision should be referred to the counselor or appropriate deputy counselor. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

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

(3) Participation 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 and recreational, public service, or civic organization.

[31 F.R. 4502, Mar. 17, 1966, as amended at 32 F.R. 13652, Sept. 29, 1967; 33 F.R. 11396, Aug. 10, 1968; 40 FR 8776, Mar. 3, 1975; 40 FR 50704, Oct. 31, 1975]

§ 0.735-41 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 0.735-40(d), 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. See also section 68a of the Atomic Energy Act of 1954, 42 U.S.C., section 2098(a), "Public and acquired lands," which provides as follows:

a. No individual, corporation, partnership, or association, which had any part, directly

or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to August 30, 1954, made such location, entry, or settlement, or caused the same to be made for his, or its, or their benefit.

§ 0.735-42 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with NRC.

(2) Conducts operations or activities that are regulated by NRC or is an applicant for a license from NRC; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duty.

(b) The following exceptions are authorized as being necessary and appropriate in view of the nature of the NRC's work and the duties and responsibilities of its employees:

(1) When the circumstances make it clear that it is obvious family or personal relationships (such as those between the parents, children, or spouse of the employee and the employee) rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars and other items of nominal intrinsic value; and

(5) Acceptance of transportation not inconsistent with the provisions of paragraph (c) of this section.

(c) No employee shall accept free transportation in motor vehicles, aircraft, or other means, for official or unofficial purposes from NRC contractors, prospective contractors, licensees or prospective licensees, or representatives of any of them when such transportation might reasonably be interpreted as seeking to influence the impartiality of the employee or the agency.

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351), nor shall an employee directly or indirectly solicit from, accept from, offer to, or grant to an official superior or subordinate employee a loan of more than a nominal amount. However, this paragraph does not prohibit (1) a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement, or (2) a loan as described above of more than a nominal amount where a special personal or business relationship is involved, with prior approval of the higher-ranking employee's supervisor, after consultation with the counselor for NRC, or a deputy counselor, as provided in § 0.735-3(h). A copy of such approval shall be filed as provided for in § 0.735-28(e) (11).

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Public Law 89-673, 80 Stat. 952.

[31 F.R. 4502, Mar. 17, 1966, as amended at 32 FR 13653, Sept. 29, 1967; 38 FR 1271, Jan. 11, 1973]

§ 0.735-43 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government 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.

§ 0.735-44 Scandalous conduct.

No employee shall engage in criminal, infamous, dishonest, immoral, or no-

toriously disgraceful conduct or other conduct prejudicial to the Government.

§ 0.735-45 Employee indebtedness.

Except as provided in § 0.735-42(d), the NRC considers the credit affairs of its employees essentially their own concern. However, employees are expected to conduct their credit affairs in a manner which does not reflect adversely on the Government as their employer. The NRC will not be placed in the position of acting as a collection agency or of determining the validity or amount of contested debts. An employee is expected to pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. Failure on the part of an employee without good reason to honor just financial obligations or to make or adhere to satisfactory arrangements for settlement may be cause for disciplinary action. 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 NRC determines does not, under the circumstances, reflect adversely on the Government as his employer.

[38 FR 1271, Jan. 11, 1973]

§ 0.735-46 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or -leased property or while on duty for the Government, 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. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

§ 0.735-47 Handling of funds entrusted by fellow employees.

No employee shall receive, retain, or disburse funds entrusted to him by fellow employees, e.g., credit union deposits or donations to charitable organizations, except with the utmost care in the safeguarding of such funds and the maintenance of full and complete records with regard to the receipt, custody, and dis-

bursement of such funds. Such records shall be made available to appropriate authorities upon proper request.

§ 0.735-48 Ex parte contacts.

Certain ex parte contacts by an employee are prohibited in quasi-judicial proceedings under §§ 2.719 and 2.780 of this chapter.

§ 0.735-49 Employment of persons on extended leave of absence from a previous employer with reemployment rights or other benefits with the previous employer.

(a) NRC may employ persons on extended leave of absence from private employers where it is the way most advantageous to the NRC to obtain qualified employees with needed skills and no violation of conflict of interest statutes would be involved. The necessity for continued employment of such persons shall be reviewed annually by the Director, Office of Administration. In their NRC assignments, such employees shall be permitted to handle, directly or indirectly, or have access to, business confidential data of their former employers' competitors.

(b) When it is proposed to employ such a person, a statement of the exact terms and conditions of the leave of absence from his employer will be obtained from the prospective employee and submitted to the General Counsel for a prior determination of possible violation of statute.

(c) The following quotation from 18 U.S.C. 209 is pertinent to this situation.

(b) Nothing herein prevents an officer or employee of the executive branch of the U.S. Government, or of any independent agency of the United States, or of the District of Columbia, 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.

§ 0.735-49a Other proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this Part 0, which might result in, or create the appearance of:

(a) Using a public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

[32 F.R. 13653, Sept. 29, 1967]

Subpart E—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 0.735-50 Use of Government employment.

A special Government employee shall not use his Government employment 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.

§ 0.735-51 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either 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 purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner not inconsistent with § 0.735-40(d), in regard to employees.

§ 0.735-52 Coercion.

A special Government employee shall not use his Government employment 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.

§ 0.735-53 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) 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 NRC 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.

(b) Exceptions authorized for employees under § 0.735-42 shall have equal application with respect to special Government employees.

§ 0.735-54 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of NRC and of the Government. The NRC official responsible for his appointment shall call his attention specifically to §§ 0.735-21, 0.735-22, 0.735-23, 0.735-24(c), 0.735-25, 0.735-26, 0.735-27, and 0.735-30.

§ 0.735-55 Applicable standards of conduct.

Special Government employees shall adhere to the standards of conduct made applicable to such employees by Subpart B of this part and to the standards of conduct made applicable to regular employees by §§ 0.735-43, 0.735-44, 0.735-46, and 0.735-48. In addition, special Government employees who are not consultants or advisers shall also be subject to §§ 0.735-45 and 0.735-47.

ANNEX A—CONCURRENT RESOLUTION

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 officeholders:

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.

Approved by the House of Representatives August 28, 1957.

Approved by the Senate July 11, 1958.

ANNEX B—POSITION CATEGORIES REQUIRING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS BY INCUMBENTS

- (1) Heads of Offices and Divisions;
- (2) Contracting officers (GS-13 and above);
- (3) Contract administrators (GS-13 and above);
- (4) Procurement officers (GS-13 and above);
- (5) Auditors (GS-14 and above);
- (6) Attorneys, including patent attorneys (GS-15 and above);
- (7) Positions (in grades GS-13 and above unless otherwise indicated), the incumbents of which are responsible for making decisions or taking actions (not merely recommending a decision or action) in regard to:

(a) Evaluation, appraisal, or selection of contractors or subcontractors, prospective contractors or prospective subcontractors, proposals of such contractors or subcontractors, the activities performed by such contractors or subcontractors, or determination of the extent of compliance of such contractors or subcontractors with contract provisions.

(b) Negotiation, modification, or approval of contracts of subcontractors.

(c) Evaluation, appraisal, or selection of prospective project sites, or locations of work or activities, including real property proposed for acquisition by purchase or otherwise.

(d) Inspection and quality assurance of material, products or components for acceptability.

(e) Review or approval of applications for access permits.

(f) Engineering planning and design which involves preparation of specifications and technical requirements.

(g) Negotiation of agreements for cooperation or implementing arrangements with foreign countries.

(h) Analysis, evaluation, or review of licensees' and prospective licensees' compliance with NRC regulations and requirements.

(i) Analysis, evaluation, or review of license applications.

(j) Utilization or disposal of excess or surplus property.

(k) Procurement of materials, services, supplies, or equipment.

(l) Authorization or monitoring of grants to educational institutions or other non-Federal enterprises.

(m) Audit of financial transactions.

(n) Promulgation of safety standards, procedures and hazards evaluation systems.

(o) Nuclear materials management.

(p) Activities, other than those covered above, where the decision or action has an economic impact on the interests of any non-Federal enterprise.

Positions in the above-enumerated categories (1-7) may be excluded when it is determined by the Commission, its designee, or the Executive Director for Operations, as appropriate, that: (a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote; or (b) the duties of a position are at such a level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

[32 FR 13653, Sept. 29, 1967, as amended at 40 FR 8776, Mar. 3, 1975]

ANNEX C—CRITERIA FOR DETERMINING POSITIONS OR CATEGORIES OF POSITIONS LISTED IN ANNEX B

Annex B shall be maintained and changes therein made by the Nuclear Regulatory Commission in accordance with the following criteria:

1. Positions shall be included, the basic duties and responsibilities of which require the incumbent to make a Government decision or take a Government action in regard to:

- a. Contracting or procurement;
- b. Administering or monitoring grants or subsidies;
- c. Regulating or auditing private or other non-Federal enterprise; or
- d. Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

Generally, such duties and responsibilities will have been spelled out in local statements of delegation of authority and responsibility and the degree of responsibility for decisions will be reflected in the Position Evaluation records under the factor "Decisions". Inclusion of positions classified below GS-13 which meet the criteria of this paragraph 1 or paragraph 3 below must be specifically justified by the NRC in writing to the Civil Service Commission as an exception that is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interest situation.

2. Positions in 1., above, may be excluded when:

a. The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote; and

b. The duties are at such a level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent and the remote and inconsequential effect on the integrity of the Government.

3. In addition to 1., above, those positions classified GS-13 or above shall be included which are determined by the Nuclear Regulatory Commission as requiring the incumbents to report employment and financial interests in order to avoid involvement in a possible conflict-of-interest situation and to carry out the purpose of law, Executive Order 11222, and Civil Service Commission and NRC regulations.

[32 F.R. 13653, Sept. 29, 1967]

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