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PART V



DEPARTMENT OF TRANSPORTATION

Office of the Secretary



EMPLOYEE RESPONSIBILITIES AND CONDUCT

Conflict of Interest

Title 49—Transportation
SUBTITLE A—OFFICE OF THE
SECRETARY OF TRANSPORTATION

[OST Docket No. 16; Amdt. 99-10]

PART 99—EMPLOYEE RESPONSIBILITIES
AND CONDUCT

Conflict of Interest; Revision

The purpose of this amendment is to revise the Department of Transportation's regulations governing employee conflict of interest.

The term "conflict of interest" is often misunderstood by Government employees and the general public. Yet, a careful understanding of the term and its full implications is necessary if the public is to have full confidence that their Government is truly working for them at all times.

Conflict of interest is not synonymous with dishonesty. Employees with unquestionable loyalty to the United States and the highest standards of public service may find themselves in situations where the Employees' Responsibility and Conduct Regulations (Part 99) may have a direct bearing on actions they propose to take either in their capacity as a Government employee, or as a private citizen. Thus, each employee is urged to become familiar with the regulations contained in Part 99 so that they may avoid potential conflict of interest and, just as importantly, avoid the appearance of a conflict of interest.

The regulations provide that a copy of Part 99 be given to each employee so that it can be referred to from time-to-time. In this way the general public can be assured that all officers and employees of their Government understand the dangers presented by conflict of interest situations: both the Government and the individual employee can know that they are doing all they can to insure that such conflicts—and the appearance of such conflicts—do not occur.

Every potential or actual conflict of interest is "dangerous" in two respects. First, there is the risk that public confidence in Government decision making and in Government actions will be undermined. Without public support the task of maintaining an orderly and efficient set of public programs is made vastly more difficult, if not at times impossible.

Second, there is the significant risk of disciplinary action or even criminal prosecution of the employee who violates either the spirit or the letter of conflict of interest statutes and regulations. And, as in other situations, ignorance of the law is no excuse.

It is not necessary to detail the potential impact on an employee who is found in violation in order to emphasize the significant stake each employee has in understanding and adhering to the highest standards set forth in the regulations.

It is important to note that Part 99 contains a revised standard and sets forth more clearly the duties and obligations of each employee as well as potential effects of violation.

For example, considerable thought was given to the entire question of so-called "business luncheons" before adopting a standard which reduces the circumstances under which employees may accept such luncheons and, in such instances where permitted, limits the cost to a nominal amount on infrequent occasions. Other areas of concern which have been carefully addressed involve the solicitation of donations, the giving or accepting of gifts, the solicitation of employment with someone outside of Government service, and the relationship of activities of an employee's spouse, if such activities create either an actual or implied conflict of interest.

Of necessity, no set of guidelines or regulations can specify every action to be taken or refrained from, in every possible set of circumstances. The permutations and combinations of factors which can lead to a potential conflict of interest are infinite in number. Yet, the use of simple judgment, common sense, and care can aid an employee and avoid the overwhelming majority of potential problems. The guidance contained in both the spirit and letter of Part 99, together with Departmental directives governing specific substantive matters, should help the employee understand the obligation involved in serving the general public.

Because Part 99 places a duty on the employee to abide by both the spirit and the letter of the regulations, it is the affirmative responsibility of the Department's Ethics Counselor and the Deputy Counselors to be readily available to discuss individual problems and give interpretation and advice to the employees. Counselors may find that there is a violation or potential violation of the regulations even where the conduct in question does not fall squarely within a section of the rules. Clearly, it is the duty of the Counselors to treat each instance individually without making a blanket presumption that all matters of a certain type are improper. This is especially true in areas where the husband-wife, or other family relationship may lead to a presumption that the employment or financial interest of either may influence the proper discharge of duties by the other. Each employee must exercise great care in close family relationships—especially where a husband-wife situation is involved—to avoid either an actual or the appearance of a conflict of interest, the improper disclosure of information not available to the public, or the receipt of ex parte communications which have not been documented for the record.

Because we start with a strong presumption that each spouse has an independent right to career development and fulfillment as an individual and that each may act in his or her professional responsibilities independently and objectively, it is especially important that there be full and frank disclosure of any potential conflicts and that there be agreement between the spouses concerning appropriate issues for discussion.

In all circumstances—whether involving the financial holdings of the em-

ployee's spouse, the receipt (from any person) of ex parte communications during the pendency of a rulemaking procedure, or any other potentially troublesome matter—full and frank disclosure of the circumstances surrounding the potential conflict is essential to the prompt and satisfactory resolution of that issue. Therefore, full and open channels of communication between all employees and the Department's Ethics Counselors are of the utmost importance in protecting both the interest of the employee and of the Government.

Conflict of interest situations which do not involve intentional dishonesty or willful misconduct are by their nature matters on which reasonable people may differ. As previously stated, no set of regulations or guidelines can take the place of good, sound judgment. Nor can they be all-inclusive. Therefore, to the extent that Departmental policy can be stated simply and directly, it is this: make full and complete disclosure of all relevant factors on a timely basis.

Finally, responsible, responsive and effective Government depends upon the trust and confidence that the people have in their Government officials. Trust in Government is delicate and fragile. It is easily shattered when violated, and its reconstruction is a painstaking and persistent process. However well-intended and pure the motives of Federal employees may be, it is a fact that a skeptical public often does not accord the traditional presumption of innocence; indeed, the appearance of impropriety, in certain circumstances, can be more damaging to the effectiveness of Government than any wrongdoing. Accordingly, each Government employee has a twofold responsibility: first, to ensure that his or her activities are motivated solely by the public interest; and, secondly, to consider both the appearance of any potential conflict and the effect any action may have ultimately on the confidence that the American people have in their Government. There will be occasions when an employee's decision will involve balancing public interest considerations. Consider, for example, the decision that must be made by the employee who has an opportunity to participate in an activity or event that will increase his or her knowledge, facilitate communication with certain segments of the public and broaden the information base upon which decisions are made. The employee must evaluate carefully whether participation in such an activity possibly may lead the public to conclude—probably erroneously—that favored treatment has been given to a particular person, organization or special interest. In weighing these considerations, the employee must consider the risk to the entire process of decision making and the credibility of the Government as well as the risk to public confidence in the way the particular issue or activity is resolved.

This, then, is the spirit of Part 99, and recognizing that many questions will need to be answered on a case-by-case basis, the regulations contained in part 99 are issued and commended to each

employee of the Department for their counsel.

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

In consideration of the foregoing, Part 99 of Title 49, Code of Federal Regulations, is revised to read as set forth below.

Effective date: This amendment is effective January 14, 1977.

Issued in Washington, D.C., on January 11, 1977.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

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AUTHORITY: Sec. 9, 80 Stat. 944 (49 U.S.C. 1657), and E.O. 11222, 3 CFR, 1965 Comp., unless otherwise noted.

Subpart A—General

§ 99.735-1 Purpose and policy.

(a) This part sets forth standards of ethical and other conduct, and reporting requirements, for employees and special Government employees of the Department of Transportation. It implements Executive Order 11222 (30 FR 6469) and Part 735 of Chapter I of Title 5 of the Code of Federal Regulations (30 FR 12529), as amended (33 FR 12487). The standards and requirements are appropriate to the particular functions and activities of the Department.

(b) Since the efficient operation of the Department requires continued public confidence in its employees, acts which may result in the appearance of a conflict of interest also are governed by this part. The absence of a specific published standard of conduct covering an act which would tend to discredit the Department, and/or an employee or special Government employee of the Department does not mean that such an act is condoned, is permissible, or would not call for and result in corrective or disciplinary action.

(c) The President has stated the basic philosophy of conduct for those who carry out the public business:

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.

Personnel of the Department are expected to adhere to the President's message and to standards of conduct that will reflect credit on the Government.

§ 99.735-3 Definitions.

Unless the context requires otherwise, the following definitions apply in this part:

"Department" means the Department of Transportation, including the Office of the Secretary, nonappropriated fund activities, and the following operating administrations:

- (a) The U.S. Coast Guard.
- (b) The Federal Aviation Administration.
- (c) The Federal Highway Administration.

(d) The Federal Railroad Administration.

(e) The St. Lawrence Seaway Development Corporation.

(f) The Urban Mass Transportation Administration.

(g) The National Highway Traffic Safety Administration.

(h) The Materials Transportation Bureau.

"Employee" means an officer or employee of the Department and an active duty officer or enlisted member of the Coast Guard, but does not include any special Government employee.

"Includes" means "includes but is not limited to."

"May" is used in a permissive sense to state authority or permission to do the act prescribed.

"Secretary" means the Secretary of Transportation or any person to whom he has delegated his authority in the matter concerned.

"Shall" is used in an imperative sense.

"Special Government employee" is "a Special Government Employee" of the Department as defined in section 202 of Title 18, United States Code, which includes, but is not limited to " . . . an officer or employee of the executive branch of the United States Government, of any independent agency of the United States . . . who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, . . . a Reserve officer of the Armed Forces . . . unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training," and "a Reserve officer of the Armed Forces . . . who is serving involuntarily. . . ."

§ 99.735-5 Applicability.

(a) This part applies to the following:

- (1) Each Employee of the Department.
- (2) Each special Government employee of the Department.
- (3) Each civilian employee or member of an armed force who is detailed to the Department.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 99.735-7 General.

(a) Each employee shall avoid any action, whether or not specifically prohibited by 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 Government decision outside of official channels (or not in accordance with applicable published procedures or statutory requirements; or

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

(b) Employees shall not engage in criminal, dishonest, infamous, immoral, or notoriously disgraceful conduct, or any conduct prejudicial to the Government.

§ 99.735-9 Gifts, entertainment, favors, employment and reimbursement of expenses.

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

(1) Has, or is seeking to obtain contractual or other business or financial relationships with the Department;

(2) Conducts operations or activities that are regulated by the Department, or

(3) Has interests which may be substantially affected by the performance or nonperformance of that employee's official duties.

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

(1) Accept a gift, gratuity, favor, entertainment, loan, or other thing of value when the circumstances make it clear that an obvious family relationship rather than the business of the persons concerned is the motivating factor;

(2) Accept food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting, or on an inspection tour if the employee is properly in attendance and there is not a reasonable opportunity to pay;

(3) Accept a loan from a bank or other financial institution on customary terms to finance proper and usual activities of the employee such as a home mortgage loan; or

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

(c) In seeking employment with an organization described in paragraph (a) (1), (2) and (3) of this section, an employee must be aware of the great potential for the appearance of a conflict of interest, and Federal law which prohibits certain kinds of employment. Accordingly, in soliciting employment an employee shall not:

(1) Solicit such employment if acceptance thereof would cause a violation of section 207 or 208 of title 18 of the U.S. Code;

(2) Permit the prospect of employment otherwise permitted by these regulations to influence the performance or nonperformance of his or her duties;

(3) Communicate or use information of particular interest to the prospective employer even if such information is available to the public generally; or

(4) Indicate, directly or indirectly, that he or she would be able to offer information or special relationships with officials of the Department.

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself. An employee who violates this paragraph shall be removed from Government service in accordance with 5 U.S.C. 7351. However, this paragraph does not prohibit a voluntary gift of nominal value or the solicitation or making of a voluntary donation in a nominal amount to a gift made on a special occasion such as marriage, illness, resignation, retirement, or transfer.

(e) An employee shall not accept a gift, present, decoration, medal, badge or other emblem from a foreign government or from an agent acting on behalf of a foreign government; however, this section does not prohibit an employee from either (1) accepting and retaining a gift of nominal value given as a souvenir or mark of courtesy, or (2) accepting of a gift of more than nominal value when it appears that to refuse such gift would cause embarrassment, or offense, or adversely affect the foreign relations of the United States, provided that such gift is accepted on behalf of the United States and shall be reported to the Department Counselor in writing and used or disposed of as the property of the United States. This subsection is adopted pursuant to Article I, Section 9 of the United States Constitution and section 7342 of Title 5 of the U.S. Code.

(f) Except as provided in 5 U.S.C. 4411, an employee shall not accept reimbursement from a non-Federal source for expenses incurred in connection with travel or official business.

(g) The Department may accept reimbursement for an employee's expenses incurred in connection with travel on official business except where the acceptance of reimbursement by the employee would constitute a conflict or apparent conflict of interest.

(h) An employee shall not accept reimbursement from any private source for expenses incurred in connection with voluntary travel by the employees on their own time to the extent that such reimbursement exceeds ordinary and reasonable transportation and subsistence costs or otherwise constitutes a conflict or apparent conflict of interest.

§ 99.735-11 Outside employment and other activities.

(a) An employee shall not engage in any outside employment or other outside activity which is not compatible with the full and proper discharge of the duties and responsibilities of the employee's Government employment. Incompatible activities include:

(1) Acceptance of a fee, compensation, gift, payment of expenses, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; and

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties

and responsibilities in an acceptable manner.

(b) 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).

(c) Although employees are encouraged to engage in teaching, lecturing and writing that is not prohibited by law, Executive Order 11222, Civil Service Commission regulations or this part, an employee shall not engage in such activities under circumstances:

(1) Which might result in a conflict or apparent conflict of interest;

(2) Which depend on information or official data obtained as a result of government employment, except when the information has been made available to the general public, or when an appropriately designated official gives written authorization for use of nonpublic information following a determination that the basis for the use is in the public interest; or

(3) Which tend to impair the employee's mental or physical capacity to perform government duties and responsibilities in an acceptable manner.

(d) Honoraria. (1) A Presidential appointee 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 the Department, or which draws substantially on official data or ideas which have not become public information.

(2) Any employee, other than those described in paragraph (d) (1) of this section, may receive compensation or other thing of monetary value for any lecture, discussion, writing or appearance the subject matter of which is devoted to the responsibilities, programs or operations of the Department, or which draws on official data or ideas of the Department, provided that any such employee shall disclose to the General Counsel of the Department within five business days following the event, the source, amount or value and data of receipt of all compensation or other thing of monetary value. All disclosures under this section shall be subject to public inspection and availability.

(e) If an activity permissible under paragraph (c) or (d) of this section is to be undertaken as official duty, expenses will be borne by the Department, and the employee shall not accept compensation or allow his or her expenses to be paid by the person or group under whose auspices the activity is being performed. If it is determined that an activity under paragraph (c) or (d) (2) is to be undertaken in a private capacity, the employee may not use duty hours or Government property including equipment and supplies, for that purpose, but may accept compensation, and may subject to § 99.735-17(b), use his or her offi-

cial title only if it is made clear that he or she does not represent the Department.

(f) [Reserved]

(g) This section does not preclude an employee from:

(1) Participation in the activities of National or State political parties not proscribed by law (5 U.S.C. 7321-7327).

(2) Participation in the affairs of, or acceptance of an award given or to be given on a regular basis for, a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service, or civil organization; or

(3) Outside employment that is not otherwise prohibited.

§ 99.735-13 Financial interests.

(a) An employee shall not have a direct or indirect financial interest that conflicts or appears to conflict with his Government duties and responsibilities. In any case in which such a question of financial interest arises the procedures set forth in § 99.735-15 shall be followed.

(b) An employee shall not engage in, directly or indirectly, a financial transaction as a result of, or relying primarily on, information obtained through his Government employment if that information has not been made available to the general public.

(c) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government as long as it is not prohibited by law, Executive Order 11222, or this part.

(d) All employees, whether or not subject to the disclosure requirements of Appendix C, shall promptly report within ten days of such events, all transactions involving real or personal property in which the employee has an interest and in which the Department is a buyer, seller, lessee, lessor or otherwise acquires or divests itself of an interest in such property.

§ 99.735-15 Disqualification arising from private financial interests.

(a) Section 208 of title 18, United States Code, provides criminal penalties for any employee who participates personally and substantially, as a Government employee in certain matters in which, to the employee's knowledge, the employee, the employee's spouse, minor children, or certain other persons, have a financial interest. In administering this section and implementing section 208 of title 18, policies set forth in § 99.735-13 are controlling. For exemptions from section 208, see paragraphs (i) and (j) of this section.

(b) The kinds of participation covered by section 208 include but are not limited to, any decision, approval, disapproval, recommendation, investigation or furnishing of advice, in any proceeding, application, request for ruling or other determination, contract, claim controversy, charge, accusation, or other particular matter. Section 208 of title 18

United States Code applies to these matters when a financial interest therein is possessed by the participating employee, his spouse, minor child, or partner, or by an organization in which the employee is serving as an officer, director, trustee, partner or employee, or by any person or organization with which the employee is negotiating or has arrangements concerning prospective employment.

(c) The words "other particular matter" in the first sentence of paragraph (b) of this section refer to matters in which the employee concerned reasonably may anticipate that participation or advice may have or may appear to have a direct or predictable effect on the financial interest referred to in the second sentence of paragraph (b) of this section. While not restricted to matters involving a specific party or parties, the words "other particular matter" do not, normally include rulemaking, the formulation of general policy or standards, or similar matters of broad scope and general applicability.

(d) Before an employee may participate in a matter to which he or she knows, or should reasonably know, section 208 applies, he or she must either cause the financial interest involved to be divested or request a determination of the propriety of participation in such matter by informing in writing the official for his or her appointment of the nature and circumstances of the matter and the financial interest involved.

(e) After examining the information submitted, the said appointing official shall:

(1) Cause the employee to be relieved from participation in the matter and reassign it to another employee who is not subordinate to the relieved employee; or

(2) Approve the employee's participation upon determining in writing (a copy of which shall be placed in the employee's personnel file) that the interest (or the participation) involved is not so substantial as to be likely to affect the integrity of the services the Government may expect from the employee thereby making section 208 inapplicable to the matter; or

(3) Recommend the reassignment of the employee; or

(4) If none of these alternatives is feasible, direct the employee to cause the financial interest to be divested so that it no longer comes within the scope of this section.

(f) In any case in which a responsible official has reason to believe that an employee may have an interest that would be disqualifying under this section, said responsible official shall discuss the matter with the employee. If it is found that the interest exists, he may take any of the actions stated in paragraph (e) of this section.

(g) A holding in a trust whose terms direct the trustee to manage solely in accord with his own judgment and not to disclose to the beneficiary, in any manner, the specific dealings and holdings (a so-called "blind trust") may be

exempted from the prohibitions of this section, when an employee or a member of the employee's household is the beneficiary, upon a finding by the General Counsel of the Department that the employee is in fact unaware or is unable to determine what interests are held in the trust. Thus, a "blind trust" consisting of an interest in only one company or industry will not be exempted if the employee could reasonably be expected to assume that the trustee has not divested the trust of that interest.

(h) Exemptions. Information concerning categories of financial interests which are exempted from the prohibitions of section 208(a) of title 18, United States Code, as being too remote or too inconsequential to affect the integrity of an employee's interest in a matter, are set forth in Appendix A.

§ 99.735-17 Use of Government property or official title.

(a) 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 an officially approved activity. Each employee has a positive duty to protect and conserve Government property, including all equipment, supplies, and other property.

(b) An employee shall not directly or indirectly, use or allow the use of his or her title or position in connection with any commercial enterprise or in endorsing any commercial product or service.

§ 99.735-19 Misuse of information.

Except as provided in § 99.735-11(d) an employee shall not 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 Government employment, if that information has not been made available to the general public.

§ 99.735-21 Indebtedness.

Each employee shall pay all just financial obligations in a proper and timely manner. For the purposes of this section "just financial obligations" means those imposed by law such as Federal, State, or local taxes or those that are recognized as such by the employee or reduced to a judgment by a court. "In a proper, and timely manner" means in a manner which, considering all circumstances, will not reflect adversely on the Government as employer. The Department will not determine the validity or amount of a disputed debt and will not act to collect such debts, except as provided in the Federal Wage Garnishment Law 42 U.S.C. 659.

§ 99.735-23 Gambling, betting, or lotteries.

An employee shall not, while on Government owned or leased property, or while on duty for the Government, participate 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 buying or selling a numbers slip or ticket. However,

this section does not prevent an employee from engaging in activities:

(a) Necessitated by his law enforcement duties; or

(b) Under section 3 of Executive Order 10927, related to fund raising activities for national voluntary agencies, or similar activities approved by the Department. Employees are reminded that illegal gambling is prohibited by the provisions of § 99.735-7(b), supra.

§ 99.735-25 Miscellaneous statutory provisions.

It shall be the duty of each employee to become acquainted with the laws which relate to ethical and other conduct as an employee of the Department and of the Government. The attention of employees is specifically directed to the statutory provisions relating to employee conduct set forth in Appendix B.

Subpart C—Statements of Employment and Financial Interest

§ 99.735-31 Employees required to submit statement.

(a) Unless required to report to the Chairman of the Civil Service Commission under section 401(a) of Executive Order 11222, each of the following employees shall submit a statement of employment and financial interest on a form provided by the Department:

(1) Each employee paid at a level based on the Executive schedule in subchapter II of Chapter 53 of title 5, United States Code;

(2) Each employee classified at GS-13 or above, under section 5332 of Title 5, United States Code or a comparable pay level under another authority, or in military pay grade 0-5 or above, who is in a position identified in Appendix C as a position the incumbent of which is responsible for making a Government decision or taking a Government action in regard to:

- (i) Contracting or procurement;
- (ii) Administering or monitoring grants or subsidies;
- (iii) Regulating or auditing private or other non-Federal enterprise; or
- (iv) Other activities where the decision or action has an economic impact on the interests of a non-Federal enterprise;

(3) Each employee classified at GS-13 or above under section 5332 of Title 5, United States Code or a comparable pay level under another authority, or in military pay grade 0-5 or above, who is in a position identified in Appendix C as having duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflict-of-interest situation and carry out the purpose of Title 18, Executive Order 11222, and this part; and

(4) Each employee classified below GS-13 under section 5332 of Title 5, United States Code or at a comparable pay level under another authority, or in a military pay grade below 0-5, who is in a position which otherwise meets the criteria in paragraphs (a) (2) or (3) of this section, on the basis that the inclusion has been specifically justified in writing to the Civil Service Commission

that such inclusion is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interest situation.

(b) The Assistant Secretary for Administration and the head of each operating administration shall ensure that the portion of Appendix C enumerating positions within their respective jurisdictions is current, accurate and that the incumbents of those positions enumerated file their financial interest statements with the appropriate official. To discharge their responsibilities under this paragraph, the Assistant Secretary for Administration and the head of each operating administration shall, as necessary, amend the portion of Appendix C concerning positions within their jurisdiction, obtain necessary clearance from the Civil Service Commission for positions at GS-12 and below and publish such amendments in the FEDERAL REGISTER. At the time of such publication in the FEDERAL REGISTER, a copy of all such amendments shall be transmitted to the General Counsel.

(c) Any employee in a position which meets the criteria in paragraph (a) (2) of this section may be excluded from the reporting requirements of this section whenever the Secretary, his designee, or the head of an operating administration or his designee, as appropriate, determines in writing that the duties of the 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 or the remote or inconsequential effect on the integrity of the Government.

(d) Information concerning financial interests which have been exempted under Appendix A from the prohibitions of section 208(a) of Title 18, United States Code, shall nevertheless be included in the statement required by this section.

§ 99.735-33 Time and place for submission of employee statements.

(a) Each employee who is subject to the reporting requirements of § 99.735-31 shall submit an employment and financial interest statement not later than:

- (1) Forty-five days after the effective date of this part, if employed by the Department on or before that date; or
- (2) Thirty days after entering on duty, but not earlier than thirty days after the effective date of this part, if appointed after that effective date.

(3) Thirty days after the occurrence of any event, transaction or any other thing which obligates an employee not otherwise required to submit a statement, to file such statement, but not earlier than thirty days after the effective date of this part.

(b) Each employee who is subject to the reporting requirements of § 99.735-31 shall submit employment and financial interest statements, including supplements thereto, as follows:

(1) Heads of operating administrations and employees of the Office of the Secretary shall submit their statements to the Department Counselor for review.

(2) Other employees shall submit their statement to an official designated by the head of their administration for review.

The official designated must be at a level of administration to which a Deputy Counselor has been assigned and higher in the chain of authority than the employee whose statement is to be reviewed.

§ 99.735-35 Supplementary statements.

(a) Each employee required to file a statement shall, not later than July 31 of each year, file a supplementary statement, showing, as of June 30 of that year, any change in, or addition to, the information contained in his statement of employment and financial interest, and call attention to any information previously unreported that may present a conflict because of different job functions. If no change or addition occurs, a negative report is to be filed stating that there have been no changes or additions. In addition all supplementary statements filed under this section shall contain a record of any changes which occurred at any time during the year for which the report is filed. Notwithstanding the filing of the annual statement required by this section, each employee shall at all times avoid acquiring any financial interest that could result, or taking any action that would result, in a violation of the conflict-of-interest provisions of section 208 of Title 18, United States Code, or subpart B of this part.

(b) The head of each operating administration and the Assistant Secretary for Administration shall notify employees within their respective jurisdictions of the requirement to file a supplementary statement by July 31 of each year. However, no employee shall be relieved of the responsibility to file a timely supplementary statement on the ground of his failure to receive individual notification.

§ 99.735-37 Interest of employee's relatives.

Any interest of a spouse, minor child, or other relative who is a resident of the employee's household is considered to be an interest of the employee.

§ 99.735-39 Information not known by employee.

If any information required to be included on a statement of employment and financial interest or a supplementary statement, including any holding placed in trust, is not known to the employee but is known to another person (such as a trustee), the employee shall request that person to submit the information on his or her behalf.

§ 99.735-41 Information not required.

This subpart does not require an employee to submit on a statement of employment and financial interest or supplementary statement any information relating to said 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. For the purposes 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 considered to be "business enterprises" and are required to be in-

cluded in the employee's statement of employment and financial interest.

§ 99.735-43 Confidentiality of employee's statement.

(a) Information provided in each statement of employment and financial interest and each supplementary statement shall be held in confidence. The reviewing officials, counselor, deputy counselors, and others who receive statements shall be responsible for maintaining them in confidence and shall not allow access to, or allow information to be disclosed from a statement except to carry out the purposes of this part. Information may not be disclosed to any person outside the Department, except as the Civil Service Commission or the Secretary may determine for good cause shown.

(b) Each statement of employment and financial interest and each supplementary statement shall be maintained in a separate file by the office or operating administration concerned, in accordance with the Privacy Act of 1974 (Pub. L. 93-579; 5 U.S.C. 552a(e)(11)) and guidelines issued thereunder.

§ 99.735-45 Effect of employee statements on other requirements.

Statements of employment and financial interest and supplementary statements required of employees and special Government employees are in addition to, and are not a substitute for or in derogation of, any similar requirements imposed by law, order, or regulation. The submission of a statement of supplementary statement by an employee or special Government employee does not permit said employee or any other person to participate in a matter in which that employee's or the other person's participation is prohibited by law, order, or regulation.

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

§ 99.735-51 Use of Government Employment.

A special Government employee may not use Government employment for a purpose which is, or gives the appearance of being, motivated by the desire for private gain for said employee or another person, particularly one with whom there is a marital, family, business, or financial tie.

§ 99.735-53 Use of inside information.

A special Government employee shall not use inside information obtained as a result of Government employment for private gain for self or another person, whether by direct personal action or by counsel, recommendation, or suggestion to another person, particularly one with whom there is a marital, family, business, or financial tie. However, this section does not prevent a special Government employee from using inside information for the purpose of teaching, lecturing, or writing if an appropriately designated official authorizes in writing, the use of such information upon a determination that any such use is in the

public interest. For the purposes of this section, "inside information" means information obtained under Government authority which has not become a part of the body of public information.

§ 99.735-55 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 there is a marital, family, business, or financial tie.

§ 99.735-57 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee shall not while employed by the Department receive or solicit from any person having business with the Department anything of value as a gift, gratuity, loan, entertainment, or favor for self or another person, particularly one with whom there is a marital, family, business, or financial tie.

(b) The exceptions authorized for employees under § 99.735-9 shall also apply to special Government employees.

§ 99.735-59 Miscellaneous statutory provisions.

(a) Each special Government employee shall become acquainted with the statutes referred to in § 99.735-25 that relate to conduct as a special Government employee of the Department. Appendix D of this part explains the effect of the conflict of interest statutes on special Government employees. The Department follows the guidelines set forth in Appendix D of this part for obtaining and using the services of special Government employees.

§ 99.735-61 Specific regulations for special Government employees.

(a) Each special Government employee, employed as an expert or consultant, shall submit a statement of employment and financial interest, on a form provided by the Department, in the manner prescribed in § 99.735-33(b) and 99.735-35 no later than at the time of employment.

(b) Each special Government employee not employed as an expert or consultant shall submit a statement of employment and financial interest on a form provided by the Department, as provided in paragraph (a) of this section, unless an appropriate waiver is issued in writing by the office or operating administration in which he or she is employed based upon a finding that the duties of such position are of such a nature and at such a level of responsibility that the submission of a statement by the special Government employee is not necessary to protect the integrity of the Government.

(c) For the purposes of this section, the words "consultant" and "expert" have the meaning given to them by chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(d) Each special Government employee shall keep his statement current throughout his employment by the Department by submitting supplementary statements within five days after a change required to be reported occurs.

(e) Each statement of employment and financial interest and each supplementary statement of a special Government employee shall be held in confidence and maintained in the same manner as prescribed for statements submitted by employees.

Subpart E—Counseling; Interpretation; Review of Statements; Remedial Actions

§ 99.735-71 Interpretation and advisory service.

(a) The General Counsel of the Department shall act as the Department ethics Counselor and serve as the Department's designee to the Civil Service Commission on matters covered by this part and part 735 of Chapter I of Title 5 of the Code of Federal Regulations. The Department Counselor shall be responsible for coordinating the Department's counseling services provided under paragraph (b) of this section, for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this part and part 735 of Chapter I of Title 5, Code of Federal Regulations are available to the deputy counselors designated in paragraph (b) of this section and may exercise the authority of the Secretary in any matter covered by this part.

(b) The following are designated as deputy counselors for the purpose of providing authoritative counseling and interpretations to employees and special Government employees who require advice and guidance on questions of conflicts of interest or any other matters of legal import covered by this part:

(1) The Assistant General Counsel for Operations and Legal Counsel, Office of the General Counsel.

(2) The chief legal officer of each operating administration of the Department, and his designees.

(c) Counseling on other ethical matters covered by this part will be provided by personnel specifically designated by the Assistant Secretary for Administration for employees in the Office of the Secretary, and by the head of the operating administration concerned for employees of that administration.

(d) The Assistant Secretary for Administration shall ensure that each employee and special Government employee is furnished a copy, and a clear and comprehensive summary, of these regulations within thirty days after approval of this part and within thirty days after approval of any amendments thereto. He shall also ensure that sufficient quantities are available to furnish each new employee and special Government em-

ployee a copy at the time of his or her entrance on duty.

§ 99.735-73 Review of statements.

(a) Each statement of employment and financial interest submitted under this part shall be promptly reviewed by the official authorized to receive that statement.

(b) Procedures governing the review of statements of employment and financial interest established by the office or operating administration concerned shall provide that:

(1) Whenever the review discloses an actual, apparent or alleged conflict of interests, the employee concerned shall be provided an opportunity to explain.

(2) If the actual, apparent or alleged conflict is not resolved on review by the explanation made by the employee concerned, the information pertaining to the matter shall be submitted to the head of the operating administration concerned or to the Secretary, in the case of any employee of the Office of the Secretary.

(3) The resolution of a conflict or apparent conflict of interest either on review or after submittal under paragraph (b) (2) of this section shall be effected promptly so that the conflict or appearance of conflict is ended. The resolution of the conflict or appearance of conflict may be accomplished by one or more means, including any means listed in paragraph (b) of § 99.735-75. The resolution, whether by disciplinary action or otherwise, will be effected in accordance with applicable laws, Executive Orders, and regulations.

(c) After review of a statement of employment and financial interest has been completed, the reviewing official shall ensure that it is filed and protected from disclosure as required by § 99.735-43.

§ 99.735-75 Remedial actions.

(a) A violation of this part by an employee or special Government employee, in addition to any other penalty prescribed by law, may be cause for appropriate disciplinary action by the Department.

(b) If, after consideration of the explanation provided by the employee or special Government employee concerned under § 99.735-73, it is determined that remedial action is required, immediate action shall be taken to end the conflict or appearance of conflict of interest. Remedial action may include:

(1) Divestment by the employee or special Government employee of the conflicting interest;

(2) Disqualification for a particular assignment;

(3) Changes in assigned duties; or

(4) Disciplinary action.

Remedial action, including disciplinary action where appropriate, shall be taken in accordance with applicable laws, Executive Orders, and regulations after consultation with the Department Counselor. When remedial action is completed, the person taking that action shall inform the Department Counselor, or deputy counselor, as appropriate.

§ 99.735-77 Appeals.

(a) Any employee who believes that his or her position has been improperly included as one requiring the submission of a statement of employment and financial interest is entitled to have that inclusion reviewed under the employee grievance procedures applicable to the part of the Department in which employed.

(b) An employee has the right to appeal a determination requiring remedial or disciplinary action under this part. Such appeal shall be initiated in writing within ten days. Original determinations of the deputy counselors, or their designees, and the Assistant Secretary for Administration shall be appealed to the Departmental Ethics Counselor whose decision shall be final. Original determinations of the Departmental Ethics Counselor shall be appealed to the Secretary whose decision shall be final.

Subpart F—Responsibilities of the Government Employee and Special Government Employee Following Departure From Government Service

§ 99.735-81 Post-employment duties and responsibilities.

The duties and obligations of a Government employee (or a special Government employee) do not end when government service terminates by retirement, resignation, or for any other reason. In fact the U.S. Code sets forth specific criminal penalties for certain activities by former Government employees. To summarize broadly, section 207 of Title 18, U.S. Code, prohibits a former Government employee from acting as agent or attorney in various types of proceedings and matters on behalf of a non-Government party when the employee was involved in the subject matter while working for the Government. The duration and nature of the prohibitions depend in part on the depth of the employee's involvement in the matter while in Government service. Section 208 of the same title relates to activities performed while a Government employee that benefit an employee's prospective private employer. All Government employees and special Government employees should become familiar with the provisions of the two statutory sections cited, which have been made a part of this regulation as Appendix E, so that they will be aware of the restrictions which might affect them upon their termination from the Government service.

APPENDIX A—CATEGORIES OF FINANCIAL INTERESTS EXEMPTED FROM THE PROHIBITIONS OF SECTION 208(a) OF TITLE 18, UNITED STATES CODE

I. Pursuant to the authority of section 208(b) of Title 18, United States Code, the following are exempted from the prohibition of section 208(a) of Title 18, United States Code, because they are too remote or too inconsequential to affect the integrity of an employee's services in any matter in which he may act in his governmental capacity:

(1) Any holding in a widely held mutual fund, or regulated investment company,

which does not specialize in an industry in which the possibility of conflicts arise.

(2) Continued participation in a bona fide pension, retirement, group life, health, or accident insurance plan or other employee welfare or benefit plan that is maintained by a business or nonprofit organization by which the employee was formerly employed, to the extent that the employee's rights in the plan are vested and require no additional services by him or further payments to the plan by the organization with respect to the services of the employee. To the extent that the welfare or benefit plan is a profit sharing or stock bonus plan, however, this exemption shall not apply and the procedures prescribed in § 99.735-15c (c) through (e) will apply to the interest of that employee in the plan.

APPENDIX B—MISCELLANEOUS STATUTORY PROVISIONS RELATING TO EMPLOYEE CONDUCT

The following is a list of statutory provisions to which the attention of each employee is specifically directed by § 99.735-25. The list does not include specific laws relating to ethical or other conduct in individual situations not applicable generally to the employees of the Department.

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

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

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

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

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

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638(c)).

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

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

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

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

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

(m) The prohibitions against (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 of his employment (18 U.S.C. 654).

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

(o) The prohibitions against political activities in subchapter III of Chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(p) 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).

(q) The prohibition against soliciting funds for, or giving of gifts to an official superior (5 U.S.C. 7351).

(r) The statutory provisions setting forth the prohibitions on an employee or special government employee after termination of Government service (18 U.S.C. 207, 208).

(s) The statutory provisions in the Federal Election Act (2 U.S.C. 4411) limiting the

amount of honoraria which can be accepted by a Federal employee.

APPENDIX C—LIST OF EMPLOYEES REQUIRED TO SUBMIT STATEMENT OF EMPLOYMENT AND FINANCIAL INTEREST

I. OFFICE OF THE SECRETARY OF TRANSPORTATION

- Special Assistant to the Secretary
- Regional Representatives of the Secretary of Transportation
- Special Assistant to the Deputy Secretary
- *Executive Assistant to the Deputy Secretary
- Special Assistant to the Deputy Under Secretary
- *Assistant to the Deputy Under Secretary for Budget and Program Review
- *Executive Secretary
- *Deputy Executive Secretary
- *Special Assistant to Executive Secretary
- Chairman, Contract Appeals Board
- Members, Contract Appeals Board
- Director, Office of Civil Rights
- Deputy Director, Office of Civil Rights
- Equal Opportunity Specialist, GS-13/15 engaged in Contract Compliance Review
- Director, Office of Planning and Program Review
- Director, Office of Budget
- Director, Office of Public Affairs
- Deputy Director, Office of Budget
- *Assistant Director for Communications Planning and Programming
- *Assistant Director for Communication Coordination
- *Assistant Director for Public Information
- *Director, Office of Deepwater Ports
- *Deputy Director, Office of Deepwater Ports
- Deputy Director, Office of Planning and Program Review

OFFICE OF THE GENERAL COUNSEL

- Deputy General Counsel
- Assistant General Counsel
- Special Assistant to the General Counsel
- Special Assistant for Environmental Affairs
- Patent Counsel
- *Chairman, Board of Correction of Military Records
- *Executive Secretary, Board of Correction of Military Records

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY, PLANS AND INTERNATIONAL AFFAIRS

- Deputy Assistant Secretary
- *Deputy Assistant Secretary for Policy and Program Development
- *Director Management Staff
- *Special Assistant to the Assistant Secretary
- *Director, Office of Transportation Systems Analysis and Information
- Deputy Director, Office of Transportation Systems Analysis and Information
- Deputy Director, Office of Transportation Systems Analysis and Information
- Director, Office of Transportation Planning
- Director, Office of Transportation Economic Analysis
- Deputy Director, Office of Transportation Economic Analysis
- *Chief, Industry and Financial Analysis
- Director, Office of International Transportation Programs
- Deputy Director, Office of International Transportation Programs
- Chief, International Cooperation Division
- Chief, Technical Assistance Division
- *Director, Transportation Energy Policy Staff
- *Director, Air Transportation Policy Staff
- *Deputy Director, Air Transportation Policy Staff
- *Director, Office of Transportation Regulatory Policy
- *Chief, Regulatory Coordination Division
- *Chief, Regulatory Rates Division
- *Chief, Regulatory Analysis Division

*New listing.

OFFICE OF THE ASSISTANT SECRETARY, ENVIRONMENT, SAFETY AND CONSUMER AFFAIRS

- Deputy Assistant Secretary
- *Executive Officer
- Director, Office of Safety Affairs
- Deputy Director, Office of Safety Affairs
- *Assistant Director for Pipeline Safety Policy
- *Assistant Director of Hazardous Materials Safety Policy
- Director, Office of Consumer Affairs
- Director, Office of Transportation Security
- Director, Office of Facilitation
- *Director, Office of Environmental Affairs

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

- Deputy Assistant Secretary
- *Director, Office of Personnel and Training
- *Deputy Director, Office of Personnel and Training
- *Director, Office of Management Systems
- *Deputy Director, Office of Management Systems
- Director, Office of Administrative Operations
- Chief, Procurement Operations Division
- Contract Specialist, GS-13/15
- Chief, Publishing and Graphic Division
- Printing Officer
- Director, Office of Installations and Logistics
- Deputy Director, Office of Installations and Logistics
- *Procurement Officer
- *Procurement Analyst, GS-13/15
- *Program Analyst
- *Supply Systems Analyst
- *Chief, Facilities Management Division
- *Policy and Programs Officer
- Deputy Director, Office of Administrative Operations
- Director, Office of Audits
- Deputy Director, Office of Audits
- Supervisory Auditor
- Auditor, GS-13/15
- Director, Office of Emergency Transportation
- Deputy Director, Office of Emergency Transportation

OFFICE OF THE ASSISTANT SECRETARY FOR SYSTEMS DEVELOPMENT AND TECHNOLOGY

- Deputy Assistant Secretary
- Deputy Assistant Secretary for Systems Engineering
- *Executive Officer
- Chief Scientist
- Director, Office of R & D Plans and Resources
- Director, Office of R & D Policy
- Director, Office of Systems Engineering
- *Assistant Director for Project Management
- Assistant Director for Systems Development
- Assistant Director for Telecommunications
- Director, Office of University Research
- Director, Office of Noise Abatement

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS

- *Deputy Assistant Secretary
- *Special Assistant to the Assistant Secretary
- Director, Office of Congressional Relations
- Congressional Relations Officers, GS-13/15
- Director, Office of Intergovernmental Affairs
- Intergovernmental Liaison Officer
- *Community Assistance Coordinator

MATERIALS TRANSPORTATION BUREAU

- *Director
- Director, Office of Hazardous Materials Operations
- Deputy Director, Office of Hazardous Materials Operations
- Director, Office of Pipeline Safety Operations
- Deputy Director, Office of Pipeline Safety Operations
- Administrative Officer

II. FEDERAL AVIATION ADMINISTRATION

OFFICE OF GENERAL AVIATION

- Assistant Administrator
- Deputy Assistant Administrator

OFFICE OF AVIATION MEDICINE

- Federal Air Surgeon
- Deputy Federal Air Surgeon
- Chief, Aeromedical Applications Division
- Chief, Research Planning Branch

OFFICE OF INTERNATIONAL AVIATION AFFAIRS

- Assistant Administrator
- Deputy Assistant Administrator

OFFICE OF AVIATION POLICY

- *Director
- *Deputy Director
- *Chief, Policy Development Division
- *Chief, Policy Analysis Division
- *Financial Economist

OFFICE OF INVESTIGATIONS AND SECURITY

- Director
- Deputy Director
- Chief, Investigations Division

OFFICE OF AVIATION SYSTEM PLANS

- *Director
- *Deputy Director
- *Chief, System Requirements Division
- *Chief, Plans Development Division
- *Chief, Planning Support Staff

OFFICE OF ENVIRONMENTAL QUALITY

- Director
- Deputy Director
- *Chief, Environmental Technical and Regulatory Division
- *Chief Environmental Scientist

OFFICE OF MANAGEMENT SYSTEMS

- Director
- Deputy Director
- Chief, Data Systems Division
- *Chief, Information and Statistics Division

OFFICE OF BUDGET

- Director
- Deputy Director

OFFICE OF SYSTEMS ENGINEERING MANAGEMENT

- Director
- *Deputy Director
- *Chief, Advanced Concepts Staff
- *Chief, Systems Engineering Division
- *Chief, Technical Programs Division

AIR TRAFFIC SERVICE

- Director
- Deputy Director
- Chief, ATC System Programs Division
- Chief, Flight Services Division
- Chief, Airspace and Air Traffic Rules Division
- Chief, Automation Division
- *Chief, Airspace Obstruction and Airports Branch

AIRPORTS SERVICE

- Director
- Deputy Director
- Chief and Assistant Chief, Development Programs Division
- *Chief and Assistant Chief, Airports Planning Division
- *Chief, Environmental Planning Branch
- *Chief, Planning Grant Branch
- *Airport Planning Specialists, GS-13/14
- *Civil Engineers, GS-13/14
- *Community Planners, GS-13/14
- *Chief, National System Planning Branch
- *Chief, Program Establishment Branch
- *Chief, Program Requirements Branch
- Chief, Compliance and Property Conveyance Branch
- *Airport Programs Specialists, GS-13/14

AIRWAY FACILITIES SERVICE

Director
Deputy Director
Executive Officer
*Technical Assistant to the Director
Division/Staff Chiefs and Assistant Division Chiefs
Supervisory Engineer
*Program Analysis Officer
*Technical Officer
*Technical Officer Representative

CIVIL AVIATION SECURITY SERVICE

Director
Deputy Director
*Executive Officer
*Chief, Technical Security Division
*Chief, Ground Operations Security Division
*Chief, Air Operations Security Division
*Chief, Operations Liaison Staff
*Chief, Foreign Air Carrier Security Division

FLIGHT STANDARDS SERVICE

Director
Deputy Director
Chief, Engineering and Manufacturing Division
*Chief, Air Carrier Division
*Chief, General Aviation Division

LOGISTICS SERVICE

Director
Deputy Director
Chief and Assistant Chief, Contracts Division
Procurement Officer, GS-13 and above
Contract Price Analyst, GS-13 and above
Contract Specialist, GS-13 and above
Supervisory Contract Specialist
Supervisory Property Administration Specialist
Property Administration Specialist, GS-13 and above
Transportation Specialist, GS-13 and above
*Industry Liaison Officer
*Chief and Assistant Chief, Policy and Plans Division
*General Supply Officer, GS-13 and above (Plans Branch)
*Chairman, Contract Review Board
*Chairman, Sole Source Board
*Minority Small Business Coordinator
*Chief and Assistant Chief, Material Management Division
*Chief, Personal Property Management Branch
*Program Analyst (Communications), GS-14
*Communications Management Specialist, GS-13
*Space, Property and Communications Officer, GS-13
*Chief, Real Property and Space Management Branch
*General Supply Specialist (Furniture Standards)
*Chief and Assistant Chief, Industrial Division
*Industrial Engineer, GS-14 and above
*Industrial Specialist, GS-13 and above
*Chief, Plans Branch
*Procurement Analyst (Plans Branch)

SYSTEMS RESEARCH AND DEVELOPMENT SERVICE

Director
Deputy Director
Division Chiefs and Assistant Division Chiefs
*Technical Advisor, ATC Systems Division
*Chief, Program Management Staff
*Assistant Chief, Program Management Staff
*Chief, Special Program Staff, Aircraft Safety & Noise Abatement Division
*Chief, Spectrum Analysis Branch, Analysis Division

METROPOLITAN WASHINGTON AIRPORTS

*Director
*Deputy Director
Airport Managers
Headquarters Staff Chiefs
*Special Assistants

*New listing.

*General Attorney
*Chief, Contract/Property Management Branch (GS-12)
Chiefs, Operations and Safety Divisions
Chiefs and Assistant Chiefs, Engineering and Maintenance Divisions
Chiefs, Engineering Branches
*Chief, Revenue Contract Branch (GS-12)
Chiefs and Assistant Chiefs, Financial Management Divisions
*Chiefs, Property Management Branches (GS-12)
Contract Specialists and Negotiators, GS-13 and above
*Operations and Safety Officers
*Engineers and Architects, GS-13 and above
*Chiefs, Budget and Administrative Branches
*Chiefs, Fiscal Administration Branches

OFFICE OF PERSONNEL AND TRAINING

*Director
*Deputy Director

OFFICE OF LABOR RELATIONS

*Director
*Deputy Director

OFFICE OF ACCOUNTING AND AUDIT

*Director
*Deputy Director
*Technical Assistant to the Director
*Division Chiefs and Assistant Division Chiefs
*Supervisory Auditors

NATIONAL AVIATION FACILITIES EXPERIMENTAL CENTER

Director
Deputy Director
Executive Officer
*Chief, Engineering Management Staff Center Counsel
*Chief, Logistics Division
*Chief, Contracts and Purchase Branch
*Chief, Materiel Branch
*Chief, Audit Division
*Chief, Air Traffic Systems Division
*Chief, Systems Test Branch
*Chief, Surveillance Systems Branch
*Chief, Laboratory Management Branch
*Chief, Systems and Engineering Equipment Branch
*Chief, Simulation and Analysis Division
*Chief, Analysis Branch
*Chief, Systems Development Branch
*Chief, System Engineering Section
*ATC Specialist R&D, GS-14
*Chief, Communications and Guidance Division
*Chief, Landing Branch
*Chief, Communications and Navigation Branch
*Chief, Aircraft and Airports Safety Division
*Chief, Structures Branch
*Chief, Propulsion and Fire Protection Branch
*Chief, Instruments and Flight Test Branch
*Chief, Airports Branch
*Chief, Supporting Services Division
*Chief, Aviation Facilities Division
*Chief, Flight Operations Branch
*Chief, Investigations and Security Division

AERONAUTICAL CENTER

Director
Deputy Director
Executive Officer
*Aeronautical Center Counsel
*Chief, Operations Staff
*Chief, Civil Rights Staff
*Chief, Personnel Management Division
*Chief, Accounting Division
*Chief, Budget Division
*Chief, Administrative Services Division
*Chief, Plant Engineering Division
*Chief, Procurement Division
*Chief, Contracting Branch
*Chief, Contract Management Branch

*Chief, Procurement and Systems Branch
*Chief, Electrical, Electronics and Realty Contracting Section
*Chief, Aviation, Medical and Training Contracting Section
*Chief, Electrical and Electronics Management Section
*Chief, Aviation, Medical and Training Management Section
*Chief, Audit Division
*Chief, Investigations and Security Division
*Chief, Civil Aeromedical Institute
*Chief, Flight Standards Technical Division
*Chief, Data Services Division
*Chief, FAA Depot
*Superintendent, FAA Management Training School
Chief, Aircraft Services Base
Superintendent, FAA Academy
*Chief, Airways Engineering Support Division

REGIONS

Regional Director (Includes Assistant Administrators and Deputy Assistant Administrators for Europe, Africa and Middle East Regions)
Deputy Regional Director
Executive Officer
*Area Managers, San Juan and Balboa Resident Directors, Guam and Samoa
Supervisory Auditor
Procurement Officer/Specialist, GS-13 and above
Supply Management Officer/Specialist, GS-13 and above
*Chief, Civil Rights Staff
Realty Supply Officer/Specialist, GS-13 and above
Realty Officer
Regional Counsel
Medical Officer
Chief, Accounting Division
Chief and Assistant Chief of an Air Traffic, Flight Standards, Airports, Airway Facilities Division
*Chief, Air Transportation Security Division
*Chief, Air Security Branch
*Chief, Air Transportation Security Field Office
*Principal Security Inspector (some GS-12's)
*Chief and Assistant Chief, Logistics Division
*Supervisory Contract Specialist
*Chief and Assistant Chief of a General Aviation District Office, Air Carrier District Office, Flight Standards District Office, and Airports District Office
Principal Inspector, except at a Flight Inspection National Field Office, with a title such as Air Carrier Inspector, General Aviation Inspector, Air Carrier Operations Inspector, Aviation Operations Inspector, Aviation Safety Officer/Inspector, Airborne Instrument Specialist, Aviation Maintenance Specialist, Aviation Electronic Specialist
Aviation Safety Inspector/Specialist (Manufacturing), GS-13 and above
Aerospace Engineer, GS-13 and above
Flight Test Pilot/Specialist, GS-13 and above

JUSTIFICATION FOR INCLUSION OF POSITIONS IN APPENDIX C OCCUPIED BY INCUMBENTS BELOW GS-13

CHIEF, CONTRACT/PROPERTY MANAGEMENT BRANCH

(Supervisory Contract Administrator, WA-3456, GS-1102-12)

The incumbent of this position supervises the Contract Management Branch and is responsible for the administration of air carrier, tenant, and concessionaire contracts at Washington National Airport. He also oversees collection, disbursement, safeguarding, and preliminary accountability of various funds collected or disbursed through Gov-

ernment operations at Washington National Airport.

CHIEF, REVENUE CONTRACT BRANCH

(Supervisory Contract Specialist, WA-3319, GS-1102-12)

The incumbent of this position supervises the Revenue Contract Branch and is responsible for the administration of air carrier, tenant, and concessionaire contracts at Dulles International Airport. He also oversees collection, disbursement, safeguarding, and preliminary accountability of various funds collected or disbursed through Government operations at Dulles.

CHIEFS, PROPERTY MANAGEMENT BRANCHES

(General Supply Officer, WA-1291, GS-2001-12, Washington National Airport)
(General Supply Officer, WA-1290, GS-2001-12, Dulles International Airport)

The incumbents of these positions supervise the Property Management Branches of National and Dulles Airports. They are responsible for the procurement of equipment, supplies, materials, and services for the Airports. They are also responsible for the physical accountability of real as well as personal property at the Airports.

PRINCIPAL SECURITY INSPECTOR

(Security Specialist, NW-5250, GS-080-12)

The incumbent of this position serves as Principal Security Agent assigned to select air carriers and represent FAA on all aviation security matters involving these carriers. In this capacity, he plays a major role in approving the security programs of the carriers.

III. SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Assistant Administrator/Resident Manager
Assistant Administrator for Development
General Counsel
Comptroller

- *Director, Office of Procurement & Supply (GS-13)
- *Director, Office of Comprehensive Planning (GS-14)

IV. URBAN MASS TRANSPORTATION ADMINISTRATION

Special Assistant to the Administrator
*Special Assistant to Deputy Administrator, Associate Administrator for Administration

- *Contract Price Analyst
- Procurement Analyst
- Financial Manager
- Supervisory Auditor
- Contract Specialist GS-13 and above
- Auditor, GS-13/14
- *Management Analyst GS-13 and above
- *Accountants GS-13 and above
- *Budget/Analyst GS-13 and above
- *Director, Office of Administrative Services
- *Director, Office of Procurement and Third Party Contract Review
- Chief Counsel
- Assistant Chief Counsel
- Attorney Advisor GS-13 and above
- Director of Civil Rights
- Equal Opportunity Specialist GS-13 and above
- Associate Administrator for Policy and Program Development
- *Director, Office of Program Development
- *Director, Office of Program Evaluation
- *Director, Office of Policy Research
- *Associate Administrator for Transit Assistance
- *Director, Office of Grants Assistance
- *Director, Office of Program Support
- *Director, Office of Program Analysis

* New listing.

Urban Mass Transportation Representative GS-13 and above

- *General Engineers GS-13 and above
- *Mechanical Engineers GS-13 and above
- *Relocation Specialist GS-13 and above
- *Transit Operations Specialist GS-13
- *Program Analyst GS-13 and above
- Associate Administrator for Research and Development
- *Director, Office of Bus and Paratransit Technology
- *Director, Office of Rail Technology
- *Director, Office of Safety and Product Qualification
- *Director, Office of New Systems and Automation
- *Electrical Engineer GS-13 and above
- *Electronic Engineer GS-13 and above
- *Safety Engineer GS-14 and above
- *Operations Research Analyst GS-13 and above
- *Director A.G.T. Applications Division
- Director UMTA Programs—High Speed Ground Test Center—Pueblo, Colorado
- *Associate Administrator for Transportation Management and Demonstrations
- *Transit Industry Liaison GS-15
- *Director, Office of Transit Management
- *Director, Office of Services Methods Demonstrations
- *Transportation Project Manager GS-13 and above
- *Community Planners GS-13 and above
- Regional Directors and Chiefs

V. FEDERAL HIGHWAY ADMINISTRATION

Executive Director

OFFICE OF THE CHIEF COUNCIL

Chief Counsel
Deputy Chief Counsel
Assistant Chief Counsel

OFFICE OF PROGRAM REVIEW AND INVESTIGATIONS

Director

OFFICE OF CIVIL RIGHTS

Director
Chief, Contract Compliance Division
Civil Rights Specialist, GS-13/14, engaged in Contract Compliance Review

NATIONAL HIGHWAY INSTITUTE

Director
State Programs Officer
Assistant State Programs Officer
Federal Programs Officer
Assistant Federal Programs Officer
University and Industry Programs Officer
Assistant University and Industry Programs Officer

ASSOCIATE ADMINISTRATION FOR PLANNING

Associate Administrator
Director, Office of Program and Policy Planning
Chief, Transportation Economics Division
Chief, Policy Planning Division
Chief, Program Coordination Division
Director, Office of Highway Planning
Chief, Program Management Division
Chief, Urban Planning Division

ASSOCIATE ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

Associate Administrator
*Program Coordinator
Director, Office of Research
Director, Office of Development
Chief, Program Analysis Staff
Chief, Structures & Applied Mechanics Division
Deputy Chief, Structures & Applied Mechanics Division
Chief, Bridge Structures Group
Chief, Protective Systems Group
Chief, Pavement Systems Group
Chief, Materials Division
Deputy Chief, Materials Division

Chief, Soils & Exploratory Techniques Group
Chief, Paving & Structure Materials Group
Chief, Chemistry & Coatings Group
Chief, Traffic Systems Division
Deputy Chief, Traffic Systems Division
Chief, Analysis and Experimentation Group
Chief, Systems Development & Technology Group
Chief, Systems Requirements & Evaluation Group
Chief, Environmental Design & Control Division
Deputy Chief, Environmental Design & Control Division
Chief, Socio-Economic & Environment Group
Chief, Environmental Control Group
Chief, Engineering Services Division
Chief, Electronic Instrumentation Group
Chief, Computer Technology Group
Chief, Mechanical Design & Experimentation Fabrication Group
Chief, Implementation Division
Deputy Chief, Implementation Division
Chief, Engineering Location & Design Group
Chief, Construction, Materials and Methods Group

ASSOCIATE ADMINISTRATOR FOR RIGHT-OF-WAY AND ENVIRONMENT

Associate Administrator
Director, Office of Environmental Policy
Chief, Environmental Programs Division
Chief, Environmental Quality Division
Director, Office of Right-of-Way
Chief, Real Property Acquisition Division
Chief, Relocation Assistance Division

ASSOCIATE ADMINISTRATOR FOR ENGINEERING AND TRAFFIC OPERATIONS

Associate Administrator
Director, Office of Highway Operations
Chief, Federal Highway Projects Division
Chief, Construction and Maintenance Division
Highway Engineer, GS-15, Construction and Maintenance Division
Chief, Defense Plans and Operations Division
Director, Office of Traffic Operations
Chief, Traffic Performance and Analysis Division
Director, Office of Engineering
Chief, Federal-Aid Division
Chief, Highway Design Division
Chief, Bridge Division
Highway Engineer, GS-15, Divisions in Office of Engineering

ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS AND HIGHWAY SAFETY

Associate Administrator
Director, Office of Highway Safety
Chief, Program Management Division
Chief, Technical Development and Standards Division
Director, Bureau of Motor Carrier Safety
Deputy Director, Bureau of Motor Carrier Safety
Chief, Regulations Division
Chief, Compliance Division
Deputy Chief, Compliance Division
*Chief, Accident Analysis Division

ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

Associate Administrator
Deputy Associate Administrator
*Chief, Operations and Services Division
*Director, Office of Contracts and Procurement
*Chief, Procurement Management Support Division
*Chief, Services Procurement Division
*Chief, Contract Administration Division
*Senior Procurement Analyst
Supervisory Contract and Procurement Specialist, GS-13/14

RULES AND REGULATIONS

FIELD INSTALLATIONS

Regional Federal Highway Administrator or Regional Engineer
Deputy Regional Federal Highway Administrator
Director, Office of Federal Highway Projects
Deputy Director, Office of Federal Highway Projects
Chief, Construction Division or Director, Office of Construction and Maintenance
Regional Civil Rights Officer, GS-14
Civil Rights Specialist, GS-13
Regional Audit Manager
*Auditor-in-Charge or Assistant Regional Audit Manager for (State)
*Division Administrator
Director, Motor Carrier Safety Office
Regional Hazardous Materials Officer
Regional Accident Investigator
Motor Carrier Safety Investigator

VI. FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Deputy Administrator
Special Assistant to the Administrator
Executive Director, Minority Resource Center
Civil Rights Officer
Director, Office of Public Affairs

OFFICE OF PLANNING AND BUDGET DEVELOPMENT

Director
Chief, Budget Development Division
Chief, Planning Division
Chief, Program Review Division

OFFICE OF ADMINISTRATION

Associate Administrator
Director, Office of Procurement
Director, Office of Administrative Operations
Contract Officers, GS-13/14

OFFICE OF THE CHIEF COUNSEL

Chief Counsel
Assistant Chief Counsels
Contract Counsel

OFFICE OF FEDERAL ASSISTANCE

Associate Administrator
Director, Office of Rail Assistance Programs
Director, Rail Freight Division
Chief, Rail Passenger Programs Division
Director, Office of State Rail Programs
Manager, State Safety Program
Chief, Planning Assistance Division
Chief, Programs Division

NORTHEAST CORRIDOR PROJECT

Director
Deputy Director
Chief, Engineering Division
Chief, Operations Division
Chief, Project Control Division
Chief, Planning and Analysis Division

OFFICE OF RESEARCH AND DEVELOPMENT

Associate Administrator
Director, Office of Freight Systems
Director, Office of Passenger Systems
Director, Office of Rail Safety Research

OFFICE OF POLICY AND PROGRAM DEVELOPMENT

Associate Administrator
Deputy Associate Administrator
Director, Office of Rail Economics and Policy Development
Director, Office of Rail Systems Analysis and Programs Division
Director, National Rail Systems Project Office

OFFICE OF SAFETY

Associate Administrator
Deputy Associate Administrator
Director, Office of Safety Programs
Director, Office of Standards and Procedures

*New listing.

REGIONAL OFFICES

Regional Administrators
Directors of Safety
Directors of Federal Assistance

TRANSPORTATION TEST CENTER

Director

ALASKA RAILROAD

General Manager
Assistant General Manager
Chief, Administration Division
Real Estate Officer
Contracts and Procurement Officer
Chief Counsel
Operations Officer
Traffic Officer

VII. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Director, Office of Civil Rights
Equal Opportunity Specialist, GS-13 and above, engaged in Contract Administration
Chief Counsel
Attorney-Advisor, all grade levels

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR MOTOR VEHICLE PROGRAMS

Associate Administrator
Director, Engineering Test Facility
Chief, Project Engineering Division
Chief, Testing Operations Division
Director, Engineering Systems Staff
Cost and Lead-Time Engineer and Cost and Lead-Time Analyst
Director, Office of Standards Enforcement
Chief, Validation Division
Chief, Verification Division
All other Office of Standards Enforcement professional personnel, regardless of grade level.

Director, Office of Crash Avoidance
Chief, Driver Environment Division
Chief, Handling and Stability Division
Chief, Tire Division
All other Office of Crash Avoidance professional personnel, GS-13 and above.
Director, Office of Crashworthiness
Chief, Standards Engineering Division
Chief, Standards Preparation Division
Chief, Automobile Ratings Division
All other Office of Crashworthiness professional personnel, GS-13 and above.
Director, Office of Defects Investigation
All other Office of Defects Investigation professional personnel.
Any other employees, regardless of grade, designated in MVP to serve as Contract Technical Managers and supervisors of such employees.

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR TRAFFIC SAFETY PROGRAMS

Associate Administrator
Director, Office of Driver and Pedestrian Programs
Chief, Program and Demonstration Management Division
Chief, Demonstrations Branch
Chief, Program Definition Branch
Chief, Demonstration Evaluation Division
Chief, Enforcement and Emergency Services Division
Chief, Emergency Medical Services Branch,
Chief, Police Traffic Services Branch
Chief, Driver and Pedestrian Education Division
Chief, Driver Programs Branch
Chief, Pedestrian and Cyclist Branch
Chief, Safety Belt Usage Branch
Chief, Driver Licensing and Adjudication Division
Chief, Licensing and Regulations Branch
Chief, Adjudication Branch
Chief, Driver Register Branch

Director, Office of State Program Assistance
Chief, Program Management Division
Chief, Manpower Development Division
Chief, Program Review and Analysis Division
Chief, Information and Records Systems Division
Director, Office of State Vehicle Programs
Chief, Engineering and Demonstrations Division
Chief, Vehicles-in-Use Standards Branch
Chief, State Program Division
All other Office of State Vehicle Programs professional personnel, GS-13 and above.
Any other employees, regardless of grade, designated in TSP to serve as Contract Technical Managers and supervisors of such employees.

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

Associate Administrator
Director, Office of Vehicle Safety Research
Chief, Crash Avoidance Research Division
Chief, Structures Research Division
Director, Safety Research Laboratory
Chief, Braking Systems Division
Chief, Occupant Restraint Systems Division
Chief, Tire Systems Division
Director, Office of Statistics and Analysis,
Chief, Mathematical Analysis Division,
Chief, Accident Investigation Division,
Chief, Statistical Programs Division
Director, Office of Driver and Pedestrian Research
Any other employees, regardless of grade, designated in R&D to serve as Contract Technical Managers, and supervisors of such employees.

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR PLANNING AND EVALUATION

Associate Administrator
Director, Office of Program Planning
Director, Office of Program Evaluation
Any other employees, regardless of grade, designated in P&E to serve as Contract Technical Managers, and supervisors of such employees.

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

Associate Administrator
Director, Office of Contracts and Procurement
Contract Specialist, GS-13, 14
Director, Office of Financial Management
Director, Office of Management Services,
Chief, Technical Services Division, Chief,
General Services Division
Any other employees, regardless of grade, designated in ADMIN to serve as Contract Technical Managers, and supervisors of such employees.
Any other employees regardless of grade that designates the contractor to perform graphics or other art work.

REGIONAL OFFICES

Regional Administrators
Any other NHTSA employees, regardless of grade, designated to serve as a Contract Technical Manager, and supervisors of such employees.

VIII. UNITED STATES COAST GUARD

Commandant
Vice Commandant
Chief of Staff
*Deputy Chief of Staff
Comptroller
Deputy Comptroller
Chief, Procurement Division
Chief, Administrative and Review Branch
Chief, Quality Assurance Division
Supervisory Contract Specialist, GS-13 and above

- Contract Specialist, GS-13 and above
 - Chief, Office of Operations
 - Deputy Chief, Office of Operations
 - Chief, Office of Engineering
 - Deputy Chief, Office of Engineering
 - Chief Counsel
 - Deputy Chief Counsel
 - * Chief, Claims and Litigation Division, Office of Chief Counsel
 - * Chief, Procurement Law Division, Office of Chief Counsel
 - Chief, Office of Merchant Marine Safety
 - Deputy Chief, Office of Merchant Marine Safety
 - Chief, Merchant Vessel Documentation Division
 - * Chief, Merchant Marine Technical Division
 - * Chief, Merchant Vessel Inspection Division
 - * Assistant Chief, Merchant Vessel Inspection Division
 - * Chief, Merchant Vessel Personnel Division
 - * Traveling Inspector, Office of Merchant Marine Safety
 - * Chief, Cargo & Hazardous Materials Division
 - * Assistant Chief, Cargo & Hazardous Materials Division
 - Chief, Office of Research and Development
 - Deputy Chief, Office of Research and Development
 - Chief Scientist
 - Chief, Office of Boating Safety
 - Deputy Chief, Office of Boating Safety
 - * Chief, Boating Technical Division
 - * Chief, State Liaison and Compliance Division, Office of Boating Safety
 - Commander, U.S. Coast Guard Districts
 - Officer in Charge, Marine Inspection Office
 - Captain of the Port
 - Director, Great Lakes Pilotage Staff
 - Chief, Office of Civil Rights
 - * Deputy Chief, Office of Civil Rights
 - * Equal Opportunity Specialist (Employment), GS-13, Office of Civil Rights
 - Civil Rights Specialist, GS-13 and above, engaged in Contract Compliance Review
 - Chief, Office of Marine Environment and Systems
 - Deputy Chief, Office of Marine Environment and Systems
 - Chief, Bridge Division
 - * Assistant Chief, Bridge Division
 - Project Manager, Deepwater Ports Project
 - * Assistant Project Manager, Deepwater Ports Project
 - * Chief, Marine Environmental Protection Division
 - * Assistant Chief, Marine Environmental Protection Division
 - * Chief, Port Safety & Law Enforcement Division
 - * Assistant Chief, Port Safety & Law Enforcement Division
 - * District Chiefs of Staff
 - * District Chiefs, Boating Safety Division
 - * District Chiefs, Engineering Division
 - * District Chiefs, Naval Engineering Branch
 - * District Comptrollers
 - * District Chiefs, Marine Safety Branch
 - * Commanding Officer, Marine Safety Office
- APPENDIX D—EXTRACT FROM APPENDIX C OF CIVIL SERVICE FEDERAL PERSONNEL MANUAL SYSTEM ON SPECIAL GOVERNMENT EMPLOYEES (INCLUDING GUIDELINES FOR OBTAINING AND UTILIZING THE SERVICES OF SPECIAL GOVERNMENT EMPLOYEES)

APPENDIX E—STATUTES REGULATING POST-EMPLOYMENT RESPONSIBILITIES OF GOVERNMENT AND SPECIAL GOVERNMENT EMPLOYEES

§ 207 *Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.*

(a) Whoever, having been an officer or employee of the executive branch of the

United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts 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 officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

(b) Whoever, having been so employed, within one year after his employment has ceased, appears 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 officer or employee of the Government at any time within a period of one year prior to the termination of such responsibility—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both: *Provided*, That nothing in subsection (a) or (b) prevents a former officer or employee, including a former special Government 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 head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee.

(c) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts 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 in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his official responsibility—

Shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

A partner of a present or former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia or of a present or former special Government employee shall as such be subject to the provisions of sections 203, 205, and 207 of this title only as expressly provided in subsection (c) of this section. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1123.)

§ 208 *Acts affecting a personal financial interest.*

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates 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—

Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that 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, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1124.)

New 18 U.S.C. 208. This section forbids certain actions by an officer or employee of the Government in his role as a servant or representative of the Government. Its thrust is therefore to be distinguished from that of sections 203 and 205 which forbid certain actions in his capacity as a representative of persons outside the Government.

Subsection (a) in substance requires an officer or employee of the executive branch, an independent agency or the District of Columbia, including a special Government employee, to refrain from participating as such in any matter in which, to his knowledge, he, his spouse, minor child or partner has a financial interest. He must also remove himself from a matter in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest.

Subsection (b) permits the agency of an officer or employee to grant him an *ad hoc* exemption from subsection (a) if the outside financial interest in a matter is deemed not substantial enough to have an effect on the integrity of his services. Financial interests of this kind may also be made nondisqualifying by a general regulation published in the FEDERAL REGISTER.

Section 208 is similar in purpose to the former 18 U.S.C. 434 but prohibits a greater variety of conduct than the "transaction of business with . . . [a] business entity" to which the prohibition of section 434 was limited. In addition, the provision in section 208 including the interests of a spouse and others is new, as is the provision authorizing exemptions for insignificant interest.

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