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NUCLEAR REGULATORY COMMISSION

10 CFR Part 0

Conduct of Employees; Minor Amendments

DOCKETED
USNRC

'85 JUN 19 A10:10

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SUMMARY: The Nuclear Regulatory Commission is amending its standards of conduct to codify in NRC's regulations provisions of the Ethics in Government Act of 1978 (18 U.S.C. 207) as amended, relating to reporting of financial assets by senior NRC officials. The Commission is also adopting several other amendments to its regulations on employee conduct. The amendments will exempt former NRC employees from the post-employment restrictions of 18 U.S.C. 207 in order to communicate scientific or technological information to the NRC; eliminate an ambiguity relating to the acceptance by NRC employees of gifts, meals, and entertainment from foreign governments; and modify the regulations to require only annual publication of the prohibited security interests list (formerly published twice annually).

EFFECTIVE DATE: June 21, 1985. However, the Commission is extending the opportunity for public comment on this final rule until July 22, 1985.

ADDRESSEES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

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add Trip Rothschild, H-1035

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FOR FURTHER INFORMATION CONTACT: Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 202-634-1465.

SUPPLEMENTARY INFORMATION: Since 1979, senior NRC officials have submitted Financial Disclosure Reports (Standard Form 278) in accordance with the provisions of the Ethics in Government Act of 1978. This reporting requirement currently is not codified in the Commission's regulations. The amendments add a new section 10 CFR 0.735-28a to the regulations, stating that employees paid at a salary rate of GG-16 and above or holding positions that are excepted from the regular competitive appointment process by reason of being of a confidential or policymaking character must file financial disclosure reports that will be made available to the public. The Commission has decided not to incorporate into its regulations the detailed regulations regarding the financial reporting requirements under the Ethics in Government Act. Instead, a cross reference is made to the detailed regulations promulgated by the Office of Government Ethics that can be found in 5 CFR Part 734.

Under § 0.735-29(a), most NRC professional employees are barred from owning stocks, bonds, and other security interests issued by the major companies in the commercial nuclear field. Section 0.735-29(b) currently provides that the Commission will publish a list of the prohibited security interests twice a year. Because there have been few changes in the list from year to year, the Commission has determined that it is not necessary to revise the list twice a year. Accordingly,

it is modifying its regulations to require only annual publication of the list.

The Commission is also adopting an amendment to eliminate an ambiguity in § 0.735-42 relating to the acceptance by NRC employees of gifts, meals, and entertainment from foreign governments. The amendment makes clear that employees may accept gifts, meals and entertainment from foreign governments when acceptance is not barred by the Foreign Gifts and Decorations Act (Pub. L. 95-105).

Finally, the agency is promulgating procedures pursuant to Section 207(f) of the Ethics in Government Act that would permit former NRC employees to be exempted from the post-employment restrictions of 18 U.S.C. 207 in order to communicate scientific or technological information to the NRC.

Because these amendments relate solely to matters of agency management or personnel, good cause exists for omitting notice of proposed rulemaking and public procedure thereon, as unnecessary, and for making the amendments effective upon publication in the Federal Register.

ENVIRONMENTAL IMPACT: CATEGORICAL EXCLUSION

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

PAPERWORK REDUCTION ACT STATEMENT

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3206-0092.

LIST OF SUBJECTS IN 10 CFR PART 0

Conflict of Interest, Penalty.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 0.

PART 0 -- CONDUCT OF EMPLOYEES

1. The authority citation for Part 0 is revised to read as follows:

AUTHORITY: Secs. 25, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 11222, 30 FR 6469, 3 CFR 1964-1965 COMP., p. 306; 5 CFR 735.104.

Sections 0.735-21 and 0.735-29 also issued under 5 U.S.C. 552, 553. Section 0.735-26 also issued under secs. 501, 502, Pub. L. 95-521, 92 Stat. 1864, 1867, as amended by secs. 1, 2, Pub. L. 96-28, 93 Stat. 76, 77 (18 U.S.C. 207).

2. Sections 0.735-3, 0.735-21, 0.735-29, 0.735-40 (Amended)

The authority citations following §§0.735-3, 0.735-21, 0.735-29, and 0.735-40 are removed.

3. In § 0.735-26, paragraph (e) is revised to read as follows:

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

* * * * *

(e) The prohibitions of paragraphs (a), (b), and (c) of this section shall not apply --

(1) With respect to the making of communications solely for the purpose of furnishing scientific or technological information if the following procedures are observed:

(i) The former employee proposing to make the communication solely for the purpose of furnishing scientific or technological information receives prior written authorization from the Executive Director for Operations. The individual shall provide to the Executive Director for Operations a written statement that indicates he or she is a former employee subject to post-employment restrictions under this section, that briefly summarizes the content of the proposed communication, that describes his or her involvement, if any, as an NRC employee on the matter to be discussed, and that certifies the communication he or she desires to make is solely for the purpose of furnishing scientific or technological information; and

(ii) The Executive Director for Operations before deciding whether to authorize the communication shall consult with the counselor or deputy counselor. The primary factor to be considered by the Executive Director for Operations is whether receipt of the scientific or technological information would further the agency's mission.

(2) If the Commission, in consultation with the Director of the Office of Government Ethics, makes a certification published in the Federal Register that the former employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. The Commission under this provision may authorize communications that are not limited to transmission of scientific or technological information.

* * * * *

4. A new § 0.735-28a is added to read as follows:

§ 0.735-28a Financial disclosure reports under the Ethics in Government Act.

Commissioners, employees and special government employees paid at or above the grade 16 level, and employees whose positions are excepted from the regular competitive appointment process by reason of being of a confidential or policymaking character (unless otherwise excluded by the Office of Government Ethics) shall file public financial disclosure reports (SF 278) in accordance with the requirements of the Ethics in Government Act and regulations of the Office of Government Ethics, 5 CFR

Part 734. The employees shall submit their completed forms to the Office of the General Counsel for review. The General Counsel's office shall place the form in the Commission's Public Document Room.

5. In § 0.735-29, paragraph (b) is revised to read as follows:

§ 0.735-29 Restriction against ownership of certain security interests by Commissioners, certain staff members, and other related personnel.

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(b) The Commission will publish at least once each year a list of stocks, bonds, and other security interests which employees covered by this section may not own.

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6. In § 0.735-42, paragraph (a) is revised to read as follows:

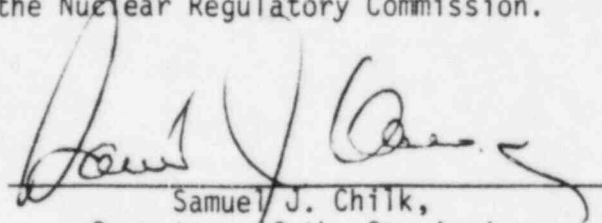
§ 0.735-42 Gifts, entertainment, and favors.

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

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Dated at Washington, D.C., this 17th day of June 1985.

For the Nuclear Regulatory Commission.


Samuel J. Chilk,
Secretary of the Commission.