

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## COMMISSION ON CIVIL RIGHTS

### 5 CFR Chapter LXVIII

RINs 3035-AA02, 3209-AA15

#### Supplemental Standards of Ethical Conduct for Employees of the United States Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Commission on Civil Rights (Commission), with the concurrence of the Office of Government Ethics (OGE), is issuing a proposed rule for employees of the Commission that would supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The proposed rule would require employees of the Commission, other than special Government employees, to obtain prior approval before engaging in outside employment.

**EFFECTIVE DATE:** Comments should be submitted on or before September 29, 2006 to be considered in the formulation of final rules.

**ADDRESSES:** Interested parties should submit written comments to: United States Commission on Civil Rights, Office of the Staff Director, Attn: Emma Monroig, Esq., Solicitor and Designated Agency Ethics Official, 624 Ninth Street, NW., Suite 621, Washington, DC 20425. E-mail comments should be addressed to [emonroig@usccr.gov](mailto:emonroig@usccr.gov). Please cite 5 CFR chapter LXVIII in all correspondence related to this proposed rule.

**FOR FURTHER INFORMATION CONTACT:** Emma Monroig, Esq., Solicitor and Designated Agency Ethics Official, United States Commission on Civil Rights, Office of the Staff Director, 624 Ninth Street, NW., Suite 621, Washington, DC 20425; Telephone: (202) 376-7796; Facsimile: (202) 376-1163.

**SUPPLEMENTARY INFORMATION:** In 1979, the United States Commission on Civil

Rights adopted a set of Employee Responsibilities and Conduct as set forth in 45 CFR part 706. See 44 FR 75152, as revised in 2002 at 67 FR 70498. That rule in the pertinent part required employees to obtain approval, in writing, from their supervisors before engaging in outside employment. 45 CFR 706.7.

On August 7, 1992, OGE published new executive branch Standards of Ethical Conduct regulations, which became generally effective on February 3, 1993. The Standards, as corrected and amended, are codified at 5 CFR part 2635. These regulations, together with OGE's executive branchwide financial disclosure and financial interests regulations codified at 5 CFR parts 2634 and 2640, superseded the Commission's old Employee Responsibilities and Conduct regulations at 45 CFR part 706, including the provision requiring employees to obtain prior approval before engaging in outside employment. In a separate rulemaking also being published in the **Federal Register** today, the Commission is proposing to remove its old superseded conduct regulation and replace it with a residual cross-references provision.

The Commission, however, has determined, with OGE concurrence, that it is necessary and desirable for the purpose of administering its ethics program to require its employees again to obtain written approval before engaging in outside employment. Prior approval would be required pursuant to proposed § 7801.102 of new chapter LXVIII of 5 CFR as proposed, in order to ensure that the activity would not otherwise violate a Federal statute or regulation, including the branchwide Standards. The proposed section would include a definition at paragraph (d) of outside employment, basically any form of non-Federal employment, business relationship or activity involving the provision of personal services by the employee, whether or not for compensation. It also would provide at paragraph (c) that upon a significant change in the nature or scope of the outside employment or the employee's official position, the employee would have to submit a revised request for approval. The proposed rule would not include special Government employees in the prior approval provision, since they consist primarily of State Advisory Committee members who serve on the

Commission as uncompensated employees. Accordingly, by this rulemaking, the Commission is proposing to reinstitute the prior approval requirement, albeit in a modified form in light of the promulgation of the branchwide Standards. Furthermore, in proposed § 7801.101 of 5 CFR the Commission would state the purpose of the supplemental regulation and would include cross-references to other Government ethics regulations applicable to Commission employees in addition to the proposed new part. The cross-referenced regulations are the executive branch Standards, as well as the financial disclosure, financial interests and employee responsibilities and conduct regulations noted above. Moreover, the section proposed would identify the Solicitor as the Designated Agency Ethics Official and require that employees seeking prior approval for outside employment obtain the approval of the Designated Agency Ethics Official.

#### Matters of Regulatory Procedure

##### *Executive Orders 12866 and 12988*

Because this proposed rule relates to Commission personnel, it is exempt from the provisions of Executive Orders 12866 and 12988.

##### *Regulatory Flexibility Act*

It has been determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rule as proposed would not have a significant economic impact on a substantial number of small entities because it would primarily affect Commission employees.

##### *Paperwork Reduction Act*

It has been determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this proposed rulemaking document, because it does not contain any information collection requirements that require the approval of the Office of Management and Budget.

##### *Congressional Review Act*

The Commission has determined that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress.

**List of Subjects in 45 CFR Part 7801**

Conflict of interests, Government employees.

Dated: August 16, 2006.

**Emma Monroig,**

*Solicitor and Designated Agency Ethics Official, United States Commission on Civil Rights.*

Dated: August 16, 2006.

**Kenneth L. Marcus,**

*Staff Director, United States Commission on Civil Rights.*

Approved: August 22, 2006.

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

For the reasons set forth in this preamble, the United States Commission on Civil Rights, with the concurrence of the Office of Government Ethics, is proposing to amend title 5 of the Code of Federal Regulations by adding a new chapter LXVIII, consisting of part 7801, to read as follows:

**CHAPTER LXVIII—COMMISSION ON CIVIL RIGHTS****PART 7801—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

Sec.

7801.101 General.

7801.102 Prior approval for outside employment.

**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 42 U.S.C. 1975b(d); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

**§ 7801.101 General.**

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the United States Commission on Civil Rights (Commission) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained at 5 CFR part 2635. Employees of the Commission are required to comply with this part, 5 CFR part 2635, the financial disclosure and financial interests regulations at 5 CFR parts 2634 and 2640, and implementing guidance and procedures. Commission employees are also subject to the regulations on responsibilities and conduct at 5 CFR part 735.

(b) *Definition.* The Designated Agency Ethics Official (DAEO) is the Solicitor for the Commission.

**§ 7801.102 Prior approval for outside employment.**

(a) An employee, other than a special Government employee, of the Commission who wishes to engage in outside employment shall first obtain the approval, in writing, of the Designated Agency Ethics Official (DAEO).

(b) *Standard for approval.* Approval shall be granted by the DAEO only upon a determination that the prospective outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(c) Upon a significant change in the nature or scope of the outside employment or the employee's official position, the employee must submit a revised request for approval.

(d) For purposes of this section, "employment" means any form of non-Federal employment, business relationship or activity involving the provision of personal services by the employee, whether or not for compensation. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless such activities involve the provision of professional services or advice or are for compensation other than reimbursement of expenses.

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**NUCLEAR REGULATORY COMMISSION****10 CFR Part 73**

**RIN 3150-AH90**

**Secure Transfer of Nuclear Materials**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to implement requirements for secure transfer of nuclear materials as required by Section 656 of the Energy Policy Act of 2005 (EPAAct), signed into law on August 8,

2005. The proposed amendment would implement Section 656 by specifically excepting certain licensees from provisions of Section 170I of the Atomic Energy Act (AEA), as amended.

**DATES:** The comment period expires September 29, 2006. Comments received after this date will be considered if it is practical to do so, but NRC is able to assure consideration only for comments received on or before this date. A copy of the draft proposed rule was made available for information only on July 6, 2006, on NRC's rulemaking Web site at: <http://ruleforum.llnl.gov>.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH90) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

*Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

*E-mail comments to:* [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail: [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

*Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m., Federal workdays. (Telephone (301) 415-1966.)

*Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via NRC's rulemaking Web site at: <http://ruleforum.llnl.gov>.

Publicly available documents created or received at NRC after November 1,