

OFFICE OF GOVERNMENT ETHICS

AGENCY: Office of Government Ethics (OGE)

5 CFR Part 2638

**Executive Agency Ethics Training Programs;
Amendments**

RIN 3209-AA07

57 FR 58399

Thursday, December 10, 1992

ACTION: Final rule; amendments.

SUMMARY: The Office of Government Ethics is issuing a final rule amending subpart G of 5 CFR part 2638 on Executive Agency Ethics Training Programs, which was published as a final rule last April. The Office of Government Ethics could not then include references in the training regulation to other rules that were not issued as final or interim at that time. The publication of the Standards of Ethical Conduct for Employees of the Executive Branch as a final rule and of the interim rule on Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture since then allows OGE to include references to these regulations within subpart G of this part. Moreover, in order to allow agencies sufficient time to complete the initial ethics orientation with the new standards, OGE is also extending the deadline for completion of the initial ethics orientation until February 3, 1993.

EFFECTIVE DATE: December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Stuart C. Gilman or John C. Condray, Office of Government Ethics, telephone (202/FTS) 523-5757, FAX (202/FTS) 523-6325

SUPPLEMENTARY INFORMATION: In accordance with section 301 of Executive Order 12674 of April 12, 1989, as amended by Executive Order 12731 of October 17, 1990, and consistent with its authority under the Ethics in Government Act, as amended, the Office of Government Ethics published the training regulation, subpart G of 5 CFR part 2638, as a final rule on April 7, 1992 (57 FR 11886-11891, as corrected at 57 FR 15219 (April 27, 1992)). As stated in the preamble to the final rule, procedures of the Office of the Federal Register prevent a final regulation from cross-referencing other regulations until the other regulations have also been published as final or interim rules. Although OGE would have liked to have regulations in this training regulation when it was published last April, the decision was made to publish this regulation before the standards were finalized in order to allow executive branch agencies as much time as possible to plan their training programs. The April final rule preamble to this subpart G regulation indicated that, once the standards and the financial disclosure regulations were published in final or interim form, OGE would amend this regulation to cross-reference those regulations. As it turned out, in fact, OGE ended up separately publishing the financial disclosure regulation (57 FR 11800-11830) on April 7, 1992, the same day the training regulation was published. The financial disclosure regulation was subsequently corrected at 57 FR 21854-21855 (May 22, 1992). In addition, on August 7, 1992, OGE published the final Standards of Ethical Conduct for Employees of the Executive Branch (57 FR 35006-35067, as corrected at 57 FR 48557 (October 27, 1992) and 57 FR 52583 (November 4, 1992)). The Office of Government Ethics is therefore amending subpart G so that it cross-references both these regulations. As explained last April, because of the central importance of the new standards issued under Executive Order 12674, as amended, to employees' understanding of their ethical obligations, section 2638.703(a) of the training regulation is being revised to specifically include the standards, together with any supplemental regulation thereto of the concerned agency, among the items that must be provided as part of the initial ethics orientation. Section 2638.704(c) is also being revised; it will now include the standards (and any agency supplement regulation) as part of the minimum content of an agency's annual ethics training for covered employees. As state in the April final rule preamble to this subpart G, the minimum content requirement does not require rote repetition each year of familiar material; inclusion of the standards is meant to be the starting point for annual training, not its sum

total. A cross-reference to the financial disclosure regulation (and any agency supplement) is also being added to the definition of employees who are covered by the annual agency ethics training requirement, at section 2638.704(b)(4).

When OGE published subpart G of part 2638 last April, the deadline for agencies to complete the initial ethics orientation was January 2, 1993. At that time, it was expected that the standards would be published within the next three months, and that the January 2, 1993 timetable would give agencies six months to complete the orientation from the time of the publication of the standards as a final rule. The Office of Government Ethics indicated at that time that OGE would amend this requirement, contained in section 2638.703(a), if the publication date of the standards were delayed. Because the standards were published on August 7, four months after the April publication of the training regulation, OGE is extending the deadline for completion of the initial ethics orientation to February 3, 1993. This date will give agencies 180 days from the publication of the standards to complete the initial ethics orientation for current employees; it will also coincide with the effective date of the new executive branch standards.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553 (b) and (d), as Director of the Office of Government Ethics, I find that good cause exists for waiving the general notice of proposed rulemaking and 30-day delay in effectiveness as to these revisions. The notice and delayed effective date are being waived because these amendments to the training regulation concern matters of agency organization, practice and procedure and because it is important to the working of executive branch agency ethics training programs that these revisions to the regulation go into effect as soon as possible. Further, these amendments reflect the changes OGE indicated it would make as previously announced when the final rule was published in the Federal Register last April.

Executive Order 12291

As Director of the Office of Government Ethics, I have determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under

the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal executive branch agencies and employees.

Paperwork Reduction Act

The Paperwork Reduction Act (5 U.S.C. chapter 35) does not apply to this regulation because it does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2638

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

Approved: November 18, 1992.

Stephen D. Potts,
Director, Office of Government Ethics.