

§ 1207.101

Subpart B—Post-Employment Regulations

1207.201 Scope of subpart.

1207.202 Exemption for scientific and technological communications.

AUTHORITY: 5 U.S.C. 7301; 18 U.S.C. 207–208; 42 U.S.C. 2473(c)(1); 5 CFR 2635.102(b); 5 CFR part 2637; 5 CFR part 2640.

SOURCE: 52 FR 22755, June 16, 1987, unless otherwise noted.

Subpart A—General Provisions

§ 1207.101 Cross-references to ethical conduct, financial disclosure, and other applicable regulations.

Employees of the National Aeronautics and Space Administration (NASA) should refer to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the NASA regulation at 5 CFR part 6901 which supplements the executive branch-wide standards with respect to prohibitions and prior approval requirements applicable to certain outside employment activities, the Office of Personnel Management provisions on employee responsibilities and conduct at 5 CFR part 735, and the executive branch-wide financial disclosure regulation at 5 CFR part 2634.

[59 FR 49333, Sept. 28, 1994]

§ 1207.102 Waiver of prohibition in 18 U.S.C. 208.

(a) *Prohibition.* Employees are prohibited by criminal statute, 18 U.S.C. 208(a), from participating personally and substantially in an official capacity in any particular matter in which, to their knowledge, they, or any person whose interests are imputed to them under the statute, have a financial interest, if the particular matter will have a direct and predictable effect on that interest.

(b) *Specific waiver available.* A NASA employee may request a waiver of this prohibition. NASA may grant a specific waiver of the prohibition only if the Agency determines that the employee's financial interest is not so substantial as to be deemed likely to affect the integrity of the employee's services. The waiver must be obtained before the employee participates in the matter.

(c) *Officials authorized to make waiver determinations.* (1) For the employees

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listed below, waivers must be approved by the Administrator or Deputy Administrator. No further delegation is authorized.

(i) Employees who are required by 5 CFR 2634.202 to file Public Financial Disclosure Reports;

(ii) Employees who are appointed under authority of section 203(c)(2) (“NASA Excepted Positions”) or section 203(c)(10) (“Alien Scientists”) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(c)(2) and 2473(c)(10));

(iii) Astronauts and astronaut candidates;

(iv) Chief Counsel; and

(v) Procurement Officers.

(2) For all other Headquarters employees, the Associate Administrator for Headquarters Operations may approve waivers of 18 U.S.C. 208. This authority may not be redelegated.

(3) For all other Center employees, the Center Director or Deputy Center Director may approve waivers of 18 U.S.C. 208. This authority may not be redelegated.

(d) *Procedures for specific waiver.* The employee's request for a waiver must be in writing. The request must describe the particular matter involved, the relevant duties of the employee, and the exact nature and amount of the disqualifying financial interest.

(1) *Headquarters employees.* (i) Those Headquarters employees described in paragraph (c)(1) of this section must submit their requests to the Official-in-Charge of the Headquarters office in which they are employed and to the General Counsel for concurrence. The Official-in-Charge will then submit the request to the Administrator with recommendations on the proposed waiver.

(ii) Other Headquarters employees must submit their requests to the Associate General Counsel (General) for concurrence, and to the Associate Administrator for Headquarters Operations for approval.

(2) *Center employees.* (i) Those Center employees described in paragraph (c)(1) of this section must submit their requests to the Center Chief Counsel for concurrence and then to the Director of the Center where they are employed. The Center Director will provide the request, with recommendations, to the

appropriate Enterprise Associate Administrator and to the General Counsel for review and submission to the Administrator.

(ii) Other Center employees must submit their requests to the Center Chief Counsel for concurrence, and then to their Center Director or Deputy Center Director for approval.

(3) Copies of approved waivers must be forwarded to the Associate Administrator for Human Resources and Education, the General Counsel, and the Office of Government Ethics.

(e) *Cross-references.* For regulations concerning general waiver guidance and exemptions under 18 U.S.C. 208, see 5 CFR part 2640.

[66 FR 59137, Nov. 27, 2001]

§ 1207.103 Designations of responsible officials.

(a) *Designated Agency Ethics Official.* The General Counsel of NASA is the Designated Agency Ethics Official and is delegated the authority to coordinate and manage NASA's ethics program as set forth in 5 CFR 2638.203.

(b) *Alternate Designated Agency Ethics Official.* The Associate General Counsel (General) is the Alternate Designated Agency Ethics Official.

(c) *Deputy Ethics Officials.* The following officials are designated as Deputy Ethics Officials:

- (1) The Deputy General Counsel;
- (2) The Associate General Counsel (General);
- (3) The Senior Ethics Attorney assigned to the Associate General Counsel (General); and
- (4) The Chief Counsel at each NASA Center and Component Facility.

(d) *Agency Designee.* As used in 5 CFR part 2635, the term "Agency Designee" refers to the following:

- (1) For employees at NASA Headquarters, or for matters affecting employees Agencywide, the Associate Deputy Administrator, the Designated Agency Ethics Official, the Alternate Designated Agency Ethics Official, or the Chief of Staff; and
- (2) For Center employees, the Center Director, who may delegate specific responsibilities of the Agency Designee to the Center Chief Counsel or to another official who reports directly to the Center Director.

(e) *Cross-references.* For regulations on the appointment, responsibilities, and authority of the Designated Agency Ethics Official, Alternate Designated Agency Ethics Official, and Deputy Ethics Officials, see 5 CFR part 2638. For the responsibilities of the Agency Designee, see 5 CFR part 2635.

[66 FR 59138, Nov. 27, 2001]

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SOURCE: 54 FR 4003, Jan. 27, 1989; 55 FR 9250, Mar. 12, 1990, unless otherwise noted. Redesignated at 59 FR 49338, Sept. 28, 1994.

§ 1207.201 Scope of subpart.

This subpart provides guidance to former NASA government employees who are subject to the restrictions of Title V of the Ethics of Government Act of 1978, as amended, and who want to communicate scientific or technical information to NASA.

§ 1207.202 Exemption for scientific and technological communications.

(a) Whenever a former government employee who is subject to the constraints of post-employment conflict of interest, 18 U.S.C. 207, wishes to communicate with NASA under the exemption in section 207(j)(5) for the making of a communication solely for the purpose of furnishing scientific or technological information, he or she shall state to the NASA employee contracted, the following information:

(1) That he or she is a former government employee subject to the post employment restrictions of 18 U.S.C. 207 (a), (c), or (d)—specify which;

(2) That he or she worked on certain NASA programs—enumerate which; and

(3) That the communication is solely for the purpose of furnishing scientific or technological information.

(b) If the former government employee has questions as to whether the communication comes within the scientific and technological exemption, he or she should contact the General