

PART 5001—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE INTERSTATE COMMERCE COMMISSION

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AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 49 U.S.C. 10301, 10306, 10321; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp. at 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., at 306; 5 CFR 2635.105, 2635.403, 2635.803.

SOURCE: 58 FR 41990, Aug. 6, 1993, unless otherwise noted.

§5001.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to members and other employees of the Interstate Commerce Commission and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the standards in 5 CFR part 2635 and this part, members and other employee are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2635 and to additional regulations regarding their conduct contained in 49 CFR part 1019.

§5001.102 Prohibited financial interests in for-hire transportation companies.

(a) *General prohibition.* Except as provided in paragraph (c) of this section, no member or other employee of the Interstate Commerce Commission shall, directly or indirectly:

(1) Be employed by or hold any other official relationship with any for-hire transportation company whether or not subject to the Interstate Commerce Act; or

(2) Own securities of or be in any manner pecuniarily interested in any for-hire transportation company whether or not subject to the Interstate Commerce Act.

(b) *Indirect relationships and interests.*

(1) For the purposes of paragraph (a) of this section, an indirect relationship with or interest in a for-hire transportation company includes, but is not limited to, an interest in:

(i) Any company that owns or controls and has more than two percent of its assets directly invested in or derives more than two percent of its income directly from a for-hire transportation company whether or not subject to the Interstate Commerce Act; or

(ii) Any company, mutual fund or other enterprise which has an interest of more than ten percent of its assets directly invested in or derives more than ten percent of its income directly from for-hire transportation companies whether or not subject to the Interstate Commerce Act.

(2) For the purposes of determining the applicability of this paragraph, an employee may rely on the most recent financial statement issued to its security holders by the company, fund or other enterprise.

(c) *Exceptions.* (1) Where a previously proper holding of a member or other employee becomes prohibited because of the enterprise's acquisition of an interest in a for-hire transportation company, the employee shall have nine months within which to dispose of the interest.

(2) In cases of financial hardship where the relationship or interest is not prohibited by 49 U.S.C. 10301(d) or 10306(e), the Designated Agency Ethics Official may grant a written waiver of the prohibition in paragraph (a) of this section based on a determination that application of the prohibition is not necessary to ensure public confidence in the impartiality and objectivity with which the Commission's programs are administered or to avoid a violation of part 2635 of this title.

§5001.103 Impartiality determinations for members of the Interstate Commerce Commission.

A member is an "agency designee" for the purposes of making an impartiality disqualification determination under 5 CFR 2635.502(d) with respect to the member's own participation in a

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Commission proceeding. This determination must be made in consultation with the Designated Agency Ethics Official.

§ 5001.104 Prior approval for outside employment.

(a) Before engaging in any outside employment, whether or not for compensation, an employee of the Interstate Commerce Commission, other than a Commissioner, must obtain the written approval of his or her supervisor and the Designated Agency Ethics Official (DAEO). Requests for approval shall be forwarded through normal supervisory channels to the DAEO and shall include, at a minimum, the following:

(1) A statement of the name of the person, group, or other organization for whom the work is to be performed; the type of work to be performed; and the proposed hours of work and approximate dates of employment;

(2) The employee's certification that the outside employment will not depend in any way on information obtained as a result of the employee's official Government position;

(3) The employee's certification that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;

(4) The employee's certification that he or she has read, is familiar with, and

will abide by the restrictions contained in all applicable Federal laws and regulations, including those found in 18 U.S.C. chapter 11 and those found or referenced in subpart H ("Outside Activities") of 5 CFR part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch); and

(5) The written approval of the employee's immediate supervisor.

(b) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation.

(c) 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 when done under an arrangement with another person for production or publication of the written product. Prior approval is not required, however, to participate 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 for expenses.