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DEPARTMENT OF JUSTICE

5 CFR Ch. XXVIII

28 CFR Part 45

RIN 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Justice

AGENCY: Department of Justice (Department).

ACTION: Interim rule, with request for comments.

SUMMARY: The Department of Justice, with the concurrence of the Office of Government Ethics (OGE), is issuing an interim rule for Department employees as a supplement to the uniform standards of ethical conduct for employees of the executive branch (Uniform Standards) issued by OGE. The regulations established by the interim rule are a necessary supplement to the Uniform Standards because they address statutory requirements and issues that are unique to the Department.

DATES: Interim rule effective November 25, 1996. Comments are invited and must be received on or before January 9, 1997.

ADDRESSES: Send comments to the U.S. Department of Justice, Justice Management Division, Departmental Ethics Office, Main Justice Building, Room 6316, 950 Pennsylvania Avenue, NW, Washington, DC 20530, Attention: Mary Braden.

FOR FURTHER INFORMATION CONTACT:

Mary Braden, U.S. Department of Justice, Justice Management Division, Departmental Ethics Office, (202) 514-8196.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Uniform Standards). See 57 FR 35006-35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, and amended at 61 FR 42965-42970 (as corrected at 61 FR 48733) and 61 FR 50689-50691, with additional grace period extensions at 59 FR 4779-4780, 60 FR 6390-6391, 60 FR 66857-66858, and 61 FR 40950-40952. The Uniform Standards, codified at 5 CFR part 2635 and effective February 3, 1993, established uniform standards of ethical conduct for executive branch personnel. Pursuant to 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) and 5 CFR 2635.105, executive branch agencies may issue agency-specific regulations, with the concurrence of OGE, that supplement the Uniform Standards. After considering its unique operations, the Department, with the concurrence of OGE, has determined that the regulations established by the interim rule are necessary to implement the Department's ethics program successfully.

II. Analysis of the Regulations

The interim rule establishes the following regulations in new 5 CFR XXVIII:

Section 3801.101 General

Section 3801.101 of the interim rule explains that the regulations established by the interim rule apply to all Departmental Employees and are supplemental to the Uniform Standards, and that all employees must comply with the regulations established by the interim rule as well as the Uniform Standards. In addition employees are subject to the regulations regarding conduct in part 735 of the title and part 45 of chapter I of 28 CFR as revised in this document.

Section 3801.102 Detailed or Assigned Special Agents of Certain Departmental Components

Section 2635.104 of the Uniform Standards sets forth certain circumstances under which an employee detailed or assigned to

another entity may be subject to the conduct regulations of that entity rather than those of his employing agency. However, special agents of the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA), even if on detail or special assignment usually retain their special law enforcement powers, are generally subject to recall to their department components at all times, and are sometimes required to provide services on an occasional or overtime basis to those components. See, e.g., 5 U.S.C. 5545(c); 5 CFR 550.151-550.164; and DOJ Order No. 1551.4A (available from the agency designee which, for purposes of this rule, shall be the Deputy Designated Agency Ethics Official for the component). Where a detail or assignment of these special agents does not explicitly sever the obligations of service to their Department components, § 3801.102 of the interim rule makes clear that these special agents who become subject to the conduct regulations of another entity pursuant to § 2635.104 (a) or (b) of this title shall also remain subject to the supplemental regulations established by the interim rule. In particular, the standards governing outside employment and activities of these special agents must conform to the same standards that are required of other agents of their employing components with whom they may continue to work side-by-side on an occasional or overtime basis. To do otherwise would undermine the efficiency of the service and would create unnecessary internal discipline and administrative efficiency problems.

Section 3801.103 Designation of Separate Departmental Components

Pursuant to § 2635.203(a) of the Uniform Standards, an executive department, with the concurrence of OGE, may designate any component that exercises distinct and separate functions as a separate agency for the purpose of applying the rules governing the solicitation or acceptance of gifts from prohibited sources or given because of official position. See 5 CFR 2635.201-2635.205. Pursuant to § 2635.807(a)(2)(ii) of the Uniform Standards, any component so designated is also considered a separate agency for the purpose of applying the rules governing the receipt of compensation by an employee for

teaching, speaking, and writing. The Department has determined that the divisions and offices ("components") set forth in section 3801.103 of the interim rule exercise distinct and separate functions for purposes of applying §§ 2635.201–2635.205 and § 2635.807(a)(2)(ii).

Employees serving in positions within the Department but outside of the components designated by this section serve in positions or offices with cross-component duties and responsibilities. This section of the interim rule makes clear that those employees must continue to treat the entire department as their employing agency for purposes of applying the gifts and the teaching, speaking and writing provisions of the Uniform Standards.

Section 3801.104 Purchase or Use of Certain Forfeited and Other Property

Section 3801.104(a) of the interim rule is a slight revision of the prohibition contained in the Department's former conduct regulations at 28 CFR 45.735–18. The chief principle served by that prohibition—that performance of official duties and the use of nonpublic information should not further an employee's private interests—is also found in two related provisions of the Uniform Standards. See 5 CFR 2635.702 and 2635.703. The Department's unique role in asset forfeiture and the public sale of forfeited property has led it to determine, on the basis of significant concerns about internal discipline, the possible appearance of misuse of nonpublic information and official position, administrative efficiency, and the enforcement of the Departmental conduct regulations, that any Departmental employee seeking to buy forfeited property from the Department or its agents (or to use such property if it was purchased from the Department or its agents by his spouse or dependent) should first obtain written approval from his agency designee. Consequently, § 3801.104(a) bars any employee who does not have such prior written approval from purchasing forfeited property from the Department or its agents, and from using any such property if it was purchased from the Department or its agents by his spouse or minor child. Additionally, § 3801.104(a) sets forth the criteria to be applied in determining whether or not to approve a request to purchase or use such property.

Section 3801.104(b) of the interim rule is an extension of the principle that performance of official duties and the use of nonpublic information should not further an employee's private interests.

The Department has determined that the employees of the United States Marshals Service (USMS), FBI, and DEA typically have a high degree of control over valuable property used by their components. To address significant Departmental concerns about the actual or apparent use of nonpublic information regarding the condition of the property at the time of sale and the use of position in that property's maintenance in anticipation of its sale, § 3801.105(b) prohibits any USMS, FBI or DEA employee from purchasing from his component, the General Services Administration (GSA), or the agents of either of them, any property formerly used by his component, and from using any such property if it was purchased from his component, GSA, or the agents of either of them, by his spouse or minor child.

Section 3801.105 Personal Use of Government Property

Section 3801.105 references Department of Justice internal policy issued by the Designated Agency Ethics Official on April 21, 1995, which authorized limited personal use of Department of Justice office and library equipment and facilities by its employees. Employees with questions concerning this policy may seek advice and obtain a copy of the policy from their agency designee, who for this purpose, shall be the Deputy Designated Agency Ethics Official for the employee's component. This section is included strictly for ease of reference. The Department does not require OGE's concurrence when exercising its authority under 5 U.S.C. 301 to prescribe regulations for the use of Department property.

Section 3801.106 Outside Employment

The Uniform Standards, at 5 CFR 2635.802, provide that an employee shall not engage in outside employment if it is prohibited by agency supplemental regulation. To much the same effect, 5 CFR 2635.403 permits an agency, by supplemental regulation, to prohibit compensated outside employment on the same basis that it may prohibit employees from holding other financial interests. Under the Department's previous standards of conduct regulations at 28 CFR part 45, a Department employee has been prohibited from engaging in "the private practice of his profession, including the practice of law * * *." Despite this prohibition those regulations also stated that "employees are encouraged to provide public interest professional services so long as such services do not interfere with their official

responsibilities." Also, such services were required to be uncompensated. Pursuant to § 45.735–9 of those regulations, Justice Department employees were also prohibited from engaging "in any professional practice or any other outside employment if [t]he activity involves any criminal matter or proceeding whether Federal, State or local * * *."

Section 3801.106(b)(1) has the effect of continuing substantially similar prohibitions, based on the Department's determination that it is necessary to ensure public confidence in the impartiality and objectivity with which the Department carries out its mission, and to avoid any appearance of misuse of position. In addition to continuing the tradition of generally prohibiting outside employment that involves the practice of law, and prohibiting participation in criminal or habeas corpus matters, whether Federal, State or local, paragraph (b)(1) further prohibits Department employees from participating, even behind the scenes, in a matter in which the Department is, or represents, a party.

While the provisions in § 3801.106(b)(1) prohibiting the practice of law by Departmental attorneys is based generally upon the public perception that the Department is the Federal Government's "law firm," and the primary loyalty of Department attorneys should lie only with the Government as client, the section also recognizes the professional obligations of attorneys to the community. Since 1980, each Department of Justice Appropriations Act has contained a provision which states, "None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of this Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory or the District of Columbia." The State bars of thirty-four States have a goal or official statement urging members to devote time to the provision of pro bono legal services, some stipulating 50 hours a year of such service in accord with the American Bar Association's Model Rule 6.1. On March 6, 1996, the Attorney General issued a policy statement on pro bono legal and volunteer services in order to encourage Department attorneys to meet the goals of the bar in which they are licensed. That policy also responds to Executive Order 12988 of February 5, 1996, in which the President required all Federal agencies to develop appropriate

programs to encourage and facilitate pro bono legal and other volunteer services by Government employees.

Consequently, § 3801.106(b) of the interim rule contains an exception for the uncompensated practice of law in the nature of community service as well as continuing an exception for practicing law on behalf of certain family members. In order that such practice not otherwise violate any statute or Federal regulation, § 3801.106(c) requires that prior approval must be obtained for all practice of law under this exception.

Where the restrictions of § 3801.106(b)(1) would cause undue personal or family hardship, unduly prohibit an employee from completing a professional obligation entered into prior to government service, or unduly restrict the Department from securing necessary and uniquely specialized services, particularly from a special Government employee, the restrictions may be waived in writing if it is determined that the activities covered by the waiver are not expected to involve conduct prohibited by statute or Federal regulation. While the waiver standard of such a restriction normally would only require a finding that the activity would not otherwise be expected to violate the interim rule, part 2635 or a statute, waivers under section 3801.106(b)(2) will also suffice as prior approval under paragraph (c) of § 3801.106 and therefore must meet the standard of that paragraph which requires consideration of any Federal regulation.

In order to further ensure against the kinds of conflicts addressed by the prohibition of paragraph (b), paragraph (c) requires a Justice Department employee to obtain written approval before engaging in outside employment not otherwise prohibited that involves: (1) The practice of law; or (2) a subject matter, policy, or program that is in his component's area of responsibility. The approval requirement will supplement the prohibitions in paragraph (b)(1) by allowing managers and ethics officials an additional check to ensure that employees do not engage in outside employment related to the Department's mission that would violate applicable laws and regulations.

28 CFR Part 45

By a separate instrument in this rulemaking document, the Department is repealing those of its agency conduct regulations, currently found at 28 CFR part 45, which are superseded by the Uniform Standards, the regulations established by the interim rule, DOJ Order 1735.1 on procedures for

complying with ethics requirements, and the uniform, executive branch financial disclosure regulations (Uniform Financial Disclosure Regulations) at 5 CFR part 2634. Sections 45.735-4,¹ 45.735-5(b), and 45.735-7a of 28 CFR of the Department's old conduct standards are being preserved and redesignated and a new cross-reference section to the current ethics provisions is being added.

III. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), as Assistant Attorney General for Administration of the Department of Justice, I have found good cause for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the thirty-day delay in entry into effect of the interim rule and repeal. This determination is based on the fact that: (1) The rulemaking is related to the internal organization, procedure, and practice of the Department of Justice; (2) the rulemaking pertains to agency management and personnel; and (3) there is a need for a smooth and speedy transition to the Uniform Standards from the prior Departmental conduct regulations, which were essentially superseded on February 3, 1993, when the Uniform Standards entered into effect. As a result of this supersession and the recent expiration of the extended grace period for certain regulatory prohibited financial interest and prior approval for outside employment/activities provisions, the Department currently has no agency-specific standards of conduct in place that address statutory requirements and issues unique to the Department. Given the special nature of the Department's functions, it is imperative that the Department issue supplemental conduct regulations to fill this void as soon as possible. Because this is an interim rulemaking, with provision for a forty-five day public comment period, the Department of Justice will review all comments received during the comment period and, with the concurrence of the Office of Government Ethics, will consider any modifications that may

¹ Pursuant to 28 U.S.C. 528, the Department is obligated to issue regulations that require an employee to disqualify himself from participation in certain investigations or prosecutions if such participation may result in a financial, political, or personal conflict of interest. Section 45.735-4 of title 28 CFR satisfies the requirements of 28 U.S.C. 528 relating to political or personal conflicts and is being retained. However, in the Department's view, subparts D and F of 5 CFR part 2635 satisfy the requirements of the statute relating to financial conflicts of interest. Therefore, the Department is repealing § 45.735-5(a) of title 28 of the CFR.

appear to be appropriate in adopting the rule as final.

Executive Order 12866

In promulgating this interim regulation, the Department of Justice has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This regulation has not been reviewed by the Office of Management and Budget under the Executive order, it deals with agency organizational, management, and personnel matters and is not in any event, deemed "significant" thereunder.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. chapter 6, as Assistant Attorney General for Administration of the Department of Justice, I have determined that this regulation will not have a significant economic impact on a substantial number of small entities, because it affects only Department of Justice employees.

Paperwork Reduction Act

As Assistant Attorney General for Administration of the Department of Justice, I have determined that the Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply to the regulation established by the interim rule, because the regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 3801 and 28 CFR Part 45

Conflict of interests, Executive branch standards of conduct, Government employees.

Dated: November 12, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration, Department of Justice.

Approved: November 15, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Department of Justice, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and is also amending title 28 of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

1. A new chapter XXVIII, consisting of part 3801, is added to 5 CFR to read as follows:

CHAPTER XXVIII—DEPARTMENT OF JUSTICE

PART 3801—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF JUSTICE

Sec.

3801.101 General.

3801.102 Detailed or assigned special agents of certain Departmental components.

3801.103 Designation of separate Departmental components.

3801.104 Purchase or use of certain forfeited and other property.

3801.105 Personal use of Government property.

3801.106 Outside employment.

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 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; E.O. 12988, 61 FR 4729; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.701–2635.705, 2635.803, 2635.807(a)(2)(ii); and DOJ Order 1735.1.

§ 3801.101 General.

In accordance with § 2635.105 of this title, the regulations in this part apply to employees of the Department of Justice and supplement the Standards of Ethical Conduct for Employees of the Executive Branch in part 2635 of this title. In addition to the regulations contained in part 2635 of this title and in this part, employees are subject to the conduct regulations contained in part 735 of this title and 28 CFR part 45.

§ 3801.102 Detailed or assigned special agents of certain Departmental components.

Notwithstanding a detail or assignment to another entity, any special agent of the Federal Bureau of Investigation or Drug Enforcement Administration who is subject to the regulations or standards of ethical conduct of that entity pursuant to § 2635.104 of this title shall also remain subject to the regulations in this part.

§ 3801.103 Designation of separate Departmental components.

(a) Pursuant to § 2635.203(a) of this title, each of the following components is designated as a separate agency for purposes of the regulations contained in subpart B of part 2635 of this title governing gifts from outside sources, and, accordingly, § 2635.807 of this title governing teaching, speaking, and writing:

Antitrust Division
Bureau of Prisons (including Federal Prison Industries, Inc.)
Civil Division
Civil Rights Division

Community Relations Service
Criminal Division
Drug Enforcement Administration
Environment and Natural Resources Division
Executive Office for Immigration Review
Executive Office for United States Attorneys (The Executive Office for United States Attorneys shall not be considered separate from any Office of the United States Attorney for a judicial district, but only from other designated components of the Department of Justice.)

Executive Office for United States Trustees (The Executive Office for United States Trustees shall not be considered separate from any Office of the United States Trustee for a region, but only from other designated components of the Department of Justice.)

Federal Bureau of Investigation
Foreign Claims Settlement Commission
Immigration and Naturalization Service
Independent Counsel appointed by the Attorney General

INTERPOL

National Drug Intelligence Center
Justice Management Division
Office of Information and Privacy
Office of Intelligence Policy and Review
Office of Community Oriented Policing Services

Office of Justice Programs

Office of the Pardon Attorney

Office of Policy Development

Offices of the United States Attorney (94)

(Each Office of the United States Attorney for a judicial district shall be considered a separate component from each other such office.)

Offices of the United States Trustee (21)

(Each Office of the United States Trustee for a region shall be considered a separate component from each other such office.)

Tax Division

United States Marshals Service

United States Parole Commission

(b) Employees serving in positions within the Department but outside of the components designated in paragraph (a) of this section must continue to treat the entire Department of Justice as their employing agency for purposes of the gift rules of subpart B of part 2635 of this title and the application of the teaching, speaking and writing provisions found in § 2635.807 of this title.

§ 3801.104 Purchase or use of certain forfeited and other property.

(a) In the absence of prior approval by the agency designee, no employee shall purchase, directly or indirectly, from the Department of Justice or its agents property forfeited to the United States and no employee shall use property forfeited to the United States which has been purchased, directly or indirectly, from the Department of Justice or its agents by his spouse or minor child. Approval may be granted only on the basis of a written determination by the agency designee that in the mind of a

reasonable person with knowledge of the circumstances, purchase or use by the employee of the asset will not raise a question as to whether the employee has used his official position or nonpublic information to obtain or assist in an advantageous purchase or create an appearance of loss of impartiality in the performance of the employee's duties. A copy of the written determination shall be filed with the Deputy Attorney General.

(b) No employee of the United States Marshals Service, Federal Bureau of Investigation, or Drug Enforcement Administration shall purchase, directly or indirectly, from his component, the General Services Administration, or the agent of either, property formerly used by that component and no such employee shall use property formerly used by his component which has been purchased, directly or indirectly, by his spouse or minor child from his component, the General Services Administration, or the agent of either.

§ 3801.105 Personal use of Government property.

Employees are prohibited by part 2635 of this title from using Government property for other than authorized purposes. On April 21, 1995, the Department issued an internal policy authorizing limited personal use of Department of Justice office and library equipment and facilities by its employees. Employees with questions concerning this policy may seek advice and obtain a copy of the policy from their agency designee, who for this purpose shall be the Deputy Designated Agency Ethics Official for the employee's component.

§ 3801.106 Outside employment.

(a) *Definition.* For purposes of this section, outside employment means any form of employment, business relationship or activity, involving the provision of personal services whether or not for compensation, other than in the discharge of official duties. It includes, but is not limited to, services as a lawyer, officer, director, trustee, employee, agent, consultant, contractor, or general partner. Speaking, writing and serving as a fact witness are excluded from this definition, so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law. Employees who wish to engage in compensated speaking and writing should review § 2635.807 of this title.

(b) *Prohibited outside employment.*

(1) No employee may engage in outside employment that involves:

(i) The practice of law, unless it is uncompensated and in the nature of community service, or unless it is on behalf of himself, his parents, spouse, or minor children;

(ii) Any criminal or habeas corpus matter, be it Federal, State, or local; or

(iii) Litigation, investigations, grants or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker.

(2) Where application of the restrictions of paragraph (b)(1) of this section will cause undue personal or family hardship; unduly prohibit an employee from completing a professional obligation entered into prior to Government service; or unduly restrict the Department from securing necessary and uniquely specialized services, the restrictions may be waived in writing based upon a determination that the activities covered by the waiver are not expected to involve conduct prohibited by statute or Federal regulation. Employees should refer to DOJ Order 1735.1 on obtaining waivers. The Order is available from the agency designee which, for purposes of this rule, shall be the Deputy Designated Agency Ethics Official for the component.

(c) *Prior approval for outside employment.* (1) An employee must obtain written approval before engaging in outside employment, not otherwise prohibited by paragraph (b) of this section that involves:

(i) The practice of law; or

(ii) A subject matter, policy, or program that is in his component's area of responsibility.

(2) Employees should refer to DOJ Order 1735.1 for procedures on obtaining prior approval. A waiver granted pursuant to paragraph (b)(2) of this section will be sufficient to satisfy this prior approval requirement.

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

TITLE 28—[AMENDED]

CHAPTER I—DEPARTMENT OF JUSTICE

PART 45—[AMENDED]

2. The authority citation for part 45 is revised to read as follows:

Authority: 5 U.S.C. 301, 901, 7301; 18 U.S.C. 207, 208; 28 U.S.C. 503, 528; DOJ Order 1735.1.

§§ 45.735-1—45.735-3, 45.735-6—45.735-5 [Amended]

3. Part 45 is amended by revising the part heading to read "Employee Responsibilities" and removing the following sections:

§§ 45.735-1 through 45.735-3

§ 45.735-5(a)

§§ 45.735-6 through 45.735-7

§§ 45.735-8 through 45.735-27

Appendix

§ 45.735-4 [Redesignated as § 45.2 and amended]

4. Section 45.735-4 is redesignated as § 45.2

§ 45.735-5(b) [Redesignated as § 45.3 and amended]

5. Section 45.735-5(b) is redesignated as § 45.3 and the section heading is revised to read "Financial interest exemptions."

§ 45.735-7a [Redesignated as § 45.4]

6. Section 45.735-7a is redesignated as § 45.4.

7. A new § 45.1 is added to read as follows:

§ 45.1 Cross-reference to ethical standards and financial disclosure regulations.

Employees of the Department of Justice are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Department of Justice regulations at 5 CFR part 3801 which supplement the executive branch-wide standards, the executive branch-wide financial disclosure regulations at 5 CFR part 2634 and the executive branch-wide employee responsibilities and conduct regulations at 5 CFR part 735.

[FR Doc. 96-29932 Filed 11-22-96; 8:45 am]

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NATIONAL SCIENCE FOUNDATION

5 CFR Ch. XLIII

RINs 3209-AA15, 3145-AA20

Supplemental Standards of Ethical Conduct for Employees of the National Science Foundation

AGENCY: National Science Foundation (NSF or Foundation).

ACTION: Interim rule, with request for comments.

SUMMARY: The National Science Foundation, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for officers and employees of the NSF that supplement the Standards of Ethical Conduct for

Employees of the Executive Branch (Standards) issued by OGE. The rule is a necessary supplement to the Standards, and addresses ethical issues unique to NSF. It restricts employee participation in certain proposals and awards; provides for clearance for participation in NSF-supported conferences and in certain other outside activities, and prescribes certain ethics restriction on Members of the National Science Board.

DATES: Interim rule effective November 25, 1996. Comments are invited and must be received on or before January 24, 1997. Comments will then be evaluated in order to determine what changes, if any, may be needed.

ADDRESSES: Send comments to the Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Charles S. Brown, Designated Agency Ethics Official, Office of the General Counsel, National Science Foundation, telephone 703-306-1060, FAX 703-306-0149.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published Standards of Ethical Conduct for Employees of the Executive Branch (Standards) that are now codified at 5 CFR part 2635. See 57 FR 35006-35067, as corrected at 57 48557, 57 FR 52583, and 60 FR 51667, and amended at 61 FR 42965-42970 (as corrected at 61 FR 48733) and 61 FR 50689-50691, with additional grade period extensions at 59 FR 4779-4780, 60 FR 6390-6391, 60 FR 66857-66858, and 61 FR 40950-40952. The Standards took effect on February 3, 1993, and set uniform standards of ethical conduct for all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations that are necessary to properly implement agency ethics programs. The Foundation, with OGE's concurrence, has determined that the following supplemental rule, being codified in new chapter XLIII of 5 CFR, consisting of part 5301, is necessary to successfully implement NSF's ethics program in light of NSF's unique programs, structure, and operations. Today NSF also published in the Federal Register regulations that repeal portions of its conflict of interest and standards of conduct regulations that are superseded by 5 CFR part 2635 and by these supplemental regulations.