

# Rules and Regulations

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2635

RIN 3209-AA04

#### Standards of Ethical Conduct for Employees of the Executive Branch; Amendments To Clarify the Coverage of Detailees to an Agency Under the Intergovernmental Personnel Act

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule; amendments.

**SUMMARY:** The Office of Government Ethics is amending the regulation governing standards of ethical conduct for executive branch employees of the Federal Government, to clarify the coverage of employees of State or local governments or other organizations detailed to an agency under the Intergovernmental Personnel Act.

**DATES:** Effective Date: September 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Thomas, Associate General Counsel, Office of Government Ethics; telephone: 202-482-9300; TDD: 202-482-9293; FAX: 202-482-9237.

**SUPPLEMENTARY INFORMATION:** On May 11, 2006, the Office of Government Ethics (OGE) published proposed amendments to the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), 5 CFR part 2635, to make clear that detailees from State and local governments and other organizations to an agency, pursuant to the Intergovernmental Personnel Act (IPA), 5 U.S.C. 3374, are subject to the Standards. 71 FR 27427-27429. OGE proposed amending the definition of "employee," in § 2635.102(h) of the Standards, expressly to include "[e]mployees of a State or local government or other organization who are serving on detail to an agency, pursuant to 5 U.S.C. 3371, *et seq.*" OGE

also proposed adding a new paragraph (d) to § 2635.105 of the Standards, which deals with agency supplemental regulations, to provide that IPA detailees would be subject to any requirements in agency supplemental standards of conduct regulations to the extent that such regulations expressly provide.

OGE received two comments on the proposed amendatory rule, both from agency ethics officials. The first commenter simply concurred in the proposed rule. The second commenter did not raise any substantive issues with respect to the coverage of IPA detailees under the Standards, but instead noted that the commenter's agency was having difficulty applying the post-employment restrictions of 18 U.S.C. 207 to certain IPA detailees. This commenter requested "that when the OGE clarifies 5 CFR part 2635, [it] also address the post-employment restrictions at 18 U.S.C. 207 as it applies to IPA detailees."

OGE did not change the proposed rule in response to this request. Part 2635 is not OGE's post-employment regulation. OGE's regulations addressing the post-employment restrictions of 18 U.S.C. 207 are found at 5 CFR part 2641, which is not the subject of this rulemaking. We note, moreover, that OGE already has proposed amendments to part 2641, some of which deal specifically with IPA detailees. See 68 FR 7845 (February 18, 2003), at 7870 (proposed definition of "employee" includes IPA detailees); and 7881 (application of 18 U.S.C. 207(c) to IPA detailees). Therefore, OGE is publishing the previously proposed amendments to part 2635 in the **Federal Register** as a final rule, with no changes.

As noted in the preamble to the proposed rule, 71 FR 27428, OGE is aware that some agencies already have required certain IPA detailees to agree to follow restrictions in agency supplemental regulations. Such agencies may continue to recognize any agreements in force as of the effective date of the final rule. Moreover, agencies that wish to amend their supplemental regulations to cover IPA detailees, consistent with new § 2635.105(d), may continue to use IPA agreements to obtain commitments to follow current supplemental regulations, pending the promulgation of amendments, for a reasonable period determined in consultation with OGE.

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## Matters of Regulatory Procedure

### Regulatory Flexibility Act

As Director of OGE, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rule will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal employees.

### Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this proposed rule because it does not contain an information collection requirement that requires the approval of the Office of Management and Budget.

### Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this amendatory rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

### Congressional Review Act

The Office of Government Ethics has determined that this rulemaking involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives and Government Accountability Office in accordance with that law at the same time that it transmits this final rule to the Office of the Federal Register for publication.

### Executive Order 12866

In promulgating this rule, OGE 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 final rule has not been reviewed by the Office of Management and Budget under that Executive order, since it deals with agency organization, management and personnel matters, and is not deemed to be "significant" thereunder.

### Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this amendatory regulation in light of

section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

#### List of Subjects in 5 CFR Part 2635

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

Approved: August 3, 2006.

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

■ Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2635 as follows:

#### PART 2635—STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

■ 1. The authority citation for part 2635 continues to read as follows:

**Authority:** 5 U.S.C. 7301, 7351, 7353; 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.

#### Subpart A—General Provisions

■ 2. Section 2635.102 is amended by adding a new sentence after the second sentence of paragraph (h) to read as follows:

##### § 2635.102 Definitions.

\* \* \* \* \*

(h) \* \* \* It includes employees of a State or local government or other organization who are serving on detail to an agency, pursuant to 5 U.S.C. 3371, *et seq.* \* \* \*

\* \* \* \* \*

■ 3. Section 2635.105 is amended by adding a new paragraph (d) to read as follows:

##### § 2635.105 Supplemental agency regulations.

\* \* \* \* \*

(d) Employees of a State or local government or other organization who are serving on detail to an agency, pursuant to 5 U.S.C. 3371, *et seq.*, are subject to any requirements, in addition to those in this part, established by a supplemental agency regulation issued under this section to the extent that such regulation expressly provides.

[FR Doc. E6-13087 Filed 8-9-06; 8:45 am]

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#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

##### 18 CFR Part 33

[Docket No. RM05-34-002; Order No. 659-B]

##### Transactions Subject to FPA Section 203

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects an error in an order on rehearing that the Federal Energy Regulatory Commission published in the **Federal Register** on July 27, 2006. That action affirmed, with certain clarifications, its determinations in Commission Order Nos. 669 and 669-A.

**EFFECTIVE DATE:** August 28, 2006.

##### FOR FURTHER INFORMATION CONTACT:

Roshini Thayaparan, Office of the General Counsel, Federal Energy Regulatory Commission at (202) 502-6867.

**SUPPLEMENTARY INFORMATION:** In FR Document E6-12047, published July 27, 2006 (71 FR 42579), make the following correction:

##### § 33.2 [Corrected]

■ On page 42586, in the column 3, in § 33.2 Contents of application—general information requirements, in paragraph (j)(1) introductory text, the word “transactions” is corrected to read “transaction”.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E6-13106 Filed 8-9-06; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 165

[COTP JACKSONVILLE 06-164]

RIN 1625-AA87

##### Security Zones; Captain of the Port Zone Jacksonville, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily establishing security zones around any vessel escorted by one or more Coast Guard, State, or local law

enforcement assets within the Captain of the Port Zone Jacksonville, FL. No vessel or person is allowed within 100 yards of an escorted vessel, while within the navigable waters of the Captain of the Port Zone, Jacksonville, FL, unless authorized by the Captain of the Port Jacksonville, FL or designated representative. Additionally, all vessels within 500 yards of an escorted vessel in the Captain of the Port Zone Jacksonville, FL will be required to operate at a minimum speed necessary to maintain a safe course. This action is necessary to protect personnel, vessels, and facilities from sabotage or other subversive acts, accidents, or other events of a similar nature.

**DATES:** This rule is effective from August 4, 2006 through November 1, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket (COTP Jacksonville 06-164) and are available for inspection or copying at Coast Guard Sector Jacksonville Prevention Department, 7820 Arlington Expressway, Suite 400, Jacksonville, FL 32211, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Kira Peterson at Coast Guard Sector Jacksonville Prevention Department, Florida tel: (904) 232-2640, ext. 108.

##### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Security zones around escorted vessels are necessary to ensure the safe transit of the escorted vessels as well as the public. Certain vessel movements are more vulnerable to terrorist acts and it would be contrary to the public interest to publish an NPRM which would incorporate a notice and comment period that would delay the effective date of this regulation.

For the same reasons and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

##### Background and Purpose

The terrorist attacks of September 2001 heightened the need for development of various security measures throughout the seaports of the United States, particularly around vessels and facilities whose presence or