

§ 2641.204(g) in the context of agency components, we emphasize that proposed § 2641.302(g) would not constitute a delegation of the Director's authority to make or revoke component designations. Rather, it would reflect the practical necessity of determining if, subsequent to a reorganization, there is an identifiable successor to a component that had been previously designated as distinct and separate by OGE.

Agency ethics officials would need turn to § 2641.302(g) as proposed only when a designated component has been "significantly altered by organizational changes." Proposed § 2641.302(g) requires that the determination required by § 2641.302(g) be made in consultation with OGE. While agency officials will be most familiar with the details of a significant reorganization, OGE personnel can assist in determining whether a designated component remains "identifiable as substantially the same entity." Moreover, such consultation should ensure that advice rendered to a particular individual will be consistent with any subsequent revision of appendix B by the OGE Director.

Appendixes

Finally, we are proposing to delete existing footnotes 4 and 5 from the appendix B listing for the Department of Justice. The information in those footnotes would, henceforth, be contained in parentheses following the appropriate component.

B. Matters of Regulatory Procedure

Administrative Procedure Act

Interested persons are invited to submit written comments on this proposed regulation, to be received by May 19, 2003. The comments will be carefully considered and any appropriate changes will be made to the regulation before a final rule is adopted and published in the **Federal Register** by OGE.

Executive Order 12866

In promulgating this proposed 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 proposed rule has also been reviewed by the Office of Management and Budget under that Executive order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988,

Civil Justice Reform, and certify that it meets the applicable standards provided therein.

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 affects only current and former Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this 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 final 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 proposed rulemaking involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will, before the future final rule takes effect, submit a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law.

List of Subjects in 5 CFR Parts 2637 and 2641

Conflict of interests, Government employees.

Approved: January 31, 2003.

Amy L. Comstock,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics proposes to amend 5 CFR Chapter XVI as follows:

Under the authority of 5 U.S.C. App (Ethics in Government Act of 1978):

1. Part 2637 is removed.
2. Part 2641 is revised to read as follows:

PART 2641—POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Subpart A—General Provisions

Sec.

- 2641.101 Purpose.
- 2641.102 Applicability.
- 2641.103 Enforcement and penalties.
- 2641.104 Definitions.
- 2641.105 Advice.

Subpart B—Prohibitions

- 2641.201 Permanent restriction on any former employee's representations to United States concerning particular matter in which the employee participated personally and substantially [18 U.S.C. 207(a)(1)].
- 2641.202 Two-year restriction on any former employee's representations to United States concerning particular matter for which the employee had official responsibility [18 U.S.C. 207(a)(2)].
- 2641.203 One-year restriction on any former employee's representations, aid, or advice concerning ongoing trade or treaty negotiation [18 U.S.C. 207(b)].
- 2641.204 One-year restriction on any former senior employee's representations to former agency concerning any matter, regardless of prior involvement [18 U.S.C. 207(c)].
- 2641.205 One-year restriction on any former very senior employee's representations to former agency or certain officials concerning any matter, regardless of prior involvement [18 U.S.C. 207(d)].
- 2641.206 One-year restriction on any former senior or very senior employee's representations on behalf of, or aid or advice to, foreign entity [18 U.S.C. 207(f)].

Subpart C—Exceptions, Waivers and Separate Components

- 2641.301 Statutory exceptions and waivers.
- 2641.302 Separate agency components.
- Appendix A to Part 2641—Positions Waived from 18 U.S.C. 207(c) and (f)
- Appendix B to Part 2641—Agency Components for Purposes of 18 U.S.C. 207(c)

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 207; 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

§ 2641.101 Purpose.

(a) *Purpose of 18 U.S.C. 207.* 18 U.S.C. 207 prohibits certain acts by former employees (including current employees who formerly served in "senior" or "very senior" employee positions) which involve, or may appear to involve, the unfair use of prior Government employment. None of the restrictions of section 207 prohibit any former employee, regardless of Government rank or position, from accepting employment with any particular private or public employer. Rather, section 207 prohibits a former employee from providing certain services to or on behalf of non-Federal