

U.S. Department of Energy

Washington, D.C.

NOTICE

DOE N 510.1

SUBJECT: CONFLICTING FINANCIAL INTERESTS

4-30-96

On February 10, 1996, legislation was enacted which repealed the remaining conflict-of-interest provisions that had applied only to Department of Energy employees. Those repealed provisions had applied to approximately 1,000 Department employees (including all members of the Senior Executive Service, contracting officers, and directors and deputy directors of field offices), and had prohibited them from having financial interests in certain entities ("energy concerns") regardless of whether the employees worked on matters concerning those entities.

All Department employees remain subject to the Executive Branch-wide criminal restriction concerning conflicting financial interests, 18 U.S.C. § 208. That section prohibits a Federal officer or employee from participating personally and substantially, as a Government employee, in any particular matter in which, to his knowledge, a financial interest is held by him, or his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment. Thus, the prohibition is not on having a specific financial interest, but rather on the work that may be performed by the employee.

This participation prohibition not only covers such items as contracts, grants, cooperative agreements, and claims, but also includes legislation and policy-making that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. For example, if an employee owns stock in a hot water heater manufacturer, the employee is prohibited from personally and substantially participating in the drafting of regulations relating to the energy efficiency of hot water heaters. In such cases, the non-participation should be documented in a written document called a "recusal."

If this participation restriction makes it impossible for an employee to perform his or her job, the employee can be directed to divest of the conflicting financial interest. If a divestiture is directed, the employee may be eligible to defer the tax consequences of divestiture. In addition, a waiver of this participation prohibition can be obtained under certain circumstances. Counsel must be consulted prior to any directed divestiture or waiver.

DISTRIBUTION:

All Departmental Employees

INITIATED BY:

Office of General Counsel

Headquarters personnel may direct questions about conflicting financial interests to the Office of the Assistant General Counsel for General Law (202-586-1522). Field personnel may address such questions to their respective field counsel.

BY ORDER OF THE SECRETARY OF ENERGY:



ARCHER L. DURHAM
Assistant Secretary for
Human Resources and Administration