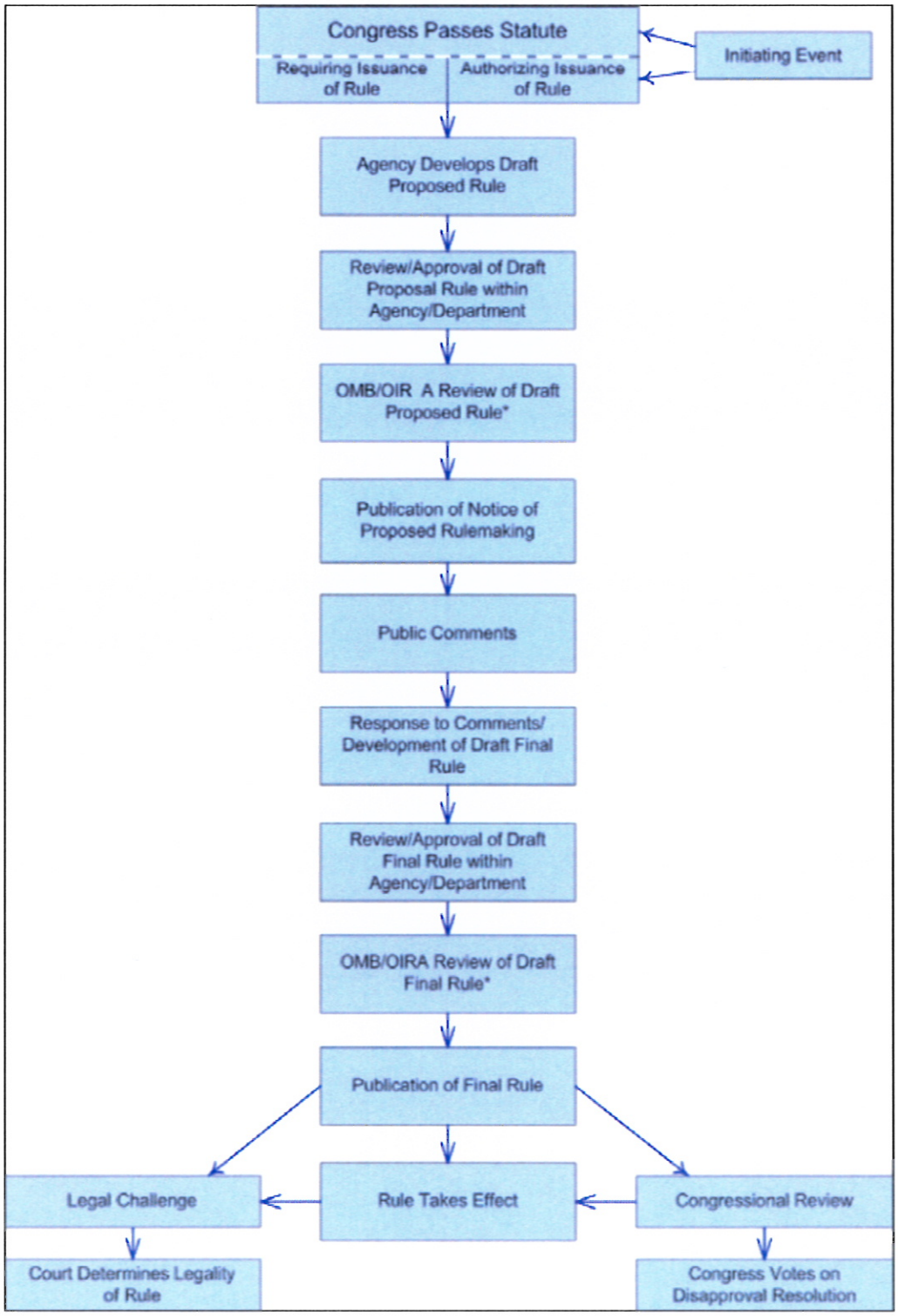
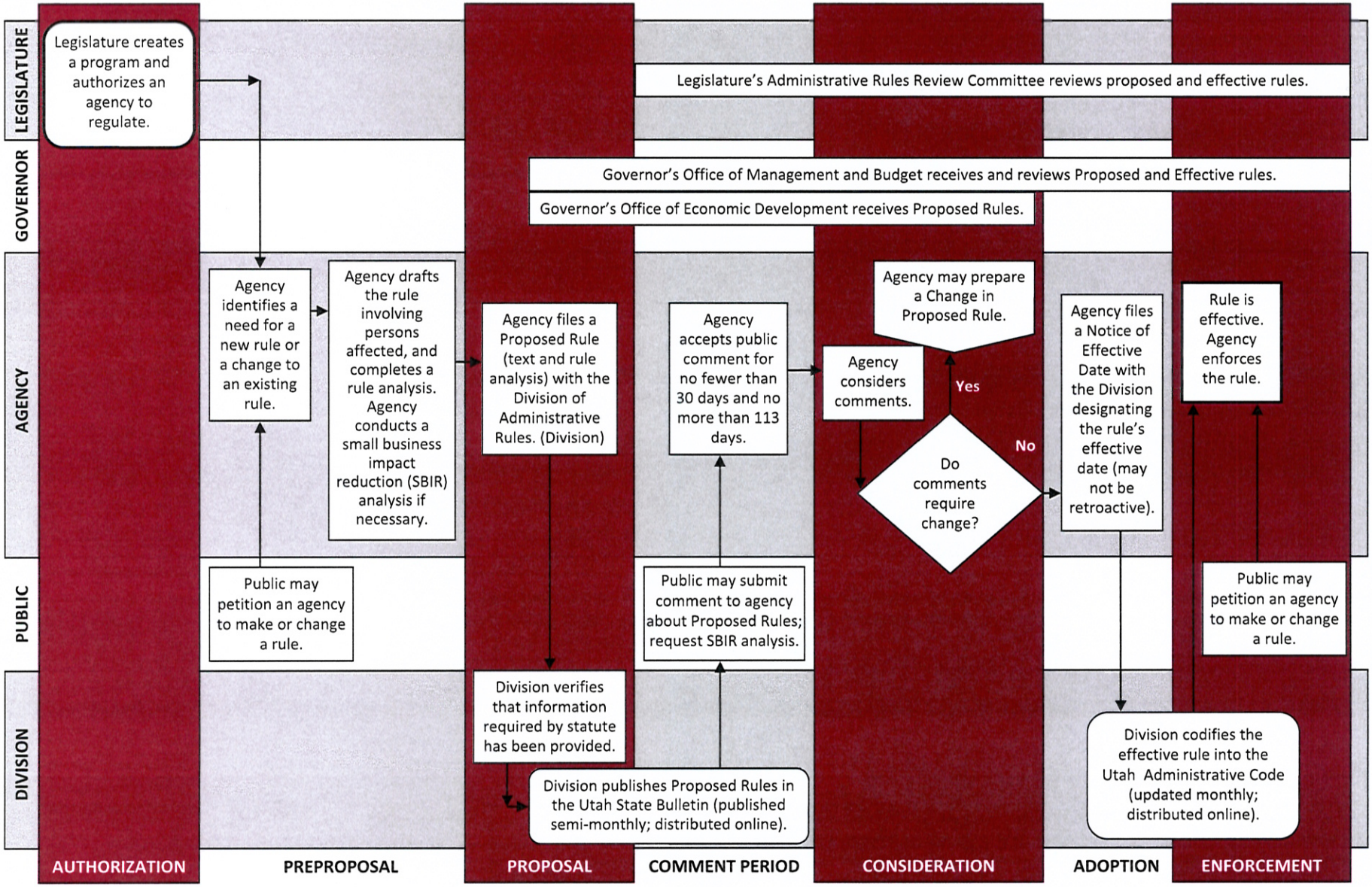
Figure 1. Federal Rulemaking Process



Source: CRS.

Utah Administrative Rulemaking Process: Overview

A Simplified View of the Path a Proposed Rule Takes



For the process requirements, see Utah Code, Title 63G, Chapter 3, and Utah Admin. Code, Title R15.

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01/2013

Utah Administrative Rulemaking Process

The path a Proposed Rule Takes

The rulemaking process for a Proposed Rule can be logically divided into seven major phases or periods: authorization, preproposal, proposal, comment period, comment consideration, adoption, and enforcement. Publication of a rule--once when it is proposed, and once again after it is made effective--serves as a significant milestone in the rulemaking process. This basic sequence of the rulemaking process for a Proposed Rule is outlined below. "Division" means the Division of Administrative Rules. For process requirements, see Utah Code, Title 63G, Chapter 3; and Utah Administrative Code, Title R15.

Authorization

- An agency must be authorized to regulate by the Utah Constitution or state statute. The Utah Constitution, state statute, federal law, or court order may permit or require rules (Subsection 63G-3-102(16) and Section 63G-3-201).

Preproposal Phase

- The agency identifies a need for a new rule or a change to an existing rule. The need for a rule may come from comments received from the public; new legislation; an adjudication establishing a principle of law; a petition for rulemaking, etc.
- The agency may obtain assistance from the attorney general (Subsection 63G-3-201(9)).
- The agency may create and maintain an "administrative record" (defined in Subsection 63G-3-102(1)) to document its decision-making process (Subsections 63G-3-602(3)(b) and 63G-3-602(4)(a)(ii)).
- The agency involves affected persons in drafting the rule (Subsection 63G-3-301(3)).
- If the agency expects the rule to have a measurable negative fiscal impact on small business, the agency conducts a small business impact reduction analysis (Subsection 63G-3-301(6)).
- The agency's department head (typically a member of the Governor's Cabinet, or a person at an equivalent level) comments on the fiscal impacts the rule may have on businesses (Subsection 63G-3-301(5)).
- The agency prepares a Proposed Rule.
  - The agency drafts the rule text marking it to show additions with underlining and deletions with strike-out surrounded by brackets (Section R15-4-9).
  - The agency completes a rule analysis (Subsection 63G-3-301(8)).
- The agency may prefile the rule with the Governor's Office of Planning and Budget.
- The agency reviews the rule analysis with any board or commission with rulemaking or advisory authority (EO/013/2011).
- The agency sends the Proposed Rule to its departmental administrative rules coordinator (EO/013/2011).

Proposal Phase

- The agency files the Proposed Rule with the Division of Administrative Rules (Subsection 63G-3-301(4)).
- The Division of Administrative Rules provides a copy of the rule to the Governor's Office of Management and Budget (GOMB) for executive branch review (EO/013/2011).
- GOMB, as the agency's designee, provides a copy to the Governor's Office of Economic Development (EO/013/2011).
- The agency sends a copy of the rule analysis to persons: (1) who have requested notice; (2) who the agency is required by law to notify; and (3) who, in the judgment of the agency, should be notified (Subsection 63G-3-301(10)).
- The Division of Administrative Rules reviews the rule for completeness and compliance with the Utah Administrative Rulemaking Act and related rules (Subsection 63G-3-402(1)(n)).

Bulletin Publication

The Division of Administrative Rules publishes the Proposed Rule in the Utah State Bulletin available from http://www.rules.utah.gov/publicat/bulletin.htm (Subsection 63G-3-402(1)(d)).

Comment Period

- The Division provides the Administrative Rules Review Committee with a copy of the Utah State Bulletin containing each Proposed Rule (Subsection 63G-3-501(2)).
- A person may submit public comment regarding a Proposed Rule directly to the agency during the comment period.
- The agency accepts public comment during the period it designates on the rule analysis (no fewer than 30 days and no more than 113 days after publication of the rule) (Subsection 63G-3-301(11)).
- The Administrative Rules Review Committee must review the agency's rule and may ask the agency to appear before the committee (Section 63G-3-501).
- A person may request that the agency hold a public hearing about a specific Proposed Rule (Subsection 63G-3-302(2)).
- The agency:
  - may hold a hearing at its option; OR
  - must hold a hearing when requested by: (1) another state agency; (2) 10 interested persons; or (3) an interested association having not fewer than 10 members (The request for a hearing must be made within 15 days of publication of the rule in the Bulletin, must be held before the rule is made effective, and must be no fewer than 7 nor more than 30 days after the agency received the request.); OR
  - must hold a hearing when required by other law (Subsection 63G-3-302(1) through (3)).
- A person may request that the agency prepare a small business impact reduction analysis if one was not previously prepared by the agency (Subsection 63G-3-301(7)).

Comment Consideration

- The agency must take at least seven days following the public comment period to consider the public comment it has received (Subsection 63G-3-301(11) and (12)).

Adoption Phase

- The agency notifies the Division of Administrative Rules of the rule's effective date (no fewer than 7 calendar days after the close of the public comment period, nor more than 120 days after the publication of the rule in the Bulletin) (Subsection 63G-3-301(12)).
- The Division publishes notice of the effective date in the next issue of the Utah State Bulletin (Subsection 63G-3-301(12)).
- If the Division of Administrative Rules does not receive a Notice of Effective Date on or before the 120th day, the rule lapses. To make the rule enforceable, the agency must start the rulemaking process over again (Subsection 63G-3-301(12)).

Code Publication

The Division of Administrative Rules codifies and publishes the effective rule in the Utah Administrative Code available at http://www.rules.utah.gov/publicat/code.htm (Subsection 63G-3-402(1)(e)).

Enforcement Phase

- The agency enforces the rule.
- The Administrative Rules Review Committee may ask the agency to appear before the committee (Section 63G-3-501).
- A person may petition the agency to change or repeal an existing rule, or enact a new rule (Section 63G-3-601).
- A person aggrieved by a rule may seek judicial review of that rule after exhausting administrative remedies (Section 63G-3-602).

Notes

"Agency" means "each state board, authority, commission, institution, department, division, officer, or other state government entity . . . which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law." "Agency" does not include the legislative or judicial branches, or state political subdivisions (Subsection 63G-3-102(2)).

"Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency (Subsection 63G-3-102(12)).

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WHAT'S IN THE FEDERAL REGISTER

NOTICES

PROPOSED RULES

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[more]

TOPIC

Environmental protection	22
Reporting and recordkeeping requirements	13
Intergovernmental relations	10
Administrative practice and procedure	8
Air pollution control	8

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1 2 3 4 5 6 7 8 9 .. 49 50 Next »

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

A **Notice** by the National Institutes of Health on 11/05/2014 PDF

Agency Information Collection Activities: Comment Request; New Information Collection

A **Notice** by the U.S. Immigration and Customs Enforcement on 11/05/2014 PDF

Advisory Committee on Reactor Safeguards (ACRS); Joint Meeting of the ACRS Subcommittees on Digital I&C and Reliability & PRA; Notice of Meeting

A **Notice** by the Nuclear Regulatory Commission on 11/05/2014 PDF

Agency Information Collection Activities: Request for Comments for Extension of a Previously Approved Collection; Comment Request

The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C.

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[more]

TOPIC

Reporting and recordkeeping requirements	9,846
Aircraft	5,467
Aviation safety	5,459
Safety	5,257
Air transportation	5,148

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1 2 3 4 5 6 7 8 9 ... 49 50 Next »

Government Contractors, Requirement To Report Summary Compensation Data on Employee Compensation

On August 8, 2014, the Office of Federal Contract Compliance Programs (OFCCP) published a notice of proposed rulemaking (NPRM) in the Federal Register. This NPRM proposes amending one of the implementing regulations for Executive Order 11246, Equal ...

A **Proposed Rule** by the Federal Contract Compliance Programs Office on 11/05/2014 PDF

Energy Conservation Program: Energy Conservation Standards for Residential Central Air Conditioners and Heat Pumps; Request for Information

The U.S. Department of Energy (DOE) is initiating an effort to determine whether to amend the current energy conservation standards for residential central air conditioner and heat pump products. According to the Energy Policy and Conservation Act's 6- ...

A **Proposed Rule** by the Energy Department on 11/05/2014 PDF

Digital Performance Right in Sound Recordings and Ephemeral Recordings

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AGENCY

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Commerce Department	6,764
Coast Guard	6,441

[more]

TOPIC

Reporting and recordkeeping requirements	20,046
Administrative practice and procedure	7,906
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Conservation Stewardship Program (CSP) Interim Rule

This interim rule with request for comment amends the existing Natural Resources Conservation Service (NRCS) regulation for the Conservation Stewardship Program (CSP) to incorporate programmatic changes as authorized by amendments in the Agricultural Act ...

A **Rule** by the Natural Resources Conservation Service and the Commodity Credit Corporation on 11/05/2014

PDF

Migratory Bird Permits; Removal of Yellow-billed Magpie and Other Revisions to Depredation Order

We, the U.S. Fish and Wildlife Service (Service), change the regulations governing control of depredating blackbirds, cowbirds, grackles, crows, and magpies. The yellow-billed magpie (Pica nuttalli) is endemic to California and has suffered substantial ...

A **Rule** by the Fish and Wildlife Service on 11/05/2014 PDF

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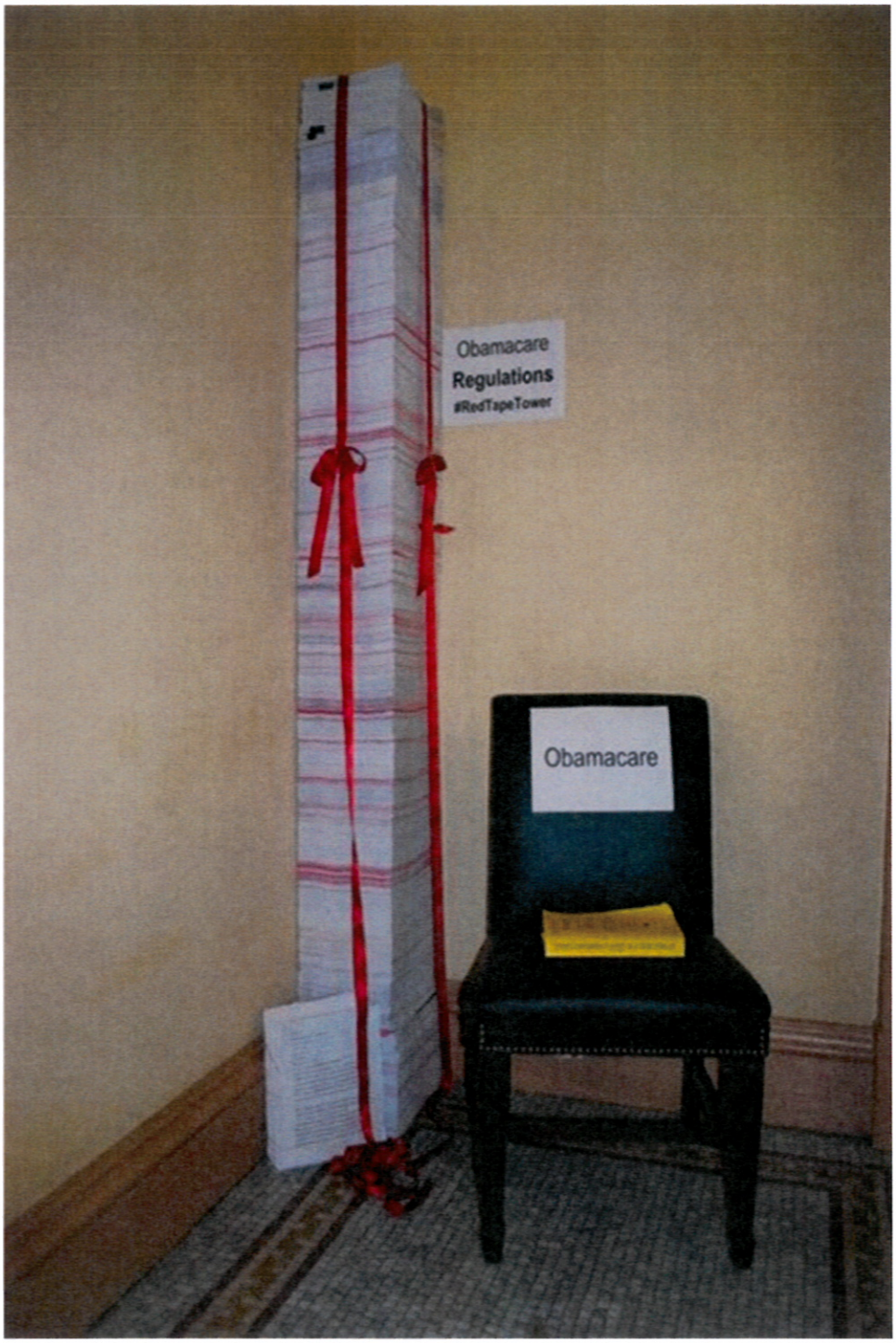

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Rules and Regulations

Federal Register
Vol. 79, No. 215
Thursday, November 6, 2014

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF THE TREASURY

5 CFR Part 3101

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

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (the "Department" or "Treasury"), with the concurrence of the Office of Government Ethics (OGE), is amending the Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury (the "Supplemental Standards"). The Supplemental Standards apply only to Department personnel and augment the Standards of Ethical Conduct for Employees of the Executive Branch ("OGE Standards"). This final rule amends the Supplemental Standards to account for current Department structure resulting from organizational changes that established new offices or bureaus within Treasury and transferred certain functions and/or bureaus from the Department. This final rule also amends the Supplemental Standards applicable to employees of the Office of the Comptroller of the Currency (OCC), which generally prohibit OCC employees from investing in or borrowing from OCC supervised institutions.

DATES: *Effective:* November 6, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth Horton, Deputy Assistant General Counsel for Ethics, Office of the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 2221, Washington DC 20220; (202) 622–0450.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, OGE published the OGE Standards. See 57 FR 35006–35067, as corrected at 57 FR 48557, 57 FR 52483, and 60 FR 51167, with additional grace period extensions for certain existing provisions at 59 FR 4779–4780, 60 FR 6390–6391, and 60 FR 66857–66858. The OGE Standards, codified at 5 CFR part 2635, effective February 3, 1993, established uniform standards of ethical conduct that apply to all executive branch personnel. Section 2635.105 of the OGE Standards authorizes an agency, with the concurrence of OGE, to adopt agency-specific supplemental regulations that are necessary to properly implement its ethics program. In 1995, the Department, with OGE's concurrence, established the Supplemental Standards. *See* 60 FR 22249–22255 (May 5, 1995), as codified at 5 CFR part 3101. Employees of the Department are subject to standards of ethical conduct promulgated by OGE and Treasury. The Supplemental Standards are necessary for successful implementation of the Department's ethics program in light of Treasury's unique programs and operations.

Treasury is now amending the Supplemental Standards to account for current Department structure resulting from organizational changes that established new offices or bureaus within Treasury and transferred certain functions and/or bureaus from the Department. This rule also amends the Supplemental Standards applicable to employees of the Office of the Comptroller of the Currency (OCC), which generally prohibit OCC employees from investing in or borrowing from OCC supervised institutions.

II. Amendments Related to Treasury Organizational Changes

This final rule amends the Supplemental Standards to reflect current organizational structure mandated by various statutes that resulted in the establishment of new offices or bureaus within Treasury and the transfer of certain functions and/or bureaus from the Department. As currently organized and relevant to the Supplemental Standards, the Bureaus of Alcohol, Tobacco and Firearms (ATF), Federal Law Enforcement Training Center (FLETC), the United States Customs Service (USCS), and the United States Secret Service (USSS) are no longer bureaus of the Department. New bureaus and/or offices include the Alcohol and Tobacco Tax and Trade Bureau (TTB), the Office of the Treasury Inspector General for Tax Administration (TIGTA), and the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP). Additionally, the Office of Thrift Supervision (OTS) was abolished by statute and certain functions of OTS have been integrated into OCC. The Department also consolidated the Bureau of Public Debt (BPD) and the Financial Management Service (FMS) into a new Bureau of the Fiscal Service (BFS).

These amendments to the Supplemental Standards are necessary in light of Title I of the Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA '98"),[1] Title III, section 361(a)(2), of the USA PATRIOT Act,[2] Titles IV, VIII and XI of the Homeland Security Act of 2002 (Homeland Security Act),[3] Title I of the Emergency Economic Stabilization Act of 2008 (EESA),[4] and Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[5]

Office of Treasury Inspector General for Tax Administration (TIGTA): Section 1103 of RRA '98 established TIGTA. Consistent with its authority, TIGTA exercises the duties and responsibilities of an Inspector General organization on all matters relating to the Internal Revenue Service (IRS), Treasury's largest bureau. Generally, TIGTA provides independent oversight of IRS activities. While TIGTA is organizationally placed within Treasury, it exercises distinct and separate functions from other Treasury offices and bureaus. Section 2635.203(a) of the OGE Standards authorizes an executive department, by supplemental regulation, to designate as a separate agency a component of the department that exercises a distinct and separate function. Pursuant to this authority, the Department amends the Supplemental

[1] Title I section 1103 of RRA '98 amended the Inspector General Act of 1978 at 5 U.S.C. App. 3 § 2.

[2] 31 U.S.C. 310.

[3] 6 U.S.C. 203, 381, and 531.

[4] 12 U.S.C. 5231.

[5] Title III section 313 of Public Law 111–203 (2010), 12 U.S.C. 5413.

Standards to designate TIGTA as a separate agency in § 3101.102 for purposes of the OGE regulations contained in subpart B of 5 CFR part 2635 governing gifts from outside sources (the ''OGE Gift Rules'') and 5 CFR 2635.807 governing teaching, speaking or writing (the ''OGE Teaching-Speaking-Writing Rules'').

This rule further amends § 3101.106 of the Supplemental Standards, *Additional rules for Internal Revenue Service employees,* to include TIGTA staff in the restrictions against making certain attorney or accountant recommendations in connection with IRS official business, from engaging in particular outside employment and business activities related to Federal, state or local government tax matters, and from engaging in accounting, interpretation of financial records or the record-making phase of accounting related to tax matters. TIGTA personnel provide oversight of IRS activities, and the prohibitions in this section are consistent with TIGTA's oversight role of IRS and its longstanding internal policy.

The Financial Crimes Enforcement Network (FinCEN): The USA PATRIOT Act established FinCEN as a bureau of the Treasury in 2001. FinCEN is dedicated to enhancing the integrity of the financial systems by facilitating the detection and deterrence of financial crime through a legislative framework commonly known as the Bank Secrecy Act. FinCEN exercises distinct and separate functions from other Treasury bureaus and offices. Pursuant to 5 CFR 2635.203(a), this final rule amends § 3101.102 of the Supplemental Standards to designate FinCEN as a separate agency for purposes of the OGE Gift Rules and the OGE Teaching-Speaking-Writing Rules.

Transfer of Certain Bureaus and/or Functions out of Treasury: The Homeland Security Act established a new agency, the Department of Homeland Security, which integrated all or a part of 22 different Federal departments and agencies. Relevant to Treasury, Titles IV and VIII of the Act mandated, with some exceptions, the transfer of all Department functions, personnel, assets and liabilities of the U.S. Customs Service (USCS), the Federal Law Enforcement Training Center (FLETC), and the U.S. Secret Service (USSS) to the Secretary of Homeland Security. Effective in 2003, these Bureaus are no longer a part of Treasury. Accordingly, § 3101.102 is amended to remove USCS, FLETC, and USSS as designated separate agencies. Moreover, §§ 3101.110 and 3101.111, which provide additional rules for USCS and USSS employees, respectively, are hereby removed from part 3101.

Title XI of the Homeland Security Act of 2002 also created the Bureau of Alcohol, Tobacco, Firearms and Explosives within the Department of Justice, comprised in part of the transferred authorities, functions, personnel and assets of Treasury's Bureau of Alcohol, Tobacco and Firearms (ATF). Accordingly, § 3101.102 is also amended to remove ATF as a designated separate agency. Per section 1111(c) of the Act, however, Treasury retained certain revenue collection functions under chapters 51 and 52 of the Internal Revenue Code of 1986, sections 4181 and 4182 of the Internal Revenue Code of 1986, and title 27 of the United States Code. Effective in 2003, Treasury exercised these retained duties through the establishment of a new bureau, the Alcohol and Tobacco Tax and Trade Bureau (TTB). TTB's duties generally focus on excise taxation of alcohol, tobacco, firearms and ammunition products and the regulation of the operations and practices of certain alcohol and tobacco producers. TTB exercises distinct and separate functions from other Treasury bureaus and offices. Pursuant to 5 CFR 2635.203(a), the Department amends § 3101.102 to designate TTB as a separate agency for purposes of the OGE Gift Rules and the OGE Teaching-Speaking-Writing Rules. In addition, § 3101.105, *Additional rules for Bureau of Alcohol, Tobacco and Firearms employees,* is amended to remove references to ATF and add TTB references in their place.

Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP): EESA established the Office of Financial Stability within the Department of the Treasury and authorized the Troubled Asset Relief Program (TARP). In Title I, EESA also created SIGTARP. Like TIGTA, SIGTARP exercises the duties and responsibilities of an Inspector General organization, focusing on matters relating to the purchase, management and sale of assets under TARP. SIGTARP is organizationally placed within Treasury, but exercises distinct and separate functions from other Treasury offices and bureaus. Pursuant to 5 CFR 2635.203(a), the Department amends the Supplemental Standards to designate SIGTARP as a separate agency in § 3101.102 for purposes of the OGE Gift Rules and the OGE Teaching-Speaking-Writing Rules.

The Offices of Thrift Supervision and Comptroller of the Currency (OTS and OCC): The Dodd-Frank Act provides for a comprehensive overhaul of financial services regulation in the United States. Under Title III of the Dodd-Frank Act, OCC assumed, as of July 21, 2011, all functions of OTS related to Federal savings associations and the rulemaking authority of OTS related to all savings associations, both Federal and state. OTS was abolished ninety days later.[6] Title III also provided for the transfer of OTS employees to either OCC or the Federal Deposit Insurance Corporation (FDIC), allocated as necessary to perform or support OTS functions transferred to OCC and FDIC, respectively.[7] This rule amends the Supplemental Standards to reflect the foregoing changes. Pursuant to 5 CFR 2635.203(a), this final rule removes OTS from § 3101.102 as a separate agency and removes § 3101.109, *Additional rules for Office of Thrift Supervision employees,* from part 3101.

Bureau of the Fiscal Service: Effective in October 2012, Treasury consolidated the Financial Management Service (FMS) and Bureau of the Public Debt (BPD) into a new Bureau of the Fiscal Service (BFS). BFS will carry out the former missions of FMS and BPD, generally, engaging in the borrowing of money needed to operate the Federal government, administering the public debt, receiving and disbursing public monies, and maintaining government accounts. BFS exercises distinct and separate functions from other Treasury bureaus and offices. Pursuant to 5 CFR 2635.203(a), this final rule amends § 3101.102 of the Supplemental Standards to designate BFS as a separate agency for purposes of the OGE Gift Rules and the OGE Teaching-Speaking-Writing Rules.

III. Additional Amendments to OCC Supplemental Standards

The Supplemental Standards, at 5 CFR 3101.108, set forth rules that apply solely to employees of OCC. The Supplemental Standards address potential conflicts of interest by prohibiting OCC employees, subject to certain exceptions, from investing in or

[6] Dodd-Frank Act section 312(b)(2)(B)(i), 12 U.S.C. 5412(b)(2)(B)(i). Title III provides for the transfer of all supervisory functions of the OTS relating to state savings associations to the Federal Deposit Insurance Corporation (FDIC) and all functions relating to the supervision of any savings and loan holding company and non-depository institution subsidiaries of such holding companies, as well as rulemaking authority for savings and loan holding companies, to the Board of Governors of the Federal Reserve System (Board).

[7] Dodd-Frank Act section 322(a), 12 U.S.C. 5432(a). Title X of the Dodd-Frank Act provided for the transfer of certain authorities regarding a number of consumer protection laws from the Federal banking agencies to the Consumer Financial Protection Bureau.

borrowing from the institutions supervised by the agency. This rule amends both the borrowing and securities prohibitions, and the exceptions thereto, to ensure that a single set of ethics rules, covering transactions and relationships with all types of entities now supervised by OCC, is in place for all OCC employees.

In addition, other amendments to the Supplemental Standards implement changes to 18 U.S.C. 212 and 213, which generally prohibit an examiner from accepting a loan or gratuity from a financial institution that he or she examines.[8] These statutes were amended by the Preserving Independence of Financial Institution Examinations Act of 2003 (Examinations Act),[9] which creates two exceptions to the general prohibition. Under the Examinations Act, it is no longer prohibited for an examiner to hold a consumer credit card account or obtain a loan secured by residential real property that is used as the principal residence of the examiner if: (1) The examiner satisfies any financial requirements for the credit card or residential real property loan that are generally applicable to all applicants for the same type of credit card account or residential real property loan; and (2) the terms and conditions for the card or loan are generally no more favorable to the examiner than those generally applicable to credit card accounts or residential real property loans offered by the financial institution to other cardholders or borrowers in comparable circumstances.[10] Those exceptions to the borrowing prohibition are included in this rule.

A. Prohibited Financial Interests

1. General Prohibition

Section 3108.108(a)(1) currently prohibits OCC employees (and their spouses and minor children) from owning, directly or indirectly, securities of any commercial bank (including both national and state-chartered banks) or commercial bank affiliate, including a bank holding company. Because OCC now directly supervises Federal savings associations, the final rule amends 5 CFR. 3101.108(a) to expand this list of institutions in which an OCC employee may not invest to include Federal savings associations, state savings associations, affiliates of savings associations (including savings and loan holding companies), and foreign banks, which may own U.S. commercial banks or savings associations. In addition, the final rule clarifies the following exceptions to this general prohibition.

2. Exceptions to the Securities Prohibition

a. Mutual Funds

The final rule also amends § 3101.108(a)(3)(i) to clarify the types of publicly traded or publicly available mutual funds in which OCC employees (and their spouses or minor children) may invest. The current rule provides an exception for OCC employees (and their spouses or minor children) to invest in a publicly traded or publicly available mutual fund or other collective investment fund or in a widely held pension or similar fund provided that the fund does not invest more than 25 percent of its assets in the securities of the institutions in which OCC employees are prohibited from investing. The inclusion of a percentage test in this provision has made the exception difficult to administer because the percentage of a mutual fund's investment in a particular sector may change frequently. The final rule eliminates the 25 percent asset test and provides instead that OCC employees (and their spouses or minor children) may invest in any publicly traded or publicly available mutual fund, collective investment fund or pooled investment fund, or widely-held pension or similar fund that does not have a stated policy of concentration in the financial services industry, provided that neither the employee nor the employee's spouse exercises or has the ability to exercise control over the financial interests held by the fund or the selection of fund holdings.

b. Exempt Holding Companies

The final rule also amends 5 CFR 3101.108(a)(3)(ii) to expand the exception to the investment prohibition for certain holding companies that own nonbank banks or credit card banks to also include savings and loan holding companies where the ownership or operation of savings associations is not a significant activity (generally less than 15 percent of the assets) of the holding company. However, an employee who owns such an interest would be disqualified from participating in the regulation or supervision of the savings associations. This exception is intended to permit interests of a character unlikely to raise questions regarding the objective and impartial performance of OCC employees' official duties or the possible misuse of their positions. An example of an exempt holding company would be a large retailer that is a savings and loan holding company where the savings association constitutes only 14 percent of the holding company's assets. The companies to which this exception applies will be identified on a list maintained by the OCC Ethics Counsel and updated on a quarterly basis.

c. Foreign Bank Securities

The final rule also includes a new exception at 5 CFR 3101.108(a)(3)(iii) that establishes the conditions under which OCC employees (and their spouses or minor children) may invest in the securities of foreign banks. The exception permits OCC employees (and their spouses or minor children) to invest in the securities of any foreign bank that does not own a commercial bank or savings association in the United States. The exception is available to OCC employees (and their spouses or minor children), except where the OCC employee is assigned to examine a Federal branch or agency of that foreign bank.

d. Use of Institution as Custodian or Trustee

The final rule amends the redesignated § 3101.108(a)(3)(iv) to expand the exception that permits OCC employees to use institutions under OCC's supervision as custodian or trustee of accounts containing tax-deferred retirement accounts. Because the general investment prohibition will be expanded to include Federal and state savings associations, it is appropriate to correspondingly expand the exception to include those institutions as well. The amended provision will permit OCC employees to use a commercial bank, a savings association or an affiliate of a commercial bank or savings association as custodian or trustee of accounts containing tax-deferred retirement funds.

B. Prohibited Borrowing

1. General Prohibition

Section 3101.108(b)(1) of the current Supplemental Standards generally prohibits covered OCC employees,[11] subject to certain exceptions discussed below, from seeking or obtaining credit

[8] 18 U.S.C. 213 generally prohibits an examiner from accepting a loan or gratuity from a financial institution examined by the examiner. The companion statute, 18 U.S.C. 212, prohibits officers, directors or employees of financial institutions from offering a loan or gratuity to an examiner. Criminal penalties apply for violations of these statutes.

[9] Pub. L. 108–198, 117 Stat. 2900 (2003), *codified at* 18 U.S.C. 212(c)(4).

[10] 18 U.S.C. 212(c)(4).

[11] "Covered" OCC employees include bank examiners and all other employees designated by the Comptroller under OCC ethics policies. *See* 5 CFR 3101.108(b)(3). Under these policies, "covered employee" means any employee, except any administrative employee, who is required to file financial disclosure reports.

from a national bank or from any officer, director, employee or subsidiary of any national bank.[12] This prohibition extends to the spouses and minor children of covered OCC employees, unless the loan or extension of credit meets certain standards.[13] To reflect the OCC's assumption of supervisory duties for Federal savings associations, the final rule amends 5 CFR 3101.108(b)(1) to prohibit covered OCC employees from seeking or obtaining credit from any national bank or Federal savings association as well as any officer, director, employee or subsidiary of those institutions.

2. Exceptions to the Borrowing Prohibition

a. Credit Cards

The Supplemental Standards currently include an exception to the general borrowing prohibition for credit card accounts. Under the current rule, covered OCC employees, except examiners, may obtain and hold a credit card from a national bank or its subsidiary if the credit card is issued on terms and conditions no more favorable than those offered to the general public.[14] The regulations state that an examiner (or a spouse or minor child of an examiner) may obtain and hold a credit card from a national bank or its subsidiary only if the credit card is issued on terms and conditions no more favorable than those offered to the general public *and* the examiner submits to the Chief Counsel or designee a written disqualification from the examination of that bank.[15]

With the passage of the Examinations Act, examiners are no longer prohibited from obtaining and holding credit cards from national banks, Federal savings associations and their subsidiaries.[16] The final rule amends the Supplemental Standards to implement this change and to remove the requirement for written disqualification as unnecessary because the terms and conditions of a credit card account are generally established according to a formula of creditworthiness and income rather than as a result of negotiation and, therefore, the risk of examiner conflicts of interest is minimal. Thus, the final rule permits all covered OCC employees (and their spouses or minor children) to seek, obtain and hold credit cards issued by national banks, Federal savings associations and their subsidiaries if: the applicant satisfies all financial requirements set by the lender that are generally applicable to all applicants for the same type of credit card account; and the applicable terms and conditions are no more favorable than those generally applicable to credit card accounts offered by the same lender to other cardholders in comparable circumstances.

An employee who holds a credit card (or whose spouse or minor child holds a credit card) must submit a written recusal notice to his or her supervisor and ethics official if the cardholder becomes involved in an adversarial dispute with the issuer of the credit card account. A cardholder is involved in an adversarial dispute if he or she is delinquent in payments on the credit card account; the issuer and the cardholder are negotiating to restructure the credit card debt; the cardholder disputes the terms and conditions of the account; or the cardholder becomes involved in any disagreement with the issuer that may cast doubt on the employee's ability to remain impartial with respect to the issuer.

b. Loans Secured by Principal Residence

The Supplemental Standards currently do not provide an exception to the borrowing prohibition that would permit any OCC employees to obtain principal residence mortgage loans from supervised institutions. As noted previously, under the Examinations Act, examiners may now obtain such loans. The final rule therefore includes a new exception to the borrowing prohibition to permit all covered OCC employees to seek and obtain these loans from national banks, Federal savings associations, and their subsidiaries under certain conditions that ensure compliance with 18 U.S.C. 213.

Under this exception the applicant must satisfy all financial requirements set by the lender for the residential real property loan that are generally applicable to borrowers for the same type of loan, and the terms and conditions applicable to the loan must be no more favorable than those generally applicable to the same type of loan offered by the same lender to other borrowers in comparable circumstances. In order to manage the risks of real or perceived conflicts of interest that may be associated with the negotiation of a real property loan, the OCC will require a covered employee who seeks or obtains (or whose spouse or minor child seeks or obtains) from a national bank, a Federal savings association or a subsidiary of either institution a real property loan secured by the applicant's principal residence to observe from the time of the initial application any recusal established under OCC ethics policy.[17]

3. Pre-existing Credit

Section 3101.108(b)(5) currently permits covered OCC employees (and their spouses and minor children) to retain pre-existing credit from national banks if the loan was incurred prior to employment with the OCC or is held by a national bank as a result of the sale or transfer of the loan to the bank or due to the conversion or merger of the lender into a national bank. Due to the OCC's expanded supervisory responsibilities over Federal savings associations as of the transfer date, the final rule amends 5 CFR 3101.108(b)(5) to provide the same treatment for pre-existing credit from both national banks and Federal savings associations, including credit obtained from Federal savings associations prior to the transfer of the supervision of those institutions to the OCC. An employee who retains pre-existing credit (or whose spouse or minor child retains pre-existing credit) from a national bank or Federal savings association must observe any recusal established under OCC ethics policy.

4. Prohibited Recommendations

Section 3101.108(d) currently prohibits OCC employees from making recommendations or suggestions, directly or indirectly, concerning the acquisition or sale or other divestiture of securities of any commercial bank or commercial bank affiliate, including a bank holding company. The OCC has determined that OCC employees should be prohibited from making recommendations with regard to the same set of institutions in which they are prohibited from investing. Therefore, the final rule expands this section to prohibit OCC employees from making any recommendations with regard to any commercial bank (including both national and state-chartered banks), Federal savings association, state savings association, or any affiliate of these institutions (including bank holding companies, savings and loan holding companies, and the non-bank subsidiaries of either type of holding company), and foreign banks that own a commercial bank or savings association in the United States.

C. Technical Changes

The final rule amends certain other provisions of the Supplemental Standards to expand existing references

[12] 5 CFR 3101.108(b)(1) (2005).

[13] 5 CFR 3101.108(b)(2).

[14] 5 CFR 3101.108(b)(4)(i).

[15] 5 CFR 3101.108(b)(4)(ii).

[16] The term "subsidiary" has the meaning set forth in 12 U.S.C. 1813(w)(4).

[17] Covered OCC employees will also be required to disclose the status of such loans on their annual financial disclosure reports.

to banks, commercial banks, national banks and national bank affiliates to include references to Federal savings associations. The definition of covered employee in § 3101.108(b)(3) is amended to refer to "OCC examiner," rather than "OCC bank examiner." Section 3101.108(e) is amended to prohibit the purchase of assets from Federal savings associations as well as national banks. Section 3101.108(f)(1) is amended to prohibit outside employment with banks, savings associations, and the affiliates of both banks and savings associations, and the definition of covered OCC employee, for purposes of this section, is amended to refer to "OCC examiner," rather than "OCC bank examiner."

Administrative Procedure Act

Under 5 U.S.C. 553(a)(2), rules relating to agency management or personnel are exempt from the rulemaking requirements of the Administrative Procedure Act (APA). As set forth in the description of the final rule, this rule affects only the Department and its personnel. Even if this rulemaking were subject to APA proposed rulemaking procedures, the Department finds good cause, pursuant to 5 U.S.C. 553(b) and (d), to waive the requirements for notice and comment because the rule affects only Treasury staff and also operates to put in place a set of ethical rules appropriate for OCC employees after the transfer date.

Regulatory Flexibility Act Analysis

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires an agency to prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. This rule generally accounts for changes to Treasury's mission and organization and restricts OCC employees, subject to certain exceptions, from engaging in certain borrowing, investment, and outside employment activities. The Department therefore has determined that the rule will not result in expenditures by state, local or tribal governments or by the private sector of $100 million or more. Accordingly, the Department has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Lists of Subjects in 5 CFR Part 3101

Conflict of interests, Ethics, Extensions of credit, Government employees, OCC employees.

For the reasons set forth in the preamble, the Department, with the concurrence of OGE, amends 5 CFR part 3101 as follows:

PART 3101—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF THE TREASURY

■ 1. The authority citation for part 3101 continues to read as follows:

Authority: 5 U.S.C 301, 7301, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 212, 213, 26 U.S.C. 7214(b); 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; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803, 2635.807(a)(2)(ii).

■ 2. Revise § 3101.102 to read as follows:

§ 3101.102 Designation of separate agency components.

Pursuant to 5 CFR 2635.203(a), each of the following components of the Department of the Treasury is designated as a separate agency for purposes of the regulations contained in subpart B of 5 CFR part 2635 governing gifts from outside sources and 5 CFR 2635.807 governing teaching, speaking or writing:

(a) Alcohol and Tobacco Tax and Trade Bureau (TTB);

(b) Bureau of Engraving and Printing;

(c) Bureau of the Fiscal Service (BFS);

(d) Financial Crimes Enforcement Network (FinCEN);

(e) Internal Revenue Service (IRS);

(f) Office of the Comptroller of the Currency (OCC);

(g) Office of the Inspector General;

(h) Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP);

(i) Office of the Treasury Inspector General for Tax Administration (TIGTA); and

(j) United States Mint.

Note to § 3101.102: As a result of the designations contained in this section, employees of the remaining parts of the Department of the Treasury (e.g., employees in Departmental Offices) will also be treated as employees of an agency that is separate from all of the above listed bureaus and offices for purposes of determining whether the donor of a gift is a prohibited source under 5 CFR 2635.203(d) and for identifying an employee's "agency" under 5 CFR 2635.807 governing teaching, speaking and writing. For purposes of this section, employees in the Legal Division shall be considered to be part of the bureaus or offices in which they serve.

■ 3. Section 3101.105 is revised to read as follows:

§ 3101.105 Additional rules for Alcohol and Tobacco Tax and Trade Bureau employees.

The following rules apply to the employees of the Alcohol and Tobacco Tax and Trade Bureau and are in addition to §§ 3101.101 through 3101.104.

(a) *Prohibited financial interests.* Except as provided in this section, no employee of TTB, or spouse or minor child of a TTB employee, shall have, directly or indirectly, any financial interest, including compensated employment, in the alcohol, tobacco, firearms or explosives industries. The term financial interest is defined in § 2635.403(c) of this title.

(b) *Waiver.* An agency designee, with the advice and legal clearance of the DAEO or Office of the Chief Counsel, may grant a written waiver of the prohibition in paragraph (a) of this section on a determination that the financial interest is not prohibited by 26 U.S.C. 7214(b) and that, in the mind of a reasonable person with knowledge of the particular circumstances, the financial interest will not create an appearance of misuse of position or loss of impartiality, or call into question the impartiality and objectivity with which TTB's programs are administered. A waiver under this paragraph may require appropriate conditions, such as execution of a written disqualification.

■ 4. Section 3101.106 is revised to read as follows:

§ 3101.106 Additional rules for Internal Revenue Service and Treasury Inspector General for Tax Administration employees.

The following rules apply to the employees of the Internal Revenue Service and the Treasury Inspector General for Tax Administration and are in addition to §§ 3101.101 through 3101.104.

(a) *Prohibited recommendations.* Employees of the IRS or TIGTA shall not recommend, refer or suggest, specifically or by implication, any attorney, accountant, or firm of attorneys or accountants to any person in connection with any official business which involves or may involve the IRS.

(b) *Prohibited outside employment.* Involvement by an employee of the IRS or TIGTA in the following types of outside employment or business activities is prohibited and shall constitute a conflict with the employee's official duties pursuant to 5 CFR 2635.802:

(1) Performance of legal services involving Federal, State or local tax matters;

(2) Appearing on behalf of any taxpayer as a representative before any Federal, State, or local government agency, in an action involving a tax matter except on written authorization of the Commissioner of Internal Revenue or the Treasury Inspector General for Tax Administration;

(3) Engaging in accounting, or the use, analysis, and interpretation of financial records when such activity involves tax matters;

(4) Engaging in bookkeeping, the recording of transactions, or the record-making phase of accounting, when such activity is directly related to a tax determination; and

(5) Engaging in the preparation of tax returns for compensation, gift, or favor.

(c) *Seasonal employees.* Seasonal employees of the IRS while in non-duty status may engage in outside employment or activities other than those prohibited by paragraph (b) of this section without obtaining prior written permission.

■ 5. Section 3101.108 is amended by:

■ a. Revising paragraphs (a)(1) and (a)(3)(i) and (ii);

■ b. Redesignating paragraphs (a)(3)(iii) and (iv) as paragraphs (a)(3)(iv) and (v), respectively, and adding a new paragraph (a)(3)(iii);

■ c. Revising newly designated paragraph (a)(3)(iv) and paragraphs (b)(1), (b)(3)(i), (b)(4) and (5), (d), (e), (f)(1), and (f)(2)(i).

The addition and revisions read as follows.

§ 3101.108 Additional rules for Office of the Comptroller of the Currency employees.

* * * * *

(a) * * *

(1) *Prohibition.* Except as provided in paragraphs (a)(3) and (g) of this section, no OCC employee, or spouse or minor child of an OCC employee, shall own, directly or indirectly, securities of any commercial bank (including both national and state-chartered banks), Federal savings association, state savings association, or of any affiliate of these institutions (including bank holding companies, savings and loan holding companies, and non-bank subsidiaries of either type of holding company), or of any foreign bank.

* * * * *

(3) * * *

(i) Owning an interest in a publicly traded or publicly available mutual fund, other collective investment fund or pooled investment product, or a widely-held pension or other similar fund if the fund does not have a stated policy of concentration in the financial services industry and neither the employee nor the employee's spouse exercises or has the ability to exercise control over the financial interests held by the fund or the selection of fund holdings;

(ii) Owning securities in a publicly traded company owning banks or savings associations if—

(A) By virtue of the limited activities of the banks or savings associations, the ownership of banks or savings associations does not cause their parent holding company to become a bank holding company under the Bank Holding Company Act of 1956, *12 U.S.C. 1841* et seq, (for example, a bank engaged only in credit card activities);

(B) For savings and loan holding companies, the ownership or operation of savings associations is not a significant activity (generally less than 15% of the assets) of the holding company;

(C) The company is identified as meeting the requirements of (A) or (B) above on a list maintained by the OCC Ethics Counsel; and

(D) The employee owning or seeking to purchase the securities does not participate in the regulation or supervision of any bank or savings association owned or operated by the company;

(iii) Owning the securities of a foreign bank that does not own a commercial bank or savings association in the United States provided that the employee owning the securities does not participate in the regulation or supervision of any Federal branch or agency operated by the foreign bank;

(iv) Using a commercial bank, a savings association or an affiliate of a commercial bank or savings association as custodian or trustee of accounts containing tax-deferred retirement funds; or

(b) * * *

(1) Prohibition on employee borrowing. Except as provided in this section, no covered OCC employee shall seek or obtain credit from any national bank or Federal savings association or from any officer, director, employee or subsidiary of a national bank or Federal savings association.

* * * * *

(3) * * *

(i) An OCC examiner; and

* * * * *

(4) *Exceptions*—(i) *Credit cards.* A covered OCC employee or the spouse or minor child of such a covered OCC employee may seek, obtain or hold a credit card from a national bank, a Federal savings association or a subsidiary of a national bank or Federal savings association if—

(A) The applicant satisfies all financial requirements set by the lender that are generally applicable to all applicants for the same type of credit card account;

(B) The terms and conditions applicable with respect to the credit card account and any credit extended under the account are no more favorable generally to the applicant than the terms and conditions that are generally applicable to credit card accounts offered by the same lender to other cardholders in comparable circumstances;

(C) An employee who holds a credit card (or whose spouse or minor child holds a credit card) must submit a written recusal notice to his or her supervisor and ethics official if the cardholder becomes involved in an adversarial dispute with the issuer of the credit card account. A cardholder is involved in an adversarial dispute if he or she is delinquent in payments on the credit card account; the issuer and the cardholder are negotiating to restructure the credit card debt; the cardholder disputes the terms and conditions of the account; or the cardholder becomes involved in any disagreement with the issuer that may cast doubt on the employee's ability to remain impartial with respect to the issuer.

(ii) *Loans secured by principal residence.* A covered OCC employee or the spouse or minor child of a covered OCC employee may seek and obtain a loan from a national bank, a Federal savings association or a subsidiary of a national bank or Federal savings association subject to the following conditions:

(A) The loan is secured by residential real property that is the applicant's principal residence;

(B) The applicant must satisfy all financial requirements set by the lender for the residential real property loan that are generally applicable to borrowers for the same type of residential real property loan; and

(C) The terms and conditions applicable with respect to the residential real property loan and any credit extended under the loan must be no more favorable generally to the

applicant than the terms and conditions that are generally applicable to residential real property loans offered by the same lender to other borrowers in comparable circumstances.

(iii) A covered employee who seeks or obtains a real property loan from a national bank, Federal savings association or a subsidiary of a national bank or Federal savings association or whose spouse or minor child obtains a real property loan under the requirements of paragraph (b)(4)(ii) above must observe from the time of the initial application any recusal established under OCC ethics policy.

(5) *Pre-existing credit.* (i) This section does not prohibit a covered OCC employee, or spouse or minor child of a covered OCC employee from retaining a loan or extension of credit from a national bank or Federal savings association on its original terms, and subject to any recusal established under OCC ethics policy, if the loan or extension of credit:

(A) Was incurred prior to employment by the OCC;

(B) Was obtained from a lender that was not supervised by the OCC at the time it was obtained; or

(C) Is held by a national bank or Federal savings association or subsidiary thereof as the result of the sale or transfer of a loan to the national bank or Federal savings association or the conversion or merger of the lender into a national bank or Federal savings association.

(ii) Any renewal or renegotiation of a pre-existing loan or extension of credit will be treated as a new loan subject to the prohibitions in paragraph (b)(1) of this section.

* * * * *

(d) *Prohibited recommendations.* Employees of the OCC shall not make recommendations or suggestions, directly or indirectly, concerning the acquisition or sale or other divestiture of securities of any commercial bank (including both national and state-chartered banks), Federal savings association, state savings association, affiliate of these institutions (including bank holding companies, savings and loan holding companies, and any non-bank subsidiaries of either type of holding company), or foreign bank that owns a commercial bank or savings association in the United States.

(e) *Prohibited purchase of assets.* No employee of the OCC, or spouse or minor child of an OCC employee, shall purchase, directly or indirectly, an asset (i.e. real property, automobiles, furniture, or similar items) from a national bank or Federal savings association or an affiliate of a national bank or a Federal savings association, including a bank or savings and loan holding company, unless it is sold at a public auction or by other means which ensure that the selling price is the asset's fair market value.

(f) *Outside employment*—(1) *Prohibition on Outside Employment.* No covered OCC employee shall perform services for compensation for any bank, savings association or a bank or savings association affiliate, or for any officer, director or employee of, or for any person connected in any capacity with a bank, savings association or bank or savings association affiliate.

(2) * * *

(i) An OCC examiner; and

* * * * *

§ 3101.109 [Removed]

■ 5. Remove § 3101.109.

§ 3101.110 [Removed]

■ 6. Remove § 3101.110.

§ 3101.111 [Removed]

■ 7. Remove reserved § 3101.111.

Dated: October 14, 2014.

By the Department of the Treasury.

Christopher J. Meade,

General Counsel.

Dated: October 24, 2014.

By the Office of Government Ethics.

Walter M. Shaub,

Director.

[FR Doc. 2014–26173 Filed 11–5–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0894; Special Conditions No. 25–532–SC]

Special Conditions: Airbus A350–900 Series Airplane; Interaction of Systems and Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions, request for comments; correction.

SUMMARY: This document corrects errors that appeared in final special conditions docket no. FAA–2013–0894, which was published in the **Federal Register** on December 20, 2013 (78 FR 76980). The errors are in the document's special conditions stage (notice vs. final) and special conditions number.

DATES: This action is effective November 6, 2014.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone (425) 227–1178; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION: The final special conditions document designated as "Docket No. FAA–2013–0894; Notice No. 25–13–16–SC" was published in the **Federal Register** on December 20, 2013 (78 FR 76980). The document issued special conditions pertaining to interaction of systems and structures on Airbus A350–900 series airplanes.

As published, the document contained two errors: One referring to the document's special conditions stage, "Notice no.," instead of "Special Conditions No.;" and one in the special conditions number itself, 25–13–16–SC (a notice number), instead of 25–532–SC (the assigned final special conditions number).

Because this error and correction do not affect the regulatory content of the special conditions, the special conditions are not being re-published.

Correction

In the final special conditions, request for comments document [FR Doc. 2013–30235, Filed 12–19–13; 8:45 a.m.] published on December 20, 2013 (78 FR 76980), make the following correction:

On page 76980, in the first column, in the heading, correct "Notice No. 25–13–16–SC" to read "Special Conditions No. 25–532–SC".

Issued in Renton, Washington, on October 31, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–26341 Filed 11–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1064; Directorate Identifier 2012–NM–101–AD; Amendment 39–17991; AD 2014–20–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.