

OFFICE OF ETHICS

NEWSLETTER

VOLUME VIII
1ST EDITION

A WELCOME TO THE NEW LEADERSHIP AT USDA

As has been the unwavering tradition in America since 1788, with the passage of each four-year period comes, at least in part, a turnover of leadership. While this is true even within a two-term Administration, it is clearly so where, as now, a wholly new Administration also represents a different political party. For the incoming leadership, especially those privileged to be aboard at the very dawning moments, this is an exciting time. Incoming political employees always bring enormous energy, excitement, and ideas—a desire to make things happen and to hit the ground running. Add to this the need for this Administration to act quickly and surely on a broad spectrum of issues—each one of monumental proportion. Yes, this is an exciting time.

From an ethics perspective, this is a very DANGEROUS time, too.

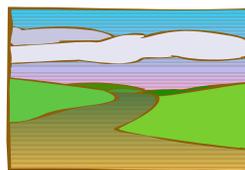


Washington, as we all-know, is a fish bowl and not always a friendly one. No matter how much goodwill an Administration has, there are detractors who want to put **boulders in the path** of new leadership. Some detractors may want to get at you, personally, or get at your principal through you;

others may want, through you, to get at and undo or delay policies they oppose. They want to place **boulders in your path**. In this highly-charged partisan environment, violations of ethical laws and rules, even the most arcane and benign, are extremely effective tools. Why? Because most are based simply on appearances of impropriety—they need not be factual to have political consequences.

We Federal employees are encircled in a mesh of conduct laws, rules and guidelines which are not clearly intelligible from a simple reading. [If they were, we'd be out of a job]. Yet, violations have real personal and policy consequences. Often, the desire to “make it happen” at this juncture outstrips familiarity with the rules. In this environment, we cannot stress strongly enough the need to become familiar with the ethics laws and rules as soon as possible. And there is a LOT to learn. However, education and an understanding of how these rules come into play on a day-to-day basis is the best way to keep the path clear.

Again, CONGRATULATIONS on your appointment here at USDA. We hope that your tenure here is successful and fulfilling. By way of the Constitution, you are tasked with making policy. Know that we are here to work with you to accomplish that task by helping to keep the **boulders out of your path**.



**THE SECRETARY ISSUES A STRONG
MEMORANDUM TO USDA
EMPLOYEES ON ETHICAL CONDUCT**
— <http://www.usda-ethics.net/rules/Secretary-Memo-on-Ethical-Conduct.pdf>



Don't Delay: SF-278 Reports Due May 15th!

Working on your taxes? Planning on a spring get-away? Don't let filing your Public Financial Disclosure Report (SF-278) fall through the cracks. Public filers are identified by appointment (e.g., Presidential Appointees with Senate confirmation (PAS), non-career Senior Executive Service (SES) appointees, Schedule C appointees, and career SES employees and equivalents) to file the SF 278 report to avoid involvement in real or apparent conflicts of interest. Those who should file the SF-278 have received a message from us already. While you have all those year-end accounting statements out for your taxes anyway, why not complete your SF-278 report?

The reports are due by May 15, 2009. The reports cover all of 2008 and the forms can be found on your Employee Personnel Page or on our website at: <http://www.usda-ethics.net/forms/index.htm>. As always, the staff here at OE will be happy to assist should you have any questions and we look forward to helping you make the filing experience as painless as possible. In addition, the Office of Government Ethics website contains answers to many Frequently Asked Questions about the SF-278 at <http://www.usoge.gov/forms/sf278.aspx>, which filers may find especially helpful.

BRANCH REPORTS



OE-Farm offers training regarding outside activities

Ellen Pearson, National Ethics Program Manager for NRCS, will be conducting training on April 7th for RC&D Coordinators and on April 9th for State Conservationists regarding outside activities, with a special emphasis on serving as a liaison with an outside organization.

We also offer the following reminder about potential conflicts of interest for employees that wish to actively participate in an outside organization. Ethics regulations require USDA employees who file financial disclosure reports and who are compensated for their services, or who provide personal services as consultants or professionals with or without compensation (including serving as an expert witness or as an attorney) to seek prior approval before actively participating in outside organizations. See 5 C.F.R. Part 8301. Where these organizations are not involved with USDA or the Federal government, steering clear of certain ethics violations may be easy. However, where the relationship with the Federal Government and especially USDA, is closer, there is a heightened potential for conflicts of interest, loss of impartiality, and misuse of public office for private gain. This is especially true if the employee is actively participating in a professional association or scientific society that often functions in ways that benefit the Department. That the organization and the USDA have similar goals does not mean that the interests of USDA and the outside organization are the same. In law, they are not. With prior approval, your ethics specialist will advise you of any potential conflicts of interest.

OE-Marketing receiving a flood of invitations



Recently, the Marketing Branch (MB) has observed a trend in employees receiving social invitations from outside sources. It appears that these employees are targeted based upon their official positions within the agency. [Imagine that!] Employees should question why an organization or

group extends a social invitation to them. The old adage is still true: “Nobody gives ya nothin’ fer nothing.” Often times it is better to just say “no thank you,” especially if there are matters pending before the agency. Remember, the appearance of a loss of impartiality can be just as serious as an actual conflict of interest.



OE-Forest branching out

The new Forest Service Ethics Branch Office (OE-Forest) has opened in Arlington, VA. The new office will service all Forest Service (FS) employees EXCEPT for those FS employees under Research and Development (R&D). The Science Ethics Branch (SEB) is responsible for providing guidance to all R&D employees. R&D employees may contact Debbie Rodriguez or Sue Sheridan of the SEB.

Currently, the OE-Forest staff consists of Jennifer Cron Hepler, Branch Chief, Bobbie Salone, Ethics Assistant and Chere Raymond, a Job Corps Intern. FS employees may contact us at:

Forest Service Ethics Branch
RPC 6 HCM
1601 N. Kent Street
Arlington, VA 22209
Phone: 703-605-0869
Fax: 703-605-5105
Email: jchepler@fs.fed.us
bsalone@fs.fed.us



OE-Science advises fellowship applicants

The Science Ethics Branch (SEB) reports that it now has a fine-tuned process in place for employees

wishing to apply for fellowships. Before applying, an employee should seek ethics/supervisory guidance as to whether the program is related to their official duties and if so, whether the agency has a vested interest in its employee’s participation. If so, the employee should document his/her intent to apply for the fellowship. If awarded, the fellowship money is either transferred to the agency via an agreement or the agency pays the tab and is later reimbursed. By following this process, employees awarded fellowships will avoid any conflicts of interest.

MEET THE SEB STAFF



Sue Sheridan, Chief of the SEB, calls Maryland home. She started with USDA, APHIS on its FOIA/Privacy Act staff while still in high school. After graduating from the University of Maryland, she entered the APHIS Administrative Officer (AO) Training Program. Over the next 14 years, she lived in various locations (TDY) throughout the US. She served as AO for APHIS, Veterinary Services in Nashville, TN. She also accepted a position with the APHIS Foreign Service staff (lots of travel). In 1990, she joined Agricultural Research Service (ARS) as a Staffing/Classification Specialist and later, Employee Relations (ER) Specialist. Sue started in the ARS Ethics program in 2001 and has a total of 32 years of service with USDA.

Clarice P. Carter, Ethics Specialist, SEB, is a native of Alexandria, Virginia. She is the proud mother of a son, daughter and a granddaughter. She enjoys scrapbooking, arts and crafts and community involvement. Clarice has a total of 30 years of

Federal Government service, 20 with USDA. She has taken numerous administrative training courses while employed with USDA and has received many awards for outstanding performance. She served a one-year term as the Administrative and Financial Management Technical Advisor for the National Advisory Council for Office Professionals. She currently serves on the USDA Employee Services and Recreation Association Board of Directors as the ARS representative.

Julia Cypriano, Ethics Assistant, SEB, started her Federal career with the Department of Commerce, Patent and Trademark Office as a Personnel Clerk in Human Resources (HR), ER Branch. She transferred to ARS and worked in the HR, Policy Branch, first as a Personnel Assistant and then a Branch Secretary. After taking 5 years to stay home with her children, she came back to ARS and worked for the Plant Sciences Institute, Systematic Entomology Laboratory as a Support Services Assistant. Her hobbies include cooking, baking and reading (especially history).

Sue Prada, Ethics Specialist, SEB, began her Federal career in 1991 with ARS in the Labor/ER Branch after working in the private sector for 12 years. In 1992, she transferred to the newly established ARS Ethics Office. Over the years, she developed standard operating procedures, worked with IT specialists to develop the current tracking system and develop the first ethics website in use at USDA (for ARS) to launch the 1997 annual ethics training and financial disclosure campaigns. In her spare time, her hobbies include cooking, photography & working on art projects with her daughter.

Deborah Rodriguez is the Senior Ethics Specialist for the SEB. She began her Federal career with the Federal Deposit Insurance Corporation in 1988 in HR Management before beginning her appointment as a HR Specialist with the ARS in 1998. In 2002, Debbie was selected for a specialist position in the ARS ER Branch. In 2006, Debbie attended the AFM Leadership Development Program and was

appointed Branch Team Leader. Born and raised in Washington, D.C., Debbie graduated from Towson State University in 1986 with a degree in Business Administration, HR Management. She is a widow and the proud mom of two teen-aged young ladies.



Post-employment Restrictions: The Lifetime Ban

Every employee should know about the lifetime ban on representing others back to the Government on particular matters in which they participated as Federal employees. It is not always obvious whether the lifetime ban will affect your subsequent employment. We encourage employees to seek our advice on the matter, but we also offer some examples of how the rules are easily misinterpreted below.

Working as a contractor after you retire on a project that you worked on at USDA

Along with stimulus money to State Rural Development Offices have come some thorny post-employment questions. OE -Farm recently handled questions regarding whether retired employees could work as contractors to provide the same services that they provided during their Federal employment. The retired employees were not entering into a direct contract with USDA, but would work as employees for a contractor. The retired employees were ideal candidates because they worked personally and substantially on the matter before the contract was awarded and could readily assume a position for a shovel-ready project. OE - Farm determined that their work for the contractor would not violate the lifetime ban because they are not “representing” the contractor back to the Government in these cases. **The key element underlying the lifetime ban is “representation.”** So long as they performed “behind the scenes” duties, they were within the law.

Making an appeal of an environmental impact assessment (EIA) after you retire, when you participated in a previous EIA of the same land

Federal employees at another agency alleged that a retired FS employee violated the lifetime ban. He submitted information on behalf of a Non-Governmental Organization (NGO) appealing an EIA rendered by the other Federal agency, 21/2 years after his retirement date. Almost 15 years before his retirement, the former employee participated in a previous EIA regarding the same land. OE-Forest determined that the retired employee was not banned from representing the NGO in its appeal because the EIA of the land was not a “particular matter involving specific parties” and because the proceedings lacked the particularity required by the law, according to a prior court decision.

So how can you tell whether you are in danger of violating the lifetime ban? With some exceptions, the lifetime ban will restrict your post-employment work if:

- you expect to “**represent**” (communicate verbally or in writing or make an appearance before) any Federal agency (not just USDA) or court, or meet with Federal executive or judicial branch personnel on behalf of someone other than yourself or the U.S.; **and**
- you “represent” on “**particular matters involving specific parties,**” such as contracts, loans, grants, litigation, administrative proceedings, claims against the government, investigations, negotiations, treaties, trade negotiations, or controversies involving identifiable persons or entities; **and**
- you **participated officially** in this particular matter **at any time** during your Federal service through, recommendation, advice,

investigation, analysis, decision, or substantive review.

**THE GREAT ZAMBONI
SPEAKS!!!!**



The voice of the GREAT ZAMBONI, World-renown Ethics Sage and Fine Dining Critic responds to the most perplexing issues facing *the World Today*.

First a complaint has been registered with the Office of the Great Zamboni (OGZ):



Oh Great Zamboni, I am a Federal scientist at Midwestern State University where I am currently doing VERY, VERY IMPORTANT research on a little known bacterium that affects the memory of Federal workers who spend too much time talking with friends on the telephone. Recently, I received a courteous and helpful email reminder that I needed to do my annual ethics training. I am a busy scientist and would like to alert you that I have completed six of your modules and demand that I be given credit for having taken the time from my very important project to do this training. Did I forget to mention that I am doing VERY, VERY IMPORTANT research? Please confirm in an email to my supervisor that I have met all requirements. Thank you.

NOTE: The GZ was about to respond when he received the following question and has chosen to

consider the two together in one response.
Sometimes these things just fall into his lap.

the additional \$15 to Dr. Noitall's supervisor where
I am sure you will see some action taken that I am
sure you will . . . like.



Le Question de jour:

Oh Great Zamboni: I like hope that you can help me. I am a like a college intern at Midwestern State University. I work with Dr. Noitall on VERY, VERY IMPORTANT research involving . . . whatever. He'll tell you in great length, for sure. Last week, he like came to me and to Loni, the other intern working on this VERY, VERY . . . whatever. He like looked agitated and told us both to go onto his computer, go into AgLearn (What's with that name?) and take like three ethics training modules and like report to him what we learned. Like, I mean, your ethics modules are awesome! They're like the best thing ever on the web! I mean it! I like enjoyed doing them, for sure. But, here's my question. Is it like ethical for him to only pay me \$20 to do these modules when he like paid Loni \$35? So what's up with that? So what she's a cheerleader? Isn't that like floss an impartiality or *something*? (I'm pre-dental and noticed how like alike the rules are.) But, how do I get some action taken on getting the other \$15 I'm owed? Gotta go; text message coming in.

Clara

Dear Clara:

Well, li . . . impartiality aside, it sure is . . . *something*, Clara. This is not new to the GREAT ZAMBONI, however. In fact, a couple of years ago, one clever official argued that it not only was NOT improper to contract out taking one's ethics training, but that it was MANDATED under OMB Circular A-123—that taking ethics training was not an inherently Governmental task since all of us have to be ethical. Of course, this same individual was later involved in a scandal taking the answers to the “Hard” questions on our Award-winning “Ethics Sweepstakes” module and selling them on e-Bay. But, I digress. In short, I would take the matter of