

### § 3a.2

Air Force and members of the Air Force Reserve;

(4) The Secretary of Transportation, with respect to retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is not operating as a service in the Navy;

(5) The Secretary of Commerce, with respect to retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; and

(6) The Secretary of Health, Education, and Welfare, with respect to retired members of the commissioned Regular Corps of the Public Health Service and members of the commissioned Reserve Corps of the Public Health Service.

### § 3a.2 Requirement for approval of foreign government employment.

(a) The United States Constitution (Article I, section 9, clause 8) prohibits the acceptance of civil employment with a foreign government by an officer of the United States without the consent of Congress. Congress has consented to the acceptance of civil employment (and compensation therefor) by any person described in § 3a.1(b) subject to the approval of the Secretary concerned and the Secretary of State (37 U.S.C. 801, Note). Civil employment with a foreign government may not be accepted without such approval by any person so described.

(b) The Secretary of State has no authority to approve employment with a foreign government by any officer of the United States other than a person described in § 3a.1(a). The acceptance of employment with a foreign government by any other officer of the United States remains subject to the constitutional prohibition described in paragraph (a) of this section.

(c) Any person described in § 3a.1(a) who accepts employment with a foreign government without the approval required by this section or otherwise obtaining the consent of Congress is subject to forfeiture of retired pay to the extent of his or her compensation from the foreign government, according to the Comptroller General of the United States (44 Comp. Gen. 139 (1964)). This forfeiture is in addition to

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any other penalty which may be imposed under law or regulation.<sup>1</sup>

### § 3a.3 Authority to approve or disapprove proposed foreign government employment.

The Director, Bureau of Politico-Military Affairs, is authorized to approve or disapprove any request by an applicant for approval under this part to accept civil employment (and compensation therefor) from a foreign government. The Director may delegate this authority within the Bureau of Politico-Military Affairs, Department of State.

### § 3a.4 Procedure for requesting approval.

(a) An applicant must submit a request for approval of foreign government employment to the Secretary concerned, whose approval is also required by law for the applicant's acceptance of civil employment from a foreign government. The request must contain information concerning the applicant's status, the nature of the proposed employment in as much detail as possible, the identity of and relationship to the foreign government concerned, and other matters as may be required by the Secretary concerned.

(b) Requests approved by the Secretary concerned will be referred to the Director, Bureau of Politico-Military Affairs, for approval. Requests received by the Director, Bureau of Politico-Military Affairs, directly from an applicant will be initially forwarded to the Secretary concerned, or his designee, for approval or disapproval.

### § 3a.5 Basis for approval or disapproval.

Decisions by the Director, Bureau of Politico-Military Affairs, under this part shall be based on whether the applicant's proposed employment with a foreign government would adversely affect the foreign relations of the United

<sup>1</sup>Approval under this part does not constitute an exception to the provisions of the Immigration and Nationality Act concerning loss of United States citizenship, for example, by becoming a citizen of or taking an oath of allegiance to another country. See 8 U.S.C. 1481 *et seq.*

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States, in light of the applicant's official status as a retiree or reservist.

### § 3a.6 Notification of approval.

The Director, Bureau of Politico-Military Affairs, will notify the Secretary concerned when an applicant's proposed foreign government employment is approved. Notification of approval to the applicant will be made by the Secretary concerned or his designee.

### § 3a.7 Notification of disapproval and reconsideration.

(a) The Director, Bureau of Politico-Military Affairs, will notify the applicant directly when an applicant's proposed foreign employment is disapproved, and will inform the Secretary concerned.

(b) Each notification of disapproval under this section must include a statement of the reasons for the disapproval, with as much specificity as security and foreign policy considerations permit, together with a notice of the applicant's right to seek reconsideration of the disapproval under paragraph (c) of this section.

(c) Within 60 days after receipt of the notice of disapproval, an applicant whose request has been disapproved may submit a request for reconsideration by the Director, Bureau of Politico-Military Affairs. A request for reconsideration should provide information relevant to the reasons set forth in the notice of disapproval.

(d) The disapproval of a request by the Director, Bureau of Politico-Military Affairs, will be final, unless a timely request for reconsideration is received. In the event of a request for reconsideration, the Director, Bureau of Politico-Military Affairs, will make a final decision after reviewing the record of the request. A final decision after reconsideration to approve the applicant's proposed employment with a foreign government will be communicated to the Secretary concerned as provided in § 3a.6. A final decision after reconsideration to disapprove the applicant's proposed employment with a foreign government will be communicated directly to the applicant as provided in paragraph (a) of this section and the Secretary concerned will

be informed. The Director's authority to make a final decision after reconsideration may not be redelegated.

### § 3a.8 Change in status.

In the event that an applicant's foreign government employment approved under this part is to be materially changed, either by a substantial change in duties from those described in the request upon which the original approval was based, or by a change of employer, the applicant must obtain further approval in accordance with this part for such changed employment.

## PART 4—NOTIFICATION OF FOREIGN OFFICIAL STATUS

Sec.

4.1 General.

4.2 Procedure.

AUTHORITY: 22 U.S.C. 2651a(a)(4).

SOURCE: 61 FR 32328, June 24, 1996, unless otherwise noted.

### § 4.1 General.

In accordance with Article 10 of the Vienna Convention on Diplomatic Relations and Article 24 of the Vienna Convention on Consular Relations, diplomatic missions must notify the Office of Protocol immediately upon the arrival, in the United States, of any foreign government officer or employee (including domestics and family members), who are serving at diplomatic missions, consular posts, or miscellaneous foreign government offices. If the employee is already in the United States in some other capacity, the notification should be made upon assumption of duties. This initial notification requirement also includes all U.S. citizens and permanent resident aliens who are employed by foreign missions.

### § 4.2 Procedure.

Notification and subsequent changes are made as follows:

(a) Diplomatic and career consular officers and their dependents: Form DSP-110, *Notification of Appointment of Foreign Diplomatic Officer and Career Consular Officer*;

(b) All other foreign government employees who are serving at diplomatic