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OFFICE OF MILITARY AFFAIRS
Santa Fe, New Mexico 87501

AGONM Technician Personnel
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TECHNICIAN PERSONNEL (ARMY & AIR)

STANDARDS OF CONDUCT FOR NATIONAL GUARD TECHNICIANS

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This regulation supersedes AGONM TPR 735, dated 15 October 1977.

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CHAPTER 1. GENERAL

1-1. REFERENCES.

a. Chapters 731 and 735 of FPM

b. Title 5, U.S.C. 7313

c. DOD Directive 5500.7

d. NGR 735-12/ANGR 57-1

1-2. PURPOSE. This regulation prescribes the standards of conduct required for National Guard technicians in the discharge of their assigned duties and during off duty hours. This pamphlet implements DOD Directive 5500.7.

1-3. GENERAL. This regulation prescribes the standards of conduct required for National Guard technicians under the following circumstances:

a. Activities related to private interests.

b. Membership in nongovernment organizations.

c. Solicitation of contributions.

d. Use of Government facilities, property or services.

e. Outside employment.

f. Additional compensation.

g. Gambling.

h. Indebtedness.

i. General conduct.

j. Acceptance of gifts, entertainment or favors.

k. Misuse of information.

l. Engagement in riots or civil disorders.

m. Use of civilian or military titles.

n. Dealing with military or civilian personnel.

o. Bribery and graft.

1-4. DEPARTMENT OF DEFENSE DIRECTIVES. Department of Defense Directive 5500.7, Standards of Conduct, is applicable to National Guard technicians.

CHAPTER 2. STANDARDS OF CONDUCT

2-1. ACTIVITIES RELATED TO PRIVATE INTERESTS.

a. Financial. A technician may not use information gained through his employment in the National Guard for financial gain or anticipated financial gain and he may not engage in financial activities that conflict with his technician duties and responsibilities.

b. Government property. A technician may not use or authorize the use of Federal property, supplies or services except for official, approved activities.

2-2. MEMBERSHIP IN NONGOVERNMENTAL ORGANIZATIONS. National Guard technicians who are members of nongovernmental organizations must not, on behalf of the organization, participate in activities that are in conflict with their positions as Federal employees.

2-3. SOLICITATION OF CONTRIBUTIONS. Technicians may not solicit contributions from other technicians for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from a technician receiving less pay than themselves. Voluntary gifts of nominal value or donations in nominal amounts for marriages, illnesses or retirement are permissible.

2-4. USE OF GOVERNMENT FACILITIES, PROPERTY OR SERVICES.

a. Facilities. National Guard technicians will not directly or indirectly use or allow the use of government facilities of any kind, including facilities leased to the government, for the following purposes, unless specifically authorized by the Secretary of the Army or of the Air Force as appropriate: (NGR 735-12/ANGR 57-1).

(1) Events or activities, promotional or otherwise, that directly or indirectly benefit or appear to benefit or favor any individual, commercial venture, sect, or political or fraternal group or that are associated with the solicitation of votes in an election.

(2) Events for which the public is charged admission and in which the National Guard participates, except when the National Guard participation is not the sole or primary attraction but is incidental to the event (e.g., a State or county fair).

(3) Public events for which admission, seating, and all other accommodations and facilities connected with the event or activity are not available to all without regard to race, creed, color, or national origin.

(4) Production of nongovernment motion pictures and television programs.

b. Property. National Guard technicians will not, directly or indirectly, use or allow the use of government property for the following purposes, unless specifically authorized by the Secretary of the Army or of the Air Force as appropriate: (NGR 735-12/ANGR 57-1).

(1) State Defense Forces authorized under 32 U.S.C. 109(c).

(2) Augmentation of State highway patrols or civil police forces, except as authorized in cases of disaster relief, civil disorder or other emergency.

(3) Transportation of personnel or material for other than military purposes except as authorized in cases of disaster relief or emergency, and support of Domestic Action Programs as determined by the State Adjutant General.

c. Services. National Guard technicians in a duty status may not offer their services or the services of subordinates for nongovernmental business. Some examples of these prohibited services are typing assistance, reproduction work, and chauffeur services. These restrictions are not intended to preclude the use of government facilities, property, or services for activities that would further military-community relations, if they do not interfere with the National Guard mission and are approved by the State Adjutant General.

2-5. OUTSIDE EMPLOYMENT. A National Guard technician is prohibited from engaging in outside employment that --

a. Interferes with the performance of his technician duties.

b. Impairs his mental or physical capacity to perform his technicians duties and responsibilities in an acceptable manner.

c. Results in the acceptance of a favor, pay, gift, payment of expenses or any other item of monetary value in circumstances in which acceptance of them may result in or create the appearance of a conflict of interest.

d. May reasonably be expected to bring discredit on the National Guard.

2-6. ADDITIONAL COMPENSATION. A National Guard technician is prohibited from receiving any salary or anything of monetary value from a private source as compensation for his services as a technician.

2-7. GAMBLING. A technician may not engage in gambling activities while in a duty status or while on Federal property. These prohibitions include purchasing or selling lottery, pool, or numbers tickets for money or property.

2-8. INDEBTEDNESS. National Guard technicians shall pay each just financial obligation in a proper and timely manner, especially those imposed by law; such as Federal, State, or local taxes. For the purpose of this paragraph, a "just financial obligation" means one acknowledged by the technician or reduced to judgment by a court. "In a proper and timely manner" means in a manner that the agency determines does not, under the circumstances, reflect adversely on the Government as the technician's employer. In the event of a dispute between a technician and an alledged creditor, the agency will not attempt to determine the validity or amount of the disputed debt (app D).

2-9. GENERAL CONDUCT OF TECHNICIANS. National Guard technicians should not engage in criminal, infamous, dishonest, immoral or notoriously disgraceful conduct or other conduct prejudicial to the Government.

2-10. GIFTS, ENTERTAINMENT AND FAVORS.

a. Solicitation or acceptance. National Guard technicians are prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan or any other item of monetary value from a person who:

(1) Has or is seeking to obtain contractual or other business or financial relations with any component of the Department of Defense;

(2) Conducts operations or activities that are regulated by the National Guard or

(3) Has interests that may be substantially affected by the performance or nonperformance of the technician's duty.

b. Exceptions. Exceptions to the prohibitions cited in paragraph a above are as follows:

(1) A technician may accept food and refreshments of nominal value, on infrequent occasions, in the ordinary course of a luncheon or dinner meeting or other meeting or while on an inspection tour when the technicians may properly be in attendance.

(2) A technician may accept unsolicited advertising or promotional material, such as pens, pencils, notepads, calendars and other items of nominal intrinsic value.

c. Basic intent. It is the intent of these requirements that a technician avoid any action, whether or not specifically prohibited, that might result in or create the appearance of --

(1) Using public office for private gain.

(2) Giving preferential treatment to any person.

(3) Impeding National Guard efficiency or economy.

(4) Losing complete independence or impartiality.

(5) Making a Government decision outside official channels.

(6) Adversely affecting the confidence of the public in the integrity of the National Guard.

2-11. MISUSE OF INFORMATION. National Guard technicians are prohibited from directly or indirectly using or allowing the use of official information obtained through or in connection with their technician position, which has not been made available to the general public, for the purpose of furthering a private interest. Nonpublic information may be used for teaching, lecturing and writing if it is made available to the technician upon request or when the State Adjutant General gives written authorization for its use.

2-12. ENGAGEMENT IN RIOTS OR CIVIL DISORDERS.

a. General. Section 7313 of title 5, U.S.C. prohibits the employment or retention in employment of a person convicted of participating in a riot or civil disorder.

b. Definitions.

(1) "Civil Disorder" means any public disturbance involving acts of violence by assemblages of three or more persons that causes an immediate danger of, or results in damage or injury to, the property or person of any other individual.

(2) "Riot" means a public disturbance involving an act or acts of violence of one or more persons, part of an assemblage of three or more persons whose act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person, or to the person of any other individual or a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

(3) "To incite a riot" or "to organize, promote, encourage, participate in, or carry on a riot" includes, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or expression of belief not involving advocacy of any act or acts of violence, or assertion of the rightness of, or the right to commit any such act or acts.

c. Final conviction.

(1) Section 7313 of title 5, U.S.C. is operative only after the date on which a technician's conviction becomes final. A conviction is considered to be final when the defendant has either not sought review within the time period fixed for appeal, writ of error, writ of certiorari, or other review by appropriate judicial authority, or has exhausted that review without success. If the Adjutant General believes that the conviction of a technician has become final within the meaning of 5 U.S.C. 7313, he should request, through his legal channels, the prosecuting authority (whether Federal, State or local) to send him a written opinion on whether the conviction has become final. On the basis of that written opinion, the Adjutant General will make his decision about the finality of the conviction. If he is uncertain of the decision he should make, he will seek further legal opinion from the National Guard Bureau.

(2) Title 5 U.S.C. 7313(a)(4) refers to "any offense determined by the head of the employing agency to have been committed in furtherance of, or while participating in a riot or civil disorder." If the Adjutant General believes that a technician has been convicted of such an offense he will request through his legal channels, the prosecuting authority (whether Federal, State or local) to send him a written opinion on whether the conviction is for an offense of the type described in 5 U.S.C. 7313(a)(4). On the basis of that written opinion, the State Adjutant General (or his designee) should make his determination. If he is uncertain of the determination he will make, he should seek further legal advice from the National Guard Bureau.

d. Appropriation acts. In addition to 5 U.S.C. 7313, language has been included in certain appropriation acts that prohibits the payment of salary to a person convicted of specified activities (not necessarily a felony as in 5 U.S.C. 7313) in connection with a riot, a civil disorder, or certain group activities.

2-13. DEALING WITH PRESENT OR FORMER MILITARY AND CIVILIAN PERSONNEL. Technicians will not knowingly deal with military or civilian personnel or former military or civilian personnel if such actions will result in a violation of the policies set forth in this regulation.

2-14. BRIBERY AND GRAFT. National Guard technicians may be subject to criminal penalties if they solicit, accept, or agree to accept anything of value in return for performing or refraining from performing an official act.

2-15. USE OF CIVILIAN AND MILITARY TITLES IN CONNECTION WITH COMMERCIAL ENTERPRISES. Technicians are prohibited from using their technician titles or positions in connection with any commercial enterprises or for endorsing any commercial products. Technicians not on active duty are permitted to use their military titles in connection with commercial enterprises. Such use of military titles shall in no way cast discredit on the National Guard. The use of military titles in these situations is prohibited when the use gives rise to any appearance that such an enterprise is sponsored, sanctioned, endorsed, or approved by the National Guard.

2-16. COURTESY IN THE UNITED STATES GOVERNMENT (NATIONAL GUARD). Technicians are required to be courteous in all their dealings with the general public, Members of Congress, and their co-workers to the extent this requirement will not infringe upon the technician's legal rights. It is the responsibility of each State Adjutant General to make this requirement known to all technicians. It is expected that technicians will perform courteously, even if treated discourteously by members of the public or co-workers. However, technicians are obliged to refuse to violate law or regulations or to give special advantage not called for by law. Technicians should be periodically reminded that, where appropriate, courtesy demonstrated to the public and co-workers may be included as a factor in their performance standards.

2-17. EQUAL OPPORTUNITY. National Guard technicians shall scrupulously adhere to the National Guard program of equal opportunity regardless of race, color, religion, sex, age, or national origin.

2-18. COMMERCIAL SOLICITING BY NATIONAL GUARD TECHNICIANS. To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, technicians are prohibited from making personal commercial solicitations or sales to other technicians who are junior in rank or grade, at any time, on or off duty.

a. This limitation includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods or services.

b. This prohibition is not applicable to the one-time sale by an individual of his own personal property or privately owned dwelling or to the off-duty employment of technicians as employees in retail stores or other situations not including solicited sales.

c. For technician personnel, the limitation applies only to personnel under their supervision at any level.

2-19. STANDARDS OF CONDUCT COUNSELOR. The Personnel Management Specialist (PMS) in the Employee Services Section is designated as Standards of Conduct Counselor. The PMS shall be responsible for providing advice and assistance regarding all standards of conduct problems.

2-20. REPORTING SUSPECTED VIOLATIONS. Technicians who have information which cause them to believe that other technicians have violated a statute or standard of conduct imposed by this regulation should first bring the matter to the attention of those persons. If those persons are one's supervisors or the communication is not expected to remedy or does not appear to have remedied the problem, a written report shall be made to the appropriate authority and to the Standards of Conduct Counselor.

2-21. RESOLVING VIOLATIONS. The resolution of standards of conduct violations shall be accomplished promptly by one or more measures, such as divestiture of conflicting interests, disqualification for particular assignments, changes in assigned duties, termination, or other appropriate action, as provided by statute or administrative procedures. Disciplinary actions shall be in accordance with established personnel procedures.

CHAPTER 3. CONFIDENTIAL STATEMENTS OF AFFILIATIONS AND FINANCIAL INTERESTS - DD FORM 1555

3-1. CONFIDENTIAL STATEMENT OF AFFILIATIONS AND FINANCIAL INTERESTS. Confidential statements of affiliations and financial interests must be submitted by National Guard technicians in grades GM-13 through 15 whose basic duties and responsibilities require the incumbent to exercise judgment in making or recommending a Government decision or in taking or recommending Government action in regard to contracting or procurement. "Contracting or procurement" includes all functions that pertain to the authorization, award, and administration of contracts or grants with nongovernmental entities. This includes agreements, supplemental agreements, subcontracts, leases, service orders, task orders, purchase orders, delivery orders, change orders, property disposal contracts, communication service authorizations, and other instruments or agreements that obligate the United States. It includes pre-award surveys; the evaluation, appraisal, selection or approval of contractors and subcontractors, contractor and subcontractor facilities, and the location, transfer, or closing of work sites. It also includes purchasing, renting, leasing, or otherwise obtaining supplies or services from and disposing of or selling supplies to nongovernmental entities, and all functions that relate to obtaining or disposing of supplies and services, description and determination of requirements, preparation of specifications including the determination of technical requirements, selection and solicitation of sources, preparation and award of contracts or grants, and all phases of contract and grant administration and monitoring, including all aspects of quality control and quality assurance, inspection and acceptance.

3-2. POSITIONS TO FILE STATEMENTS. Submission of the DD Form 1555, "Confidential Statement of Affiliations and Financial Interests" is required by the incumbents of the following positions:

a. Air Commander (Pilot), GM-0301-14, F0024.

b. Command Administrative Officer, GM-0340-14, R7724.

c. Supervisory Logistics Management Specialist, GM-0346-13, R0256.

d. Supervisory Logistics Management Specialist, GM-0346-13, F0034.

e. United States Property and Fiscal Officer.

3-3. SUBMISSION INSTRUCTIONS. The confidential statements of affiliation and financial interests will be submitted as follows:

a. Forms. Submit on DD Form 1555 (Confidential Statement of Employment and Financial Interests - DOD Personnel) (App C).

b. Where to submit: Statements will be submitted direct to NGB-JA, Room 2E378, Pentagon, Washington, D.C., 20310 without transmittal letter and marked in capital letters "TO BE OPENED BY ADDRESSEE ONLY."

c. Supplementary Instructions.

(1) All personnel required to file a DD Form 1555 must file each year even though answers to questions on previous DD Form 1555 remains unchanged or negative.

(2) Personnel required to file will complete items 1 thru 8, sign and date not earlier than 30 September for annual statements.

(3) Supervisor's evaluation will be completed, except for USPFOs, then dated on or after the date of execution by the filing personnel.

d. When to submit:

(1) Initial submission will be forwarded within 30 days after technicians are employed or assigned to a position requiring submission of the statement.

(2) Annual statements will be made as of 30 September and filed not later than 31 October.

3-4. CONFIDENTIALITY OF EMPLOYEES' STATEMENT. Each statement of employment and financial interests and each supplementary statement will be held in confidence. The Department of the Army or the Department of the Air Force may not disclose information from a statement except as the Secretary of the Army or the Secretary of the Air Force may determine for good cause. Persons designated to review the statements are responsible for maintaining the statements in confidence and may not allow access to, or information to be disclosed from, the statement except to carry out the purpose of this regulation.

3-5. INFORMATION NOT REQUIRED TO BE SUBMITTED. A technician is not required to include in a statement of employment and financial interests, or a supplementary statement, any information relating to his connection with or his interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political, or similar organization not conducted as a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in a technician's statement of employment and financial interests.

3-6. INTERESTS OF TECHNICIAN'S RELATIVE. The interest of a spouse, minor child or other member of a technician's immediate household is considered to be an interest of the technician. For the purpose of this paragraph, "member of a technician's immediate household" means those blood relatives who are residents of the technician's household.

CHAPTER 4. CONFLICT OF INTEREST LAWS

4-1. PROHIBITION. A National Guard technician may not engage in any of the following activities that constitute a conflict of interest:

a. Except in th[redacted] his official duties, represent anyone else before a court or go[redacted] agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

b. Receive any salary, or supplementati[illegible] of his technician salary from a private source as compensation for his service[illegible] to the Government (18 U.S.C. 209).

c. Participate in his technician capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment, has a financial interest (18 U.S.C. 208). Instead of participating in such a matter, he must promptly disqualify himself in accordance with paragraph 4-2b below except as provided in paragraph 4-2c below.

4-2. DISQUALIFICATION PROCEDURE.

a. In any case where a technician must disqualify himself, he will promptly notify his superior and make a full disclosure of the financial interest. The superior will thereupon relieve him from his duty and responsibility in the matter unless the Government official responsible for his appointment makes a written advance determination that the interest is not so substantial as to be deemed likely to affect the integrity of the services that the Government may expect from the technician. Such written determinations shall be retained in the agency records.

b. In the case of a technician, the official responsible for his appointment (The Adjutant General or an official designated by him to perform this function) shall for the purposes of this paragraph be considered his immediate supervisor.

c. If a superior belives anyone responsible to him may have a disqualifying interest, he will discuss the matter with that person, and, if he finds such an interest does exist, he will relieve the person of duty and responsibility in the particular matter.

d. In cases of alleged disqualification under this paragraph, the matter will be assigned for decision and action to a person who is not subordinate to the technician involved.

4-3. NONDISQUALIFYING FINANCIAL INTEREST. A technician need not disqualify himself under paragraph 4-1c above, if his financial holdings are in shares of a widely-held diversified mutual fund or regulated investment company. The indirect interests in business entities which the holder of shares in a widely-held diversified mutual fund or regulated investment company derives from ownership by the fund or investment company of stocks in business entities is hereby exempted from the provisions of 18 U.S.C. 208a, in accordance with the provisions of 18 U.S.C. 208b(1) as being too remote or inconsequential to affect the integrity of the technician's service.

CHAPTER 5. INFORMATION TO TECHNICIANS

5-1. INFORMATION TO TECHNICIANS. New technicians will be advised of the standards of conduct contained in this regulation upon entry on duty. The standards of conduct will also be brought to the attention of all technicians upon promulgation and at least semi-annually thereafter. Each technician will sign a statement upon employment or assumption of duties that he understands the requirements set forth in the standards of conduct. This statement will be filed in the Official Personnel Folder.

5-2. MISCELLANEOUS STATUTORY AND NONSTATUTORY PROVISIONS. Each technician has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as a technician in the National Guard and as an employee of the Government. Excerpts from statutes governing the conduct of federal employees are contained in appendix A, to this regulation; prohibitions on conduct other than statutory are contained in appendix B.

APPENDIX A

EXCERPTS FROM STATUTES

GOVERNING CONDUCT OF FEDERAL EMPLOYEES

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1. GENERAL. There are numerous statutes pertaining to the conduct of federal employees, far too many to attempt to quote from all. Consequently, only the more important ones of general applicability are quoted in part in this appendix. Since these are summary statements, the actual text of the applicable statutes should be referred to before any action is taken on a violation.

2. GIFTS TO SUPERIORS. "An employee may not -- (1) solicit a contribution from another employee for a gift to an official superior; (2) make a donation as gift to an official superior; or (3) accept a gift from an employee receiving less pay than himself. An employee who violates this section shall be removed from the service." (5 U.S.C. 7351)

3. BRIBERY and GRAFT. a. Bribery of public officials and witnesses.

"(1) For the purpose of this section: 'public official' means Member of Congress, the delegate from the District of Columbia, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government, thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency or branch of Government, or a juror; an official act means any decision, or action on any questions, matter, cause suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in his official capacity, or in his place of trust or profit.

"(2) Whoever, directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent:

"(a) to influence any official act; or

"(b) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

"(c) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of his lawful duty, or

"(3) Whoever, being a public official or person selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of value for himself or for any other person or entity in return for:

"(a) being influenced in his performance of any official act; or

"(b) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

"(c) being induced to do or omit to do any act in violation of his official duty; or

"(4) Whoever, directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom; or

"(5) Whoever, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity in return for being influenced in his testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom --

"Shall be fined not more than $20,000 or three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

"(6) Whoever, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

"(7) Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him; or

"(8) Whoever, directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of his absence therefrom; or

"(9) Whoever, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of the testimony under oath or affirmation given or to be given by him as a witness upon any such trial, hearing, or other proceeding, or for or because of his absence therefrom --

"Shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"(10) Subsections (d), (e), (h), and (i) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or, in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying." (18 U.S.C. 201)

"(11) The offenses and penalties in this section are separate from and in addition to those prescribed in sections 1503, 1504 and 1505 of this title."

4. CONFLICTS OF INTEREST.

a. Official responsibility. For purposes of paragraphs c and d, the term official responsibility means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action (18 U.S.C. 202(b)).

b. Compensation to Members of Congress, officers, and others in matters affecting the Government.

(1) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another --

(2) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Delegate, Commissioner, officer, or employee --

"Shall be fined not more than $10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

c. Activities of officers and employees in claims against and other matters affecting the Government. "Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties.

"(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

"(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest --

"Shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"Nothing herein prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

"Nothing herein or in section 203 prevents an officer or employee, from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Government official responsible for appointment to his position approves.

"Nothing herein prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt." (18 U.S.C. 205)

d. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.

"(1) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, after his employment has ceased, knowingly acts as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investiation, or otherwise, while so employed, or

"(2) Whoever, having been so employed, within one year after his employment has ceased, appears personally before any court or anyone other than the United States in connection with any proceedings, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an officer or employee of the Government at any time within a period of one year prior to the termination of such responsibility --

"Shall be fined not more than $10,000 or imprisoned for not more than two years, or both; Provided, That nothing in subsection (1) or (2) prevents a former officer or employee, with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee.

"(3) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, acts as agent or attorney for anyone other than the United States, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his official responsibility --

"Shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"A partner of a present or former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia shall as such be subject to the provisions of sections 203, 205, and 207 of this title only as expressly provided in subsection (c) of this section." (18 U.S.C. 207)

e. Acts affecting a personal financial interest.

"(1) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial determination, contact, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as an officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest --

"Shall be fined not more than $10,000, or imprisoned not more than two years, or both.

"(2) Subsection (1) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) thereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services." (18 U.S.C. 208)

f. Salary of Government officials and employees payable only by United States.

"(1) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

"Whoever, whether an individual, partnership, association, corporation, or other organization pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection --

"Shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(2) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

"(3) This section does not apply to an officer or employee of the Government serving without compensation, or to any person paying, contributing to, or supplementing his salary as such.

"(4) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of the Government Employees Training Act (Public Law 85-507, 72 Stat. 327; 5 U.S.C. 2301-2319, July 7, 1958)." (18 U.S.C. 209)

g. Acceptance or solicitation to obtain appointive public office. "Whoever solicits or receives . . . any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States by requiring the payment of a fee because such person has secured such employment shall be fined not more than $1,000 or imprisoned not more than one year, or both. . . ." (18 U.S.C. 211)

5. LOBBYING WITH APPROPRIATED MONIES. "No part of the money appropriated by an enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote, or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

"Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned no more than one year, or both; and . . . be removed from office or employment." (18 U.S.C. 1913)

6. DISLOYALTY AND STRIKING. The provisions of 5 U.S.C. 7311 and 18 U.S.C. 1918 are described in chapter 731 of the FPM.

a. Employment limitation. Under law and Executive Order a person may not accept or hold a position in the National Guard technician program if he:

(1) Seeks the overthrow of our constitutional form of Government by force or violence or other unlawful means; or

(2) Is a member of an organization that the technician knows seeks the overthrow of our constitutional form of Government by force or violence or other unlawful means; or

(3) Participates in a strike against the Government.

b. Employee affidavit. An individual who accepts a technician position is required to execute an Appointment Affidavit (Standard Form 61) which states in part that he is not participating and will not participate in a strike against the Government.

7. EMPLOYMENT OF MEMBERS OF COMMUNIST ORGANIZATIONS. Employment of members of Communist organizations as defined in section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 781 et seq.) is prohibited by section 5(a) thereof.

8. DISCLOSURE OF CLASSIFIED INFORMATION. "Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information. . . Shall be fined not more than $10,000 or imprisoned not more than ten years, or both. . . ." (18 U.S.C. 798)

9. DISCLOSURE OF CONFIDENTIAL INFORMATION. "Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to trade secrets, processes, operations, style of work, or apparatus, or to the identify, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation or association; or permits any income return or copy thereof or any book containing any abstract or particular thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment." (18 U.S.C. 1905)

10. HABITUAL USE OF INTOXICATING BEVERAGES TO EXCESS. "An individual who habitually uses intoxicating beverages to excess may not be employed in the competitive service." (5 U.S.C. 7352)

11. MISUSE OF GOVERNMENT VEHICLES. ". . . Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft, or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the departments concerned, without compensation, for not less than one month, and shall be responsible for a longer period or summarily removed from office if the circumstances warrant." (31 U.S.C. 638a(c)(2))

12. FRANKING PRIVILEGE. "Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined not more than $300." (18 U.S.C. 1719)

13. INTERFERENCE WITH CIVIL SERVICE EXAMINATIONS. "Whoever being . . . in the public service, willfully and corruptly (1) defeats, deceives, or obstructs an individual in respect of his right of examination according to the rules prescribed . . . under title 5 for the administration of the competitive service . . . ; (2) falsely marks, grades, estimates or reports on the examination or proper standing of an individual examined; (3) makes a false representation concerning the mark, grade, . . . or proper standing of an individual examined . . . ; or (4) furnishes to an individual any special or secret information for the purpose of improving or injuring the prospects of chances of an individual examined . . . ; shall, for each offense, be fined not less than $100 nor more than $1,000 or imprisoned not less than ten days nor more than one year, or both." (18 U.S.C. 1917)

14. STATEMENTS GENERALLY. "Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined no more than $10,000 or imprisoned not more than five years, or both." (18 U.S.C. 1001)

15. MUTILATING OR DESTROYING PUBLIC RECORDS. Whoever, having the custody of any such record, proceeding, map, book document, paper, or other thing, willfully and unlawfully conceals, removes mutilates, obliterates, falsifies, or destroys the same, shall be fined not more than $2,000 or imprisoned not more than three years, or both; . . . and be disqualified from holding any office under the United States." (18 U.S.C. 2071(b))

16. GOVERNMENT TRANSPORTATION REQUESTS. "Whoever falsely makes, forges, or counterfeits in whole or in part, any form or request in similitude of the form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or agency thereof, or knowingly alters any form or request . . . or knowingly passes, utters, publishes, or sells, or attempts to pass, utter, publish or sell, any such false, forged, counterfeited or altered form or request shall be fined not more than $5,000 or imprisoned not more than ten years, or both." (18 U.S.C. 508)

17. EMBEZZLEMENT AND THEFT.

a. Public money, property, or records.

"Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

"Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted shall be fined not more than $10,000 or imprisoned not more than ten years, or both but if the value of such propert[redacted] not exceed the sum of $100.00 he shall be fined not more than [redacted]prisoned not more than one year, or both." (18 U.S.C. 641)

b. Accounting generally for public money. "Whoever, being an officer, employee or agent of the United States or of any department or agency thereof, having received public money which he is not authorized to retain as salary, pay or emolument, fails to render his accounts for the same as provided by law is guilty of embezzlement and shall be fined . . . . an amount equal to amount embezzled, or imprisoned not more than ten years, or both; but if the amount of the money embezzled does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both . . ." (18 U.S.C. 643)

c. Officer or employee of the United States converting property of another. "Whoever, being an officer or employee of the United States or any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined . . ." not more than the value of the money and property thus embezzled or converted or imprisoned not more than ten years, or both. (18 U.S.C. 654)

18. TAKING OR USING PAPERS RELATED TO CLAIMS.

"Whoever, without authority, takes and carries away from the place where it was filed, deposited, or kept by authority of the United States, any certificate, affidavit, deposition, statement of facts, power of attorney, receipt, voucher, assignment, or other document, record, file, or paper prepared, fitted, or intended to be used or presented to procure the payment of money from or by the United States or any officer, employee, or agent thereof, or the allowance or payment of the whole or any part of any claim, account or demand against the United States . . . or

"Whoever presents, uses or attempts to use any such document, record, file or paper so taken and carried away, to procure the payment of any money from or by the United States, or any officer, employee, or agent thereof . . .

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both." (18 U.S.C. 285)

19. POLITICAL ACTIVITY RESTRICTIONS. A Federal employee in the executive branch shall not (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or (2) take an active part in partisan political management or in partisan political campaigns.

20. SOLICITATION OF POLITICA[redacted]ONS GENERALLY.

"Whoever, being . . . an officer or employee of the United States or any department or agency thereof, or a person receiving a salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or . in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person, shall be fined not more than $5,000 or imprisoned not more than three years or both." (18 U.S.C. 602)

21. SOLICITATION OF POLITICAL CONTRIBUTIONS IN FEDERAL INSTALLATIONS.

"Whoever, in any room or building occupied in the discharge of official by . . . (an officer or employee of the United States) or in any navy yard, fort, or arsenal, solicits or receives any contribution of money or other thing of value for any political purpose, shall be fined not more than $5,000 or imprisoned not more than three years, or both." (18 U.S.C. 603)

22. MAKING POLITICAL CONTRIBUTIONS.

"Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or

Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than $5,000 or imprisoned not more than three years, or both." (18 U.S.C. 607)

23. LIMITATION ON POLITICAL CONTRIBUTIONS AND PURCHASES.

a. "Whoever, directly or indirectly, makes contributions in an aggregate amount in excess of $5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, including the offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engated in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success or any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both. This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organization in the District of Columbia or in any Territory or Possession of the United States.

b. "Whoever purchases or buys any goods, commodities, advertising, or articles of any kind or description, the proceeds of which, or any portion thereof, directly or indirectly inures to the benefit of or for any candidate for an elective Federal office including the offices of President of the United States, and Presidential and Vice Presidential electors or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both. This subsection shall not interfere with the usual and known business, trade, or profession of any candidate.

c. "In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and willfully participate in such violation, shall be punished as herein provided.

d. "The term 'contribution' as used in this section, shall have the same meaning prescribed by section 591 of this title." (18 U.S.C. 608)

24. ACTING AS AGENT FOR FOREIGN PRINCIPAL.

"Whoever, being an officer or employee of the United States . . . including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act . . . shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"Nothing in this section shall apply to the employment of any agent of a foreign principle as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. . ." (18 U.S.C. 219)

25. RIOTS OR CIVIL DISORDERS.

a. "An individual convicted by a Federal, State, or local court of competent jurisdiction of -- (1) inciting a riot or civil disorder; (2) organizing, promoting, encouraging, or participating in a riot or civil disorder; (3) aiding or abetting any person in committing any offense specified in clause (1) or (2); or (4) any offense determined by the head of the employing agency to have been committed in furtherance of, or while participating in, a riot or civil disorder; shall, if the offense for which he is convicted is a felony, be ineligible to accept or hold any position in the Government of the United States or in the government of the District of Columbia, for the five years immediately following the date upon which his conviction becomes final. Any such individual holding a position in the Government of the United States or the government of the District of Columbia on the date his conviction becomes final shall be removed from such position.

b. "For the purposes of this section, 'felony' means any offense for which imprisonment is authorized for a term exceeding one year." (5 U.S.C. 7313)

26. CRIMINAL ACTIVITY. There are legal prohibitions to the following activities which may subject present and former technician to criminal or other penalties:

a. Aiding, abetting, counseling, commanding, inducing or procuring another to commit a crime under any criminal statute. (18 U.S.C. 201)

b. Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime. (18 U.S.C. 4)

c. Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy. (18 U.S.C. 371)

APPENDIX B

PROHIBITIONS ON CONDUCT OTHER THAN STATUTORY

1. GENERAL. In addition to certain prohibitions on conduct that are imposed by statute, there are others imposed by Executive Orders and Office of Personnel Management (OPM) Rules and Regulations. These usually require a maximum penalty of removal from the Federal service, but in some cases other disciplinary action considered appropriate by OPM may be taken.

a. It is impractical to list all these prohibitions. but a few of them, and the authorities and maximum penalties are summarized below. Since these are only summary statements, one should consult the actual text of the applicable Executive Order, OPM Rule, or Regulation before taking any disciplinary or removal action.

b. Each agency is responsible for identifying the prohibitions imposed upon its employees by all such authorities.

2. SUMMARY OF PROHIBITIONS, AUTHORITIES, AND PENALTIES.

Prohibition	Executive Order, rule, or regulation	Maximum penalty
a. Misconduct generally: Criminal, dishonest, immoral, or notoriously disgraceful conduct.	OPM Regulation 731.201	Removal
b. Malfeasance, nonfeasance in personnel administration. Violation of any law, rule or regulation administered by the Commission, or failure to adhere to established policies, regulations standards, and instructions on personnel management subject to the jurisdiction of the Commission.	OPM Rule 5.4.	Such disciplinary action as the Commission considers appropriate.
c. Examination inducing withdrawals. Influencing another to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment.	Executive Order 5221, November 1929	Removal

Prohibition	Executive Order, rule, or regulation	Maximum penalty
d. Examination-fraud. Intentional false statements or deception or fraud in examination for appointment.	OPM Regulation 731.201(c).	Removal
e. Refusal to testify. Refusal to furnish testimony or information to authorized representatives of the Commission in regard to matters inquired of arising under the laws, rules- and regulations administered by the Commission.	OPM Regulation 721.201(d)	Removal
f. Employment by foreign interests. Serving while on annual leave or leave without pay, with or without remuneration, for any foreign government, corporation, partnership, or individual that is in competition with American industry.	Executive Order 5221, November 11, 1929.	Removal