

considered lower tier covered transactions for the purposes of this part. The export or substitution of Federal timber governed by the Forest Resources Conservation and Shortage Relief Act of 1990, 16 U.S.C. 620 *et seq.* (the "Export Act"), is specifically excluded from the coverage of this rule. The Export Act provides separate statutory authority to debar persons engaged in both primary covered transactions and lower tier transactions.

(ii) With respect to paragraph (a)(1)(ii)(B) of this section, for USDA's domestic food assistance programs, only the initial such procurement contract and the first tier subcontract under that procurement contract shall be considered lower tier covered transactions.

(iii) With respect to paragraph (a)(2) of this section, the following USDA transactions also are not covered: transactions under programs which provide statutory entitlements and make available loans to individuals and entities in their capacity as producers of agricultural commodities; transactions under conservation programs; transactions under warehouse licensing programs; the receipt of licenses, permits, certificates, and indemnification under regulatory programs conducted in the interest of public health and safety and animal and plant health and safety; the receipt of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services; if the person is a State or local government, the provision of official grading and inspection services, animal damage control services, public health and safety inspection services, animal and plant health and safety inspection services; and permits, licenses, exchanges and other acquisitions of real property, rights of way, and easements under natural resource management programs.

* * * * *

3. Section 3017.115 is amended by adding a new paragraph (d) to read as follows:

§ 3017.115 Policy.

* * * * *

(d) In any case in which an administrative exclusion is considered under an authority other than this part, USDA will initiate, where appropriate, a debarment or suspension action under this part for the protection of the entire Federal Government.

4. Section 3017.200 is amended by adding a new paragraph (d) to read as follows:

§ 3017.200 Debarment or suspension.

* * * * *

(d) *Department of Agriculture excepted transactions.* With respect to paragraph (c) of this section, the following USDA transactions also are excepted: transactions under programs which provide statutory entitlements and make available loans to individuals and entities in their capacity as producers of agricultural commodities; transactions under conservation programs; transactions under warehouse licensing programs; the receipt of licenses, permits, certificates, and indemnification under regulatory programs conducted in the interest of public health and safety and animal and plant health and safety; the receipt of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services; if the person is a State or local government, the provision of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services; and permits, licenses, exchanges, and other acquisitions of real property, rights of way, and easements under natural resource management programs.

Dated: December 21, 1995.
Dan Glickman,
Secretary of Agriculture.
[FR Doc. 96-76 Filed 1-3-96; 8:45 am]
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FEDERAL RESERVE SYSTEM

12 CFR Part 268

[Docket No. R-0894]

Rules Regarding Equal Opportunity

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (the Board) has amended its Rules Regarding Equal Opportunity (Rules) to correct an ambiguity in the provision regarding access to the investigative file. The Rules set out the complaint processing procedures governing complaints by Board employees and applicants for employment alleging discrimination in employment, and related matters.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: J. Mills Williams, Senior Attorney (202/452-3701), or Stephen L. Siciliano,

Special Assistant to the General Counsel for Administrative Law (202/452-3920), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. For users of Telecommunication Device for the Deaf (TDD) only, contact Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: The amendment to the Rules is hereby issued as a final rule. The Board sought comments on the proposed amendment on August 31, 1995 (60 FR 45385), and no comments were received. No changes have been made in the amendment as proposed.

The Board's Rules Regarding Equal Opportunity (12 CFR part 268) prior to this amendment provided that a person who files an administrative complaint of discrimination under the Rules must be given a copy of the investigative file relative to the complaint within 180 days after the filing of the complaint with the Board, unless the time is otherwise extended. 12 CFR 268.207(f). The Rules further provided that the "Board may unilaterally extend the time period * * * where it must sanitize a complaint file that may contain confidential information of the Board under 12 CFR part 261, or other privileged information of the Board * * *." 12 CFR 268.207(e). The corresponding language in the federal sector complaint processing regulation of the Equal Employment Opportunity Commission (Commission) provides that an "agency may unilaterally extend the time period * * * where it must sanitize a complaint file that may contain information classified pursuant to Executive Order 12356, or successor orders, as secret in the interest of national defense or foreign policy * * *." 29 CFR 1614.108(e).

The Board's Rules require that, at the completion of an investigation, the investigative file be made available to each complainant. 12 CFR 268.207(f). It was and continues to be the Board's intention to provide that confidential information of the Board that is relevant to the complaint be included in the investigative file made available to the complainant and to the complainant's personal representative.

The Board was concerned, however, that the prior language of § 268.207(e) could be interpreted as preventing confidential Board information that is relevant to a complainant from being included in the investigative file and thus being made available to a complainant. The Board believes that its Rules must make clear that, where relevant, confidential information of the

Board may be included in a complaint file. Accordingly, § 268.207(e) of the Rules has been amended to provide that the time period for completing an investigation may be unilaterally extended by the Board only where classified national security information must be sanitized. This amendment conforms the Rules to the corresponding provision in the complaint processing regulation of the Commission.

In addition, a new paragraph (§ 268.207(e)(2)) has been added to § 268.207(e) of the Board's Rules that expressly authorizes the placement by the investigator, the EEO Programs Director, or another appropriate officer of the Board of relevant confidential information in the investigative file that is provided to a complainant and to his or her personal representative.

The new paragraph contains a provision making clear that those who have access to an investigative file, such as the complainant and the complainant's personal representative, containing any confidential information are subject to all applicable restrictions in existing law governing the disclosure of such information, in particular, the Board's Rules Regarding Availability of Information (12 CFR Part 261) and, where applicable, the Privacy Act. This means that confidential information in an investigatory file may be disclosed further only to the extent permitted by such restrictions.

The Board notes, in this regard, that its restrictions on unauthorized disclosure of confidential information by persons in possession of such information bind all such persons, not merely those who are employees of the Board. 12 CFR 261.8(c), 261.13(e), 261.14.

The Board's Rules Regarding Availability of Information (12 CFR 261 subpart C) provide a mechanism by which a person having confidential information of the Board may request permission to disclose further such information, however. Accordingly, application may be made to the Board's General Counsel under 12 CFR 261.13 for approval of further production or disclosure by a complainant or personal representative of confidential information.

In addition, aside from confidential supervisory information, a particular investigatory file may include information that is subject to the Privacy Act. Such information also may not be disclosed to or by the complainant unless disclosure is authorized consistent with the requirements and/or prohibitions of the Privacy Act (5 U.S.C.

552a).¹ Information subject to Executive Order 12356 may not at any point be included in the investigatory file and would not be made available to the complainant or to his/her personal representative.

In addition, the Board has made a technical correction to § 268.304(a)(3)(i)(A) by substituting a reference to Executive Order No. 12356, dealing with national security classified information, for the former reference (Executive Order No. 10450). The Board has determined that this technical correction is not subject to provisions of the Administrative Procedure Act regarding notice and public comment because good cause exists to support the conclusion that notice and public procedure thereon are unnecessary. 5 U.S.C. 553(b)(B) and (d).

List of Subjects in 12 CFR Part 268

Administrative practice and procedure, Aged, Civil rights, Equal employment opportunity, Federal buildings and facilities, Federal Reserve System, Government employees, Individuals with disabilities, Religious discrimination, Sex discrimination, Wages.

For the reasons set forth in the preamble, the Board amends 12 CFR part 268 as set forth below:

PART 268—RULES REGARDING EQUAL OPPORTUNITY

1. The authority citation for part 268 continues to read as follows:

Authority: 12 U.S.C. 244 and 248(i), (k) and (l).

2. In § 268.207, paragraph (e) is revised to read as follows:

§ 268.207 Investigation of complaints.

* * * * *

(e)(1) The Board shall complete its investigation within 180 days of the date of the filing of an individual complaint or within the time period contained in the determination of the Commission on review of a dismissal pursuant to § 268.206 of this part. By written agreement within those time periods, the complainant and the Board may voluntarily extend the time period for not more than an additional 90 days. The Board may unilaterally extend the time period or any period of extension

¹ Information subject to the Privacy Act may thereafter be disclosed when necessary in accordance with the routine use provision. 12 CFR 261a.10(b)(3). See Board System of Records, BGFRS-5, *Federal Reserve Regulatory Service* ¶ 8-338. A federal criminal statute regarding the unauthorized conversion of Board property may restrict disclosure of confidential Board information in certain cases unless authorization has been specifically given. 18 U.S.C. 641.

for not more than 30 days where it must sanitize an investigative file that may contain information classified pursuant to Executive Order No. 12356, or successor orders, as secret in the interest of national defense or foreign policy, provided the Board notifies the complainant of the extension.

(2) Confidential supervisory information, as defined in 12 CFR 261.2(b), and other confidential information of the Board may be included in the investigative file by the investigator, the EEO Programs Director, or another appropriate officer of the Board, where such information is relevant to the complaint. Neither the complainant nor the complainant's personal representative may make further disclosure of such information, however, except in compliance with the Board's Rules Regarding Availability of Information, 12 CFR part 261, and where applicable, the Board's Rules Regarding Access to and Review of Personal Information in Systems of Records, 12 CFR part 261a.

* * * * *

§ 268.304 [Amended]

3. In § 268.304(a)(3)(i)(A), remove the words "Executive Order No. 10450 (3 CFR, 1949-1953 Comp., P. 936)" and add in their place, the words "Executive Order No. 12356 (3 CFR, 1982 Comp.; p. 166)".

By order of the Board of Governors of the Federal Reserve System, December 28, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-90 Filed 1-3-96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26344; Amendment No. 23-43]

RIN 2120-AD30

Small Airplane Airworthiness Review Program Amendment No. 3; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Correction; final rule with request for comments.

SUMMARY: This final rule contains corrections to the final regulation (Amendment 23-43), which was published April 9, 1993 (58 FR 18958). The regulation amended the powerplant and equipment airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. This