

§0.735-3

(1) The provisions of law cited in this part;

(2) Executive Order 11222 of May 8, 1965 (3 CFR, 1965 Supp. p. 130);

(3) Part 735 of the Civil Service regulations (5 CFR 735.101-735.412, inclusive).

(b) This part prescribe additional standards of ethical and other conduct and reporting requirements deemed appropriate in the light of the particular functions and activities of this Department.

§0.735-3 Applicability.

This part applies to all persons included within the term "employee" as defined in §0.735-4, except as otherwise provided in this part.

§0.735-4 Definitions.

For purposes of this part, except as otherwise indicated in this part:

(a) *Employee*. (1) Shall include: (i) Every officer and employee of the Department of Commerce (regardless of location), including commissioned officers of the Environmental Science Services Administration; and

(ii) Every other person who is retained, designated, appointed, or employed by a Federal officer or employee, who is engaged in the performance of a function of the Department under authority of law or an Executive act, and who is subject to the supervision of a Federal officer or employee while engaged in the performance of the duties of his position not only as to what he does but also as to how he performs his duties, regardless of whether the relationship to the Department is created by assignment, detail, contract, agreement or otherwise.

(2) Shall not include: (i) Members of the Executive Reserve except when they are serving as employees of the Department under the circumstances described in paragraph (a)(1) of this section;

(ii) Members of crews of vessels owned or chartered to the Government and operated by or for the Maritime Administration under a General Agency Agreement; or

(iii) Any other person who is determined legally not to be an officer or employee of the United States.

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(b) *Special Government employee* shall mean an employee as defined in paragraph (a) of this section who is retained, designated, appointed, or employed to perform with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties on either a full-time or intermittent basis.

(c) *Personnel officer* means a personnel official to whom the power of appointment is redelegated under Administrative Order 202-250.

(d) *Operating unit* means, for purposes of this part, primary and constituent operating units designated as such in the Department Order Series of the Department of Commerce and, in addition, the Office of the Secretary.

(e) *Head of an operating unit*, for the purposes of this part, includes the Assistant Secretary for Administration with respect to the performance of functions under this part for the Office of the Secretary.

Subpart B—General Policy

§0.735-5 General principles.

Apart from statute, there are certain principles of fair dealing which have the force of law and which are applicable to all officers of the Government. A public office is a public trust. No public officer can lawfully engage in business activities which are incompatible with the duties of his office. He cannot, in his private or official character, enter into engagements in which he has, or can have, a conflicting personal interest. He cannot allow his public duties to be neglected by reason of attention to his private affairs. Such conflicts of interest are not tolerated in the case of any private fiduciary, and they are doubly proscribed for a public trustee. (40 Ops. Atty. Gen. 187, 190.)

§0.735-6 Standards required in the Federal service.

5 CFR 735.101 states: "The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government."