

§ 3501.103

5 CFR Ch. XXV (1–1–05 Edition)

Management would not be a prohibited source of gifts for an employee of the National Park Service (NPS), unless that company seeks official action by the NPS; does business or seeks to do business with the NPS; conducts activities that are regulated by the NPS; or has interests that may be substantially affected by the performance or nonperformance of that employee's official duties.

Example 2: A paralegal who works part-time in the Office of the Solicitor wants to take an additional part-time job with a private company that does business with the U.S. Geological Survey. The company is a prohibited source for the paralegal, since the company does business with a component of the Department from which his component has not been listed as separate in § 3501.102(a). The paralegal must obtain prior approval for the outside employment, because § 3501.105 requires employees to obtain such approval before engaging in outside employment with a prohibited source.

§ 3501.103 Prohibited interests in Federal lands.

(a) *Cross-references to statutory prohibitions—*(1) *Prohibited purchases of public land by Bureau of Land Management employees.* As set forth in 43 CFR 20.401, the officers, clerks, and employees in the Bureau of Land Management are prohibited by 43 U.S.C. 11 from directly or indirectly purchasing or becoming interested in the purchase of any of the public lands.

(2) *Prohibited interests in the lands or mineral wealth of the region under survey for U.S. Geological Survey employees.* As set forth in 43 CFR 20.401, the Director and members of the U.S. Geological Survey are prohibited by 43 U.S.C. 31(a) from having any personal or private interests in the lands or mineral wealth of the region under survey.

(b) *Prohibited financial interests in Federal lands for Minerals Management Service employees and for the Secretary and employees of the Office of the Secretary and other Departmental offices reporting directly to a Secretarial officer who are in positions classified at GS-15 and above.* (1) Except as provided in paragraph (b)(2) of this section, the following employees may not acquire or hold any direct or indirect financial interest in Federal lands or resources administered or controlled by the Department:

(i) All employees of the Minerals Management Service; and

(ii) The Secretary and employees of the Office of the Secretary and other Departmental offices reporting directly to a Secretarial officer who are in positions classified at GS-15 and above. As used in this section, "Office of the Secretary and other Departmental Offices reporting directly to a Secretarial officer" means the Immediate Office of the Secretary; Office of the Solicitor; Office of the Inspector General; Office of Communications; Office of Congressional and Legislative Affairs; all Assistant Secretaries, their immediate Office staff and heads of bureaus which are subordinate to an Assistant Secretary. This includes the following offices under the Office of the Assistant Secretary—Policy, Management and Budget: Office of Budget, Office of Hearings and Appeals, Office of Acquisition & Property Management, Office of Environmental Policy and Compliance, Office of Policy Analysis, Office of Financial Management, and Office of Information Resources Management.

(2) *Exceptions.* The prohibition in paragraph (b)(1) of this section does not apply to:

(i) An individual employed on an intermittent or seasonal basis for a period not exceeding 180 working days in each calendar year; or

(ii) A special Government employee engaged in field work relating to land, range, forest, and mineral conservation and management activities.

(c) *Prohibition as to Department-granted rights in Federal lands.* (1) Except as provided in paragraph (c)(2) of this section, employees and their spouses and their minor children are prohibited from acquiring or retaining any claim, permit, lease, small tract entries, or other rights that are granted by the Department in Federal lands.

(2) *Exceptions.* (i) Nothing in paragraph (c)(1) of this section prohibits the recreational or other personal and noncommercial use of Federal lands by an employee, or the employee's spouse or minor child, on the same terms as use of Federal lands is available to the general public.

(ii) Unless otherwise prohibited by law, employees in the Office of the Assistant Secretary—Indian Affairs, or in the Bureau of Indian Affairs, and the

spouses and minor children of such employees, are not prohibited by paragraph (c)(1) of this section from acquiring or retaining rights in Federal lands controlled by the Department for the benefit of Indians or Alaska Natives.

(d) *Divestiture.* The Designated Agency Ethics Official may require an employee to divest an interest the employee is otherwise authorized to retain under an exception listed in this section, based on a determination of substantial conflict under § 2635.403(b) of this title.

(e) *Waivers.* The Designated Agency Ethics Official may grant a written waiver from the prohibitions contained in paragraphs (b) and (c) of this section, based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Department programs are administered. A waiver under this paragraph may be accompanied by appropriate conditions, such as acquiring execution of a written statement of disqualification. Notwithstanding the grant of any waiver, an employee remains subject to the disqualification requirements of 5 CFR 2635.402 and 2635.502.

(f) *Pre-existing interests.* An employee may retain a financial interest otherwise prohibited by paragraph (b) or (c) of this section which was approved in writing under criteria and procedures in effect before November 2, 1996, unless the approval is withdrawn by the Designated Agency Ethics Official, subject to the standards for waivers in paragraph (e) of this section.

§ 3501.104 Prohibited interests in mining.

(a) *Cross-reference to statutory prohibition.* As set forth in 30 CFR part 706 and 43 CFR 20.402, employees of the Office of Surface Mining Reclamation and Enforcement and other employees who perform functions or duties under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, are prohibited by 30 U.S.C. 1211(f) from

having a direct or indirect financial interest in underground or surface coal mining operations.

(b) *Prohibited interests in private mining activities in the United States for U.S. Geological Survey employees, their spouses, and minor children.* (1) Except as provided in this section, no employee of the U.S. Geological Survey (USGS), or spouse or minor child of a USGS employee, shall have a direct or indirect financial interest in private mining activities in the United States.

(2) *Definitions.* For purposes of applying the prohibition in paragraph (b)(1) of this section:

(i) *Financial interest* has the meaning set forth in 5 CFR 2635.403(c), and includes an employee's legal or beneficial interest in a trust.

(ii) *Private mining activities* means exploration, development, and production of oil, gas, and other minerals on land in the United States that is not owned by the Federal government or by a State or local government.

(3) *Exceptions.* The prohibition set forth in paragraph (b)(1) of this section does not apply to:

(i)(A) Financial interests worth \$5000 or less, for employees (or their spouses and minor children) of the Office of the Director and the Geologic Division, or

(B) A single financial interest worth \$5000 or less or an aggregate of financial interests worth \$15,000 or less, for employees (or their spouses and minor children) of all other USGS organizational elements;

(ii) Mineral royalties and overriding royalty interests of \$600 per year or less;

(iii) A publicly traded or publicly available investment fund (e.g., a mutual fund) which, in its prospectus, does not indicate the objective or practice of concentrating its investments in entities engaged in private mining activities in the United States, if the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund;

(iv) A legal or beneficial interest in a qualified profit sharing, retirement, or similar plan, provided that the plan does not invest more than 25 percent of its funds in debt or equity instruments of entities engaged in private mining activities in the United States, and the