

# Wildlife Services Directive

4.120  
May 11, 2016

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## EMPLOYEE RESPONSIBILITIES AND CONDUCT

### 1. PURPOSE

To provide guidance to Wildlife Services (WS) employees related to official capacity and personal capacity conduct.

### 2. REPLACEMENT HIGHLIGHTS

This directive revises WS Directive 4.120, dated September 3, 2010.

### 3. AUTHORITY

Authority to develop guidelines for WS personnel official capacity and personal capacity conduct is derived from U.S. Department of Agriculture Departmental Regulation 4070-735-001, Employee Responsibilities and Conduct, dated October 4, 2007.

### 4. POLICY

a. WS personnel will not use their position as a Government employee to obtain any special information or privilege for personal gain from any individual, Government agency, organization, or employee that is not also available to the general public.

b. WS personnel will not conduct official WS operational or research activities on property owned or leased by WS personnel or immediate family members of WS personnel without the approval of the Regional Director or National Wildlife Research Center Director, and with concurrence from the Deputy Administrators' office.

c. WS personnel will not keep, sell or consume wildlife captured or killed as part of their official duties, or conduct transactions for personal gain or profit associated with the species as defined per procedures set forth in Enclosure (1).

d. WS personnel will not engage in outside employment or other activities, whether or not for compensation, that conflict with official duties.

e. Personnel who are required to file an Office of Government Ethics (OGE) Form 278, Executive Branch Personnel Public Financial Disclosure Report, an OGE Form 450, Confidential Financial Disclosure Report, or an alternate form which has been approved by OGE, must seek and receive prior supervisory approval before engaging in outside employment or outside activities.

f. Personnel other than those who must file financial disclosures as referenced in paragraph (4e) above, are *strongly encouraged* to consult with their supervisor prior to engaging in any outside employment or activities. While prior consultation with the employee's supervisor is preferred, there is no requirement to obtain prior approval.

## 5. DEFINITIONS

a. Agency: the Animal and Plant Health Inspection Service (APHIS).

b. Immediate Family Member: includes spouse and parents thereof; children and spouses thereof; parents and spouses thereof; siblings and spouses thereof; grandparents and grandchildren and spouses thereof; domestic partner and parents thereof, including domestic partners of any individual listed in this definition, and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

c. Official Capacity: performance of actions that are approved or authorized by WS, and that fall within the authority vested in WS personnel by virtue of their status as a federal or non-federal employee, volunteer, or intern, while conducting official WS duties under the supervision of WS.

d. Outside Employment/Activity: any form of non-federal employment or business relationship or activity involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, *irrespective of compensation*, the following outside activities:

(1) Providing personal services as a consultant or professional, including service as a witness or as an attorney; and,

(2) Providing personal services to a *for-profit* entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee, which involves decision making or policymaking for the non-federal entity, or the provision of advice or counsel.

e. Personal Capacity: performance of actions on behalf of, and for the benefit of the individual employee, and not under WS supervision.

f. WS Employee or Personnel: includes federal and non-federal employees, volunteers, interns who conduct official WS duties under the supervision of WS.

## 6. IMPLEMENTATION

a. **Specific Guidance for Official and Personal Capacity Conduct**: Enclosures (1) and (2), respectively, provide WS personnel with specific guidance setting forth parameters and prohibitions for WS personnel in their official and personal capacity.

b. **Employee Notification**: Supervisors are responsible for ensuring that all WS personnel under their supervision are provided with a copy of this directive. Employees who have questions regarding the content of this directive, to include its enclosures, will consult with their supervisors. Any question or issue that cannot be satisfactorily addressed by a supervisor should be submitted up the supervisory chain, or submitted directly to a USDA Ethics Specialist.

c. **Employee Responsibilities and Conduct**: This directive supplements the U.S. Department of Agriculture Departmental Regulation 4070-735-001, Employee Responsibilities and Conduct, but is not in conflict with any provision thereof.

(1) WS personnel remain responsible for complying with Departmental Regulation 4070-735-001. In the event that the WS directive conflicts with a provision in Departmental Regulation 4070-735-001, the Departmental Regulation prevails.

(2) WS personnel remain responsible for complying with the Federal Criminal Conflict of Interest Statute, U.S. Code, Title 18, Section 208, which prohibits an executive branch employee from participating personally and substantially in a particular Government matter that will affect that employee's own financial interests, as well as the financial interests of the employee's spouse or minor child; the employee's general partner; an organization in which the employee serves as an officer, director, trustee, general partner or employee; and a person with whom the employee is negotiating for or has an arrangement concerning prospective employment. No provision of this directive provides any WS employee the authority to violate, or cause any WS personnel to violate, any federal criminal statutes, including those contained in Title 18 of the U.S. Code.

**7. APPLICABILITY AND SCOPE**

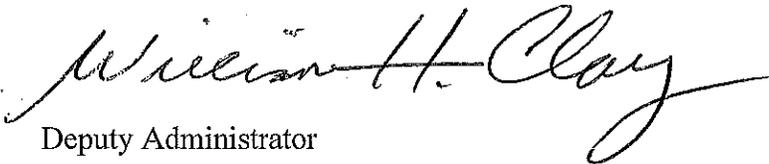
This directive is applicable to all WS personnel and programs.

**8. REFERENCES**

- a. Ethics in Government Act of 1978 (Public Law 95-521).
- b. Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635.
- c. U.S. Department of Agriculture Departmental Regulation 4070-735-001, Employee Responsibilities and Conduct, dated October 4, 2007

**9. ENCLOSURES**

Enclosure (1): Specific Guidance for Official Capacity Conduct  
Enclosure (2): Specific Guidance for Personal Capacity Conduct

  
Deputy Administrator

## Enclosure (1)

### SPECIFIC GUIDANCE FOR OFFICIAL CAPACITY CONDUCT

1. While performing their official duties under the auspices of WS, WS personnel will endeavor to avoid all actions creating an appearance of violation of the ethical standards with which all federal employees are expected to comply.
  
2. WS personnel will not use their position as a federal employee to obtain any special information or privilege for personal gain (for the employee or employee's immediate family member) from any individual, Government agency, organization, or employee that is not also available to the general public. Such information or privilege includes, but is not limited to:
  - a. that regarding the presence of wildlife that the employee pursues in a personal capacity for personal consumption or gain;
  - b. gratuities;
  - c. hunting, fishing, or furbearer harvesting rights;
  - d. guiding or outfitting on cooperator owned private lands that are under an active WS agreement; or,
  - e. use of lands for free or at reduced-cost where a fee is typically imposed.
  
3. WS personnel shall not conduct official WS operational or WS research activities on:
  - a. property owned or leased by the employee or the employee's immediate family member;
  - b. property owned or leased by the WS personnel.
  
4. The Wildlife Services Regional Director or National Wildlife Research Center Director may approve employees to conduct official WS operations or WS research activities on the properties identified above, with concurrence from the Deputy Administrators office, if it is determined that the interest of the Government outweighs the concerns about the integrity of the agency's actions.

## Enclosure (2)

### SPECIFIC GUIDANCE FOR PERSONAL CAPACITY CONDUCT

1. The Wildlife Services program has developed guidelines for personal capacity conduct that applies to all WS personnel. The directive and its enclosures provide the baseline guidance and expectations for all WS personnel.

2. While a specific activity may be authorized by a state or local governmental entity, federal employees are still bound by the rules, regulations and policies of their employing federal agency. Consequently, any activity that conflicts with an employee's official duties may be proscribed or restricted if that activity is prohibited by law or by a department, agency or WS policy or directive.

3. **Personal Takings During State Hunting Seasons:** WS personnel must be in compliance with the respective state's laws and any required state or local permits. WS personnel are permitted to legally take game animals for personal use during State hunting, fishing and trapping seasons as long as the take does not violate the restrictions and special conditions established by the respective State Director or Project Leader under paragraph 4, below.

4. **Identification of Species and Special Conditions:** State Directors and Field Station Leaders shall identify animal species managed as part of official WS duties and for which additional restrictions and special conditions may apply (e.g., geographic areas or time limitations) to outside activities by personnel acting in their personal capacities:

- a. Additional restrictions and special conditions shall be in writing.
- b. State Directors and Project Leaders shall seek the review and concurrence of the appropriate Regional Director or National Research Center Director, and the Deputy Administrators' office.
- c. Each Regional Office and the National Research Center shall maintain a copy of the memorandum that contains each state's additional restrictions and special conditions.
- d. Upon request, each Regional Office shall provide the WS Operational Support Staff a copy of each state's memorandum of restrictions and special conditions.

5. **Activities on Private Property:** WS personnel shall not, in their personal capacities and within their state of employment, hunt, trap, or fish, or perform paid guiding of hunters, trappers, or fishermen, or engage in other consumptive or non-consumptive natural resource use activities that are for personal gain (e.g., wild plant food gathering, mushroom gathering, paid guiding of

## Enclosure (2)

tourists, or sightseers), on private property for which a current agreement is in place for WS to conduct wildlife damage management. **The following exceptions apply to this paragraph:**

- a. Where the usual and customary fee charged by the property owner or manager is paid by the personnel.
- b. Where the landowner/manager allows individuals from the general public to access the property for such activities without compensation.
- c. Where WS personnel and their immediate family members reside, own or lease the property.
- d. Where a pre-existing family or social relationship exists between the landowner/manager and the employee or the employee's immediate family members.

**6. Outside Employment and Activities:** WS personnel shall not engage in outside employment or other outside activity that conflicts with their official duties. An outside activity conflicts with official duties if that outside activity is otherwise prohibited by statute or regulation. An outside activity may also conflict with official duties if, in order to participate in the activity without violating federal and/or state statutes or regulations, the employee must disqualify himself from so many of his duties that his ability to perform his job is impaired.

a. Personnel who are required to file an OGE Form 278, Executive Branch Personnel Public Financial Disclosure Report, an OGE Form 450, Confidential Financial Disclosure Report, or an alternate form which has been approved by OGE, must seek and receive prior supervisory approval before engaging in outside activities and employment.

b. Personnel other than those who must file financial disclosures as referenced in paragraph 6a above, are ***strongly encouraged*** to consult with their supervisor prior to engaging in any outside employment or activities. While prior consultation with the employee's supervisor is preferred, there is no requirement to obtain prior approval.

c. WS personnel who receive Certified Instructor training at the Government's expense and are required to teach courses outside of the Agency in order to maintain certification, may do so under the following restrictions:

- (1) Employees shall not use their position, title, or Government property while teaching the course;
- (2) Employees shall not use their position or title to endorse a product, service or enterprise; and,
- (3) Employees may only recoup actual expenses and may not receive a personal gain.