

Office of Government Ethics

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uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancée of the reporting individual.

(p) *Reporting individual* is used interchangeably with “filer,” and may refer to a “confidential filer” as defined in § 2634.904, a “public filer” as defined in § 2634.202, or a nominee or candidate as described in § 2634.201.

(q) *Reviewing official* means the designated agency ethics official or his delegate, the Secretary concerned, the head of the agency, or the Director of the Office of Government Ethics.

(r) *Secretary concerned* has the meaning set forth in 10 U.S.C. 101(8) (relating to the Secretaries of the Army, Navy, Air Force, and for certain Coast Guard matters, the Secretary of Transportation); and, in addition, means:

(1) The Secretary of Commerce, in matters concerning the National Oceanic and Atmospheric Administration;

(2) The Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

(3) The Secretary of State with respect to matters concerning the Foreign Service.

(s) *Special Government employee* has the meaning given to that term by the first sentence of 18 U.S.C. 202(a): an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis.

(t) *Value* means a good faith estimate of the fair market value if the exact value is neither known nor easily obtainable by the reporting individual without undue hardship or expense. In the case of any interest in property, see the alternative valuation options in

§ 2634.301(e). For gifts and reimbursements, see § 2634.304(e).

[57 FR 11804, Apr. 7, 1992; 57 FR 21854, May 22, 1992; 62 FR 48747, Sept. 17, 1997; 63 FR 69992, Dec. 18, 1998]

Subpart B—Persons Required To File Public Financial Disclosure Reports

SOURCE: 57 FR 11806, Apr. 7, 1992, unless otherwise noted.

§ 2634.201 General requirements, filing dates, and extensions.

(a) *Incumbents*. A public filer as defined in § 2634.202 of this subpart who, during any calendar year, performs the duties of his position or office, as described in that section, for a period in excess of 60 days shall file a public financial disclosure report containing the information prescribed in subpart C of this part, on or before May 15 of the succeeding year.

Example 1. An SES official commences performing the duties of his position on November 15. He will not be required to file an incumbent report for that calendar year.

Example 2. An employee, who is classified at GS-15, is assigned to fill an SES position in an acting capacity, from October 15 through December 31. Having performed the duties of a covered position for more than 60 days during the calendar year, he will be required to file an incumbent report. In addition, he must file a new entrant report the first time he serves more than 60 days in a calendar year in the position, in accordance with § 2634.201(b) and § 2634.204(c)(1).

(b) *New entrants*. (1) Within 30 days of assuming a public filer position or office described in § 2634.202 of this subpart, an individual shall file a public financial disclosure report containing the information prescribed in subpart C of this part.

(2) However, no report shall be required if the individual:

(i) Has, within 30 days prior to assuming such position, left another position or office for which a public financial disclosure report under the Act was required to be filed; or

(ii) Has already filed such a report as a nominee or candidate for the position.

Example: Y, an employee of the Treasury Department who has previously filed reports

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in accordance with the rules of this section, terminates employment with that Department on January 12, 1991, and begins employment with the Commerce Department on February 10, 1991, in a Senior Executive Service position. Y is not a new entrant since he has assumed a position described in § 2634.202 of this subpart within thirty days of leaving another position so described. Accordingly, he need not file a new report with the Commerce Department.

NOTE: While Y did not have to file a new entrant report with the Commerce Department, that Department should request a copy of the last report which he filed with the Treasury Department, so that Commerce could determine whether or not there would be any conflicts or potential conflicts in connection with Y's new employment. Additionally, Y will have to file an incumbent report covering the 1990 calendar year, in accordance with paragraph (a) of this section, due not later than May 15, 1991, with Commerce, which should provide a copy to Treasury so that both may review it.

(c) *Nominees.* (1) At any time after a public announcement by the President or President-elect of his intention to nominate an individual to an executive branch position, appointment to which requires the advice and consent of the Senate, such individual may, and in any event within five days after the transmittal of the nomination to the Senate shall, file a public financial disclosure report containing the information prescribed in subpart C of this part.

(2) This requirement shall not apply to any individual who is nominated to a position as:

- (i) An officer of the uniformed services; or
- (ii) A Foreign Service Officer.

NOTE: Although the statute, 5 U.S.C. app. (Ethics in Government Act of 1978, section 101(b)(1)), exempts uniformed service officers only if they are nominated for appointment to a grade or rank for which the pay grade is 0-6 or below, the Senate confirmation committees have adopted a practice of exempting all uniformed service officers, unless otherwise specified by the committee assigned.

(3) Section 2634.605(c) provides expedited procedures in the case of individuals described in paragraph (c)(1) of this section. Those individuals referred to in paragraph (c)(2) of this section as being exempt from filing nominee reports shall file new entrant reports, if

required by paragraph (b) of this section.

(d) *Candidates.* A candidate (as defined in section 301 of the Federal Election Campaign Act of 1971, 2 U.S.C. 431) for nomination or election to the office of President or Vice President (other than an incumbent) shall file a public financial disclosure report containing the information prescribed in subpart C of this part, in accordance with the following:

(1) Within 30 days of becoming a candidate or on or before May 15 of the calendar year in which the individual becomes a candidate, whichever is later, but in no event later than 30 days before the election; and

(2) On or before May 15 of each successive year an individual continues to be a candidate. However, in any calendar year in which an individual continues to be a candidate but all elections relating to such candidacy were held in prior calendar years, the individual need not file a report unless he becomes a candidate for a vacancy during that year.

Example: P became a candidate for President in January 1991. P will be required to file a public financial disclosure report on or before May 15, 1991. If P had become a candidate on June 1, 1991, he would have been required to file a disclosure report within 30 days of that date.

(e) *Termination of employment.* (1) On or before the thirtieth day after termination of employment from a public filer position or office described in § 2634.202 of this subpart, an individual shall file a public financial disclosure report containing the information prescribed in subpart C of this part.

(2) However, if within 30 days of such termination the individual assumes employment in another position or office for which a public report under the Act is required to be filed, no report shall be required by the provisions of this paragraph. See the related *Example* in paragraph (b) of this section.

(f) *Extensions.* The reviewing official may, for good cause shown, grant to any public filer or class thereof an extension of time for filing which shall not exceed 45 days. The reviewing official may, for good cause shown, grant an additional extension of time which shall not exceed 45 days. The employee

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shall set forth in writing specific reasons why such additional extension of time is necessary. The reviewing official must approve or deny such requests in writing. Such records shall be maintained as part of the official report file. (For extensions on confidential financial disclosure reports, see § 2634.903(d).)

[57 FR 11806, Apr. 7, 1992; 57 FR 21854, May 22, 1992, as amended at 63 FR 69992, Dec. 18, 1998; 67 FR 49857, Aug. 1, 2002]

§ 2634.202 Public filer defined.

The term *public filer* includes:

- (a) The President;
- (b) The Vice President;
- (c) Each officer or employee in the executive branch, including a special Government employee as defined in 18 U.S.C. 202(a), whose position is classified above GS-15 of the General Schedule prescribed by 5 U.S.C. 5332, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O-7 under 37 U.S.C. 201; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;
- (d) Each employee who is an administrative law judge appointed pursuant to 5 U.S.C. 3105;
- (e) Any employee not otherwise described in paragraph (c) of this section who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policy-making character, unless excluded by virtue of a determination under § 2634.203 of this subpart;
- (f) The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission whose basic rate of pay is equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule;

(g) The Director of the Office of Government Ethics and each agency's primary designated agency ethics official;

(h) Any civilian employee not otherwise described in paragraph (c) of this section who is employed in the Executive Office of the President (other than a special Government employee, as defined in 18 U.S.C. 202(a)) and holds a commission of appointment from the President; and

(i) Anyone whose employment in a position or office described in paragraphs (a) through (h) of this section has terminated, but who has not yet satisfied the filing requirements of § 2634.201(e) of this subpart.

NOTE: References in this section and in §§ 2634.203 and 2634.904 to position classifications have been adjusted to reflect elimination of General Schedule classifications GS-16, GS-17, and GS-18 by the Federal Employees Pay Comparability Act of 1990, as incorporated in section 529 of Public Law 101-509.

§ 2634.203 Persons excluded by rule.

(a) *In general.* Any individual or group of individuals described in § 2634.202(e) of this subpart (relating to positions of a confidential or policy-making character) may be excluded by rule from the public reporting requirements of this subpart when the Director of the Office of Government Ethics determines, in his sole discretion, that such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

(b) *Exclusion determination.* The determination required by paragraph (a) of this section has been made for the following group of individuals who, therefore, may be excluded from the public reporting requirements of this subpart, pursuant to the procedures in paragraph (c) of this section: Individuals in any position classified at GS-15 of the General Schedule or below, or the rate of basic pay for which is less than 120% of the minimum rate of basic pay fixed for GS-15, who have no policy-making role with respect to agency programs. Such individuals may include chauffeurs, private secretaries, stenographers, and others holding positions of a similar nature whose exclusion would be consistent with the basic criterion