

§ 2634.204

set forth in paragraph (a) of this section. See §2634.904(a)(4) for possible coverage by confidential disclosure rules.

(c) *Procedure.* (1) The exclusion of any individual from reporting requirements pursuant to this section will be effective as of the time the employing agency files with the Office of Government Ethics a list and description of each position for which exclusion is sought, and the identity of any incumbent employees in those positions. Exclusions should be requested prior to due dates for the reports which such employees would otherwise have to file.

(2) If the Office of Government Ethics finds that one or more positions has been improperly excluded, it will advise the agency and set a date for the filing of the report.

[57 FR 11806, Apr. 7, 1992; 57 FR 21854, May 22, 1992, as amended at 58 FR 38912, July 21, 1993; 71 FR 28233, May 16, 2006]

§ 2634.204 Employment of sixty days or less.

(a) *In general.* Any public filer or nominee who, as determined by the official specified in this paragraph, is not reasonably expected to perform the duties of an office or position described in §2634.201(c) or §2634.202 of this subpart for more than 60 days in any calendar year shall not be subject to the reporting requirements of §2634.201 (b), (c), or (e) of this subpart. This determination will be made by:

(1) The designated agency ethics official or Secretary concerned, in a case to which the provisions of §2634.201 (b) or (e) of this subpart (relating to new entrant and termination reports) would otherwise apply; or

(2) The Director of the Office of Government Ethics, in a case to which the provisions of §2634.201(c) of this subpart (relating to nominee reports) would otherwise apply.

(b) *Alternative reporting.* Any new entrant who is exempted from filing a public financial report under paragraph (a) of this section and who is a special Government employee is subject to confidential reporting under §2634.903(b). See §2634.904(a)(2).

(c) *Exception.* If the public filer or nominee actually performs the duties of an office or position referred to in

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paragraph (a) of this section for more than 60 days in a calendar year, the public report otherwise required by:

(1) Section 2634.201 (b) or (c) of this subpart (relating to new entrant and nominee reports) shall be filed within 15 calendar days after the sixtieth day of duty; and

(2) Section 2634.201(e) of this subpart (relating to termination reports) shall be filed as provided in that paragraph.

[57 FR 11806, Apr. 7, 1992, as amended at 71 FR 28233, May 16, 2006]

§ 2634.205 Special waiver of public reporting requirements.

(a) *General rule.* In unusual circumstances, the Director of the Office of Government Ethics may grant a request for a waiver of the public reporting requirements under this subpart for an individual who is reasonably expected to perform, or has performed, the duties of an office or position for fewer than 130 days in a calendar year, but only if the Director determines that:

(1) The individual is a special Government employee, as defined in 18 U.S.C. 202(a), who performs temporary duties either on a full-time or intermittent basis;

(2) The individual is able to provide services specially needed by the Government;

(3) It is unlikely that the individual's outside employment or financial interests will create a conflict of interest; and

(4) Public financial disclosure by the individual is not necessary under the circumstances.

(b) *Procedure.* (1) Requests for waivers must be submitted to the Office of Government Ethics, via the requester's agency, within 10 days after an employee learns that he will hold a position which requires reporting and that he will serve in that position for more than 60 days in any calendar year, or upon serving in such a position for more than 60 days, whichever is earlier.

(2) The request shall consist of:

(i) A cover letter which identifies the individual and his position, states the approximate number of days in a calendar year which he expects to serve in that position, and requests a waiver of

public reporting requirements under this section;

(ii) An enclosure which states the reasons for the individual's belief that the conditions of paragraphs (a) (1) through (4) of this section are met in the particular case; and

(iii) The report otherwise required by this subpart B, as a factual basis for the determination required by this section. The report shall bear the legend at the top of page 1: "CONFIDENTIAL: WAIVER REQUEST PENDING PURSUANT TO 5 CFR 2634.205."

(3) The agency in which the individual serves shall advise the Office of Government Ethics as to the justification for a waiver.

(4) In the event a waiver is granted, the report shall not be subject to the public disclosure requirements of § 2634.603; however, the waiver request cover letter shall be subject to those requirements. In the event that a waiver is not granted, the confidential legend shall be removed from the report, and the report shall be subject to public disclosure; however, the waiver request cover letter shall not then be subject to public disclosure.

(Approved by the Office of Management and Budget under control number 3209-0004)

[57 FR 11806, Apr. 7, 1992, as amended at 59 FR 34756, July 7, 1994]

Subpart C—Contents of Public Reports

SOURCE: 57 FR 11808, Apr. 7, 1992, unless otherwise noted.

§ 2634.301 Interests in property.

(a) *In general.* Each financial disclosure report filed pursuant to this subpart shall include a brief description of any interest in property held by the filer at the end of the reporting period in a trade or business, or for investment or the production of income, having a fair market value in excess of \$1,000. The report shall designate the category of value of the property in accordance with paragraph (d) of this section. Each item of real and personal property shall be disclosed separately. Note that for Individual Retirement Accounts (IRA's), brokerage accounts, trusts, mutual or pension funds and

other entities with portfolio holdings, each underlying asset must be separately disclosed, unless the entity qualifies for special treatment under § 2634.310 of this subpart.

(b) *Types of property reportable.* Subject to the exceptions in paragraph (c) of this section, examples of the types of property required to be reported include, but are not limited to:

- (1) Real estate;
- (2) Stocks, bonds, securities, and futures contracts;
- (3) Livestock owned for commercial purposes;
- (4) Commercial crops, either standing or held in storage;
- (5) Antiques or art held for resale or investment;
- (6) Beneficial interests in trusts and estates;
- (7) Deposits in banks or other financial institutions;
- (8) Pensions and annuities;
- (9) Mutual funds;
- (10) Accounts or other funds receivable; and
- (11) Capital accounts or other asset ownership in a business.

(c) *Exceptions.* The following property interests are exempt from the reporting requirements under paragraphs (a) and (b) of this section:

- (1) Any personal liability owed to the filer, spouse, or dependent child by a spouse, or by a parent, brother, sister, or child of the filer, spouse, or dependent child;
 - (2) Personal savings accounts (defined as any form of deposit in a bank, savings and loan association, credit union, or similar financial institution) in a single financial institution or holdings in a single money market mutual fund, aggregating \$5,000 or less in that institution or fund;
 - (3) A personal residence of the filer or spouse, as defined in § 2634.105(1); and
 - (4) Financial interests in any retirement system of the United States (including the Thrift Savings Plan) or under the Social Security Act.
- (d) *Valuation categories.* The valuation categories specified for property items are as follows:
- (1) Not more than \$15,000;
 - (2) Greater than \$15,000 but not more than \$50,000;