



Friday
April 25, 1997

Part XXXIV

**Office of
Government Ethics**

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, April 1997

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from April 1, 1997, through March 31, 1998. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under

Executive Order 12866 "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this April 1997 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics rulemakings are not included in The Regulatory Plan.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government

Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-208-8000, extension 1110; TDD: 202-208-8025; FAX: 202-208-8037.

Approved: March 7, 1997.
F. Gary Davis,
Deputy Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3623	Office of Government Ethics Gift Acceptance Authority and Organizational Update	3209-AA21
3624	Privacy Act Rules	3209-AA18
3625	Limitations on Outside Employment; Confidential Reporting of Payments to Charities in Lieu of Honoraria	3209-AA13

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3626	Revisions to the Office of Government Ethics' Rules on Implementation of the Equal Access to Justice Act	3209-AA20
3627	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
3628	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3629	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3630	Executive Agency Ethics Training Programs	3209-AA07
3631	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09
3632	Post-Employment Conflict of Interest Restrictions	3209-AA14

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3633	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12

OFFICE OF GOVERNMENT ETHICS (OGE)

Proposed Rule Stage

3623. OFFICE OF GOVERNMENT ETHICS GIFT ACCEPTANCE AUTHORITY AND ORGANIZATIONAL UPDATE**Priority:** Other Significant**Legal Authority:** 5 USC app (Ethics in Government Act of 1978)**CFR Citation:** 5 CFR 2600**Legal Deadline:** None

Abstract: This regulation will implement the new agency gift acceptance authority of the Office of Government Ethics as set forth in the 1996 OGE Authorization Act. In addition, various provisions of OGE's part 2600 organization and functions regulations will be updated to reflect recent changes in OGE's organizational structure.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None**Government Levels Affected:** Federal

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RIN: 3209-AA21**3624. PRIVACY ACT RULES****Priority:** Other Significant**Legal Authority:** 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)**CFR Citation:** 5 CFR 2606 (New)**Legal Deadline:** None

Abstract: This proposed rule would establish for the Office of Government

Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None**Government Levels Affected:** Federal

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RIN: 3209-AA18**3625. LIMITATIONS ON OUTSIDE EMPLOYMENT; CONFIDENTIAL REPORTING OF PAYMENTS TO CHARITIES IN LIEU OF HONORARIA****Priority:** Other Significant**Legal Authority:** 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731**CFR Citation:** 5 CFR 2636**Legal Deadline:** None

Abstract: The regulation had, in pertinent part, implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department). In addition, the regulation continues to implement the limitation on outside

employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. A separate provision (not yet effective) of the regulation will govern reports by certain executive branch officials of payments, in lieu of honoraria, donated on their behalf to charities. The regulation will be amended in light of the above-noted litigation and any other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Make 5 CFR 2636.205 Effective and Revise Section	08/00/97	
Final Action	12/00/97	

Small Entities Affected: None**Government Levels Affected:** Federal

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RIN: 3209-AA13

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3626. REVISIONS TO THE OFFICE OF GOVERNMENT ETHICS' RULES ON IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Priority: Other Significant

Legal Authority: 5 USC 504(c)(1); 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2610

Legal Deadline: None

Abstract: This amendatory rulemaking will implement for OGE the changes made to the Equal Access to Justice Act by subtitle C of the 1996 Small Business Regulatory Enforcement Fairness Act under the Contract with America Advancement Act of 1996.

Timetable:

Action	Date	FR Cite
Final Action	07/00/97	
Final Action Effective	07/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: In prior years, OGE's interim and Final Equal Access to Justice Act rules were assigned RIN 3209-AA19.

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RIN: 3209-AA20

3627. FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public

reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Proposed Amendments -- Certificates of No New Interests for Confidential Filers	01/15/97	62 FR 2048
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209-AA00

3628. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-

194), as amended. Effective February 3, 1993, this new ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period was in effect until November 1, 1996, or until individual concerned agencies issued supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	08/07/96	61 FR 40950
Final Rule on Widely Attended Gatherings	08/20/96	61 FR 42965
Correction to Final Rule on Widely Attended Gatherings	09/16/96	61 FR 48733
Interim Rule on Gifts From Political Organizations	09/27/96	61 FR 50689
Final Rule on Gifts From Political Organizations	03/17/97	62 FR 12531
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking, and Writing	10/00/97	

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Action	Date	FR Cite	Action	Date	FR Cite	Action	Date	FR Cite
NPRM on Participation in Professional Associations	12/00/98		OPIC Employees (5 CFR Ch. XXXIII) Interim Final Rule	06/17/93	58 FR 33319	FCA Employees (5 CFR Ch. XXXI)(Final Rule)	09/13/95	60 FR 47453
Small Entities Affected: None			Treasury Employees (5 CFR Ch. XXI) NPRM	08/03/93	58 FR 41193	OGE Concurrence in FCA Employees (5 CFR Ch. XXXI)(Final Rule)	12/06/95	60 FR 62319
Government Levels Affected: Federal			ICC Employees (5 CFR Ch. XL) Final Rule	08/06/93	58 FR 41989	BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917 Phone: 202 208-8000 TDD: 202 208-8025 Fax: 202 208-8037			PRC Employees (5 CFR Ch. XLVI) Final Rule	08/12/93	58 FR 42839	Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
RIN: 3209-AA04			DoD Employees (5 CFR Ch. XXVI) Interim Final Rule	09/10/93	58 FR 47619	FCSIC Employees (5 CFR Ch. XXX)(Final Rule)	02/06/96	61 FR 4349
3629. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS			CFTC Employees (5 CFR Ch. XLI) Final Rule	10/12/93	58 FR 52637	EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
Priority: Substantive, Nonsignificant			IAF Employees (5 CFR Ch. LXIII) Final Rule	01/27/94	59 FR 3771	TVA Employees (15 CFR Ch. LXIX)	05/06/96	61 FR 20117
Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105			5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779	DOE Employees (5 CFR Ch. XXIII)	07/05/96	61 FR 35085
CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq			NRC Employees (5 CFR Ch. XLVIII) Final Rule	04/13/94	59 FR 17457	FDIC Employees (5 CFR Ch. XXII)	07/09/96	61 FR 35915
Legal Deadline: None			FDIC Employees (5 CFR Ch. XXII) NPRM	07/12/94	59 FR 35480	HUD Employees (5 CFR Ch. LXV)	07/09/96	61 FR 36246
Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests and designation of departmental subunits, which are needed for certain agencies to round out the executive branchwide ethical standards for employees of particular departments and agencies.			NASA Employees (5 CFR Ch. LIX)	09/28/94	59 FR 49335	OPM Employees (5 CFR Ch. XXXV)	07/16/96	61 FR 36993
Timetable:			FRTIB Employees (5 CFR Ch. LXXXIV)	10/06/94	59 FR 50816	HHS Employees (5 CFR Ch. XLV)	07/30/96	61 FR 39756
Action	Date	FR Cite	Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816	DOT Employees (5 CFR Ch. L)	07/31/96	61 FR 39901
FTC Employees (5 CFR Ch. XLVII) Interim Final Rule	05/27/93	58 FR 30695	Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390	FMSHRC Employees (5 CFR Ch. LXXIV)	07/31/96	61 FR 39869
			OMB Employees (5 CFR Ch. LXXVII) Final Rule	03/07/95	60 FR 12396	EPA Employees (5 CFR Ch. LIV)	08/02/96	61 FR 40500
			USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700	NARA Employees (5 CFR Ch. LXVI)	08/05/96	61 FR 40505
			Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625	Further Additional (5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	08/07/96	61 FR 40950
			FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171	FERC Employees (5 CFR Ch. XXIV)	08/23/96	61 FR 43411
			Treasury Employees (5 CFR Ch. XXI)(Final Rule)	05/05/95	60 FR 22249	BGFRS Employees (5 CFR Ch. LVIII) (Final Rule)	10/16/96	61 FR 53827
			FCA Employees (5 CFR Ch. XXXI)	06/12/95	60 FR 30778	FCC Employees (5 CFR Ch. XXIX)	10/31/96	61 FR 56109
			FCSIC Employees (5 CFR Ch. XXX)	06/12/95	60 FR 30773	GSA Employees (5 CFR Ch. LVII)	11/01/96	61 FR 56399
			HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420	DOL Employees (5 CFR Ch. XLII)	11/06/96	61 FR 57281
			OPIC Employees (5 CFR Ch. XXXIII)(Final Rule)	07/21/95	60 FR 37555	DOJ Employees (5 CFR Ch. XXVIII)	11/25/96	61 FR 59811
			USPS Employees (5 CFR Ch. LX)(Final Rule)	09/11/95	60 FR 47240	NSF Employees (5 CFR Ch. XLIII)	11/25/96	61 FR 59815
						CPSC Employees (5 CFR Ch. LXXI)	12/13/96	61 FR 65457
						FDIC Employees (5 CFR Ch. XXII)(Amendment)	01/27/97	62 FR 3771

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Action	Date	FR Cite
NLRB Employees (5 CFR Ch. LXI)	02/12/97	62 FR 6445
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209-AA15

3630. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	59 FR 12145
Interim Amendments To Refine Certain Training Requirements	03/12/97	62 FR 11307

Action	Date	FR Cite
Interim Amendments To Refine Certain Training Requirements Comment Period End	04/11/97	
Interim Amendments To Refine Certain Training Requirements Effective	05/11/97	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209-AA07

3631. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: This final regulation (a proposed rule was published in 1995) interprets section 208(a) of title 18, USC, which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 USC 208(b)). It also lists and describes interests considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 USC 208(b)(2). Such interests are exempt from the restrictions of 18 USC 208(a), generally requiring disqualification. The regulation also provides guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be

waived from the general rule of disqualification under 18 USC 208(a) pursuant to 18 USC 208(b)(1). In addition, guidance is provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 USC 208(b)(3). A separate interim final rule, published in 1995 exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits, from the general prohibition in section 208(a), has been incorporated in the overall final rule.

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security or Veterans' Benefits Exemptions	08/28/95	60 FR 44706
NPRM	09/11/95	60 FR 47208
NPRM Comment Period End	11/13/95	
Final Rule	12/18/96	61 FR 66830
Correction	01/09/97	62 FR 1361
Final Rule Effective	01/17/97	
Correction	04/00/97	
Proposed Additional Agency-Specific Exemptions	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209-AA09

3632. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991,

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pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-

employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176

Action	Date	FR Cite
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Exempted Senior Employee & Agency Separate Component Designation Update	04/00/97	
Interim Final Rule	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209-AA14

OFFICE OF GOVERNMENT ETHICS (OGE)

Long-Term Actions

3633. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S.C., prohibiting the private supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209-AA12

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