

§ 2634.202

5 CFR Ch. XVI (1–1–24 Edition)

will be required by the provisions of this paragraph. See the related *Example* in paragraph (b) of this section.

(f) *Transactions occurring throughout the calendar year.* (1) A public filer as defined in § 2634.202 who, during any calendar year, performs, or is reasonably expected to perform, the duties of his position or office, as described in that section, for a period in excess of 60 days must file a transaction report within 30 days of receiving notification of a covered transaction, but not later than 45 days after such transaction. The report must contain the information prescribed in subpart C of this part.

(2) A covered transaction is any purchase, sale, or exchange required to be reported according to the provisions of § 2634.309.

Example: A filer receives a statement on October 10 notifying her of all of the covered transactions executed by her broker on her behalf in September. Although each transaction may have a different due date, if the filer reports all the covered transactions from September on a report filed on or before October 15, the filer will ensure that all transactions have been timely reported.

(g) *Extensions generally.* The reviewing official may, for good cause shown, grant to any public filer or class thereof an extension of time for filing which must not exceed 45 days. The reviewing official may, for good cause shown, grant an additional extension of time which must not exceed 45 days. The employee must 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 must be maintained as part of the official report file. For extensions on confidential financial disclosure reports, see § 2634.903(d).

(h) *Exceptions for individuals in combat zones.* In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986:

(1) The date for the filing of any report will be extended so that the date is 180 days after the later of:

(i) The last day of the individual's service in such area during such designated period; or

(ii) The last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area; and

(2) The exception described in this paragraph will apply automatically to any individual who qualifies for the exception, unless the Secretary of Defense establishes written guidelines for determining eligibility or for requesting an extension under this paragraph.

§ 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;

(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 Regulatory 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 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).

§ 2634.203 Persons excluded by rule.

(a) *In general.* Any individual or group of individuals described in § 2634.202(e) (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 for employees at or below the GS-13 grade level.* (1) The determination required by paragraph (a) of this section has been made for any individual who, as a factual matter, serves in a position that meets the criteria set forth in this paragraph. The exclusion applies to a position upon a written determination by the designated agency ethics official that the position meets the following criteria:

(i) The position is paid at the GS-13 grade level or below or, in the case of a position not under the General Schedule, both the level of pay and the nature of responsibilities of the position are commensurate with the GS-13 grade level or below; and

(ii) The incumbent in the position does not have a substantial policy-making role with respect to agency programs.

(2) The designated agency ethics official must consider whether the position meets the standards for filing a

confidential financial disclosure report enumerated in § 2634.904(a)(4).

(c) *Exclusion determination for employees at or below the GS-15 grade level, but above the GS-13 grade level.* The exclusion determination required by paragraph (a) of this section may also be made on a case-by-case basis by the Office of Government Ethics. To receive an exclusion determination, an agency must follow the procedures set forth in paragraph (d) of this section and must demonstrate that the employee:

(1) Has a position that has been established at the GS-14 or GS-15 grade level or, in the case of a position not under the General Schedule, both the level of pay and the nature of responsibilities of the position are commensurate with the GS-14 or GS-15 grade level; and

(2) Has no policy-making role with respect to agency programs. In the event that the Office of Government Ethics permits the requested exclusion, the designated agency ethics official must consider whether the position meets the standards for filing a confidential financial disclosure report enumerated in § 2634.904(a)(4).

(d) *Procedure.* (1) The exclusion of any individual from reporting requirements pursuant to paragraph (c) of this section will be effective as of the time the employing agency files with the Office of Government Ethics the name of the employee, the name of any incumbent in the position, and a position description. Exclusions should be requested prior to due dates for the reports which such employees would otherwise have to file. If the position description changes in a substantive way, the employing agency must provide the Office of Government Ethics with a revised position description.

(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 any report that is due.

Example: An agency requests an exclusion for a special assistant, who is a Schedule C appointee whose position description is classified at the GS-14 level. The position description indicates that the employee's duties involve the analysis of policy options and the presentation of findings and recommendations to superiors. On the basis of