

Subject: [External] Schedule Policy/Career Exclusion — Comment on RIN 3209-AA76

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Re: RIN 3209-AA76, Interim Final Rule, "Exempting Certain Career Federal Employees From Ethics Reporting Requirements"

I submit this comment as a private citizen.

I do not object to preserving the filing status of employees whose positions were moved into Schedule Policy/Career by E.O. 14410 without any change in their duties. I do object to the breadth of new § 2634.203(e), which applies automatically and indefinitely to every position placed into Schedule Policy/Career, now or at any point in the future.

The rule's own justification is narrow. OGE reasons that the duties of the initial cohort did not change upon reclassification, and that the reclassification alone does not create new conflicts-of-interest risk. That rationale does not extend to positions placed into the schedule later, which may be newly created, restructured, or filled by new appointees whose conflicts profile has never been assessed. Paragraph (e) nonetheless excludes them by default.

Every other exclusion in § 2634.203 rests on an individualized finding — by the designated agency ethics official for positions at or below GS-13, by the Director for GS-14 and GS-15. Paragraph (e) requires none. It directs only that the DAEO "consider" whether the position meets the standards for confidential filing under § 2634.904(a)(4), with no stated standard, no documentation requirement, and no review.

I suggest two changes:

1. Limit paragraph (e) to positions placed into Schedule Policy/Career by E.O. 14410, and require an individualized exclusion determination for positions placed into the schedule thereafter.

2. Replace the instruction to “consider” § 2634.904(a)(4) with an affirmative requirement that the DAEO make and document a determination for each excluded position, retained in agency records.

Both changes preserve nearly all of the cost savings OGE identifies while keeping the exclusion tied to the factual finding that supports it.

Thank you for considering these comments.