example, it is open to members from throughout a given industry or profession or if those in attendance represent a range of persons interested in a given matter." This sentence was intended to help describe the types of events that would qualify as widely attended gatherings and was not intended to alter the normal meaning of the phrase "widely attended" as encompassing those attended by many. It has been read otherwise by some who have argued that small gatherings of fewer even than 20 qualify if the few in attendance represent the range of persons interested in a given matter. Proposed new example 3 would help to illustrate the meaning of the phrase widely attended gathering.

The Office of Government Ethics also proposes to revise § 2635.204(g)(6) so that an employee who has received an invitation to a widely attended gathering that includes an invitation to bring a guest may be authorized by the agency designee to accept on behalf of an accompanying guest, without regard to whether that guest is the employee's spouse. Under paragraph (g)(6) as presently in effect, an agency may only authorize an employee to accept a sponsor's invitation to an accompanying spouse. The Office of Government Ethics agrees with those who have observed that it is unfair to an employee who is not married or whose spouse is unable or does not wish to attend an event to restrict acceptance to spouses only. The expanded authority for an accompanying guest would extend to an employee who, under § 2635.204(g)(1), is assigned to participate as a speaker, panel participant or other presenter of information at a conference or other event where others in attendance will generally be accompanied by a spouse or other guest. The change proposed would include language clarifying that the invitation to bring an accompanying spouse or other guest may be accepted only if it is unsolicited. The expanded authority could not be used for more than one accompanying guest.

In the last sentence of § 2635.204(g)(3)(i) the phrase "monetary value" is proposed to be changed to "market value" to comport with the definition at § 2635.203(c). Other language changes to § 2635.204(g)(2)-(g)(6) are proposed simply to conform to the proposed substantive changes discussed above.

## III. Matters of Regulatory Procedure

Executive Order 12866

In promulgating this proposed rule, the Office of Government Ethics has adhered to the regulatory philosophy

and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These proposed amendments have also been reviewed by the Office of Management and Budget under that Executive Order.

## Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this proposed amendatory rule will not have a significant economic impact on a substantial number of small businesses because it primarily affects Federal executive branch employees.

#### Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this proposed amendment because it does not contain information collection requirements that require approval of the Office of Management and Budget.

#### List of Subjects in 5 CFR Part 2635

Conflict of interests, Executive branch standards of conduct, Government employees.

Approved: April 5, 1995.

# Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics proposes to amend part 2635 of subchapter B of chapter XVI of title 5 of the Code of Federal Regulations as follows:

### PART 2635—[AMENDED]

1. The authority citation for part 2635 continues to read as follows:

Authority: 5 U.S.C. 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

### Subpart B—Gifts From Outside Sources

- 2. Section 2635.204 is amended as set forth below:
- A. Revising paragraphs (g)(2) through
- B. Republishing the note following paragraph (g)(4);
- C. Revising example 1 following paragraph (g)(6);
- D. Redesignating examples 2, 3 and 4 following paragraph (g)(6) as examples 4, 5 and 6, respectively; and
- E. Adding new examples 2 and 3 following paragraph (g)(6).

The revisions, republication and addition read as follows:

### § 2635.204 Exceptions.

\* (g) \* \* \*

(1) \* \* \*

(2) Widely attended gatherings. When there has been a determination that his attendance is in the interest of the agency because it will further agency programs and operations, an employee may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering of mutual interest to a number of parties from the sponsor of the event or, if more than 100 persons are expected to attend the event and the gift of free attendance has a market value of \$250 or less, from a person other than the sponsor of the event. A gathering is widely attended if it is attended by a large number of persons and if, for example, it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter. For employees subject to a leave system, attendance at the event shall be on the employee's own time or, if authorized by the employee's agency, on excused absence pursuant to applicable guidelines for granting such absence, or otherwise without charge to the employee's leave account.

(3) Determination of agency interest. The determination of agency interest required by paragraph (g)(2) of this section shall be made orally or in writing by the agency designee.

- (i) If the person who has extended the invitation has interests that may be substantially affected by the performance or nonperformance of an employee's official duties or is an association or organization the majority of whose members have such interests, the employee's participation may be determined to be in the interest of the agency only where there is a written finding by the agency designee that the agency's interest in the employee's participation in the event outweighs the concern that acceptance of the gift of free attendance may or may appear to improperly influence the employee in the performance of his official duties. Relevant factors that should be considered by the agency designee include the importance of the event to the agency, the nature and sensitivity of any pending matter affecting the interests of the person who has extended the invitation, the significance of the employee's role in any such matter, the purpose of the event, the identity of other expected participants and the market value of the gift of free attendance.
- (ii) A blanket determination of agency interest may be issued to cover all or