

Rules and Regulations

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OFFICE OF GOVERNMENT ETHICS

5 CFR Parts 2634 and 2635

RINs 3209-AA00 and 3209-AA04

Technical Updating Amendments to Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; technical amendments.

SUMMARY: The Office of Government Ethics is updating its executive branch regulation on financial disclosure to reflect the retroactive statutory increase of the reporting thresholds for gifts and travel reimbursements. In addition, OGE is similarly raising the widely attended gatherings nonsponsor gifts exception dollar ceiling under the executive branchwide standards of ethical conduct regulation.

DATES: The amendments to 5 CFR 2634.304 are retroactively effective to January 1, 2005, and the amendments to 5 CFR 2635.204 are effective March 11, 2005.

FOR FURTHER INFORMATION CONTACT:

William E. Gressman, Senior Associate General Counsel, Office of Government Ethics; Telephone: 202-482-9300; TDD: 202-482-9293; FAX: 202-482-9237.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is amending pertinent sections of its executive branchwide ethics regulations on financial disclosure and standards of ethical conduct (the Standards), as codified at 5 CFR parts 2634 and 2635, in order to update them.

Increased Gifts and Travel Reimbursements Reporting Thresholds

First, OGE is retroactively increasing, to January 1, 2005, the reporting thresholds for gifts, reimbursements and

travel expenses in the OGE executive branchwide regulation at 5 CFR 2634.304 (and as illustrated in the four examples following paragraph (d) of that section) for both the public and confidential financial disclosure systems under section 102(a)(2)(A) & (B) of the Ethics in Government Act as amended, 5 U.S.C. app. 102(a)(2)(A) & (B), as extended to the executive branch confidential reporting system by 5 CFR 2634.907(a)(3). The new reporting thresholds for gifts and travel reimbursements being retroactively incorporated in OGE's financial disclosure regulation are "more than \$305" for the aggregation threshold for reporting and "\$122 or less" for the *de minimis* exception for gifts and reimbursements which do not have to be counted towards the aggregate threshold (from the prior levels of more than \$285 aggregate and \$114 or less *de minimis* exception, respectively).

These increases are brought about by a recent General Services Administration (GSA) rulemaking raising "minimal value" under the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, to "\$305 or less" (from the prior level of \$285 or less) for the three-year period 2005-2007, as the Ethics Act and OGE regulatory gifts/travel reimbursements reporting thresholds are tied to any such increase in foreign gifts minimal value over \$250. See GSA's rulemaking as published at 70 FR 2317-2318 (part V) (January 12, 2005), revising retroactively to January 1, 2005 the foreign gifts minimal value definition as codified at 41 CFR 102-42.10.

The Office of Government Ethics will continue to adjust the gifts and travel reimbursements reporting thresholds in the future as needed in light of GSA's redefinition of "minimal value" every three years for foreign gifts purposes. See OGE's previous retroactive adjustments of those reporting thresholds, as published at 65 FR 69655-69657 (November 20, 2000) and 67 FR 61761-61762 (October 2, 2002), that were based on GSA's prior redefinitions for the periods 1999-2001 and 2002-2004, respectively.

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Increased Dollar Ceiling for the Exception for Nonsponsor Gifts of Free Attendance at Widely Attended Gatherings

In addition, OGE is increasing from \$285 to \$305 the exception ceiling for nonsponsor gifts of free attendance at widely attended gatherings under the standards of ethical conduct regulation, as codified at 5 CFR 2635.204(g)(2) (and as illustrated in the examples following paragraph (g)). This separate regulatory change is effective upon publication in the **Federal Register**, on March 11, 2005. As OGE noted in the preambles to the proposed and final rules on such nonsponsor gifts, that ceiling is based in part on the financial disclosure gifts reporting threshold. See 60 FR 31416 (June 15, 1995) and 61 FR 42968 (August 20, 1996). The nonsponsor gift ceiling was last raised in the October 2002 OGE rulemaking noted in the preceding paragraph above. Thus, it is reasonable now to again increase the nonsponsor gift ceiling to match the further increase in the gifts/travel reimbursements reporting thresholds. The other requirements for acceptance of such nonsponsor gifts, including an agency interest determination and expected attendance by more than 100 persons, remain unchanged.

Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) and (d), as Acting Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking, opportunity for public comment and 30-day delay in effectiveness as to these technical updating amendments. The notice, comment and delayed effective date provisions are being waived in part because these technical amendments concern matters of agency organization, practice and procedure. Further, it is in the public interest that correct and up-to-date information be contained in the affected sections of OGE's regulations as soon as possible. The increase in the reporting thresholds for gifts and reimbursements is based on a statutory formula and also lessens the reporting burden somewhat, and thus the effective date of that regulatory revision is being made retroactively effective to January 1, 2005, when the change became effective under the Ethics Act.

Regulatory Flexibility Act

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

Paperwork Reduction Act

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

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), the final rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

Congressional Review Act

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law at the same time this rulemaking document is sent to the Office of the Federal Register for publication in the **Federal Register**.

Executive Order 12866

In promulgating these technical amendments, OGE 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 amendments have not been reviewed by the Office of Management and Budget under that Executive order, since they are not deemed "significant" thereunder.

Executive Order 12988

As Acting Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

List of Subjects**5 CFR Part 2634**

Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

5 CFR Part 2635

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

Approved: March 4, 2005.

Marilyn L. Glynn,

Acting Director, Office of Government Ethics.

- For the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR parts 2634 and 2635 as follows:

PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

- 1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104–134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); 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.

§ 2634.304 [Amended]

- 2. Section 2634.304 is amended by:
 - a. Removing the dollar amount "\$285" in paragraphs (a) and (b) and in example 1 following paragraph (d) and adding in its place in each instance the dollar amount "\$305";
 - b. Removing the dollar amount "\$114" in paragraph (d) and in examples 1 and 2 following paragraph (d) and adding in its place in each instance the dollar amount "\$122"; and
 - c. Removing the dollar amount "\$285" in examples 3 and 4 following paragraph (d) and adding in its place in each instance the dollar amount "\$305".

PART 2635—STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

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

Authority: 5 U.S.C. 7301, 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.

§ 2635.204 [Amended]

- 4. Section 2635.204 is amended by:

- a. Removing the dollar amount "\$285" in paragraph (g)(2) and in examples 1 and 2 (in the latter of which it appears twice) following paragraph (g)(6) and adding in its place in each instance the dollar amount "\$305"; and

- b. Removing the dollar amount "\$570" in example 2 following paragraph (g)(6) and adding in its place the dollar amount "\$610".

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DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Parts 94 and 95**

[Docket No. 03–080–6]

RIN 0579–AB73

Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Partial Delay of Applicability

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; partial delay of applicability.

SUMMARY: The amendments in this final rule delay until further notice the applicability of certain provisions of the rule entitled "Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities," published in the **Federal Register** on January 4, 2005, 70 FR 460–553. That rule was scheduled to amend the regulations in 9 CFR parts 93, 94, 95, and 96, effective March 7, 2005, to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy into the United States via live ruminants and ruminant products and byproducts and to add Canada to this category. That rule included conditions for the importation of certain live ruminants and ruminant products from such regions.

DATES: Effective March 7, 2005.

FOR FURTHER INFORMATION CONTACT: Dr. Karen James-Preston, Director, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION: On January 4, 2005, we published a final rule in the **Federal Register** (70 FR 460–553, Docket No. 03–080–3) that establishes a category of regions that present a minimal risk of introducing