

# Rules and Regulations

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### 5 CFR Chapter LXVII

RIN 3137-AA15

#### Supplemental Standards of Ethical Conduct for Employees of the Institute of Museum and Library Services

**AGENCY:** Institute of Museum and Library Services (IMLS).

**ACTION:** Interim final rule, with request for comments.

**SUMMARY:** The Institute of Museum and Library Services, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for officers and employees of IMLS that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The supplemental regulations require IMLS employees to obtain prior written approval to engage in certain outside employment or related activities.

**EFFECTIVE DATE:** These regulations take effect on April 14, 2003. Comments are invited and must be received on or before May 14, 2003.

**ADDRESSES:** Send comments by mail to Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Suite 802, Washington, DC 20506, or by e-mail to [regulations@imls.gov](mailto:regulations@imls.gov).

**FOR FURTHER INFORMATION CONTACT:** Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 606-5414; e-mail [nweiss@imls.gov](mailto:nweiss@imls.gov). Individuals who use a telecommunications device for the deaf (TDD) may contact IMLS' TDD terminal at (202) 606-8636.

#### SUPPLEMENTARY INFORMATION:

### 1. Background

On August 7, 1992, OGE published in the **Federal Register** new Standards of Ethical Conduct for Employees of the Executive branch (the "Standards") (57 FR 35006-35067). The Standards, as corrected and amended, are codified at 5 CFR part 2635 and generally became effective February 3, 1993. Those regulations established uniform standards of ethical conduct that apply to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.150 authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. With OGE's concurrence, IMLS has determined that the following supplemental regulations contained in a new chapter LXVII, consisting of part 7701, of 5 CFR as set forth in this interim rule are necessary to implement IMLS's ethics program successfully, in light to of IMLS' programs and operations.

### II. Analysis of the Regulations

#### Section 7701.101 General

Section 7701.101 explains that the regulations contained in this interim rule will apply to all IMLS employees and are supplemental to the executive branchwide standards. Employees of IMLS are also subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the executive branch financial disclosure and financial interests regulations at 5 CFR parts 2634 and 2640, and the executive branch employees responsibilities and conduct regulations at 5 CFR part 735.

#### Section 7701.102 Prior-Approval for Outside Employment

Under 5 CFR 2635.803, an agency that determines if is necessary or desirable for the purpose of administering its ethics program may, by supplemental regulation with OGE's concurrence and co-signature, require its employees to obtain written approval before engaging in outside employment. IMLS has determined that it is necessary to the administration of its ethics program to institute the requirement that employment that may pose the most potential for employees to violate applicable conflict laws and regulations.

Therefore, subsection 7701.102(a) requires prior approval of outside

employment when the outside employment involves a prohibited source. In identifying a "prohibited source" for purposes of this prior approval requirement, IMLS will apply the definition of that term found in the Standards at 5 CFR 2635.203(d). Thus, an employee would have to obtain approval before engaging in outside employment with any person (including an organization more than half of whose members are persons) seeking official action by IMLS; doing business or seeking to do business with IMLS; conducting activities regulated by IMLS; or having interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Section 7701.102(a) also requires written requests for approval to be submitted to the employee's immediate supervisor and his or her Designated Agency Ethics Officials and specifies the information to be included in the employee's request. Section 7701.102(b) states the standard to be used in approving or denying requests for approval of outside employment. The basis of denial, if any, must be found in applicable statutes or Federal regulations, including the executive branchwide Standards and this part.

Section 7701.102(c) defines outside employment as including any form of compensated or uncompensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes writing done under arrangement with another person for production or publication of the written product.

### III. Matters of Regulatory Procedure

#### Waiver of Proposed Rulemaking

As Director of IMLS, I have found good cause pursuant to 5 U.S.C. 553(b) and (d)(3) for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is that this rulemaking is related to IMLS' organization, procedure and practice. Nonetheless, this is an interim rulemaking with provision for a 30-day public comment period. IMLS will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting these rules as

final with the concurrence and co-signature of the Office of Government Ethics.

#### Regulatory Flexibility Act

As Director of IMLS, I have determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects IMLS employees.

#### Paperwork Reduction Act

As Director of IMLS, I have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

#### Executive Order 12866

In promulgating this interim rule, IMLS 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. This rule has not been reviewed by the Office of Management and Budget under that Executive Order, since it deals with agency organization, management, and personnel matters and is not in any event deemed "significant" thereunder.

#### Executive Order 12988

As Director of IMLS, I have reviewed this interim rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

#### Unfunded Mandates Reform Act

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

#### Congressional Review Act

IMLS has determined that this rulemaking is a nonrule under the Congressional Review Act (5 U.S.C. chapter 8), since it deals with agency management, organization and personnel matters.

#### List of Subjects in 5 CFR Part 7701

Conflict of interests, Standards of conduct, Government employees.

Dated: March 7, 2003.

**Robert S. Martin,**

*Director, Institute of Museum and Library Services.*

Approved: March 26, 2003.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

■ For the reasons set forth in the preamble, the Institute of Museum and Library Services, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations, by adding a new chapter LXVII, consisting of part 7701, to read as follows:

#### CHAPTER LXVII—INSTITUTE OF MUSEUM AND LIBRARY SERVICES

#### PART 7701—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Sec.

7701.101 Purpose.

7701.102 Prior approval for outside employment.

**Authority:** 5 U.S.C. 7301, 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; 5 CFR 2635.105, 2635.803.

#### § 7701.101 Purpose.

In accordance with 5 CFR 2635.105, the regulations of this part apply to employees of the Institute of Museum and Library Services (IMLS) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the regulations in 5 CFR part 2635 and this part, employees of IMLS are subject to the executive branch employee responsibilities and conduct regulations at 5 CFR part 735, the executive branch financial disclosure regulations at 5 CFR part 2634, and the executive branch financial interests regulations at 5 CFR part 2640.

#### § 7701.102 Prior approval for outside employment.

(a) Before engaging in any outside employment with a prohibited source within the meaning of 5 CFR 2635.203(d), whether or not for compensation, an employee other than a special Government employee must obtain written approval from his or her immediate supervisor and the Designated Agency Ethics Official. The request for approval shall include the following:

(1) The name of the person, group, or organization for which the work is to be performed, the type of work to be performed, and the proposed hours of

work and approximate dates of employment;

(2) A brief description of the employee's official IMLS duties and a brief description of the employee's discipline or inherent area of expertise based on experience of educational background;

(3) The employee's certification that the outside employment will not depend on information obtained as a result of the employee's official Government position and that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment; and

(4) Responses to the following:

(i) Whether the proposed outside employment will pertain to a matter to which the employee is presently assigned or has been assigned within the last year;

(ii) Whether the proposed outside employment pertains to an ongoing or announced agency policy or program;

(iii) Whether the sponsor of the proposed outside employment has any interests before IMLS that may be substantially affected by the performance or nonperformance of the employee's duties;

(iv) Whether the employee intends to refer to his or her official IMLS position during the proposed outside employment and if so, the text of any disclaimers that he or she will use;

(v) Whether the employee will receive any payment or compensation for the proposed outside employment; and

(vi) Whether the proposed outside employment will involve teaching a course which is part of the established curriculum of an accredited institution of higher education, secondary school, elementary school, or an education or training program sponsored by a Federal, State or local government entity.

(b) Approval shall be granted only upon determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(c) Outside employment means any form of compensated or uncompensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to, personal services such as acting as an officer, director, employee, trustee, agent, attorney, consultant, contractor, general partner, teacher or speaker. It includes writing when done under an arrangement with another person for

production or publication of the written product.

[FR Doc. 03-8989 Filed 4-11-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-SW-05-AD; Amendment 39-13116; AD 2003-08-05]

RIN 2120-AA64

#### Airworthiness Directives; Eurocopter France Model AS350B3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters that requires inspecting the ASU No. 2 printed circuit board (PCB) to determine if the resistor R8 is installed, and if it is not installed, replacing the PCB with an airworthy PCB with that resistor installed. This amendment is prompted by the discovery of a PCB without a critical resistor that polarizes the voltage regulator that regulates electrical power to a critical warning light, a critical caution light, and the main rotor revolutions per minute (RPM) signal to the vehicle engine management display (VEMD). The actions specified by this AD are intended to prevent the malfunction of the two critical lights and the rotor RPM signal to the VEMD, failure of these components to timely alert the pilot to the associated malfunctions, further helicopter damage because of these malfunctions, and subsequent loss of control of the helicopter.

**DATES:** Effective May 19, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Carroll Wright, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5120, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:** A proposal to amend 14 CFR part 39 to include an AD for Eurocopter Model AS350B3 helicopters was published in the **Federal Register** on January 21, 2003 (68 FR 2714). That action proposed to require, within 15 hours time-in-service (TIS), inspecting the ASU No. 2 PCB on helicopters with serial numbers 3062 and earlier to determine if the resistor R8 is installed, and if it is not

installed, replacing the PCB with an airworthy PCB with resistor R8 installed within 50 hours TIS.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS350B3 helicopters. The DGAC advises that the absence of a resistor R8 on the ASU No. 2 boards can lead to a malfunction of the electric circuits supplying the "BATT. TEMP." red warning light, the "ENGINE CHIP" amber caution light, and the rotor RPM signal output to the VEMD.

Eurocopter has issued Service Bulletin No. 77.00.07, dated March 27, 2000, which specifies checking to determine if the resistor R8 is installed on the PCB within 25 hours time-in-service (TIS) and, if a resistor R8 is not installed, replacing the PCB with one that has a resistor R8 installed within 50 hours TIS. The DGAC classified this service bulletin as mandatory and issued AD No. 2001-319-083(A), dated July 25, 2001, to ensure the continued airworthiness of these helicopters in France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

The FAA estimates that 30 helicopters of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per helicopter to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost \$1,200. The manufacturer states in its service bulletin that PCB's will be replaced free of charge. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$37,800, if a PCB is replaced in the entire fleet and there is no free replacement by the manufacturer.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

##### 2003-08-05 Eurocopter France:

Amendment 39-13116. Docket No.

2002-SW-05-AD.

**Applicability:** Model AS350B3 helicopters, serial numbers (S/N) 3062 and earlier, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.