

invited and must be received by October 6, 2003.

ADDRESSES: Send comments to Karen Elias, Deputy General Counsel, National Endowment for the Arts, Room 518, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 or Michael McDonald, Deputy General Counsel, National Endowment for the Humanities, Room 529, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Karen Elias, Deputy General Counsel, National Endowment for the Arts, Room 518, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 682-5418. Individuals who use a telecommunications device for the deaf (TDD) may contact the NEA's TDD terminal at (202) 682-5496 Voice/T.T. Michael McDonald, Deputy General Counsel, National Endowment for the Humanities, Room 529, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 606-8322; TDD (202) 606-8282 or (866) 372-2930.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the U.S. Office of Government Ethics (OGE) published in the **Federal Register** new Standards of Conduct for Employees of the Executive Branch ("Standards"). 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.

The Foundation's old standards of conduct at 45 CFR part 1105 were applicable to employees at both the NEA and the NEH until they were superseded by the executive branchwide Standards at 5 CFR part 2635, and OGE's revised executive branch financial disclosure regulations at 5 CFR part 2634, which became effective in 1992. The Foundation's superseded old conduct regulations and certain redundant provisions thereof are being removed and 45 CFR part 1105 is being revised to contain a cross-reference section to the NEA's new supplemental standards regulations and the NEH's new supplemental standards regulations, which are both being published in the **Federal Register** today in separate rulemaking documents, as well as to 5 CFR parts 2634 and 2635, to 5 CFR part 2640, OGE's financial interest regulations, and to the employee responsibilities and conduct regulations at 5 CFR part 735.

II. Repeal of the Foundation's Superseded and Redundant Employee Responsibilities and Conduct Regulations and Addition of a Residual Cross-Reference Provision

The interim rule removes those provisions in the regulations at 45 CFR part 1105 governing NEA and NEH employees' responsibilities and conduct that were superseded by the OGE Standards and by OGE's executive branch financial disclosure regulations at 5 CFR part 2634. While the Standards became effective on February 3, 1993, by operation of the prior note following 5 CFR 2635.803 of the regulations and prior appendix A to 5 CFR part 2635 (see January 1, 1997 edition of 5 CFR), the Foundation's regulation concerning prior approval of outside employment remained in effect until February 3, 1994, plus one year longer with respect to the NEH. See 59 FR 4779-4780 (February 2, 1994).

The Foundation is also removing from 45 CFR part 1105 various sections that are unnecessary or redundant, in light of other regulations. Additionally, the Foundation has determined that the NEA and the NEH each are best suited to administer their own respective conduct-related regulations and to develop with OGE's concurrence any supplemental conduct regulations at their respective agencies.

A residual provision is being added to 45 CFR part 1105 to cross-reference the executive branchwide Standards at 5 CFR part 2635, the NEA's new supplemental standards of ethical conduct, the NEH's new supplemental standards of conduct, the executive branchwide regulations on financial disclosure and financial interests at 5 CFR parts 2634 and 2640, and the branchwide employee responsibilities and conduct regulations at 5 CFR part 735.

III. Matters of Regulatory Procedure

Waiver of Proposed Rulemaking

As Deputy General Counsel of the NEA and the Deputy General Counsel of NEH, acting together as the Foundation, we have found good cause pursuant to 5 U.S.C. 553(b) and (d)(3) for waiving, as necessary and contrary to public interest, the general notice of proposed rulemaking, the opportunity for advance public comment, and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is that this rulemaking is related to the Foundation's, the NEA's and the NEH's organization, procedure and practice. Nonetheless, this is an interim rulemaking, with provision for a 30-day public comment period. The NEA and

the NEH, acting together as the Foundation, will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting this rule as final.

Regulatory Flexibility Act

As Deputy General Counsel of the NEA and as the Deputy General Counsel of the NEH, acting together as the Foundation, we 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 NEA and NEH employees.

Paperwork Reduction Act

As Deputy General Counsel of the NEA and as the Deputy General Counsel of the NEH, acting together as the Foundation, we 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 approval by 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), 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.

List of Subjects in 45 CFR Part 1105

Conflict of interests, Government employees.

Dated: August 13, 2003.

Karen Elias,

Deputy General Counsel, National Endowment for the Arts.

Dated: August 13, 2003.

Michael McDonald,

Deputy General Counsel, National Endowment for the Humanities.

■ For the reasons set forth in the preamble, the National Foundation on the Arts and the Humanities, the National Endowment for the Arts and the National Endowment for the Humanities are revising 45 CFR part 1105 to read as follows:

PART 1105—STANDARDS OF CONDUCT FOR EMPLOYEES

Authority: 5 U.S.C. 7301.