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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### 2 CFR Part 3373

### 45 CFR Part 1173

RIN 3136-AA30

### National Endowment for the Humanities Implementation of OMB Guidance on Drug-Free Workplace Requirements

**AGENCY:** National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

**ACTION:** Final rule.

**SUMMARY:** The National Endowment for the Humanities (NEH) is removing its regulation implementing the Governmentwide common rule on drug-free workplace requirements for financial assistance, currently located within Part 1173 of Title 45 of the Code of Federal Regulations (CFR), and issuing a new regulation to adopt the Office of Management and Budget (OMB) guidance at 2 CFR part 182. This regulatory action implements the OMB's initiative to streamline and consolidate into one title of the CFR all Federal regulations on drug-free workplace requirements for financial assistance. These changes constitute an administrative simplification that would make no substantive change in NEH's policy or procedures for drug-free workplace.

**DATES:** This final rule is effective on October 29, 2010 without further action. Submit comments by September 29, 2010 on any unintended changes this action makes in NEH policies and procedures for drug-free workplace. All comments on unintended changes will be considered and, if warranted, NEH will revise the rule.

**ADDRESSES:** You may submit comments by either one of the following methods:

e-mail: [sdaisey@neh.gov](mailto:sdaisey@neh.gov), or by mail: Susan Daisey, Director, Office of Grant Management, National Endowment for the Humanities, 1100 Pennsylvania Ave., NW., Room 311, Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Susan G. Daisey at 202-606-8494 or e-mail her at [sdaisey@neh.gov](mailto:sdaisey@neh.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

The Drug-Free Workplace Act of 1988 [Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701, *et seq.*] was enacted as a part of omnibus drug legislation on November 18, 1988. Federal agencies issued an interim final common rule to implement the act as it applied to grants [54 FR 4946, January 31, 1989]. The rule was a subpart of the Governmentwide common rule on nonprocurement suspension and debarment. The agencies issued a final common rule after consideration of public comments [55 FR 21681, May 25, 1990].

The agencies proposed an update to the drug-free workplace common rule in 2002 [67 FR 3266, January 23, 2002] and finalized it in 2003 [68 FR 66534, November 26, 2003]. The updated common rule was redrafted in plain language and adopted as a separate part, independent from the common rule on nonprocurement suspension and debarment. Based on an amendment to the drug-free workplace requirements in 41 U.S.C. 702 [Pub. L. 105-85, div. A, title VIII, Sec. 809, Nov. 18, 1997, 111 Stat. 1838], the update also allowed multiple enforcement options from which agencies could select, rather than requiring use of a certification in all cases.

When it established Title 2 of the CFR as the new central location for OMB guidance and agency implementing regulations concerning grants and agreements [69 FR 26276, May 11, 2004], OMB announced its intention to replace common rules with OMB guidance that agencies could adopt in brief regulations. OMB began that process by proposing [70 FR 51863, August 31, 2005] and finalizing [71 FR 66431, November 15, 2006] Governmentwide guidance on nonprocurement suspension and debarment in 2 CFR part 180.

As the next step in that process, OMB proposed for comment [73 FR 55776, September 26, 2008] and finalized [74

FR 28149, June 15, 2009]

Governmentwide guidance with policies and procedures to implement drug-free workplace requirements for financial assistance. The guidance requires each agency to replace the common rule on drug-free workplace requirements that the agency previously issued in its own CFR title with a brief regulation in 2 CFR adopting the Governmentwide policies and procedures. One advantage of this approach is that it reduces the total volume of drug-free workplace regulations. A second advantage is that it collocates OMB's guidance and all of the agencies' implementing regulations in 2 CFR.

#### The Current Regulatory Actions

As the OMB guidance requires, NEH is taking two regulatory actions. First, we are removing the drug-free workplace common rule from 45 CFR part 1173. Second, to replace the common rule, we are issuing a brief regulation in 2 CFR part 3373 to adopt the Governmentwide policies and procedures in the OMB guidance.

#### Invitation To Comment

Taken together, these regulatory actions are solely an administrative simplification and are not intended to make any substantive change in policies or procedures. In soliciting comments on these actions, we therefore are not seeking to revisit substantive issues that were resolved during the development of the final common rule in 2003. We are inviting comments specifically on any unintended changes in substantive content that the new part in 2 CFR would make relative to the common rule at 45 CFR part 1173.

#### Administrative Procedure Act

Under the Administrative Procedure Act (5 U.S.C. 553), agencies generally propose a regulation and offer interested parties the opportunity to comment before it becomes effective. However, as described in the "Background" section of this preamble, the policies and procedures in this regulation have been proposed for comment two times—one time by Federal agencies as a common rule in 2002 and a second time by OMB as guidance in 2008—and adopted each time after resolution of the comments received.

This direct final rule is solely an administrative simplification that would make no substantive change in NEH

policy or procedures for drug-free workplace. We therefore believe that the rule is noncontroversial and do not expect to receive adverse comments, although we are inviting comments on any unintended substantive change this rule makes.

Accordingly, we find that the solicitation of public comments on this direct final rule is unnecessary and that “good cause” exists under 5 U.S.C. 553(b)(B) and 553(d) to make this rule effective on October 29, 2010 without further action, unless we receive adverse comment by September 29, 2010. If any comment on unintended changes is received, it will be considered and, if warranted, we will publish a timely revision of the rule.

**Executive Order 12866**

OMB has determined this rule to be not significant for purposes of E.O. 12866.

**Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))**

This regulatory action will not have a significant adverse impact on a substantial number of small entities.

**Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104-4)**

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and Tribal governments, in aggregate, or by the private sector of \$100 million or more in any one year.

**Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)**

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

**Federalism (Executive Order 13132)**

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects 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.

**List of Subjects**

*2 CFR Part 3373*

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

*45 CFR Part 1173*

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons set forth in the preamble, and under the authority of 5 U.S.C. 301, the NEH amends the Code of Federal Regulations, Title 2, Subtitle B, chapter XXIII, and Title 45 chapter 11, part 1173, as follows:

**Title 2—Grants and Agreements**

■ 1. Add part 3373 in Subtitle B, Chapter XXIII, to read as follows:

**PART 3373—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)**

Sec.

3373.10 What does this part do?

3373.20 Does this part apply to me?

3373.30 What policies and procedures must I follow?

**Subpart A—Purpose and Coverage [Reserved]**

**Subpart B—Requirements for Recipients Other Than Individuals**

3373.225 Whom in the NEH does a recipient other than an individual notify about a criminal drug conviction?

**Subpart C—Requirements for Recipients Who Are Individuals**

3373.300 Whom in the NEH does a recipient who is an individual notify about a criminal drug conviction?

**Subpart D—Responsibilities of Agency Awarding Officials**

3373.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB guidance?

**Subpart E—Violations of This Part and Consequences**

3373.500 Who in the NEH determines that a recipient other than an individual violated the requirements of this part?

3373.505 Who in the NEH determines that a recipient who is an individual violated the requirements of this part?

**Subpart F—Definitions [Reserved]**

**Authority:** 41 U.S.C. 701–707.

**§ 3373.10 What does this part do?**

This part requires that the award and administration of NEH grants and cooperative agreements comply with Office of Management and Budget (OMB) guidance implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereafter referred to as “the Act”) that applies to grants. It thereby—

(a) Gives regulatory effect to the OMB guidance (Subparts A through F of 2 CFR part 182) for the NEH’s grants and cooperative agreements; and

(b) Establishes NEH policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

**§ 3373.20 Does this part apply to me?**

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through F of 2 CFR part 182 (*see table at 2 CFR 182.115(b)*) apply to you if you are a—

(a) Recipient of a NEH grant or cooperative agreement; or

(b) NEH awarding official.

**§ 3373.30 What policies and procedures must I follow?**

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB guidance in Subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB guidance that this part supplements.* In implementing the OMB guidance in 2 CFR part 182, this part supplements four sections of the guidance, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB guidance, as supplemented by this part.

Section of OMB guidance	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a) .....	§ 3373.225	Whom in the NEH a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b) .....	§ 3373.300	Whom in the NEH a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.

Section of OMB guidance	Section in this part where supplemented	What the supplementation clarifies
(3) 2 CFR 182.500 .....	§ 3373.500	Who in the NEH is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505 .....	§ 3373.505	Who in the NEH is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB guidance that this part does not supplement.* For any section of OMB guidance in Subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, NEH policies and procedures are the same as those in the OMB guidance.

#### Subpart A—Purpose and Coverage [Reserved]

#### Subpart B—Requirements for Recipients Other Than Individuals

##### § 3373.225 Whom in the NEH does a recipient other than an individual notify about a criminal drug conviction?

A recipient other than an individual that is required under 2 CFR 182.225(a) to notify Federal agencies about an employee's conviction for a criminal drug offense must notify the Director, Office of Grant Management, NEH.

#### Subpart C—Requirements for Recipients Who Are Individuals

##### § 3373.300 Whom in the NEH does a recipient who is an individual notify about a criminal drug conviction?

A recipient who is an individual and is required under 2 CFR 182.300(b) to notify Federal agencies about a conviction for a criminal drug offense must notify the Director, Office of Grant Management, NEH.

#### Subpart D—Responsibilities of Agency Awarding Officials

##### § 3373.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB guidance?

To obtain a recipient's agreement to comply with applicable requirements in the OMB guidance at 2 CFR part 182, you must include the following term or condition in the award:

*Drug-free workplace.* You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR Part 3373, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

#### Subpart E—Violations of This Part and Consequences

##### § 3373.500 Who in the NEH determines that a recipient other than an individual violated the requirements of this part?

The NEH General Counsel is the agency official authorized to make the determination under 2 CFR 182.500.

##### § 3373.505 Who in the NEH determines that a recipient who is an individual violated the requirements of this part?

The NEH General Counsel is the agency official authorized to make the determination under 2 CFR 182.505.

#### Subpart F—Definitions [Reserved]

#### Title 45—Public Welfare

#### Chapter XI—National Foundation on the Arts and the Humanities

##### ■ 2. Remove Part 1173.

Michael P. McDonald,  
General Counsel.

[FR Doc. 2010–21600 Filed 8–27–10; 8:45 am]

BILLING CODE 7536–01–P

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Parts 13, 47, and 91

[Docket No. FAA–2008–0118; Amdt. Nos. 13–34, 47–29, 91–318]

RIN 2120–AI89

#### Re-Registration and Renewal of Aircraft Registration; OMB Approval of Information Collection

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; approval of the information collection.

**SUMMARY:** This document announces Office of Management and Budget's (OMB's) approval of the information collection requirement contained in the FAA's final rule, "Re-Registration and Renewal of Aircraft Registration," which was published on July 20, 2010.

**DATES:** The FAA received OMB approval for the information collection

requirements in 14 CFR part 47 on August 16, 2010. The rule becomes effective on October 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** John G. Bent, Civil Aviation Registry, Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, OK 73169; telephone: (405) 954–4331.

**SUPPLEMENTARY INFORMATION:** On July 20, 2010, the FAA published the final rule, "Re-Registration and Renewal of Aircraft Registration" (75 FR 41968). Over a 3-year period, this rule will terminate the registration of all aircraft registered before October 1, 2010, and will require the re-registration of each aircraft to retain U.S. civil aircraft status. The rule also establishes a system for a 3-year recurrent expiration and renewal of registration for all aircraft issued a registration certificate on or after October 1, 2010. The final rule amends the FAA's regulations to provide standards for the timely cancellation of registration (N-numbers) for unregistered aircraft. This final rule makes other minor changes to establish consistency and ensure the regulations conform to statute or current Registry practices. The amendments will improve the accuracy of the Civil Aviation Registry.

The rule contained information collection requirements that had not yet been approved by the Office of Management and Budget at the time of publication. In accordance with the Paperwork Reduction Act, OMB approved that request on August 16, 2010, and assigned the information collection OMB Control Number 2120–0729. The FAA request was approved by OMB for a term of 18 months and expires on February 29, 2010. This notice is being published to inform affected parties of the approval of the information collection requirements of 14 CFR part 47.

Issued in Washington, DC, on August 24, 2010.

**Dennis R. Pratte, II,**

Acting Director, Office of Rulemaking.

[FR Doc. 2010–21561 Filed 8–27–10; 8:45 am]

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