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DEPARTMENT OF AGRICULTURE

5 CFR Part 8301

RIN 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture

AGENCY: Department of Agriculture (Department or USDA).

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department or USDA), with the concurrence of the Office of Government Ethics (OGE), is issuing final regulations for Department employees that supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), as issued by OGE. The final rule, effective upon publication, sets forth as final both a general requirement for certain Department employees to obtain prior approval before engaging in outside employment and separate, more-extensive prior approval requirements for employees of the USDA Farm Service Agency (FSA), Food Safety and Inspection Service (FSIS), Office of the General Counsel (OGC), and Office of Inspector General (OIG). The final rule also contains certain restrictions on financial interests applicable to FSA employees.

EFFECTIVE DATE: These regulations are effective October 2, 2000.

FOR FURTHER INFORMATION CONTACT: John C. Surina, Director, Office of Ethics, U.S. Department of Agriculture, Room 348–W—Stop 0122, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0122, telephone (202) 720–2251.

SUPPLEMENTARY INFORMATION:

I. Background

On March 24, 2000, with the concurrence and co-signature of OGE, USDA published for comment an interim final rule, with a request for comments, establishing supplemental standards of ethical conduct for employees of USDA (65 FR 15825–15830). The interim rule was issued to supplement the Standards of Ethical Conduct for Employees of the Executive branch published by OGE on August 7, 1992, and effective on February 3, 1993 (57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583). The Standards, as corrected and amended, are codified at 5 CFR part 2635. On October 3, 1997, the Department's Employee Conduct and Responsibilities regulations were removed. *See* 62 FR 51759–51760.

The interim rule was issued pursuant to 5 CFR 2635.105, which authorizes agencies, with the concurrence of OGE, to publish agency-specific supplemental regulations that are necessary to implement their respective ethics programs. The Department, with OGE concurrence, determined that the supplemental rules for codification in new chapter LXXII of 5 CFR, consisting of part 8301, were necessary to the success of its ethics program.

The interim rule prescribed a 30-day comment period and invited comments from all interested parties. USDA received ten timely comments and one late comment and, after careful consideration of each comment, has made appropriate modifications to the rule. The Department, with OGE's concurrence, is now publishing as a final rule the Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture, for codification in part 8301 title 5 of the Code of Federal Regulations.

II. Summary of the Comments

As noted, the Department received a total of eleven comments (ten were timely; one was late), all by electronic mail. Seven comments were received from employees of the Office of the General Counsel (OGC), USDA; one from an employee of Departmental Administration, USDA; one from an employee of the Farm Service Agency (FSA), USDA; one from a non-employee farmer; and one from a person whose affiliation, if any, could not be determined. Except for the comments of the farmer and the FSA employee, all comments concerned either the general requirement for prior approval for outside employment or the additional requirement for prior approval by OGC of outside practice of law by OGC attorneys not already covered under the general requirement. The FSA employee was complimentary in assessing the interim rule and wanted to expand the coverage of prohibited transactions with regard to FSA employees. The non-employee farmer inquired as to the rationale for limiting the prohibited transactions provisions only to FSA Federal employees, rather than also including FSA county employees.

III. Analysis of the Comments

Section 8301.102 General prior approval requirement for outside employment

All but one of the comments concerning the requirement to obtain approval before engaging in outside employment came from OGC attorneys and most of those comments addressed, concurrently, both the general requirement applicable to financial disclosure report filers and the special requirement for non filing attorneys within OGC found in § 8301.105. Accordingly, to the extent that these comments relate to both sections, they will be addressed in connection with the general requirement.

Four comments were received which asserted that the requirement for seeking prior approval for outside employment was unnecessary. Three commenters believed themselves capable of independently judging whether an outside activity would be in conflict with their official responsibilities. Two other commenters were inclined in that direction, adding that the presupposed ethical dangers that justify the requirement could be addressed more effectively through law enforcement and more ethics training to help employees identify conflicts. Two other commenters pointed to the fact that the interim language does not attempt to identify the potential conflicts that are of concern and went on to state that since the conflicts of concern were already prohibited, there was no need for the prior approval requirement. One commenter criticized the requirement on the basis that it presumes that USDA employees are engaged in unethical behavior. Finally, one commenter noted that the same goal already was achieved by way of confidential financial disclosure.

Notwithstanding the concerns of the commenters, the Department still sees a

clear need for requiring prior approval for outside employment by persons occupying sensitive positions. The Department has therefore determined that such prior approval of outside employment for persons covered by § 8301.102, and the additional prior approval requirements articulated in §§ 8301.103 through 8301.106, are essential to the missions of the Department and its agencies. The most obvious purpose for having a prior approval requirement is to help Federal officers and employees avoid entering into actual or apparent conflict situations, rather than limiting agencies to reliance upon after-the-fact responses, such as through prosecution or disciplinary action. Accordingly, the Department believes that requiring prior approval for outside employment by persons occupying sensitive positions is necessary and that the benefits accruing from this requirement, in terms of protecting not only its officers and employees but also the integrity of its programs and operations, outweigh the limited imposition and burden posed to individual officers and employees.

The Department believes that the general prior approval requirement is not overly burdensome or unnecessarily intrusive. First, persons not obliged to file financial disclosure reports are exempt from this requirement. Moreover, paragraph (e) of § 8301.102 provides agencies and components with the authority, through internal agency procedures, to specify broad categories of outside employment that presumptively present no conflict of interest concerns. Leaving the determination of exempt categories of employment to the individual agencies and components accords those entities greater flexibility in developing and modifying lists of exempted occupational categories since they are not subject to a cumbersome rulemaking process.

Three comments viewed the regulation as possibly constituting a prior restraint on First Amendment rights. One commenter expressed this point in terms of the outside practice of law; a second commenter in terms of uncompensated teaching, speaking, or writing that relates to one's official duties. The Department is not insensitive to the intrusiveness of any conflict of interest regulations as they necessarily cover personal financial holdings and activities away from one's job. On the other hand, the courts have acknowledged the justification for narrowly tailored prophylactic measures to protect the public interest from the reality and appearance of the corrosive impact of conflicting private interests. In this respect, it must be pointed out that the prior approval requirement does not prohibit any form of expression or association. In *Williams* v. *Internal Revenue Service,* 919 F.2d 745 (D.C. Cir. 1990), the court held that an agency regulation that required employees to obtain permission from the agency before engaging in outside employment, and that was tailored to the Government's interest in efficiency and avoiding the appearance of impropriety, did not violate employees' First Amendment rights. Therefore, the Department does not agree with the commenter's argument that the requirement for obtaining prior approval for outside employment generally violates First Amendment rights.

At the same time, one commenter pointed to the recent ruling in *Sanjour* v. *EPA,* 56 F.3d 85 (D.C. Cir. 1995), *on remand,* 7 F. Supp. 2d 14 (D.D.C. 1998), as a basis for attacking the regulation on First Amendment grounds. The Department disagrees with the commenter in terms of the legal impact of *Sanjour* on this regulation. Nonetheless, the Department amends this section by: (1) deleting the requirement in paragraph (b)(2) to obtain prior approval for *uncompensated* teaching, speaking, writing, and editing; and (2) redesignating paragraph (b)(3) as paragraph (b)(2).

One commenter asserted that the definition of ''employment,'' in paragraph (b), is overly broad in that it would include providing uncompensated personal services in managing an educational trust for one's children, or in serving as a trustee or agent for a family estate, or serving as executor of a will. Conversely, the commenter points out that, under paragraph (b)(3)(i), an employee could manage a religious endowment fund, social investment club, fraternal organization, or the assets of a recreational group.

The Department finds the comment to be valid in cases where the fiduciary duties (guardian, executor, administrator, trustee, or personal fiduciary) relate solely to services provided to, or in conjunction with, individuals. From a practical standpoint, requiring prior approval to perform these family tasks on behalf of individuals is an unnecessary burden. On the other hand, the Department does not concur in the comment to the extent that such services are provided to, or in conjunction with, a for-profit entity. In the estimation of USDA, there is a significantly greater likelihood that outside employment with for-profit entities may raise conflict of interest and ethical concerns than in the case of fiduciary services provided to individuals. Accordingly, the Department sees justification for requiring prior approval for such services. Therefore, the Department amends redesignated paragraph (b)(2) of the interim rule by inserting prior to the word ''entity'', comma following by ''for-profit.''

One commenter questioned both the necessity of requiring the employee to provide the estimated total time to be devoted to outside employment [paragraph (c)(5)] and a statement as to whether the work can be performed entirely outside of the employee's regular duty hours [paragraph (c)(6)]. The Department has amended the interim rule by: (1) Deleting paragraphs (c)(5) and (c)(6); and (2) redesignating paragraphs (c)(7) through (c)(10) as paragraphs (c)(5) through (c)(8).

Several comments sought greater clarification and specificity on both the standards to be employed in evaluating outside employment requests and on the procedures to be employed. Specifically, three commenters expressed a wish to see a set time from by which management must act on a request, so that failure to act on the request within the required time frame would constitute de facto approval of the request. Three commenters suggested that the regulation contain some avenue of appeal from a negative determination. Two commenters wanted specificity as to how often their approved requests needed to be updated. Two other commenters wanted greater specificity as to the specific standards employed by USDA to gauge whether a given outside activity presents an unacceptable conflict. One commenter wanted greater clarification of what was meant by the term ''reasonable time'' in paragraph (c). Finally, another commenter wanted a requirement for the agency to provide written notification of its determination.

While the Department sees that such process considerations are valid, the regulations accord each specific USDA agency and component broad authority to fashion a prior approval policy that best fits its particular needs. Thus, the Department does not adopt these comments; rather they are left to be addressed through the implementing procedures within each agency and component. As to the standards employed to gauge whether a given outside activity presents an unacceptable conflict, the Department believes that sufficient specificity is provided in this regulation through reference to the relevant part of the Code of Federal Regulations. Greater

specificity may be provided through implementing procedures within each agency and component.

The Department, in conforming to its intent to provide broad authority to its separate agencies and components to fashion prior approval requirement procedures specifically tailored to their needs, is amending the interim rule by: (1) Deleting the words ''[T]he DAEO or, with the concurrence of the DAEO,'' in paragraph (e), and replacing those words with ''The agency designee for;'' and (2) deleting from paragraph (d) the words ''(or the DAEO, when there is not an agency designee).''

Section 8301.103 Additional rules for employees of the Farm Service Agency

As stated, the Department received two comments related to the provision prohibiting certain financial transactions involving Farm Service Agency (FSA) employees. The FSA employee wanted the Department to apply the prohibitions to ''members of the employees [sic] household,'' rather than to ''employee, spouse, or minor child,'' as was used in the regulation. The commenter questioned the justification in the interim rule for acting to address abuses and conflicts involving the financial interests of employees, spouses, and minor children, while leaving unaddressed the similar abuses and conflicts involving the financial interests of cohabitation partners and children who have reached majority. While the commenters' concerns are appreciated, the provisions of subpart D of the branchwide Standards do not extend beyond the limitations contained in the basic financial conflict of interest statute, 18 U.S.C. 208. That statute prohibits a Federal officer or employee from participating officially in any particular matter in which the officer or employee has a financial interest. For purposes of that statute, financial interests owned by the employee's spouse or minor child are deemed to be the financial interests of the employee. Accordingly, the Department did not have the authority to extend this prohibition beyond the bounds of that statute.

The non-employee commenter questioned why the interim rule did not apply to FSA county employees and why employees were still eligible to obtain guaranteed loans. The conflict of interest statutes and the Standards are limited in their application to Federal employees. FSA County committee personnel and county office employees are not Federal employees for purposes of these statutes. *See* 65 FR 15826. As a result, this supplement must be limited to Federal employees. However, the Department may publish under different authority similar rules concerning FSA county employees. Farm Service Agency guaranteed loans were not included in this prohibition because those loans involve commercial monies, rather than the very limited pot of Federal monies available through FSA direct loans. Moreover, FSA direct loans are the vehicle by which USDA serves as the ''lender of last resort'' to farmers on the financial brink; those loan monies must be reserved for those persons.

Section 8301.105 Additional rules for employees of the Office of the General Counsel

Two of the comments contended that both the general promulgation of the rules, as well as imposition of the additional prior approval requirement under § 8301.105, were subject to negotiations under the collective bargaining process. The Department disagrees with the notion that the promulgation and enforcement of regulations are subject to collective bargaining negotiations under the Federal Service Labor-Management Relations Act. The promulgation of regulations is fully within the broad authorities accorded to Federal agencies. More specifically, however, not only does this regulation implement a Govermentwide regulation (5 CFR part 2635), but the Department also has established a compelling need for its agency-specific rules and has made a determination that they are essential to the missions of the USDA agencies for which they have been adopted.

Two commenters addressed the fact that almost all State bars have rules proscribing conflicts of interest by attorneys. This, they contended, made the prior approval requirement redundant in terms of limiting outside practice or law. One of the two asserted that, generally, standards imposed by the bars were more stringent and more easily enforced than the regime set out in the supplement. The other commenter proposed that, should a dispute arise between an attorney and his or her supervisor over whether an outside activity conflicted with his or her official duties, the issue could be presented for resolution to the bar to which the attorney belongs. If the bar sided with the Government, but the employee proceeded with the outside activity nonetheless, then the Government could file a bar complaint. (Presumably, if the bar sided with the employee, the Government would be powerless to take action against the employee.)

The subject matter at issue is not proper for determination or interpretation by State bar associations. The Federal Government cannot abdicate a core management function, such as staff supervision, to an outside party. At the same time, the suggestion misses the entire point of requiring prior approval for certain types of outside employment, which is to prevent an employee from violating a Federal criminal statute or ethical conduct rule, rather than having to take disciplinary action after the fact.

Sections 8301.103(f), and 8301.104 Through 8301.106 Additional Prior Approval Requirements

One commenter noted, in reference to § 8301.105, that the additional requirements for requesting prior approval for outside employment provide that requests are processed in accordance with the procedures in paragraph (c) of § 8301.102, but do not specify whether such requests will be determined on the standard for approval set forth in paragraph (d) of § 8301.102. The Department agrees with this comment. Accordingly, the Department will specify in all additional prior approval requirements, that the request shall be determined based on the standard for approval set forth in paragraph (d) of § 8301.102.

IV. Matters of Regulatory Procedure

Congressional Review

The Department has found that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress. This rulemaking is related to Department personnel.

Executive Orders Nos. 12866 and 12988

Since this rule relates to Department personnel, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988.

Regulatory Flexibility Act

The Department has 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 affects only Department employees.

Paperwork Reduction Act

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

Environmental Impact

This decision will not have a significant impact upon the quality of the human environment or the conservation of energy resources.

List of Subjects in 5 CFR Part 8301

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

Dated: September 25, 2000.

Dan Glickman,

Secretary of Agriculture.

Approved: September 26, 2000.

F. Gary Davis,

Acting Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Department of Agriculture, with the concurrence of the Office of Government Ethics, is revising 5 CFR part 8301 to read as follows:

PART 8301—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE

Sec.

Authority: 5 U.S.C. 301, 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, 2635.403(a), 2635.803.

§ 8301.101 General.

(a) In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Agriculture (Department or USDA) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

(b) In addition to 5 CFR part 2635 and this part, employees also are required to comply with the executive branch financial disclosure regulations at 5 CFR part 2634, the regulations on responsibilities and conduct contained in 5 CFR part 735, and Department guidance and procedures established pursuant to paragraph (c) of this section.

(c) With the concurrence of the Designated Agency Ethics Official (DAEO), agencies and components of the Department may, in accordance with 5 CFR 2635.105(c), issue explanatory guidance for their employees and establish procedures necessary to implement this part and part 2635 of this title. The Deputy Ethics Official for each agency or component shall retain copies of all such guidance issued by that agency or component.

§ 8301.102 Prior approval for outside employment.

(a) *Prior approval requirement.* An employee, other than a special Government employee, who is required to file either a public or confidential financial disclosure report (SF 278 or OGE Form 450), or an alternative form of reporting approved by the Office of Government Ethics, shall, before engaging in outside employment, obtain written approval in accordance with the procedures set forth in paragraph (c) of this section.

(b) *Definition of employment.* For purposes of this section, ''employment'' means any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, irrespective of compensation, the following outside activities.

(1) Providing personal services as a consultant or professional, including service as an expert witness or as an attorney; and

(2) Providing personal services to a for-profit entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee, which involves decision making or policymaking for the non-Federal entity, or the provision of advice or counsel.

(c) *Submission of requests for approval.* An employee seeking to engage in employment for which advance approval is required shall submit a written request for approval to the employee's supervisor a reasonable time before the employee proposes to begin the employment. Upon a significant change in the nature of the outside employment or in the employee's official position, the employee shall submit a revised request for approval. The supervisor will forward written requests for approval to the agency designee, through normal supervisory channels. All requests for prior approval shall include the following information:

(1) The employee's name, organizational location, occupational title, grade, and salary;

(2) The nature of the proposed outside employment, including a full description of the specific duties or services to be performed;

(3) A description of the employee's official duties that relate in any way to the proposed employment;

(4) The name and address of the person or organization for whom or with which the employee is to be employed, including the location where the services will be performed;

(5) The method or basis of any compensation (*e.g.*, fee, per diem, honorarium, royalties, stock options, travel and expenses, or other);

(6) A statement as to whether the compensation is derived from a USDA grant, contract, cooperative agreement, or other source of USDA funding;

(7) For employment involving the provision of consultative or professional services, a statement indicating whether the client, employer, or other person on whose behalf the services are performed is receiving, or intends to seek, a USDA grant, contract, cooperative agreement, or other funding relationship; and

(8) For employment involving teaching, speaking, writing or editing, the proposed text of any disclaimer required by 5 CFR 2635.807(b).

(d) *Standard for approval.* Approval shall be granted by the agency designee unless it is determined that the outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(e) *Responsibilities of the component agencies.* (1) The agency designee for each separate agency or component of USDA may issue an instruction or manual issuance exempting categories of employment from a requirement of prior written approval based on a determination that employment within those categories would generally be approved and is not likely to involve conduct prohibited by Federal statutes or regulations, including 5 CFR part 2635 and this part.

(2) Department components may specify internal procedures governing the submission of prior approval requests, including but not limited to: timely submission requirements; determination deadlines; appeals or reviews; and requirements for updating requests. Internal procedures also should designate appropriate officials to act on such requests. The instructions or manual issuances may include examples of outside employment that are permissible or impermissible consistent with 5 CFR part 2635 and this part. With respect to employment involving teaching, speaking or writing, the instructions or manual issuances may specify pre-clearance procedures and/or require disclaimers indicating that the views expressed do not necessarily represent the views of the agency, USDA or the United States.

(3) The officials within the respective USDA agencies or components responsible for the administrative aspects of these regulations and the maintenance of records shall make provisions for the filing and retention of requests for approval of outside employment and copies of the notification of approval or disapproval.

§ 8301.103 Additional rules for employees of the Farm Service Agency.

(a) *Application.* This section applies only to Farm Service Agency (FSA) personnel who are Federal employees within the meaning of 5 U.S.C. 2105. This section does not apply to FSA community committee members, county committee members, and county office personnel, who are either elected to their positions or are employees of community or county committees established under 16 U.S.C. 590h. For rules applicable to FSA community committee members, county committee members, and county office personnel, see 7 CFR part 7.

(b) *Definition of FSA program participant.* For purposes of this section, the phrase ''FSA program participant,'' includes any person who is, or is an applicant to become, an FSA borrower, FSA grantee, or recipient of any other form of FSA financial assistance available under any farm credit, payment or other program administered by FSA.

(c) *Prohibited borrowing.* (1) No FSA employee, or spouse or minor child of an FSA employee, may directly or indirectly seek or obtain a ''direct loan'' under paragraph (a)(9) of section 343 of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1991(a)(9).

(2) Nothing in this section bars an FSA employee, or spouse or minor child of an FSA employee, from retaining a direct loan secured prior to March 24, 2000, or, if subsequent to March 24, 2000, such direct loan is secured prior to the FSA employee being appointed to, or nominated for, appointment to an FSA position. Any FSA employee who either personally has such a pre-existing loan, or whose spouse or minor child has such a pre-existing loan, must submit a written disqualification from taking any official action on any such loan. Other than through the application of normal FSA loan servicing options set forth under FSA regulations, the terms of any such pre-existing loans shall remain fixed and shall not be subject to renegotiation or renewal unless pursuant to policy decision(s) made by the USDA Secretary or the FSA Administrator.

(3) *Waiver for FSA State Committee members.* A request for an exception to the general prohibition of paragraph (c)(1) of this section may be submitted by an FSA State Committee member (whether on his or her own behalf, or on behalf of the FSA State Committee member's spouse or minor child), to the FSA Deputy Administrator for Farm Loans. The Deputy Administrator for Farm Loans may grant a written waiver from this prohibition based on a determination made with the concurrence of the DAEO and the FSA headquarters ethics adviser that:

(i) The applicant is a current FSA State Committee member or the spouse or minor child of a current FSA State Committee member;

(ii) The applicant meets the statutory qualification requirements for obtaining direct loan; and

(iii) A waiver is not inconsistent with part 2635 of this title nor 7 U.S.C. 1986 nor otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position, including the appearance of misuse of non public information, or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered.

(d) *Prohibited real estate purchases.* (1) No FSA employee, or spouse or minor child of an FSA employee, may directly or indirectly purchase real estate held in the FSA inventory, for sale under forfeiture to FSA, or from an FSA program participant.

(2) *Waiver.* A request for an exception to the prohibition found in paragraph (d)(1) of this section may be submitted jointly by the FSA program participant and FSA employee (whether on his or her own behalf, or on behalf the employee's spouse or minor child), to the FSA State Executive Director. The FSA State Executive Director may grant a written waiver from this prohibition based on a determination made with the advice and clearance of the DAEO and the FSA headquarters ethics advisor that the waiver is not inconsistent with part 2635 of this title nor 7 U.S.C. 1986 nor otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

(e) *Prohibited transactions with FSA program participants.* (1) Except as provided in paragraph (e)(2) of this section, no FSA employee or spouse or minor child of an FSA employee may directly or indirectly: sell real property to; lease real property to or from; sell to, lease to or from, or purchase personal property from; or employ for compensation a person whom the FSA employee knows or reasonably should know is an FSA program participant directly affected by decisions of the particular FSA office in which the FSA employee serves.

(2) *Exceptions.* Paragraph (e)(1) of this section does not apply to:

(i) A sale, lease, or purchase of personal property, if it involves:

(A) Goods available to the general public at posted prices that are customary and usual within the community; or

(B) Property obtained pursuant to public auction; or

(ii) Transactions listed in (e)(1) of this section determined in advance by the appropriate FSA State Executive Director, after consulting with the FSA Headquarters ethics advisor, to be consistent with part 2635 of this title and otherwise not prohibited by law.

(f) *Additional prior approval requirements for outside employment.* Any FSA employee not otherwise required to obtain approval for outside employment under § 8301.102 shall obtain written approval in accordance with the procedures and standards set forth in paragraphs (c) and (d) of § 8301.102 before engaging in outside employment, as that term is defined by paragraph (b) of § 8301.102, with or for a person:

(1) Whom the FSA employee knows, or reasonably should know, is an FSA program participant; and

(2) Who is directly affected by decisions made by the particular FSA office in which the FSA employee serves.

§ 8301.104 Additional rules for employees of the Food Safety and Inspection Service.

Any employee of the Food Safety and Inspection Service not otherwise required to obtain approval for outside employment under § 8301.102, shall, before engaging in any form of outside employment, obtain written approval in accordance with the procedures and standards set forth in paragraphs (c) and (d) of § 8301.102

§ 8301.105 Additional rules for employees of the Office of the General Counsel.

Any attorney serving within the Office of the General Counsel, not otherwise required to obtain approval for outside employment under § 8301.102, shall obtain written approval, in accordance with the

procedures and standards set forth in paragraphs (c) and (d) of § 8301.102, before engaging in the outside practice of law, whether compensated or not.

§ 8301.106 Additional rules for employees of the Office of Inspector General.

Any employee of the Office of Inspector General, not otherwise required to obtain approval for outside employment under § 8301.102, shall obtain written approval, in accordance with the procedures and standards set forth in paragraphs (c) and (d) of § 8301.102, before engaging in any form of outside employment that involves the following:

(a) Law enforcement, investigation, security, firearms training, defensive tactics training, and protective services;

(b) Auditing, accounting, bookkeeping, tax preparation, and other services involving the analysis, use, or interpretation of financial records;

(c) The practice of law, whether compensated or not; or

(d) Employment involving personnel, procurement, budget, computer, or equal employment opportunity services.

[FR Doc. 00–25136 Filed 9–29–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–11–AD; Amendment 39–11912; AD 2000–20–01]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Arriel 1 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Turbomeca Arriel 1 series turboshaft engines. This action requires the installation of a chip detector with electronic warning on the rear bearing oil return system. This amendment is prompted by reports of gas generator rear bearing failures. The actions specified in this AD are intended to prevent gas generator rear bearing failure, which could lead to an uncommanded engine shutdown.

DATES: Effective October 17, 2000. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 17, 2000.

Comments for inclusion in the Rules Docket must be received on or before December 1, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–11–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Turbomeca, 64511 Bordes Cedex, France; telephone: 33 59 12 50 00; fax: 33 59 53 15 12. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7152; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority for France, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on certain Turbomeca Arriel 1 series turboshaft engines. The DGAC advises that it has received reports of gas generator rear bearing failure. There were 38 incidents of uncommanded in-flight engine shutdowns before August 1999; no fatalities were reported. This condition, if not corrected, could result in an uncommanded engine shutdown.

Manufacturer's Service Information

Turbomeca has issued Service Bulletin (SB) No. 292 72 0163, Revision 1, dated April 3, 1996, that specifies procedures for the installation of a chip detector with electronic warning on the rear bearing oil return system. The DGAC classified this service bulletin as mandatory and issued AD 98–394(A) in order to ensure the airworthiness of these engines in France.

Bilateral Airworthiness Agreement

This engine model is manufactured in France and is type certificated for operation in the United States under the provisions of 21.29 of Title 14 of the Code of Federal Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Requirements of this AD

Since an unsafe condition has been identified that is likely to exist or develop on engines of the same type design in the United States, this AD requires the installation of a chip detector with electronic warning on the rear bearing oil return system. The actions are required to be accomplished in accordance with the service bulletin described previously.

Immediate Adoption

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.