

Channel 271A to Sardis, Mississippi, as the community's first local aural transmission service. See 62 FR 36756, July 9, 1997. Channel 271A can be allotted in compliance with the Commission's distance separation requirements with a site restriction of 7.0 kilometers (4.4 miles) southeast. The coordinates for Channel 271A at Sardis are 34-24-09 NL and 89-51-23 WL. With this action, this proceeding is terminated.

DATES: Effective November 10, 1997. The window period for filing applications for Channel 271A at Sardis, Mississippi, will open on November 10, 1997, and close on December 11, 1997.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97-147, adopted September 17, 1997, and released September 26, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Sardis, Channel 271A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-26247 Filed 10-2-97; 8:45 am]

BILLING CODE 6712-01-F

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to revise its classification contract clause, revise its access authorization (security clearance) procedures for contractor personnel, and add new counterintelligence provisions. Specific material being revised or added is summarized in the "Section-by-Section Analysis" appearing later in this document.

EFFECTIVE DATE: This rule will be effective December 2, 1997.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Office of Procurement and Assistance Policy (HR-51), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585-0705, (202) 586-8247.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Disposition of Comments
- III. Section-by-Section Analysis
- IV. Procedural Requirements
 - A. Review Under Executive Order 12612
 - B. Review Under Executive Order 12866
 - C. Review Under Executive Order 12988
 - D. Review Under the National Environmental Policy Act
 - E. Review Under the Paperwork Reduction Act
 - F. Review Under the Regulatory Flexibility Act
 - G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996
 - H. Review Under the Unfunded Mandates Reform Act of 1995

I. Background

This final rule results from a notice of proposed Rulemaking published in the **Federal Register** on November 20, 1996, 61 FR 59072. This rule will accomplish three objectives.

First, it will revise the classification contract clause to provide that only Federal Government employees may serve as "original classifiers" and that both Federal Government employees and contractor employees may serve as "derivative classifiers." The clause is also changed to recognize that a balance is required between the Department's mission to protect the national security and prevent nuclear proliferation and its commitment to maximize the amount of information available to the public. As revised, the clause requires that information, documents or material originated or generated in classified or potentially classified subject areas be reviewed for classification by the

appropriate officials using proper classification guidance provided by the Department. The clause also requires that documents containing information which is no longer classified by current classification guidance be systematically reviewed for declassification by a Derivative Declassifier. Only when both classification and declassification reviews are performed can the Department achieve its goal of protecting the national security while providing the public with access to as much Government information as possible. Definitions of certain terms are added. These changes are at item 2 of the final rule, subsection 952.204-70, the clause itself, and item 5 of the final rule, subsection 970.0404-4, paragraph (a)(1), a reference to the clause and its revised title.

Second, it will provide a definition of "counterintelligence" consistent with E.O. 12333, a policy statement regarding DOE's counterintelligence program, and a new contract clause on counterintelligence applicable to certain DOE management and operating contractors and other contractors managing DOE-owned facilities. These changes appear at item 3 of the final rule, subsection 970.0404-1, a definition, item 4 of the final rule, subsection 970.0404-2, paragraph (e), a policy statement, item 5, subsection 970.0404-4, paragraph (a)(2), an instruction for use of the clause, and item 7, subsection 970.5204-1, paragraph (b), the text of the clause.

Third, it will revise the DEAR to be consistent with the recommendations of the General Accounting Office Report on Nuclear Security, RCED-93-183, as implemented by DOE Order 472.1B entitled "Personnel Security Activities." The GAO report stressed contractor responsibility for certifying preemployment checks conducted on prospective employees. Where DOE access authorization is required, the contractor must perform normal and prudent preemployment checks and the applicant's job qualifications and suitability must be established before a request is made to the Department for a security clearance. This revision is applicable to DOE management and operating contractors and other contractors managing DOE-owned facilities. Such contractors may, at their discretion, include this procedure in their subcontracts where subcontractor employees are required to hold a DOE access authorization in order to perform on-site duties, such as protective force operations. This change appears at item 6 of the final rule, section 970.2201, paragraph (b)(1)(ii).

DEPARTMENT OF ENERGY

48 CFR Parts 952 and 970

Acquisition Regulation, Classification, Security and Counterintelligence

AGENCY: Department of Energy.

II. Disposition of Comments

Comments were received from 2 reviewers.

The first reviewer registered general support for the amendment. The reviewer supported the Department's efforts to maximize information available to the public while ensuring the proper protection of sensitive national security and atomic energy information. The addition of the declassification reviews to DOE's security program was supported by this reviewer.

The second reviewer offered four comments.

First Comment. The reviewer notes that the rulemaking emphasizes the importance of a contractor's declassification activities. The reviewer suggests that the declassification activities of the contractor be formally recognized in the contract and states the opinion that such declassification activities may be substantially underfunded until such action is taken.

First Response. Including the Classification/Declassification clause in a contract constitutes formal recognition of these activities. Contracts do not specify the individual tasks involved in the work to such a specific level of work as classifying or declassifying a document. DOE policy emphasizes the importance of conducting declassification reviews. This policy has led, during each of the past three years, to the declassification of greater numbers of documents than have been classified. This suggests that our policy emphasis has been effective.

Second Comment. The reviewer notes a statement in the "Review Under the Regulatory Flexibility Act" (item IV.F. of the preamble of the notice) which says that the security and counterintelligence requirements apply only to management and operating contractors and do not flow down to subcontractors. The reviewer asks for clarification regarding whether the requirements apply to subcontractors.

Second Response. The statement has been revised to more specifically define what is meant by "security requirements." The security requirements being revised, in this context, are those of 970.2201 which discuss completion of preemployment background checks in relation to access authorizations. This specific section (i.e. 970.2201(b)(1)(ii)) applies to DOE management and operating contractors and other contractors operating DOE facilities which require access authorizations. Section 970.2201 is a guiding principle, not a contract clause. It does not flow down to subcontracts.

Management and operating contractors and other contractors operating DOE facilities may, at their discretion, include this guiding principle in their solicitations and subcontracts wherein subcontractor employees are required to hold a DOE access authorization in order to perform on-site duties, such as protective force operations. Possible applicability to subcontractors, in specific circumstances, was added based on our analysis of the comment. The Classification/Declassification clause does flow down to subcontracts if they require access to classified information. The counterintelligence requirements do not flow down to subcontracts. Section IV.F. of the preamble has been revised to avoid any misunderstanding.

Third Comment. The reviewer notes section IV.E. "Review Under the Paperwork Reduction Act," of the preamble of the notice. The reviewer suggests that the declassification activity under the revised Classification/Declassification clause of the notice represents a tremendous record keeping and information burden.

Third Response. The rulemaking makes no change in the amount of records or information. It is intended to move more records and information from the classified category to the declassified category.

Fourth Comment. The reviewer expressed concern that the clause would require most classification decisions to be made by Federal classifiers even in situations where a major contractor operated security program was involved. The reviewer suggested that the lack of definition of the terms "document," "equipment," and "information" made the intent of the clause unclear.

Fourth Response. We agree with the comment and have added definitions of terms and revised the text of the clause for clarity.

III. Section-by-Section Analysis

1. The authority citations for Parts 952 and 970 are restated.

2. The classification clause at 952.204-70 is renamed classification/declassification. It is revised to emphasize declassification, add definitions, and differentiate the duties of original versus derivative classifiers.

3. A definition of counterintelligence is added to subsection 970.0404-1.

4. A new paragraph is added to 970.0404-2 to describe DOE policy on counterintelligence.

5. New instructions are added to 970.0404-4 to detail the security clause requirements for management and operating contractors and other

contractors managing DOE-owned facilities which require access authorizations.

6. Section 970.2201 is amended to describe the procedures for confirming to DOE the conduct and outcome of preemployment checks performed by management and operating contractors and other contractors managing DOE-owned facilities, when such contractors request that the DOE process an applicant for access authorization. Such contractors may, at their discretion, include this procedure in subcontracts wherein subcontractor employees are required to possess DOE access authorization in order to perform on-site duties, such as protective force operations.

7. Section 970.5204-1 is amended to add a new clause entitled counterintelligence.

IV. Procedural Requirements

A. Review Under Executive Order 12612

Executive Order 12612, entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on states, on the relationship between the Federal Government and the states, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has determined that this rulemaking will not have a substantial direct effect on the institutional interests or traditional functions of states.

B. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review, under that Executive Order, by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

C. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write

regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the final regulations meet the relevant standards of Executive Order 12988.

D. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Pursuant to Appendix A of Subpart D of 10 CFR Part 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A), DOE has determined that this rulemaking is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

E. Review Under the Paperwork Reduction Act

This rulemaking imposes no new information collection or record keeping requirements. Accordingly, they require no OMB clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

F. Review Under the Regulatory Flexibility Act

This rulemaking was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, 5 U.S.C. 601, *et seq.*, which requires preparation of a regulatory flexibility analysis for any

rule that is likely to have a significant economic impact on a substantial number of small entities. This rulemaking revises established classification and security requirements and adds counterintelligence requirements. The changes to the security requirements being made by this final rule (i.e., 970.2201 dealing with completion of preemployment background checks prior to requests for access authorizations) are applicable to management and operating contractors and other contractors managing DOE-owned facilities. Such contractors may, at their discretion, include this procedure in subcontracts wherein subcontractor employees will require DOE access authorization in order to perform on-site duties, such as protective force operations. The prime contractors operating DOE facilities are large businesses, large universities, or large not for profit entities. This part of the rulemaking could affect small entities only if they become subcontractors performing on-site services that require DOE access authorizations such as protective force operations. Even under such circumstances, there will not be a significant economic impact on a substantial number of small entities as the rulemaking does not require any unusual effort on the part of the small entity. The procedure merely provides that, before requesting that DOE undertake a review for employee access authorization, the employer complete normal preemployment background checks, i.e. police and credit checks, which are normal to the employment of personnel in sensitive type positions such as protective force operations. Moreover, the cost of the background checks are reimbursable.

The new counterintelligence requirements are only applicable to management and operating contractors and other contractors managing DOE facilities. As noted above, such contractors are large businesses or universities, therefore, this rulemaking will have no significant impact on a substantial number of small entities.

The change to the classification/declassification clause (i.e. 952.204–70) applies to all contracts and subcontracts but has no significant economic impact. The associated costs are estimated to be relatively small, and in any event, the contracts are likely to be of the cost reimbursement type.

Based on the foregoing review, DOE certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(3).

H. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal mandate with costs to State, local or tribal governments, or to the private sector, of \$100 million or more. This rulemaking imposes no Federal mandates and does not have an impact of \$100 million or more.

List of Subjects in 48 CFR Parts 952 and 970

Government Procurement.

Issued in Washington, D.C., on September 29, 1997.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 952 continues to read:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c); 42 U.S.C. 13524.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

952.204–70 [Amended]

2. Subsection 952.204–70 is amended by revising the section heading and revising the clause to read:

952.204–70 Classification/Declassification.

* * * * *

Classification/Declassification (Sep 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, “information” means facts, data, or knowledge itself; “document” means the physical medium on or in which information is recorded; and “material” means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is “Restricted Data” and “Formerly Restricted Data” (classified under the Atomic Energy

Act of 1954, as amended) and "National Security Information" (classified under Executive Order 12958 or prior Executive Orders).

The original decision to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or contractor) may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers.

The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a Contractor Derivative Classifier in accordance with classification regulations including mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed in classification/declassification guidance, but whose sensitivity appears to warrant classification, the contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

In addition, the contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or Contractor Derivative Declassifier in accordance with classification regulations, mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine if the documents are no longer appropriately classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of declassification upon review. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be reviewed to determine if they are publicly releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs.

The contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

The authority citation for Part 970 continues to read:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), and Sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254).

3. Subsection 970.0404-1 is amended by adding in alphabetic order "counterintelligence" as a new definition to read as follows:

970.0404-1 Definitions.

* * * * *

Counterintelligence means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communication security programs.

* * * * *

4. Subsection 970.0404-2 is amended by adding paragraph (e) to read as follows:

970.0404-2 General.

* * * * *

(e) Executive Order 12333, United States Intelligence Activities, provides for the organization and control of United States foreign intelligence and counterintelligence activities. In accordance with this Executive Order, DOE has established a counterintelligence program which is described in DOE Order 5670.3 (as amended). All DOE elements, including management and operating contractors and other contractors managing DOE-owned facilities which require access authorizations, should undertake the necessary precautions to ensure that DOE and covered contractor personnel, programs and resources are properly protected from foreign intelligence threats and activities.

5. Subsection 970.0404-4 is amended by revising paragraph (a)(1) and by adding a new paragraph (a)(2) to read as follows:

970.0404-4 Contract clauses.

(a) * * *

(1) *Security and Classification/Declassification, 970.5204-1(a)*. These clauses are required in all contracts which involve access to classified information, nuclear material, or access authorizations.

(2) *Counterintelligence, 970.5204-1(b)*. This clause is required in all management and operating contracts and other contracts for the management of DOE-owned facilities which include the security and classification/declassification clauses.

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6. Section 970.2201 is amended by revising paragraph (b)(1)(ii) to read as follows:

970.2201 Basic labor policies.

* * * * *

(b) * * *

(1) * * *

(ii) The job qualifications and suitability of prospective employees should be established by the contractor prior to employment by careful personnel investigations. Such personnel investigations should include, as appropriate: a credit check; verification of high school degree/diploma or degree/diploma granted by an institution of higher learning within the last 5 years; contacts with listed personal references; contacts with listed employers for the past 3 years (excluding employment of less than 60 days duration, part-time employments, and craft/union employments); and local law enforcement checks when such checks are not prohibited by State or local law, statute, or regulation, and when the individual had resided in the jurisdiction where the contractor is located. When a DOE access authorization (security clearance) will be required, the aforementioned preemployment checks must be conducted and the applicant's job qualifications and suitability must be established before a request is made to the DOE to process the applicant for access authorization. Evidence must be furnished to the DOE with the applicant's security forms that specifies: the date each check was conducted, the entity contacted that provided information concerning the applicant, a synopsis of the information provided as a result of each contact, and a statement that all information available has been reviewed and favorably adjudicated in accordance with the contractor's personnel policies. When an applicant is being hired specifically for a position which requires a DOE access authorization, the applicant shall not be placed in that position prior to the access authorization being granted by the DOE unless an exception has been obtained from the Head of the Contracting Activity or designee. If an applicant is placed in that position prior to access authorization being granted by the DOE, the applicant may not be afforded access to classified matter or special nuclear materials (in categories requiring access authorization) until the DOE notifies the employer that access authorization has been granted. Management and operating contractors and other contractors operating DOE facilities may, at their discretion, include this language in solicitations and subcontracts (appropriately modified to identify the parties) wherein subcontract employees will be required to hold DOE access

authorization in order to perform on-site duties, such as protective force operations.

* * * * *

7. Section 970.5204-1 is revised to read as follows:

Subpart 970.52—Contract Clauses for Management and Operating Contracts.

970.5204-1 Security.

(a) As prescribed in 970.0404-4(a)(1), insert the Security clause found at 952.204-2 and the Classification/Declassification clause found at 952.204-70.

(b) As prescribed in 970.0404-4(a)(2), insert the following Counterintelligence clause in contracts containing the security and classification/declassification clauses:

Counterintelligence (Sep 1997)

(a) The contractor shall take all reasonable precautions in the work under this contract to protect DOE programs, facilities, technology, personnel, unclassified sensitive information and classified matter from foreign intelligence threats and activities conducted for governmental or industrial purposes, in accordance with DOE Order 5670.3, Counterintelligence Program; Executive Order 12333, U.S. Intelligence Activities; and other pertinent national and Departmental Counterintelligence requirements.

(b) The contractor shall appoint a qualified employee(s) to function as the Contractor Counterintelligence Officer. The Contractor Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of employees traveling to foreign countries or interacting with foreign nationals; providing thoroughly documented written reports relative to targeting, suspicious activity and other matters of Counterintelligence interest; immediately reporting targeting, suspicious activity and other Counterintelligence concerns to the DOE Headquarters Counterintelligence Division; and providing assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Order, the DOE Counterintelligence Order, and other pertinent national and Departmental Counterintelligence requirements.

[FR Doc. 97-26280 Filed 10-2-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 1 and 10

[OST Docket No. 1; Amdt. 1-290]

Organization and Delegation of Powers and Duties to the Chief Information Officer; Miscellaneous Changes, Office of the Secretary

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The rule delegates certain functions to the Office of the Chief Information Officer.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Crystal M. Bush, Program Analyst, Office of the Chief Information Officer, S-80, Room 7107-T, 400 Seventh Street, S.W., Washington, DC 20590, (202) 366-9713, or Ms. Gwyneth Radloff, Attorney Advisor, Assistant General Counsel for Regulation and Enforcement, C-50, Room 10424, 400 Seventh Street, S.W., Washington, DC 20590, (202) 366-9305.

SUPPLEMENTARY INFORMATION: On April 23, 1997, the Secretary of Transportation established the Office of the Chief Information Officer. These amendments to 49 CFR Parts 1 and 10 delegates the Secretary's authority related to specific statutes to the Office of the Chief Information Officer.

List of Subjects

49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 10

Privacy.

In accordance with the above, DOT amends 49 CFR, as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 322; Public Law 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.22(a) is revised to read as follows:

§ 1.22 Structure.

(a) *Secretary and Deputy Secretary.* The Secretary and Deputy Secretary are assisted by the following, all of which report directly to the Secretary: The Associate Deputy Secretary and Director, Office of Intermodalism; the Executive Secretariat; the Board of Contract Appeals; the Departmental Office of Civil Rights; the Office of

Small and Disadvantaged Business Utilization; the Office of Intelligence and Security; the Office of Public Affairs; and the Office of the Chief Information Officer. The Assistant Secretaries, the General Counsel, and the Inspector General also report directly to the Secretary.

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3. Section 1.23 is amended by adding a new paragraph (q) as follows:

§ 1.23 Spheres of primary responsibility.

* * * * *

(q) *Office of the Chief Information Officer.* Serves as principal advisor to the Secretary on matters involving information resources and information systems management.

4. Subpart C—Delegations is amended by adding a new § 1.72 as follows:

§ 1.72 Delegations to the Office of the Chief Information Officer.

(a) Carry out all functions and responsibilities assigned to the Secretary with respect to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506);

(b) Carry out all functions and responsibilities assigned to the Secretary with respect to the Clinger-Cohen Act of 1996 (40 U.S.C. 1422 to 1424, 1427);

(c) Carry out all functions and responsibilities assigned to the Secretary with respect to the Computer Security Act of 1987 (40 U.S.C. 759, 759 notes);

(d) Approve waivers to Federal Information Processing Standards (FIPS) under Section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441); and

(e) Carry out all the functions and responsibilities assigned to the Secretary with respect to Executive Order 13011, Federal Information Technology, Section 2, paragraphs (a), (b), (d), (e), and (f).

PART 10—[AMENDED]

5. The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552a; 49 U.S.C. 322.

6. Section 10.13 is amended by revising paragraphs (a) and (b) to read as follows:

§ 10.13 Privacy Act Officer.

(a) To assist with implementation, evaluation, and administration issues, the Chief Information Officer appoints a principal coordinating official with the title Privacy Act Officer, and one Privacy Act Coordinator from his/her staff.

(b) Inquiries concerning Privacy Act matters, or requests for assistance, may be addressed to the Privacy Act Officer