



DEPARTMENT OF TRANSPORTATION

4910-9X

Office of the Secretary

49 CFR Part 1

[Docket No. DOT-OST-2012-0123]

RIN 2105-AE64

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Transportation is updating the regulations that govern the organization of DOT to clarify the responsibilities of certain OST officials and their relationships with senior leaders throughout DOT. These updates will ensure that heads of DOT operating administrations have the benefit of input from OST officials in carrying out their management responsibilities.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Brett A. Jortland, Deputy Assistant General Counsel for Regulation, (202) 366-9314.

SUPPLEMENTARY INFORMATION:

Background

This final rule updates the regulations that organize DOT in order to clarify the role of certain OST officials in the day-to-day management of the Department. Specifically, and where consistent with statute, these officials will be viewed as the final authority on matters within their areas of expertise, and will be involved in the hiring and evaluation of senior leadership in DOT's operating administrations within their areas of expertise. While the General Counsel and

the Chief Financial Officer already have similar specific authority, this rule grants explicit authority to the Assistant Secretaries for Governmental Affairs and Administration, the Chief Information Officer, and the Director of Public Affairs.

This final rule does not impose substantive requirements on the public. It is ministerial and relates only to the Department's organization, procedure, and practice. Therefore, the Department has determined that notice and comment are unnecessary and that the rule is exempt from prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). Accordingly, under 5 U.S.C. 553(d)(3), the Department finds good cause for this rule to be effective less than 30 days after its publication in the Federal Register.

Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The Department has determined that this final rule is not a significant regulatory action under Executive Order 12866 and DOT Regulatory Policies and Procedures (44 FR 11034). It was not reviewed by the Office of Management and Budget. There are no costs associated with this rule.

Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does 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. Therefore, the consultation requirements of Executive Order 13132 do not apply.

Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial or direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We also do not believe this rule will impose any costs on small entities because it is merely organizational in nature. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) does not require a written statement for this final rule because the rule does not include a Federal mandate that may result in the expenditure in any one year of \$156,000,000 or more by State, local, and tribal governments, or the private sector.

National Environmental Policy Act

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined

that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, "[p]romulgation of rules, regulations, and directives." 23 CFR 771.117(c)(20). The purpose of this rulemaking is to update the regulations that govern the organization of the Department. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

List of Subjects in 49 CFR Part 1

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

For the reasons stated in the preamble, the Department of Transportation amends 49 CFR part 1 as follows:

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

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

Authority: 49 U.S.C. 322.

2. Revise §1.35 to read as follows:

§ 1.35 Assistant Secretary for Governmental Affairs.

The Assistant Secretary for Governmental Affairs serves as the Department's primary point of contact for Congressional offices, as well as State and locally elected officials; works with other departmental offices to ensure that Congressional mandates are fully implemented by the Department; and works with the White House, other Federal agencies, and Congress to fulfill the Department's legislative priorities. The Assistant Secretary coordinates congressional and intergovernmental activities with governmental affairs offices in the Operating Administrations and is the final authority on governmental affairs issues within the Department. The Assistant Secretary participates with each Administrator in the hiring decisions (other than in the Federal Aviation Administration) and performance reviews of all of the Operating Administrations' Directors of Governmental Affairs. The Assistant Secretary supervises the Deputy Assistant Secretary for Tribal Government Affairs who plans and coordinates the Department's policies and programs with respect to Indian tribes and tribal organizations.

3. Revise §1.37 to read as follows:

§ 1.37 Assistant Secretary for Administration.

The Assistant Secretary for Administration is the principal advisor to the Secretary and Deputy Secretary on Department-wide administrative matters and is the final authority on these matters within the Department. The Assistant Secretary for Administration serves as the Designated Agency Safety and Health Official. The Office of the Assistant Secretary for Administration's responsibilities include: strategic management of human capital; monitoring the progress of departmental offices related to sustainability goals; controls and standards to ensure that procurement and financial assistance programs are in accord with good business practice; follow-up and resolution of Government Accountability Office and Inspector General

audit reviews; information resource management; property management information; facilities; and security. The Assistant Secretary for Administration is responsible for recommending performance objectives for the Operating Administrations' Directors of Human Resources. The Assistant Secretary for Administration participates with each Administrator in the hiring decisions (other than in the Federal Aviation Administration) and performance reviews of all of the Operating Administrations' Associate Administrators for Administration.

4. Revise §1.46 to read as follows:

§ 1.46 Office of Public Affairs.

The Director of Public Affairs is the principal advisor to the Secretary and Secretarial Officers on public affairs issues and the final authority on public affairs issues within the Department. The Office of Public Affairs prepares news releases and supporting media materials, and maintains a new media presence. The Office also provides information to the Secretary on opinions and reactions of the public and news media on programs and transportation issues. The Office of Public Affairs is responsible for the supervision, coordination, and review of the activities of the public affairs offices within the Operating Administrations. The Director of Public Affairs participates with each Administrator in the hiring decisions (other than in the Federal Aviation Administration) and performance reviews of all of the Operating Administrations' Directors of Public Affairs.

5. Revise §1.48 to read as follows:

§ 1.48 Office of the Chief Information Officer.

The Chief Information Officer (CIO) is the principal information technology (IT), cyber security, privacy, and records management advisor to the Secretary, and is the final authority on these matters within the Department. The Office of the CIO supports the Organizational

Excellence Strategic Goal by providing leadership on all matters associated with the Department's IT portfolio. The CIO participates with each Administrator in the hiring decisions and performance reviews of the Operating Administrations' CIOs.

Issued in Washington, DC, on April 20, 2017.

Elaine L. Chao,

Secretary of Transportation.

[FR Doc. 2017-08416 Filed: 4/25/2017 8:45 am; Publication Date: 4/26/2017]