

Government Ethics regulations at 5 CFR part 2638.

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Subpart P—Delegations of Authority by the Assistant Secretary for Administration

3. Section 2.87 is revised to read as follows:

§ 2.87 Deputy Assistant Secretary for Administration.

(a) *Delegations.* Pursuant to the Office of Government Ethics regulations at 5 CFR part 2638. The Deputy Assistant Secretary for Administration shall be the USDA Designated Agency Ethics Official and shall exercise all authority pursuant to the Office of Government Ethics regulations at 5 CFR part 2638.

(b) Pursuant to § 2.24(a), subject, to reservations in § 2.24(b), the following delegation of authority is made by the Assistant Secretary for Administration to the Deputy Assistant Secretary for Administration, to be exercised only during the absence or unavailability of the Assistant Secretary: Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Assistant Secretary for Administration.

4. Section 2.95 is revised to read as follows:

§ 2.95 Director, Office of Ethics.

The Director, Office of Ethics, shall be the USDA Alternate Agency Ethics Official, pursuant to 5 CFR 2638.202, and shall exercise the authority reserved to the Designate Agency Ethics Official under 5 CFR part 2638 only in the absence or unavailability of the Designated Agency Ethics Official.

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1435 and 1436

RIN 0560-AG73

2002 Farm Security and Rural Investment Act of 2002 Sugar Programs and Farm Facility Storage Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule that was published in the **Federal Register** on Monday, August 26, 2002 (67 FR

54926). Several sections of the regulation were incorrectly numbered in the final rule. The corrections are provided in this document.

EFFECTIVE DATE: October 25, 2002.

FOR FURTHER INFORMATION CONTACT: Tom Witzig, 202-205-5851, email: tom_witzig@wdc.fsa.usda.gov. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: In the final rule published on August 26, 2002, (67 FR 54926) make the following corrections.

§ 1435.308 [Corrected]

1. On page 54934, in the third column, under § 1435.308, paragraphs (a)(3), and (a)(4) are redesignated as paragraphs (b) and (c), respectively.

2. On page 54935, in the first column, under § 1435.308, paragraphs (a)(5), (b) and (c) are redesignated as paragraphs (d), (e) and (f), respectively.

§ 1436.37 [Corrected]

3. On page 54939, in the third column, § 1436.37 is redesignated as § 1436.19.

Signed in Washington, DC, on October 21, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02-27228 Filed 10-25-02; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF ENERGY

10 CFR Part 710

RIN 1992-AA30

Eligibility for Security Police Officer Positions in the Personnel Security Assurance Program

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its regulations to allow newly hired individuals in security police officer positions who have received an interim Q access authorization through DOE's Accelerated Access Authorization Program to be eligible to hold a Personnel Security Assurance Program (PSAP) position.

EFFECTIVE DATE: This final rule will be effective November 27, 2002.

FOR FURTHER INFORMATION CONTACT: Linda Repass, Personnel Security Assurance Program Manager, Security

Policy Staff, Office of Security, Department of Energy, SO-112, 1000 Independence Ave., SW., Washington, DC 20585, 301-903-4800.

SUPPLEMENTARY INFORMATION:

I. Background

The Personnel Security Assurance Program (PSAP) is a special access authorization program, established by DOE pursuant to the Atomic Energy Act of 1954, to assure the reliability of individuals whose positions: (1) Afford direct access to Category I quantities of special nuclear material (including guarding and transporting special nuclear material), (2) are identified as nuclear material production reactor operators, or (3) have the potential for causing unacceptable damage to national security. The PSAP regulations are at 10 CFR part 710, subpart B and currently require an employee or applicant for any PSAP position to have a Q access authorization based upon a full background investigation before being granted a PSAP access authorization. 10 CFR 710.60(c).

On April 4, 2002, DOE proposed a rule to amend 10 CFR 710.60 to permit security police officers (SPOs) to be eligible for a PSAP access authorization based on an interim access authorization obtained through the Department's Accelerated Access Authorization Program (AAAP) (*see* 67 FR 16061). DOE explained in the notice of proposed rulemaking (NPR) that the events of September 11, 2001, have made use of the AAAP to expedite SPO screening vitally important, particularly because of the need for DOE to increase the size of its protective forces.

The AAAP was implemented to assist DOE managers and DOE contractors who request interim access authorization for individuals pursuant to DOE Order 472.1B, DOE Manual 472.1-1B, and related DOE directives. Entry into the AAAP is voluntary and written consent of the employee or applicant is required. The AAAP includes the following screening elements:

(1) Testing for the use of illegal drugs in accordance with the provisions of DOE directives implementing Executive Order 12564 or, for contractor employees, the provisions of 10 CFR part 707, "Workplace Substance Abuse Programs at DOE Sites";

(2) Completion of a National Agency Check; for contractor employees, this includes checks of Office of Personnel Management security indices, Department of Defense clearance indices, Federal Bureau of Investigation name and fingerprint indices, and Credit Bureau files, and for Federal

employees, the National Agency Check also includes written inquiries to past employers, references given by the individual, and any educational institutions attended recently;

(3) A psychological assessment using a standard psychological screening test to determine if the individual has any psychological/behavioral condition which might call into question the individual's reliability, judgment, and trustworthiness;

(4) A controlled counterintelligence-scope polygraph examination in accordance with 10 CFR part 709; and

(5) Review of the applicant's completed "Questionnaire for National Security Positions" (Standard Form 86).

With the exception of the AAAP-specific psychological/behavioral evaluation, the AAAP screening elements are required elements for anyone in a PSAP position. Thus, as explained in the NPR, the rule change proposed by DOE would enhance the ability of SPOs who have completed their required training and received an interim access authorization to assume PSAP duties prior to completion of their background investigation. Due to the controlled nature and continuous oversight of SPO positions, there is no appreciable risk to allowing assumption of PSAP duties by SPOs prior to completion and adjudication of the background investigation.

DOE received no comments in response to the NPR.

II. Summary of Rule Amendment

Having received no public comment, DOE today is adopting the proposed rule as final without change.

This final rule amends section 710.60 of the PSAP regulations to permit newly hired SPOs who obtain interim access authorization through the AAAP to assume their PSAP duties before completion of the ongoing full background investigation. When effective, this provision will allow newly hired SPOs who obtain an interim access authorization through the AAAP and successfully complete the PSAP requirements to assume their PSAP duties immediately upon completing the 9-week basic SPO training course.

This final rule also adds to section 710.54 of the PSAP regulations a definition of the term "Accelerated Access Authorization Program" that contains the central elements of the AAAP.

III. Regulatory and Procedural Requirements

A. 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).

B. 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) and 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, this final rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial

number of small entities. This rule would not directly regulate small businesses or other small entities. It would apply only to individuals who apply for SPO positions at sites owned or operated by DOE or DOE contractors. DOE management and operating contractors are not small businesses. Accordingly, DOE certified in the NPR that the rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. DOE today affirms that certification.

D. Review Under the Paperwork Reduction Act

No new collection of information would be imposed by this proposed rule. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule would amend DOE's regulations governing access to PSAP and would not change the environmental effect of the PSAP regulations. Therefore, this rulemaking is covered under the Categorical Exclusion in paragraph A5 to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

F. Review Under Executive Order 13132

Executive Order 13132, "Federalism," (64 FR 43255, August 10, 1999) requires agencies to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications." Policies that have federalism implications are defined in the Executive Order to include regulations that 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." On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's rule and determined that it would not have a substantial direct effect 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. No further action is required by the Executive Order.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each federal agency to prepare a written assessment of the effects of any federal mandate in a proposed or final rule that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in any one year. The Act also requires a federal agency to develop an effective process to permit timely input by elected officers of state, local, and tribal governments on a proposed "significant intergovernmental mandate," and it requires an agency to develop a plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirement that might significantly or uniquely affect them. This rule does not contain any federal mandate, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999, Pub. L. 105-277, requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. Today's rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or

(3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, or use.

Today's rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

List of Subjects in 10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Government employees, Nuclear materials, Revocation, Security measures, Suspension.

Issued in Washington, on October 16, 2002.

Spencer Abraham, Secretary of Energy.

For the reasons set forth in the preamble, part 710 of chapter III of title 10, Code of Federal Regulations is amended, as set forth below:

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SPECIAL NUCLEAR MATERIAL

1. The authority citation for part 710 is revised to read as follows:

Authority: 42 U.S.C. 2165; 2201; 5815; 7101 et seq.; 50 U.S.C. 2401 et seq.; E.O. 10450, 3 CFR 1949-1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959-1963 Comp., p. 398, as amended, 3 CFR Chap. IV.

2. Section 710.54 of subpart B is amended by adding, in alphabetical order, the definition of "Accelerated Access Authorization Program" to read as follows:

§ 710.54 Definitions.

* * * * *

Accelerated Access Authorization Program means the DOE program for granting interim access to classified matter and special nuclear material based on a drug test, a National Agency Check, a psychological assessment, a counterintelligence-scope polygraph examination in accordance with 10 CFR

part 709, and a review of the applicant's completed "Questionnaire for National Security Positions." (Standard Form 86). * * * * *

3. Section 710.60 of subpart B is amended by revising paragraph (c) to read as follows:

§ 710.60 DOE security review and clearance determination.

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(c) Review for initial PSAP access authorization. An initial PSAP access authorization requires the applicant or employee to have a DOE Q access authorization based upon a background investigation, except for Security Police Officers who may be granted PSAP access authorization based on an interim Q access authorization obtained through the Accelerated Access Authorization Program. The adjudication and determination for a PSAP access authorization shall be based upon a review of security information, including the results of the background investigation (or Accelerated Access Authorization Program screening elements in the case of Security Police Officers) and the information provided by management and medical sources.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM232; Special Conditions No. 25-221-SC]

Special Conditions: Avions Marcel Dassault-Breguet Aviation (AMD/BA) Model Falcon 10 Series AirPlanes; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Avions Marcel Dassault-Breguet Aviation Model Falcon 10 series airplanes modified by Garrett Aviation Services. These airplanes, as modified, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Innovative Solutions & Support Air Data Display Units (ADDU) with the IS&S Air