

(3) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (d) of this section shall:

(i) First apply to the committee for and obtain a Special Purpose Certificate to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's list of canners, freezers, or other processors of potato products maintained by the committee, or to persons not on the list provided the handler furnishes the committee, prior to such shipment, evidence that the receiver may reasonably be expected to use the potatoes only for canning, freezing, or other processing;

(iii) Upon request by the committee, furnish reports, or cause reports to be furnished, for each shipment pursuant to the applicable Special Purpose Certificate;

(iv) Mail to the office of the committee a copy of the bill of lading for each Special Purpose Certificate shipment promptly after the date of shipment unless other arrangements are made;

(v) Bill each shipment directly to the applicable processor.

(4) Each receiver of potatoes for processing pursuant to paragraph (d) of this section shall:

(i) Complete and return an application form for consideration of approval as a canner, freezer, or other processor of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purpose and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(5) Each handler desiring to make shipments of potatoes for experimentation shall:

(i) First apply to the committee for and obtain a Special Purpose Certificate to make shipments for experimentation;

(ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Special Purpose Certificate.

(6) Handlers diverting potatoes to livestock feed are not required to apply for a Special Purpose Certificate nor report such shipments to the committee.

(7) Each handler desiring to make shipments of potatoes for charity shall:

(i) First apply to the committee for, and obtain, a Special Purpose Certificate for the purpose of making shipments for charity: *Provided*, That shipments for charity of 1,000 pounds or less are exempt from the application and reporting requirements: *And provided further*, That potatoes previously

graded, assessed, and inspected in preparation for shipment to the fresh market are exempt from the application and reporting requirements.

(ii) Each handler shipping potatoes to charity must inform the recipient that the potatoes cannot be resold or otherwise placed in commercial market channels.

(8) Each handler making shipments of seed potatoes shall furnish, at the request of the committee, reports on the total volume of seed potatoes handled.

(f) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed 5 hundredweight of potatoes per day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment over 5 hundredweight of potatoes.

(g) *Inspection.* (1) Except when relieved by paragraphs (d) or (f) of this section, no person may handle any potatoes unless a Federal-State Inspection Notesheet or certificate covering them has been issued by an authorized representative of the Federal-State Inspection Service and the document is valid at the time of shipment.

(2) U.S. No. 1 grade or better potatoes in the State of Washington which are resorted or repacked within 72 hours of being inspected and certified are exempt from reinspection.

(h) *Definitions.* The terms *U.S. No. 1*, *U.S. No. 2*, *not seriously damaged by dirt*, *fairly clean*, *slightly skinned*, and *moderately skinned* shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566), including the tolerances set forth in it. The term *prepeeling* means the commercial preparation in the prepeeling plant of clean, sound, fresh tubers by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 52.2421–52.2433). The term *other processing* has the same meaning as the term appearing in the Act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section have the same meaning as

when used in the marketing agreement, as amended, and this part.

Dated: December 7, 2010.

David R. Shipman,

Acting Administrator.

[FR Doc. 2010–31202 Filed 12–13–10; 8:45 am]

BILLING CODE P

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID: DoD–2010–OS–0141; RIN 0790–AI66]

### 32 CFR Part 241

### Pilot Program for the Temporary Exchange of Information Technology Personnel

**AGENCY:** Department of Defense (DoD), Assistant Secretary of Defense (Networks and Information Integration)/DoD Chief Information Officer (ASD(NII)/DoD CIO).

**ACTION:** Interim final rule.

**SUMMARY:** The Department of Defense (DoD) is issuing regulations to implement provisions contained in section 1110 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, October 28, 2009, which authorizes DoD to establish a Pilot Program for the Temporary Exchange of Information Technology (IT) Personnel. This statute authorizes the temporary assignments of DoD IT employees to private sector organizations. This statute also gives DoD the authority to accept IT employees for temporary assignments from private sector organizations. This Pilot is envisioned to promote the interchange of DoD and private sector IT professionals to enhance skills and competencies. The prompt implementation of an interim final rule is crucial in assisting DoD to pilot a program to enhance its position and expertise in the IT field, particularly in cybersecurity.

The Administration has expressed considerable interest in the IT area, and stressed its importance in a recent Cyberspace Review Report. Given the changing workforce dynamics in the IT field, DoD needs to take advantage of these types of professional development programs to proactively position itself to keep pace with the changes in technology.

The immediate implementation of an Interim Final Rule is viable to enhance IT professional skills, particularly in the area of cybersecurity. Several Components including Defense Information Systems Agency, Defense

Advanced Research Projects Agency, Office of Naval Research, Office of the DoD's Chief Information Officer, and Department Air Force, and Department of the Army are ready to participate. The program is not controversial and delayed implementation would deny an important benefit to the Department and the public. The ITEP would serve the public good by enhancing the DoD IT workforce skills to protect and defend our nation.

**DATES:** Effective December 14, 2010. Comments must be received by February 14, 2011.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Tina-Marie Buckman at (703) 699-0105 or by e-mail at [tina-marie.buckman@osd.mil](mailto:tina-marie.buckman@osd.mil).

**SUPPLEMENTARY INFORMATION:** This Pilot Program ("Pilot") is authorized by section 1110 of the NDAA for FY2010 (Pub. L. 111-84). Section 1110 authorizes DoD Components to assign an exceptional IT employee to a private sector organization for purposes of training, development and sharing of best practices. It also gives DoD Components the authority to accept comparable IT employees on an assignment from the private sector for the training and development purposes and sharing of best practices and insight of government practices. DoD is proposing the addition of a new Part 241, to title 32 of the Code of Federal Regulations (CFR), entitled "Pilot Program for the Temporary Exchange of Information Technology Personnel," to implement the Pilot authorized by Section 1110. This Pilot will be referred to as the Information Technology Exchange Program (ITEP). The Assistant

Secretary of Defense (Networks & Information Integration)/Department of Defense Chief Information Officer (ASD(NII)/DoD CIO) is responsible for administration of ITEP Pilot. Heads of DoD Components have responsibility for implementation of the Pilot. As required by NDAA FY2010, an annual reporting requirement on activities carried out for this information technology exchange program is required to be submitted to the defense congressional committees.

#### **a. Executive Order 12866, "Regulatory Planning and Review"**

Under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), a "significant regulatory action" is subject to Office of Management and Budget (OMB) review and the requirements of Executive Order 12866. Section 3(f) of the Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more, or may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule is substantive, non-significant regulatory action under section 3(f) of Executive Order 12866. OMB has reviewed this rule.

#### **b. Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been certified that 32 CFR part 241 does not contain a Federal mandate that may result in expenditure by state, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

#### **c. Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified that 32 CFR part 241 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

#### **d. Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that 32 CFR part 241 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

#### **e. Executive Order 13132, "Federalism"**

It has been certified that 32 CFR part 241 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

#### **List of Subjects in 32 CFR Part 241**

Government employees, information technology.

■ Accordingly, 32 CFR part 241 is added to read as follows:

### **PART 241—PILOT PROGRAM FOR TEMPORARY EXCHANGE OF INFORMATION TECHNOLOGY PERSONNEL**

#### **Sec.**

- 241.1 Purpose.
- 241.2 Definitions.
- 241.3 Assignment authority.
- 241.4 Eligibility.
- 241.5 Written agreements.
- 241.6 Length of assignments.
- 241.7 Termination.
- 241.8 Terms and conditions.
- 241.9 Costs and reimbursements.
- 241.10 Small business consideration.
- 241.11 Numerical limitation.
- 241.12 Reporting requirements.
- 241.13 Implementation.

**Authority:** Pub. L. 111-84, section 1110, October 28, 2009.

#### **§241.1 Purpose.**

(a) The purpose of this part is to implement section 1110 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84), which authorizes DoD to implement a Pilot Program for the Temporary Exchange of Information Technology (IT) Personnel. This statute authorizes the temporary assignment of IT employees between DoD and private sector organizations. This statute also gives DoD the authority to accept private sector IT employees assigned under the Pilot. This Pilot is referred to as the Information Technology Exchange Program (ITEP).

(b) Heads of DoD Components may approve assignments as a mechanism for improving the DoD workforce's competency in using IT to deliver government information and services. Heads of DoD Components may not

make assignments under this part to circumvent personnel ceilings, or as a substitute for other more appropriate personnel decisions or actions. Approved assignments must meet the strategic program goals of the DoD Components. The benefits to the DoD Components and the private sector organizations are the primary considerations in initiating assignments; not the desires or personal needs of an individual employee.

#### **§ 241.2 Definitions.**

In this part:

*Assignment* means the detail of a DoD employee to a private sector organization without a change of position; or the assignment of a private sector employee to a DoD Component without a change of position.

*DoD employee* means a Federal civilian employee of the DoD.

*Exceptional employee* for the purposes of this pilot means an employee who demonstrates unusually good performance which is consistently better than expected at the fully successful level or above. Performance meets or exceeds all standards established at the fully successful level or above and makes significant contributions towards achieving the organizational goals.

*Information technology (IT)* as defined in section 11101 of title 40, U.S.C. includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources.

*Information Technology Management (ITM)* means the planning, organizing, staffing, directing, integrating, or controlling of information technology, including occupational specialty areas such as systems administration, IT project management, network services, operating systems, software application, cybersecurity, enterprise architecture, policy and planning, internet/web services, customer support, data management and systems analysis.

*Private sector organization* means nonpublic or commercial individuals and businesses, nonprofit organizations, academia, scholastic institutions, and nongovernmental organizations.

*Small business concern* means a business concern that satisfies the definitions and standards by the Administrator of the Small Business Administration (SBA) as defined by section 3703 (e)(2)(A) of title 5, U.S.C.

#### **§ 241.3 Assignment authority.**

The Secretary of Defense may with the agreement, of the private sector organization concerned, arrange for the temporary assignment of an employee to such a private sector organization or from such a private sector organization to a DoD Component.

#### **§ 241.4 Eligibility.**

(a) To be eligible for an ITEP assignment, a DoD or private sector employee must:

(1) Work in the field of information technology management;

(2) Be considered an exceptional employee;

(3) Be expected to assume increased information technology management responsibilities in the future; and

(4) Must be compensated at the GS-11 level or above (or the equivalent).

(b) In addition to meeting the requirements of paragraph (a) of this section, the DoD employee must be serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service.

(c) The private sector employee must meet citizenship requirements for Federal employment in accordance with 5 CFR 7.3 and 338.101, as well as any other statutory requirements. When a position requires a security clearance, the person must possess, or be able to obtain an appropriate security clearance.

(d) Proposed assignment meets applicable requirements of section 209(b) of the E-Government Act of 2002.

#### **§ 241.5 Written agreements.**

(a) Before an assignment begins, the head of the DoD Component, private sector organization and the employee to be assigned to ITEP must sign a three-party agreement. Prior to the agreement being signed the relevant legal office for the DoD Component shall review and approve the agreement. The agreement must include, but is not limited to the following elements:

(1) The duties to be performed and length of assignment;

(2) An individual development plan describing the core IT competencies and technical skills that the detailee will be expected to enhance or acquire;

(3) Identification of the supervisor of detailee.

(b) The agreement shall require DoD employees, upon completion of the assignment serve in the civil service for a period equal to the length of the assignment; and

(c) Provide that if the employee of the DoD or of the private sector organization

(as the case may be) fails to carry out the agreement, such employee shall be liable to the United States for payment of all expenses of the assignment, unless that failure was for good and sufficient reason as determined by the Secretary of Defense.

#### **§ 241.6 Length of assignments.**

(a) An assignment shall be for a period of not less than 3 months and not more than 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year by heads of DoD Components and private sector organizations.

(b) No assignment may commence after September 30, 2013, unless an individual began an assignment by September 30, 2013. This extension may be granted in 3-month increments not to exceed 1 year.

#### **§ 241.7 Termination.**

An assignment may, at any time and for any reason be terminated by the DoD or the private sector organization concerned.

#### **§ 241.8 Terms and conditions.**

(a) A DoD employee assigned under this part:

(1) Remains a Federal employee without loss of employee rights and benefits attached to that status. These include, but are not limited to:

(i) Consideration for promotion;

(ii) Leave accrual;

(iii) Continuation of retirement benefits and health, life, and long-term care insurance benefits; and

(iv) Pay increases the employee otherwise would have received if he or she had not been assigned;

(2) Remains covered for purposes of the Federal Tort Claims Act, and for purposes of injury compensation as described in 5 U.S.C. chapter 81; and

(3) Is subject to any action that may impact the employee's position while he or she is assigned.

(b) An employee of a private sector organization:

(1) May continue to receive pay and benefits from the private sector organization from which such employee is assigned;

(2) Is deemed to be an employee of the DoD for the purposes of:

(i) Chapter 73 of title 5, United States Code (Suitability, Security, and Conduct);

(ii) Sections 201 (Bribery of Public Officials and Witnesses), 203 (Compensation to Members of Congress, Officers and Employees Against and Other Matters Affecting the Government) 205, (Activities of Officers and Employees in Claims Against Other

Matters Affecting the Government), 207 (Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches), 208 (Acts Affecting a Personal Financial Interest), 209 (Salary of Government Officials and Employees Payable only by the United States), 603 (Making Political Contributions), 606 (Intimidation to Secure Political Contributions), 607, (Place of Solicitation), 643 (Accounting Generally for Public Money), 654 (Officer or Employee of the United States Converting Property of Another, 1905 (Disclosure of Confidential Information Generally), and 1913 (Lobbying with Appropriated Moneys) of title 18, United States Code;

(iii) Sections 1343, 1344, and 1349 (b) of title 31, United States Code;

(iv) The Federal Tort Claims Act and any other Federal tort liability statute;

(v) The Ethics in Government Act of 1978;

(vi) Section 1043 of the Internal Revenue Code of 1986; and

(vii) Section 27 of the Office of Federal Procurement Policy Act; and

(3) May not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he or she is assigned;

(4) Is subject to such regulations as the President may prescribe; and

(5) Is covered by 5 U.S.C. chapter 81, Compensation for Work Injuries.

(6) Does not have any right or expectation for Federal employment solely on the basis of his or her assignment.

#### **§ 241.9 Costs and reimbursements.**

(a) *Payment of salary and allowances.* The lending organization (DoD or private sector organization) has full responsibility for payment of all salary and allowances to their employee participating in an ITEP assignment.

(b) *Business training and travel expenses.* The engaging organization may pay for any business training and travel expenses incurred by the employee while on an ITEP assignment.

(c) *Prohibition.* A private sector organization may not charge the DoD or any agency of the Federal Government, as direct or indirect costs under a Federal contract, for the costs of pay or benefits paid by that organization to an employee assigned to a DoD Component.

#### **§ 241.10 Small business consideration.**

The ASD(NII)/DoD CIO on behalf of the Secretary of Defense shall:

(a) Ensure that, of the assignments made each year, at least 20 percent are

small business concerns (as defined by 5 U.S.C. 3703(e)(2)(A)).

(b) Take into consideration the questions of how assignments might be used to help meet the needs of the DoD with respect to the training of employees in ITM.

#### **§ 241.11 Numerical limitation.**

The ITEP Pilot is an opportunity for the exchange of knowledge, experience and skills between DoD and the private sector. The DoD has the flexibility to send their employees to the private sector or receive private sector employees, or participate in a one-for-one exchange. In no event may more than 10 employees participate in assignments under this section at any given time.

#### **§ 241.12 Reporting requirements.**

(a) For each of fiscal years 2010 through 2015, the Secretary of Defense shall submit annual reports to the congressional defense committees, not later than 1 month after the end of the fiscal year involved, a report on any activities carried out during such fiscal year, including the following information:

(1) Respective organizations to and from which an employee is assigned;

(2) Positions those employees held while they were so assigned;

(3) Description of the tasks they performed while they were so assigned; and

(4) Discussion of any actions that might be taken to improve the effectiveness of the Pilot program, including any proposed changes in the law.

(b) These reports will be prepared and submitted by ASD(NII)/DoD CIO in coordination with DoD Components participating in the pilot, to the appropriate congressional committees.

#### **§ 241.13 Implementation.**

The ASD(NII)/DoD CIO is responsible for administering, coordinating and implementing the Pilot Program for the Temporary Exchange of Information Personnel, referred to as the Information Technology Exchange Program (ITEP). The ASD(NII)/DoD CIO will coordinate with DoD Components.

Dated: December 7, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer,  
Department of Defense.

[FR Doc. 2010-31255 Filed 12-13-10; 8:45 am]

BILLING CODE 5001-06-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG-2010-1011]

RIN 1625-AA00

### **Safety Zone; San Diego Parade of Lights Fireworks, San Diego, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone upon the navigable water of the San Diego Bay in San Diego, CA in support of the two San Diego Parade of Lights Fireworks Displays on December 12 and December 19, 2010. This safety zone is necessary to ensure the safety of vessels, spectators, participants and others in the vicinity of the fireworks displays. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 5:30 p.m. on December 12, 2010, to 8 p.m. on December 19, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-1011 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-1011 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Petty Officer Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7267, e-mail [Shane.E.Jackson@uscg.mil](mailto:Shane.E.Jackson@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision