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## **DEPARTMENT OF LABOR**

### **Office of Labor-Management Standards**

**29 CFR Parts 401, 402, 403, 404, 405, 406, 408, 409, 417, 451, 452, 453, 457, 458, and 459**

### **Reorganization and Delegation of Authority; Technical Amendments**

**AGENCY:** Office of Labor-Management Standards.

**ACTION:** Final rule.

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**SUMMARY:** This document makes a number of technical amendments to Chapter IV of the Department of Labor's regulations. These amendments are necessary because of the dissolution of the Employment Standards Administration (ESA), and because the Secretary's order of November 16, 2012, delegated authority and assigned responsibilities to the Director of the Office of Labor-Management Standards (OLMS) in administering the Department's responsibilities under the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) and under certain provisions relating to standards of conduct for federal sector labor organizations in the Civil Service Reform Act of 1978 (CSRA), the Foreign Service Act of 1980 (FSA), and the Congressional Accountability Act of 1995 (CAA). In addition, a separate order on November 16, 2012, delegated authority and assigned certain responsibilities in enforcement of the CSRA, LMRDA, and FSA, previously vested in ESA, to the Department's Administrative Review Board (ARB).

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

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**SUPPLEMENTARY INFORMATION:**

**I. Background**

The amendments to 29 CFR Chapter IV reflect changes required as a result of a reorganization within the Department of Labor. OLMS had been a component of ESA, which was dissolved on November 8, 2009. The former ESA had been headed by an Assistant Secretary for Employment Standards, and, as a subagency of ESA, OLMS had been headed by a Deputy Assistant Secretary. Under the reorganization, OLMS was established as a separate agency headed by a Director, and most Department of Labor responsibilities for the LMRDA, CSRA, CAA, and FSA standards of conduct provisions had been assigned to the Director of OLMS under Secretary's Order No. 8-2009, 74 FR 58835 (November 13, 2009). Secretary's Order No. 8-2009 was cancelled and superseded by two delegations, Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012, continuing the delegation of most of the responsibilities to the Director of OLMS and Secretary's Order No. 02-2012, 77 FR 69378, November 16, 2012, delegating

appellate authority of Administrative Law Judge (ALJ) decisions under 29 CFR Parts 458 and 417 to the ARB.

Pursuant to the CSRA, CAA, and FSA enforcement provisions (29 CFR Part 458), when OLMS investigates a complaint or otherwise determines that a violation of the Standards of Conduct has occurred and cannot be settled through voluntary compliance, OLMS will file an administrative complaint with the Department of Labor Office of Administrative Law Judges. With OLMS' assistance, the Solicitor of Labor prosecutes these enforcement actions before an ALJ. In accordance with the Department's regulations, the ALJ issues a recommended decision and order, which is subject to appeal by filing exceptions. While ESA existed, appeals of a recommended decision and order were filed with the Assistant Secretary for Employment Standards. After consideration of these exceptions, the Assistant Secretary would issue a decision. In Secretary's Order No. 02-2012, 77 FR 69378, these exceptions are to be filed with the ARB, which will issue a decision. The role of the ARB is to issue final agency decisions for the Secretary of Labor in cases arising under a wide range of the Department's laws. ARB cases generally arise upon an appeal from a recommended decision by an ALJ. Reassignment of this appellate authority is consistent with the Department of Labor's current administrative enforcement framework.

Further, Secretary's Order No. 02-2012, 77 FR 69378, also delegated authority to the ARB to review ALJ decisions involving the adequacy of local labor union's officer removal procedures under section 401(h) of the LMRDA. 29 U.S.C. 481(h). The officer

removal enforcement procedures are set forth at 29 CFR Part 417, and these regulations previously required that OLMS challenge the adequacy of local labor union's officer removal procedures in the context of an administrative hearing before an ALJ. The ALJ will issue an initial decision, which is subject to appeal by filing exceptions. While ESA existed, appeals of an initial decision were filed with the Assistant Secretary for Employment Standards. For the reasons explained in the previous paragraph, in Secretary's Order No. 02-2012, 77 FR 69378, these exceptions are to be filed with the ARB, which will issue a decision.

Generally, the amendments made by this rule implement the designation of authorities, consistent with the Department's restructuring in Secretary's Order No. 8-2009, as superseded by Secretary's Order No. 03-2012, 77 FR 69376, and Secretary's Order No. 02-2012, 77 FR 69378. Secretary's Order No. 03-2012, 77 FR 69376, assigns authorities and responsibilities to the Director of OLMS, including those previously vested in the Assistant Secretary for Employment Standards in Part 417 (provisions for the removal of local labor organization officers) and Part 458 (standards of conduct for Federal sector labor organizations governed by the CSRA, the FSA, and the CAA). Secretary's Order No. 02-2012, 77 FR 69378, assigns authorities and responsibilities under Part 417 and Part 458, which previously were delegated to the Assistant Secretary for Employment Standards, to the ARB. The changes made by this rule simply reflect this administrative reorganization and do not change any substantive rule governing administration of these statutes.

## **II. Summary of the Rule**

The regulations specified in this rule have been revised to remove references to the “Assistant Secretary” (of the now-dissolved ESA). In some sections, the title “Assistant Secretary” is replaced with “Director,” to reflect the delegation of authority and assignment of responsibilities to the Director of OLMS. In other sections, “Assistant Secretary” is replaced with “Secretary” to clarify the Secretary’s general authority to prescribe the LMRDA reporting requirements set forth in Parts 401 through 405.

Further, in some sections, “Assistant Secretary” is replaced with “Administrative Review Board,” to reflect the delegation of authority and assignment of responsibilities to the ARB. Additionally, the regulations have been amended to remove references and cross-references to the now-dissolved ESA, as well as to replace the OMB control number previously assigned to ESA forms (1215-0188) with the new OLMS control number (1245-0003).

In every section that has been amended, the authority citations have also been amended by adding either “Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012” or “Secretary’s Order No. 02-2012, 77 FR 69378, November 16, 2012” and by removing previous Secretary’s Orders that they supersede. Additionally, the authority citation for Part 403 was amended by removing several incorrect references and adding accurate references.

### **III. Authority**

The legal authority for this rulemaking is set forth in (1) the Labor-Management Reporting and Disclosure Act of 1959, as amended, 29 U.S.C. 401 *et seq.*; (2) the provisions relating to standards of conduct for federal sector labor organizations in the Civil Service Reform Act of 1978, 5 U.S.C. 7120, the Foreign Service Act of 1980, 22 U.S.C. 4117, and the Congressional Accountability Act of 1995, 2 U.S.C. 1351(a)(1). The Secretary has delegated her authority under the above-referenced statutes to either the Director of the Office of Labor-Management Standards or the ARB and permits re-delegation of such authority. *See* Secretary’s Order No. 03-2012, 77 FR 69376, and Secretary’s Order No. 02-2012, 77 FR 69378.

#### **IV. Rulemaking Analyses**

##### *Administrative Procedure Act*

Section 553 of the Administrative Procedure Act (APA) exempts “rules of agency organization, procedure, or practice” from proposed rulemaking (*i.e.*, notice-and-comment rulemaking). 5 U.S.C. 553(b)(A). This exemption covers matters such as agency rules of practice governing the conduct of proceedings and rules delegating authority or duties within an agency. Rules are also exempt when an agency finds “good cause” that notice and comment rulemaking procedures would be “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). An agency may similarly make the rule effective upon publication when it determines that delaying the effective date of the rule for 30 days following its publication, as normally required by 5

U.S.C. 553, is unnecessary and that good cause exists to make the rule effective immediately. 5 U.S.C. 553(d).

The Department has determined that this rulemaking meets the notice-and-comment exemption requirements because this regulation pertains solely to technical amendments required due to an administrative reorganization, and does not change any substantive rule governing administration of the LMRDA, CSRA, CAA, or FSA. The revisions to 29 CFR Chapter IV reflect a change in the title of a government officer, the deletion of references to an agency that has been dissolved, and address the delegation of authority necessitated by the dissolution of ESA. Furthermore, the Department finds that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication since this rule is technical and nonsubstantive, and merely reflects agency organization, practice and procedure. Therefore, these technical amendments shall be effective upon publication in the **Federal Register**. 5 U.S.C. 553(d)(3).

*Regulatory Flexibility Act*

Because the Department has concluded that this action is not subject to the Administrative Procedure Act's proposed rulemaking requirements, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This action is not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget under Executive Orders 12866 or 13563.

#### *Unfunded Mandates Reform*

This proposed rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of \$100 million or more, or in increased expenditures by the private sector of \$100 million or more.

#### *Paperwork Reduction Act*

This final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### *Executive Order 13132 (Federalism)*

The Department has reviewed this rulemaking in accordance with Executive Order 13132 regarding federalism, and has determined that the proposed rule does not have federalism implications. The rule will 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.”

*Small Business Regulatory Enforcement Fairness Act of 1996*

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects**

**29 CFR Parts 401, 417, 451, and 452**

Labor unions.

**29 CFR Parts 402, 403, and 404**

Labor unions, Labor union officers and employees, Reporting and recordkeeping requirements.

**29 CFR Parts 405 and 406**

Labor management relations, Reporting and recordkeeping requirements.

**29 CFR Part 408**

Labor unions, Reporting and recordkeeping requirements.

**29 CFR Part 409**

Insurance companies, Reporting and recordkeeping requirements.

**29 CFR Part 453**

Labor unions, Surety bonds.

**29 CFR Parts 457, 458, and 459**

Labor unions, Reporting and recordkeeping requirements, Administrative practice and procedure.

For the reasons provided above, the Department of Labor amends Chapter IV of Title 29 of the Code of Federal Regulations as set forth below:

**Chapter IV—Office of Labor-Management Standards, Department of Labor**

**Subchapter A—Labor-Management Standards**

**PART 401—MEANING OF TERMS USED IN THIS SUBCHAPTER**

1. The authority citation for Part 401 is revised to read as follows:

**Authority:** Secs. 3, 208, 301, 401, 402, 73 Stat. 520, 529, 530, 532, 534 (29 U.S.C. 402, 438, 461, 481, 482); Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012; §

401.4 also issued under sec. 320 of Title III of the Bankruptcy Reform Act of 1978, Pub. L. 95-598, 92 Stat. 2678.

**§401.18 [Amended]**

2. Section 401.18 is amended by removing “Employment Standards Administration”.

3. Section 401.19 is is revised to read as follows:

**§ 401.19 Director.**

“Director” means the Director of the Office of Labor-Management Standards, head of the Office of Labor-Management Standards.

**PART 402—LABOR ORGANIZATION INFORMATION REPORTS**

4. The authority citation for Part 402 is revised to read as follows:

**Authority:** Secs. 201, 207, 208, 73 Stat. 524, 529 (29 U.S.C. 431, 437, 438); Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§402.2 [Amended]**

5. Section 402.2 is amended by revising the term “Assistant Secretary” to read “Secretary” in the first sentence.

**§402.13 [Amended]**

6. Section 402.13 is revised by removing OMB control number 1215-0188 and adding, in its place, OMB control number 1245-0003.

**PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS**

7. The authority citation for Part 403 is revised to read as follows:

**Authority:** Secs. 201, 207, 208, 301, 73 Stat. 524, 529, 530 (29 U.S.C. 431, 437, 438, 461); Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§403.2 [Amended]**

8. In § 403.2, paragraph (b) is amended by removing the two references to “Assistant Secretary” and adding in their place the word “Secretary”.

**§403.11 [Amended]**

9. Section 403.11 is amended by removing OMB control number 1215-0188 and adding in its place OMB control number 1245-0003.

**PART 404—LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS**

10. The authority citation for Part 404 is revised to read as follows:

**Authority:** Secs. 202, 207, 208, 73 Stat. 525, 529 (29 U.S.C. 432, 437, 438); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§404.2 [Amended]**

11. Section 404.2 is amended by removing the reference to “Assistant Secretary” and adding in its place the word “Secretary”.

**§404.9 [Amended]**

12. Section 404.9 is amended by removing OMB control number 1215-0188 and adding, in its place, OMB control number 1245-0003.

**PART 405—EMPLOYER REPORTS**

13. The authority citation for Part 405 is revised to read as follows:

**Authority:** Secs. 203, 207, 208, 73 Stat. 526, 529 (29 U.S.C. 433, 437, 438); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§405.2 [Amended]**

14. Section 405.2 is amended by removing the reference to “Assistant Secretary” and adding, in its place, the word “Secretary”.

**§405.11 [Amended]**

15. Section 405.11 is amended by removing OMB control number 1215-0188 and adding, in its place, OMB control number 1245-0003.

**PART 406—REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS, CERTAIN AGREEMENTS WITH EMPLOYERS**

16. The authority citation for Part 406 is revised to read as follows:

**Authority:** Secs. 203, 207, 208, 73 Stat. 526, 529 (29 U.S.C. 433, 437, 438); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§406.10 [Amended]**

17. Section 406.10 is amended by removing OMB control number 1215-0188 and adding, in its place, OMB control number 1245-0003.

**PART 408—LABOR ORGANIZATION TRUSTEESHIP REPORTS**

18. The authority citation for Part 408 is revised to read as follows:

**Authority:** Secs. 202, 207, 208, 73 Stat. 525, 529 (29 U.S.C. 432, 437, 438); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§408.13 [Amended]**

19. Section 408.13 is amended by removing OMB control number 1215-0188 and adding, in its place, OMB control number 1245-0003.

**PART 409—REPORTS BY SURETY COMPANIES**

20. The authority citation for Part 409 is revised to read as follows:

**Authority:** Secs. 207, 208, 211; 79 Stat. 888; 88 Stat. 852 (29 U.S.C. 437, 438, 441); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§409.7 [Amended]**

21. Section 409.7 is amended by removing OMB control number 1215-0188 and adding, in its place, OMB control number 1245-0003.

**PART 417—PROCEDURE FOR REMOVAL OF LOCAL LABOR ORGANIZATION OFFICERS**

22. The authority citation for Part 417 is revised to read as follows:

**Authority:** Secs. 401, 402, 73 Stat. 533, 534 (29 U.S.C. 481, 482); Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012; Secretary’s Order No. 02-2012, 77 FR 69378, November 16, 2012.

**§417.2 [Amended]**

23. Section 417.2 is amended by removing the reference to “Employment Standards Administration” in paragraph (a).

**§417.4 [Amended]**

24. Section 417.4 is amended by removing the references to “Assistant Secretary” and adding in their place the term “Director” in paragraphs (b)(1)(ii) and (b)(2).

**§ 417.6 [Amended]**

25. Section 417.6 is amended by removing the four references to “Assistant Secretary” and adding in their place the term “Director” in the undesignated paragraph following paragraph (m).

**§ 417.7 [Amended]**

26. Section 417.7 is amended by removing the reference to “Assistant Secretary” and adding in its place the term “Director”.

**§ 417.9 [Amended]**

27. Section 417.9 is amended by removing the reference to “Assistant Secretary” and adding in its place the term “Director” in paragraph (c).

**§ 417.13 [Amended]**

28. Section 417.13 is amended by removing the reference to “Assistant Secretary” and adding in its place “Administrative Review Board.”

**§ 417.14 [Amended]**

29. Section 417.14(a) and (b) is amended by removing the references to “Assistant Secretary” and adding in their place “Administrative Review Board” in the heading, and in six places in the text.

**§ 417.15 [Amended]**

30. Section 417.15 is amended by removing the references to “Assistant Secretary” and adding in their place “Administrative Review Board” in the heading, and in one place in the text.

**§ 417.16 [Amended]**

31. Section 417.16(a) is amended by removing reference to “Assistant Secretary” and adding in its place “Administrative Review Board” in one place in the text.

**§ 417.17 [Amended]**

32. Section 417.17 is amended by removing the reference to “Assistant Secretary” and adding in its place the term “Director”.

**§ 417.19 [Amended]**

33. Section 417.19 is amended by removing the reference to “Assistant Secretary’s” in the heading and the third sentence and adding in its place the term “Director’s” and removing “Assistant Secretary” in the first sentence and adding in its place “Director”.

**§ 417.21 [Amended]**

34. Section 417.21 is amended by removing the two references to “Assistant Secretary” and adding in its place the term “Director”.

**§ 417.23 [Amended]**

35. Section 417.23 is amended by removing the reference to “Assistant Secretary” in the section heading and the first sentence and adding in their place the term “Director” and removing the reference to “Assistant Secretary’s” in the first sentence and adding in its place “Director’s”.

**§ 417.24 [Amended]**

36. Section 417.24 is amended by removing the references to “Assistant Secretary” in the section heading and paragraphs (a) and (b) and adding in their place the term “Director” and removing the reference to “Assistant Secretary’s” in the first sentence of paragraph (a) and adding in its place the term “Director’s”.

**§ 417.25 [Amended]**

37. Section 417.25 is amended by removing the reference to “Assistant Secretary” and adding in its place the term “Director” and removing the reference to “Assistant Secretary’s” and adding in its place the term “Director’s”.

**PART 451—LABOR ORGANIZATIONS AS DEFINED IN THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959**

38. The authority citation for Part 451 is revised to read as follows:

**Authority:** Secs. 3, 208, 401, 73 Stat. 520, 529, 532 (29 U.S.C. 402, 438, 481); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§451.1 [Amended]**

39. Section 451.1(c) is amended by removing the five references to “Assistant Secretary” and adding in their place, the word “Director”.

**PART 452—GENERAL STATEMENT CONCERNING THE ELECTION  
PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND  
DISCLOSURE ACT OF 1959**

40. The authority citation for Part 452 is revised to read as follows:

**Authority:** Secs. 401, 402, 73 Stat. 532, 534 (29 U.S.C. 481, 482); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§452.1 [Amended]**

41. Section 452.1(b) is amended by removing the four references to “Assistant Secretary” and adding in their place, the word “Director”.

**§452.6 [Amended]**

42. Section 452.6 is amended by removing the reference to “Assistant Secretary” and adding, in its place, the word “Director”.

**PART 453—GENERAL STATEMENT CONCERNING THE BONDING  
REQUIREMENTS OF THE LABOR-MANAGEMENT REPORTING AND  
DISCLOSURE ACT OF 1959**

43. The authority citation for Part 453 is revised to read as follows:

**Authority:** Sec. 502, 73 Stat. 536; 79 Stat. 888 (29 U.S.C. 502); Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§453.1 [Amended]**

44. Section 453.1 is amended by removing the reference to “Assistant Secretary” and adding, in their place, the word “Director” in paragraph (a) and the four references in paragraph (b).

**Subchapter B—Standards of Conduct**

**PART 457—GENERAL**

45. The authority citation for Part 457 is revised to read as follows:

**Authority:** 5 U.S.C. 7120, 7134; 22 U.S.C. 4117; 2 U.S.C. 1351(a)(1); Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012; Secretary’s Order No. 02-2012, 77 FR 69378, November 16, 2012.

**§457.1 [Amended]**

46. Section 457.1 is amended by removing the reference to “Assistant Secretary” and adding, in its place, the word “Director”.

**§457.13 [Amended]**

47. Section 457.13 is revised to as follows:

**§ 457.13 Director.**

*Director* means the Director of the Office of Labor-Management Standards, head of the Office of Labor-Management Standards.<sup>2</sup>

<sup>2</sup> Pursuant to Secretary of Labor’s Orders No. 02-2012, 77 FR 69378 (November 16, 2012), and 03-2012, 77 FR 69376 (November 16, 2012), the Director of the Office of Labor-Management Standards has certain responsibilities and authority for implementing the standards of conduct provisions of the CSRA and the FSA.

48. Section 457.15 is revised to read as follows:

**§ 457.15 District Director.**

*District Director* means the Director of a district office within the Office of Labor-Management Standards.

49. Section 457.16 is revised to read as follows:

**§ 457.16 Chief, DOE.**

*Chief, DOE* means the Chief of the Division of Enforcement within the Office of Labor-Management Standards.

**§457.19 [Amended]**

50. Section 457.19(c) is amended by removing the reference to “Assistant Secretary” and adding, in its place, the word “Director”.

**§457.20 [Amended]**

51. Section 457.20 is amended by removing the reference to “Assistant Secretary” and adding, in its place, the word “Director”.

**PART 458—STANDARDS OF CONDUCT**

52. The authority citation for Part 458 is revised to read as follows:

**Authority:** 5 U.S.C. 7105, 7111, 7120, 7134; 22 U.S.C. 4107, 4111, 4117; 2 U.S.C. 1351(a)(1); Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012; Secretary’s Order No. 02-2012, 77 FR 69378, November 16, 2012.

**§458.1 [Amended]**

53. Section 458.1 is amended by removing the reference to “Assistant Secretary” and adding, in its place, the word “Director”.

**§458.4 [Amended]**

54. Section 458.4(c) is amended by removing the following parenthetical text:

“(available on the OLMS Web site at <http://www.dol.gov/esa/regs/compliance/olms/CSRAFactSheet.pdf> for the pdf version and <http://www.dol.gov/esa/regs/compliance/olms/CSRA FactSheet.htm> for the html version),” and adding in its place, “(available on the OLMS Web site at <http://www.dol.gov/olms>.)”

**§ 458.35 [Amended]**

55. Section 458.35 is amended by removing the reference to “Assistant Secretary,” and adding in their place, the term “Director”.

**§ 458.36 [Amended]**

56. Section 458.36 is amended by removing the two references to “Assistant Secretary,” and adding in their place, the term “Director”.

**§ 458.59 [Amended]**

57. Section 458.59 is amended by removing the two references to “Assistant Secretary,” and adding in their place, the term “Director”.

**§ 458.64 [Amended]**

58. Section 458.64 is amended by removing the reference to “Assistant Secretary,” and adding in their place, the term “Director” in paragraph (c).

**§ 458.65 [Amended]**

59. Section 458.65 is amended by removing the references to “Assistant Secretary,” and adding in their place, the term “Director” in paragraphs (b) and (c).

**§ 458.66 [Amended]**

60. Section 458.66 is amended by removing the references to “Assistant Secretary,” and adding in their place, the term “Director” in paragraph (c).

**§ 458.70 [Amended]**

61. Section 458.70 is amended by removing the two references to “Assistant Secretary” and adding in their place, “Administrative Review Board”.

**§ 458.72 [Amended]**

62. Section 458.72 is amended by removing the reference to “Assistant Secretary” and adding in their place, “Administrative Review Board” in paragraph (b).

**§ 458.76 [Amended]**

63. Section 458.76 is amended by removing the reference to “Assistant Secretary” and adding in their place, “Administrative Review Board” in the introductory text.

**§ 458.81 [Amended]**

64. Section 458.81 is amended by removing the two references to “Assistant Secretary” and adding in their place, “Administrative Review Board” in paragraph (b).

**§ 458.82 [Amended]**

65. Section 458.82 is amended by removing the three references to “Assistant Secretary” and adding in their place, “Administrative Review Board”.

**§ 458.88 [Amended]**

66. Section 458.88 is amended by removing the references in the section heading and paragraphs (b) and (c) to “Assistant Secretary” and adding in their place, “Administrative Review Board”.

**§ 458.90 [Amended]**

67. Section 458.90 is amended by removing the reference to “Assistant Secretary” and adding in their place, “Administrative Review Board” in paragraph (b).

**§458.91 [Amended]**

68. Section 458.91 is revised to read as follows:

**§458.91 Action by the Administrative Review Board.**

(a) After consideration of the Administrative Law Judge’s recommended decision and order, the record, and any exceptions filed, the Administrative Review Board shall issue its decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as it deems appropriate: *Provided, however,* That unless exceptions are filed which are timely and in accordance with § 458.89, the Administrative Review Board may, at its discretion, adopt without discussion the recommended decision and order of the Administrative Law Judge, as contained in his recommended decision and order, shall, upon appropriate notice to the parties, automatically become the decision of the Administrative Review Board.

(b) Upon finding a violation of the CSRA, FSA or this part, the Administrative Review Board may order respondent to cease and desist from such violative conduct and may require the respondent to take such affirmative action as it deems appropriate to effectuate the policies of the CSRA or FSA.

(c) Upon finding no violation of the CSRA, FSA or this part, the Administrative Review Board shall dismiss the complaint.

69. Section 458.92 is revised to read as follows:

**§ 458.92 Compliance with decisions and orders of the Administrative Review Board.**

When remedial action is ordered, the respondent shall report to the Director, within a specified period, that the required remedial action has been effected. When the Director finds that the required remedial action has not been effected, he shall refer the matter for appropriate action to the Federal Labor Relations Authority (in the case of labor organizations covered by the CSRA), the Foreign Service Labor Relations Board (in the case of labor organizations covered by the FSA), or the Board of Directors of the Office of Compliance (in the case of labor organizations covered by the Congressional Accountability Act).

70. Section 458.93 is revised to read as follows:

**§ 458.93 Stay of remedial action.**

In cases involving violations of this part, the Administrative Review Board may direct, subject to such conditions as it deems appropriate, that the remedial action ordered by stayed.

**PART 459—MISCELLANEOUS**

71. The authority citation for Part 459 is revised to read as follows:

**Authority:** 5 U.S.C. 7120, 7134; 22 U.S.C. 4117; 2 U.S.C. 1351(a)(1); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

**§ 459.1 [Amended]**

72. Section 459.1 is amended by removing the reference to “Assistant Secretary,” and adding in their place, the word “Director”.

**§ 459.4 [Amended]**

73. Section 459.4 is amended by removing the reference to “Assistant Secretary,” and adding in their place, the word “Director” in paragraph (b).

**§ 459.5 [Amended]**

74. Section 459.5 is amended by removing the reference to “Assistant Secretary,” and adding in their place, the word “Director” in paragraph (b).

**Subchapter D—Notification of Employee Rights Under Federal Labor Laws**

**PART 471—OBLIGATIONS OF FEDERAL CONTRACTORS AND  
SUBCONTRACTORS; NOTIFICATION OF EMPLOYEE RIGHTS UNDER  
FEDERAL LABOR LAWS**

75. The authority citation for Part 471 is revised to read as follows:

**Authority:** 40 U.S.C. 101 *et seq.*; Executive Order 13496, 74 FR 6107, February 4, 2009; Secretary’s Order No. 7-2009, 74 FR 58834, November 13, 2009; Secretary’s Order No. 03-2012, 77 FR 69376, November 16, 2012.

Signed in Washington, DC, this 26th day of November, 2012,

John Lund,

Director, Office of Labor-Management Standards

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