

arising within their organizations as well as for developing and implementing affirmative action and diversity plans within their organizations, but will no longer be involved once a complaint reaches the formal process. Each Administrator and the Assistant Secretary for Administration, in the case of the Office of the Secretary, retains his/her existing responsibilities for appointing Equal Opportunity Counselors within his/her organization and assuring that the Equal Opportunity Counseling program is carried out in an effective manner. This paragraph is amended to reflect the OA's revised responsibilities. OAs will also retain their current responsibility for representing management during the various stages of the formal internal complaint process. Similarly, language has been added to section 1.54 delegating authority to Secretarial Officers (including the Inspector General) to resolve informal complaints of discrimination arising within their respective organizations and develop and implement affirmative action and diversity plans within their respective organizations.

Section 1.59 currently delegates authority to the Assistant Secretary for Administration to carry out a number of civil rights responsibilities. These authorities are: development and implementation of an affirmative action plan in the Office of the Secretary to assure equal employment opportunity (section 1.59(b)(2)); reviewing proposals of the Office of the Secretary for each new appointment or transfer to assure compliance with the Action Plan for Equal Opportunity for the Office of the Secretary (section 1.59(b)(5)(ii)); and acceptance or rejection of internal complaints of discrimination on the basis of race, color, religion, sex, national origin, or age arising within or relating to the Office of the Secretary (section 1.59(j)). Since, as described above, this rulemaking delegates authority to each Secretarial Officer to develop and implement affirmative action and diversity plans within their respective organizations, sections 1.59(b)(2) and 1.59(b)(5)(ii) are no longer needed and these delegations are hereby withdrawn. Similarly, as described above, DOCR is now responsible for conducting all stages of the formal internal complaint process, the delegation to the Assistant Secretary for Administration concerning the acceptance or rejection of internal complaints of discrimination is hereby revoked.

This rulemaking adds new section 1.70 to 49 CFR Part 1, delegating to the Director of the DOCR the authority to

conduct all stages of the Department's formal internal discrimination complaint process and confirming the DOCR's long-standing responsibility to provide policy guidance concerning the implementation and enforcement of all civil rights laws, regulations and executive orders for which the Department is responsible, to otherwise perform activities to ensure compliance with external civil rights programs, and to review and evaluate their implementation.

The Department's external civil rights programs are largely carried out by the operating administrations, under the general policy guidance of the DOCR. Also, the Departmental Office of Small and Disadvantaged Business Utilization provides primary policy direction for the Department's minority and disadvantaged business enterprise (DBE) program. Thus, this rule emphasizes that the DOCR is to work cooperatively with the OAs and other Department components in developing guidance and otherwise carrying out its responsibilities for these external civil rights programs in accordance with statutes, regulations, and executive orders of general applicability and DOT-specific statutes administered by these organizations.

The applicable laws covered by the delegation to the DOCR are numerous and are listed in the delegation. In addition to well recognized civil rights laws such as Titles VI and VII of the Civil Rights Act of 1964, as amended, the delegation covers such laws as the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act, 42 U.S.C. 290dd(b), which provides that no person is to be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the grounds of prior substance abuse, except as otherwise provided; the Equal Pay Act of 1963, which prohibits employers with employees subject to the Fair Labor Standards Act from discriminating against these employees on the basis of sex in the payment of wages; The Department of Transportation Coast Guard Military Justice Manual, CG-488, Part 700-9, which authorizes members of the Coast Guard to file EEO complaints of discrimination; and the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 471 and 476, which provide that no individual shall be subjected to sexual discrimination under any program or activity receiving Federal funds under the Act.

The delegation also covers the following DOT-specific statutes which are administered by the OAs. While the

OAs will continue to administer their respective statutes, including authorities specifically delegated to Administrators pursuant to regulation or DOT Order, the DOCR retains its long-standing authority to provide policy guidance to the OAs concerning the implementation and enforcement of these statutes and to review and evaluate the OAs' programs under these statutes: 49 U.S.C. 47113 and 47123 (formerly section 505(f), 511(a)(17), and 520 of the Airport and Airway Improvement Act of 1982, as amended), which concern nondiscrimination and minority and DBE participation in projects funded under chapter 471 of title 49, United States Code; 49 U.S.C. 47107(e) (formerly sections 511(a)(17) and 511(h) of the Airport and Airway Improvement Act of 1982, as amended), which concerns DBE participation in airport concessions pursuant to an agreement with a sponsor that has received a grant for airport development under chapter 471 of title 49, United States Code; 49 U.S.C. 41705 (formerly the Air Carrier Access Act of 1986, as amended), which prohibits discrimination by an air carrier against any otherwise qualified handicapped individual by reason of such handicap; 49 U.S.C. 5310 (formerly section 16 of the Federal Transit Act, as amended), which concerns planning and design of mass transportation facilities to meet special needs of elderly persons and persons with disabilities; 49 U.S.C. 5332 (formerly section 19 of the Federal Transit Act, as amended), which concerns nondiscrimination in programs or activities receiving financial assistance under chapter 53 of title 49, United States Code; the Federal-Aid Highway Act, as amended, 23 U.S.C. 140 and 324, which concern nondiscrimination in Federally funded highway programs; the Highway Safety Act of 1966, as amended, 23 U.S.C. 402(b)(1)(D), which concerns access for physically handicapped persons at pedestrian crosswalks in state highway safety programs; 49 U.S.C. 306, which prohibits discrimination under any program, project or activity receiving financial assistance under certain provisions of the Regional Rail Reorganization Act of 1973 or the Railroad Revitalization and Regulatory Reform Act of 1976; and the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, 105 Stat. 1919, section 1003, which authorizes the DBE program for surface transportation programs.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public