

PCII is used only for appropriate purposes.

§ 29.4 Protected Critical Infrastructure Information Program administration.

(a) *Preparedness Directorate Program Management.* The Secretary of Homeland Security hereby designates the Under Secretary for Preparedness as the senior DHS official responsible for the direction and administration of the PCII Program. He shall administer this program through the Assistant Secretary for Infrastructure Protection.

(b) *Appointment of a PCII Program Manager.* The Under Secretary for Preparedness shall:

(1) Appoint a PCII Program Manager serving under the Assistant Secretary for Infrastructure Protection who is responsible for the administration of the PCII Program;

(2) Commit resources necessary for the effective implementation of the PCII Program;

(3) Ensure that sufficient personnel, including such detailees or assignees from other Federal national security, homeland security, or law enforcement entities as the Under Secretary deems appropriate, are assigned to the PCII Program to facilitate secure information sharing with appropriate authorities.

(4) Promulgate implementing directives and prepare training materials as appropriate for the proper treatment of PCII.

(c) *Appointment of PCII Officers.* The PCII Program Manager shall establish procedures to ensure that each DHS component and each Federal, State, or local entity that works with PCII appoint one or more employees to serve as a PCII Officer in order to carry out the responsibilities stated in paragraph (d) of this section. Persons appointed to serve as PCII Officers shall be fully familiar with these procedures.

(d) *Responsibilities of PCII Officers.* PCII Officers shall:

(1) Oversee the handling, use, and storage of PCII;

(2) Ensure the secure sharing of PCII with appropriate authorities and individuals, as set forth in 6 CFR 29.1(a), and paragraph (b)(3) of this section;

(3) Establish and maintain an ongoing self-inspection program, to include periodic review and assessment of the compliance with handling, use, and storage of PCII;

(4) Establish additional procedures, measures and penalties as necessary to prevent unauthorized access to PCII; and

(5) Ensure prompt and appropriate coordination with the PCII Program Manager regarding any request, challenge, or complaint arising out of the implementation of these regulations.

(e) *Protected Critical Infrastructure Information Management System (PCIIMS).* The PCII Program Manager shall develop, for use by the PCII Program Manager and the PCII Manager's designees, an electronic database, to be known as the "Protected Critical Infrastructure Information Management System" (PCIIMS), to record the receipt, acknowledgement, validation, storage, dissemination, and destruction of PCII. This compilation of PCII shall be safeguarded and protected in accordance with the provisions of the CII Act. The PCII Program Manager may require the completion of appropriate background investigations of an individual before granting that individual access to any PCII.

§ 29.5 Requirements for protection.

(a) CII shall receive the protections of section 214 of the CII Act when:

(1) Such information is voluntarily submitted, directly or indirectly, to the PCII Program Manager or the PCII Program Manager's designee;

(2) The information is submitted for protected use regarding the security of critical infrastructure or protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other appropriate purposes including, without limitation, for the identification, analysis, prevention, preemption, disruption, defense against and/or mitigation of terrorist threats to the homeland;

(3) The information is labeled with an express statement as follows:

(i) In the case of documentary submissions, written marking on the information or records substantially similar to the following: "This information is voluntarily submitted to the

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Federal government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002”;

(ii) In the case of oral information:

(A) Through an oral statement, made at the time of the oral submission or within a reasonable period thereafter, indicating an expectation of protection from disclosure as provided by the provisions of the CII Act; and

(B) Through a written statement substantially similar to the one specified above accompanied by a document that memorializes the nature of oral information initially provided received by the PCII Program Manager or the PCII Program Manager’s designee within a reasonable period after using oral submission; and

(iii) In the case of electronic information:

(A) Through an electronically submitted statement within a reasonable period of the electronic submission indicating an expectation of protection from disclosure as provided by the provisions of the CII Act; and

(B) Through a non-electronically submitted written statement substantially similar to the one specified above accompanied by a document that memorializes the nature of e-mailed information initially provided, to be received by the PCII Program Manager or the PCII Program Manager’s designee within a reasonable period after using e-mail submission.

(4) The submitted information additionally is accompanied by a statement, signed by the submitting person or an authorized person on behalf of an entity identifying the submitting person or entity, containing such contact information as is considered necessary by the PCII Program Manager, and certifying that the information being submitted is not customarily in the public domain;

(b) Information that is not submitted to the PCII Program Manager or the PCII Program Manager’s designees will not qualify for protection under the CII Act. Only the PCII Program Manager or the PCII Program Manager’s designees are authorized to acknowledge receipt of information being submitted for consideration of protection under the Act.

(c) All Federal, State and local government entities shall protect and maintain information as required by these rules or by the provisions of the CII Act when that information is provided to the entity by the PCII Program Manager or the PCII Program Manager’s designee and is marked as required in 6 CFR 29.6(c).

(d) All submissions seeking PCII status shall be presumed to have been submitted in good faith until validation or a determination not to validate pursuant to these rules.

§ 29.6 Acknowledgment of receipt, validation, and marking.

(a) *Authorized officials.* Only the DHS PCII Program Manager is authorized to validate, and mark information as PCII. The PCII Program Manager or the Program Manager’s designees, may mark information qualifying under categorical inclusions pursuant to 6 CFR 29.6(f).

(b) *Presumption of protection.* All information submitted in accordance with the procedures set forth hereby will be presumed to be and will be treated as PCII, enjoying the protections of section 214 of the CII Act, from the time the information is received by the PCII Program Office or the PCII Program Manager’s designee. The information shall remain protected unless and until the PCII Program Office renders a final decision that the information is not PCII. The PCII Program Office will, with respect to information that is not properly submitted, inform the submitting person or entity within thirty days of receipt, by a means of communication to be prescribed by the PCII Program Manager, that the submittal was procedurally defective. The submitter will then have an additional 30 days to remedy the deficiency from receipt of such notice. If the submitting person or entity does not cure the deficiency within thirty calendar days of the date of receipt of the notification provided in this paragraph, the PCII Program Office may determine that the presumption of protection is terminated. Under such circumstances, the PCII Program Office may cure the deficiency by labeling the submission with the information required in 6 CFR 29.5 or may notify the applicant that