

will make financial business decisions that would maximize the slots' use.

In the final rule, the FAA intended the initial reversion of slots for auction to take effect 30 days after the final rule's effective date, which would be January 8, 2009. This was the time period referenced in the final rule as approved by the Office of Management and Budget. The January 13, 2009 date published in the **Federal Register** reflects an incorrect time period of 35 days following the final rule effective date.

At present, the FAA intends to auction the initial slate of slots on or about January 12, 2009. While the slots revert to the FAA under the rule on January 8, 2009, the FAA is not required to conduct the auction on that date, and no carrier will lose the ability to operate any slot that meets the usage requirements of the John F. Kennedy (JFK) and Newark Liberty (Newark) International Airport Orders before October 25, 2009. Accordingly, this correction notice will have no practical impact on carriers operating at the airports.

#### Correction

■ In final rule FR Doc. E8–24046 published on October 10, 2008 (73 FR 65044), make the following correction.

#### § 93.165 [Corrected]

■ On page 60569, in the third column, in § 93.165, paragraph (c), remove the date “January 13, 2009” and add in its place the date “January 8, 2009”.

Issued in Washington, DC, on November 3, 2008.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. E8–26567 Filed 11–7–08; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 93

[Docket No. FAA–2006–25709; Amendment No. 93–87]

RIN 2120–A170

#### Congestion Management Rule for LaGuardia Airport; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** The FAA is correcting a final rule published in the October 10, 2008, **Federal Register**. The final rule

addressed congestion at New York's LaGuardia Airport (LaGuardia). The original rule incorrectly identified the date by which limited slots will revert to the FAA for auction. This rule corrects the date.

**DATES:** The final rule published on October 10, 2008 (73 FR 60574), and this correction will become effective on December 9, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Rebecca MacPherson, FAA Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3073; e-mail [rebecca.macpherson@faa.gov](mailto:rebecca.macpherson@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 10, 2008 (73 FR 60574), the FAA published a final rule that will grandfather most of the existing operations at the LaGuardia airport. However, carriers will be required, for the first time, to purchase collectively approximately nine percent of the slots at the airport. There are no carve-outs or special provisions for new entrants or limited incumbents. The rule will improve the efficiency of the National Airspace System by forcing a market-based mechanism for establishing the value of slots. Under prevailing economic theory, once the true value of slots is assessed, carriers will make financial business decisions that would maximize the slots' use.

##### Correction

In the final rule, the FAA intended the initial reversion of slots for auction to take effect 30 days after the final rule's effective date, which would be January 8, 2009. This was the time period referenced in the final rule as approved by the Office of Management and Budget. The January 13, 2009 date published in the **Federal Register** reflects an incorrect time period of 35 days following the final rule effective date.

At present, the FAA intends to auction the initial slate of slots on or about January 12, 2009. While the slots revert to the FAA under the rule on January 8, 2009, the FAA is not required to conduct the auction on that date, and no carrier will lose the ability to operate any slot that meets the usage requirements of the LaGuardia Order before March 8, 2009. Accordingly, this correction notice will have no practical impact on carriers operating at the airport.

#### Correction

■ In final rule FR Doc. E8–24008 published on October 10, 2008 (73 FR 65074), make the following correction.

#### § 93.39 [Corrected]

■ On page 60599, in the third column, in § 93.39, remove the date “January 13, 2009” and add in its place the date “January 8, 2009”.

Issued in Washington, DC, on November 3, 2008.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. E8–26568 Filed 11–7–08; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 97

[Docket No. 30633; Amdt. No 3292]

#### Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective November 10, 2008. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of November 10, 2008.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**Availability**—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit <http://www.nfdc.faa.gov> to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

**FOR FURTHER INFORMATION CONTACT:**

Harry J. Hodges, Flight Procedure Standards Branch (AFS-420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPs, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260-3, 8260-4, 8260-5, 8260-15A, and 8260-15B when required by an entry on 8260-15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed

by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

**The Rule**

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPs, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

**Conclusion**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 97**

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on October 17, 2008.

**James J. Ballough,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

**PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES**

■ 1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

**Effective 20 NOV 2008**

Gunnison, CO, Gunnison-Crested Butte Regional, ILS OR LOC/DME RWY 6, Amdt 4  
 Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 12, Amdt 6  
 Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 19C, Amdt 8  
 Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 19L, Amdt 8  
 Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 19R, Orig  
 Washington, DC, Washington Dulles Intl, ILS OR LOC RWY 1R; ILS RWY 1R 9CAT II; ILS RWY 1R (CAT III) Amdt 24  
 Washington, DC, Washington Dulles Intl, ILS OR LOC RWY 19L, Amdt 14  
 Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 1C, Amdt 1  
 Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 1L, Orig  
 Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 12, Amdt 9  
 Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 19C; ILS RWY 19C (CAT II); ILS RWY 19C (CAT III), Amdt 25  
 Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 19R, Orig  
 Washington, DC, Washington Dulles Intl, RNAV (GPS) RWY 1L, Orig

- Washington, DC, Washington Dulles Intl, RNAV (GPS) RWY 12, Amdt 1
- Washington, DC, Washington Dulles Intl, RNAV (GPS) RWY 19R, Orig
- Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 1C, Amdt 1
- Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 1R, Amdt 1
- Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 12, Orig, CANCELLED
- Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 19C, Amdt 3
- Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 19L, Amdt 2
- Washington, DC, Washington Dulles Intl, Takeoff Minimums and Obstacle DP, Amdt 1
- Lake Wales, FL, Lake Wales Municipal, Takeoff Minimums and Obstacle DP, Orig
- West Palm Beach, FL, Palm Beach Intl, Takeoff Minimums and Obstacle DP, Amdt 2
- Athens, GA, Athens/Ben Epps, ILS OR LOC/DME RWY 27, Amdt 1
- Athens, GA, Athens/Ben Epps, NDB RWY 27, Amdt 1
- Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 2, Orig
- Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 9, Orig
- Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 20, Orig
- Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 27, Orig
- Athens, GA, Athens/Ben Epps, VOR RWY 2, Amdt 11
- Athens, GA, Athens/Ben Epps, VOR RWY 27, Amdt 12
- Athens, GA, Athens/Ben Epps, VOR/DME RNAV OR GPS RWY 9, Amdt 1, CANCELLED
- Athens, GA, Athens/Ben Epps, VOR/DME RNAV OR GPS RWY 20, Amdt 2, CANCELLED
- Pella, IA, Pella Muni, RNAV (GPS) RWY 16, Amdt 1
- Pella, IA, Pella Muni, RNAV (GPS) RWY 34, Amdt 1
- Pella, IA, Pella Muni, Takeoff and Minimums and Obstacle DP, Amdt 1
- Sterling-Rockfalls, IL, Whiteside Co-Jos H. Bittorf Fld, NDB RWY 7, Amdt 6
- Sterling-Rockfalls, IL, Whiteside Co-Jos H. Bittorf Fld, RNAV (GPS) RWY 7, Orig
- Sterling-Rockfalls, IL, Whiteside Co-Jos H. Bittorf Fld, RNAV (GPS) RWY 25, Orig
- Sterling-Rockfalls, IL, Whiteside Co-Jos H. Bittorf Fld, Takeoff Minimums and Obstacle DP, Orig
- Terre Haute, IN, Terre Haute Intl-Hulman Field, GPS RWY 5, Orig-A, CANCELLED
- Terre Haute, IN, Terre Haute Intl-Hulman Field, GPS RWY 23, Orig, CANCELLED
- Terre Haute, IN, Terre Haute Intl-Hulman Field, RNAV (GPS) RWY 5, Orig
- Terre Haute, IN, Terre Haute Intl-Hulman Field, RNAV (GPS) RWY 23, Orig
- Great Bend, KS, Great Bend Muni, NDB RWY 35, Amdt 3
- Great Bend, KS, Great Bend Muni, RNAV (GPS) RWY 35, Orig
- Great Bend, KS, Great Bend Muni, Takeoff Minimums and Obstacle DP, Orig
- Independence, KS, Independence Muni, GPS RWY 17, Orig-A, CANCELLED
- Independence, KS, Independence Muni, GPS RWY 35, Orig-B, CANCELLED
- Independence, KS, Independence Muni, RNAV (GPS) RWY 17, Orig
- Independence, KS, Independence Muni, RNAV (GPS) RWY 35, Orig
- Independence, KS, Independence Muni, Takeoff Minimums and Obstacle DP, Orig
- Salina, KS, Salina Muni, GPS RWY 12, Orig, CANCELLED
- Salina, KS, Salina Muni, GPS RWY 30, Orig, CANCELLED
- Salina, KS, Salina Muni, RNAV (GPS) RWY 12, Orig
- Salina, KS, Salina Muni, RNAV (GPS) RWY 30, Orig
- Salina, KS, Salina Muni, Takeoff Minimums and Obstacle DP, Orig
- Salina, KS, Salina Muni, VOR RWY 17, Amdt 2
- Louisville, KY, Bowman Field, Takeoff Minimums and Obstacle DP, Amdt 3
- Monroe, LA, Monroe Rgnl, GPS RWY 4, Orig-A, CANCELLED
- Monroe, LA, Monroe Rgnl, GPS RWY 22, Orig, CANCELLED
- Monroe, LA, Monroe Rgnl, RNAV (GPS) RWY 4, Orig
- Monroe, LA, Monroe Rgnl, RNAV (GPS) RWY 22, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, COPTER ILS OR LOC/DME RWY 23, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, ILS OR LOC RWY 23, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, ILS OR LOC RWY 32, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, NDB RWY 23, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, TACAN RWY 5, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, TACAN RWY 14, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, TACAN RWY 23, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, TACAN RWY 32, Orig
- Falmouth, MA, Cape Cod Coast Guard Air Station, Takeoff Minimums and Obstacle DP, Orig
- Fryeburg, ME, Eastern Slopes Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4
- Rockland, ME, Knox County Regional, GPS RWY 31, Orig-C, CANCELLED
- Rockland, ME, Knox County Regional, RNAV (GPS) RWY 3, Orig
- Rockland, ME, Knox County Regional, RNAV (GPS) RWY 31, Orig
- Caro, MI, Tuscola Area, RNAV (GPS) RWY 5, Orig
- Caro, MI, Tuscola Area, RNAV (GPS) RWY 23, Orig
- Caro, MI, Tuscola Area, Takeoff Minimums and Obstacle DP, Amdt 1
- Caro, MI, Tuscola Area, VOR/DME-A, Amdt 5
- Flint, MI, Bishop Intl, RNAV (GPS) RWY 27, Amdt 1
- Flint, MI, Bishop Intl, RNAV (GPS) Y RWY 27, Orig, CANCELLED
- South Haven, MI, South Haven Area Rgnl, RNAV (GPS) RWY 4, Orig
- South Haven, MI, South Haven Area Rgnl, RNAV (GPS) RWY 22, Orig
- South Haven, MI, South Haven Area Rgnl, VOR RWY 22, Amdt 10
- Jacksonville, NC, Albert J. Ellis, ILS OR LOC RWY 5, Amdt 8
- Jefferson, NC, Ashe County, GPS RWY 28, Amdt 1, CANCELLED
- Jefferson, NC, Ashe County, RNAV (GPS) RWY 28, Orig
- Caldwell, NJ, Essex County, LOC RWY 22, Amdt 2
- Caldwell, NJ, Essex County, NDB OR GPS RWY 22, Amdt 5B, CANCELLED
- Caldwell, NJ, Essex County, RNAV (GPS) RWY 22, Orig
- Teterboro, NJ, Teterboro, Takeoff Minimums and Obstacle DP, Amdt 5
- Buffalo, NY, Buffalo Airfield, RNAV (GPS) RWY 24, Orig
- Buffalo, NY, Buffalo Airfield, Takeoff Minimums and Obstacle DP, Amdt 1
- Buffalo, NY, Buffalo Airfield, VOR OR GPS RWY 24, Amdt 6B, CANCELLED
- Watertown, NY, Watertown Intl, RNAV (GPS) RWY 7, Amdt 1
- White Plains, NY, Westchester County, RNAV (GPS) RWY 34, Amdt 2
- Cleveland, OH, Cleveland-Hopkins Intl, CONVERGING ILS RWY 24R, Orig
- Cleveland, OH, Cleveland-Hopkins Intl, CONVERGING ILS RWY 28, Orig
- Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 24L, Amdt 21
- Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 28, Amdt 23
- Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC/DME RWY 24R, ILS RWY 24R (CAT II), ILS RWY 24R (CAT III), Amdt 4
- Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 10, Amdt 1
- Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 24L, Amdt 2
- Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 24R, Amdt 2
- Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 28, Amdt 1
- Cleveland, OH, Cleveland-Hopkins Intl, Takeoff Minimums and Obstacle DP, Amdt 15
- Willoughby, OH, Willoughby Lost Nation Muni, NDB RWY 10, Amdt 10
- Willoughby, OH, Willoughby Lost Nation Muni, NDB OR GPS RWY 28, Amdt 12C, CANCELLED
- Willoughby, OH, Willoughby Lost Nation Muni, RNAV (GPS) RWY 5, Orig
- Willoughby, OH, Willoughby Lost Nation Muni, RNAV (GPS) RWY 10, Orig
- Willoughby, OH, Willoughby Lost Nation Muni, RNAV (GPS) RWY 23, Orig
- Willoughby, OH, Willoughby Lost Nation Muni, RNAV (GPS) RWY 28, Orig
- Clinton, OK, Clinton-Sherman, Takeoff Minimums and Obstacle DP, Orig
- Harrisburg, PA, Capital City, ILS OR LOC RWY 8, Amdt 11
- Harrisburg, PA, Capital City, RNAV (GPS) RWY 8, Orig
- State College, PA, University Park, VOR-B, Amdt 10
- Lebanon, TN, Lebanon Muni, RNAV (GPS) RWY 1, Orig
- Lebanon, TN, Lebanon Muni, VOR/DME-A, Amdt 10
- Memphis, TN, Memphis Intl, RNAV (GPS) RWY 36R, Amdt 1A
- Longview, TX, East Texas Rgnl, ILS OR LOC RWY 13, Amdt 13

Longview, TX, East Texas Rgnl, NDB RWY 13, Amdt 15  
 Longview, TX, East Texas Rgnl, RNAV (GPS) RWY 13, Amdt 1  
 Longview, TX, East Texas Rgnl, RNAV (GPS) RWY 18, Amdt 1  
 Longview, TX, East Texas Rgnl, RNAV (GPS) RWY 31, Amdt 1  
 Longview, TX, East Texas Rgnl, RNAV (GPS) RWY 36, Amdt 1  
 Longview, TX, East Texas Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1  
 Longview, TX, East Texas Rgnl, VOR/DME OR TACAN RWY 13, Amdt 2  
 McAllen, TX, McAllen Miller Intl, ILS OR LOC RWY 31, Orig  
 McAllen, TX, McAllen Miller Intl, LOC BC RWY 31, Amdt 9C, CANCELLED  
 McAllen, TX, McAllen Miller Intl, RNAV (GPS) RWY 31, Amdt 1  
 McAllen, TX, McAllen Miller Intl, Takeoff and Minimums and Obstacle DP, Amdt 1  
 Everett, WA, Snohomish County (Paine Fld), ILS OR LOC/DME RWY 16R, Amdt 21

[FR Doc. E8-25511 Filed 11-7-08; 8:45 am]

BILLING CODE 4910-13-P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

[Docket No. SSA 2008-0007]

RIN 0960-AG70

#### Representative Payment Under Titles II, VIII and XVI of the Social Security Act

**AGENCY:** Social Security Administration.  
**ACTION:** Final rule.

**SUMMARY:** We are amending our rules governing how we investigate representative payee applicants. Under these rules, any payee who previously satisfied the payee investigation criteria, including a face-to-face interview, and currently serves as a payee generally need not appear for another face-to-face interview when subsequently applying to become a payee unless we determine within our discretion, that a new face-to-face interview is necessary. The payee applicant would still be required to satisfy the rest of the investigation process as set forth in the regulations. Reducing the number of subsequent face-to-face interviews of payee applicants will streamline our representative payee application process, allowing payee applicants to become qualified more quickly when they already serve as a payee. This rule also will expedite payment of benefits in certain representative payee situations and reduce the burden on our field office employees by eliminating the necessity of interviewing such payee applicants.

**DATES:** This rule will be effective on December 10, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Jerome Albanese, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (404) 562-1024, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

##### Background

We select a representative payee for certain persons eligible for Social Security benefits under title II of the Social Security Act (the Act), special veterans benefits (SVB) under title VIII of the Act, or supplemental security income under title XVI of the Act. See sections 205(j), 807, and 1631(a)(2) of the Act. We select a representative payee if we believe that payment through a payee rather than direct payment of benefits is in the interest of that beneficiary. Subpart U of part 404, subpart F of part 408, and subpart F of part 416 of our regulations explain the procedures we follow when determining whether to make representative payment and in selecting a representative payee under the title II, VIII and XVI programs.

Our current rules at 20 CFR 404.2024 and 416.624 require that, before selecting an individual or organization to act as a person's representative payee, we will investigate the payee applicant to determine the applicant's suitability. Our rule at § 408.624 adopts these investigatory requirements for SVBs by cross-reference to § 404.2024. See sections 205(j)(2), 807(b), and 1631(a)(2)(B) of the Act.

The Act states that to the extent practicable, an investigation shall include a face-to-face interview with a payee applicant. See sections 205(j)(2)(A)(i), 807(b)(1)(A), and 1631(a)(2)(B)(i)(I). Based on this authority, our current rules at §§ 404.2024 and 416.624 indicate that we generally conduct a face-to-face interview with a payee applicant each time they file to become a payee, regardless of whether the payee has previously satisfied the investigation

criteria and participated in a face-to-face interview.

The requirement for holding a face-to-face interview may be waived only if conducting the interview is impracticable and would cause undue hardship for the payee applicant such as when a payee applicant would have to travel a great distance to the field office. Our current rules also indicate that we may decide it is impracticable to require subsequent face-to-face interviews for organizational payees that are known by our field office as suitable payees. We base this decision on the organization's past performance, recent contacts, and the organization's knowledge of and compliance with our reporting requirements.

##### Explanation of Changes

With these final rules, we are eliminating the requirement that we conduct a face-to-face interview before selecting an individual or organization to be a representative payee if we have already conducted a face-to-face interview with that payee and the payee is qualified and currently acting as a payee. However, we retain discretionary authority to require a subsequent face-to-face interview of any payee applicant. We are revising our rules in §§ 404.2024(b) and 416.624(b) to accomplish these changes.

We also have added a new paragraph (c), "Impracticable," to §§ 404.2024 and 416.624. This new paragraph contains the first three sentences of current §§ 404.2024(b) and 416.624(b), with editorial changes. We are not making substantive changes to this text.

##### Public Comment

In the notice of proposed rulemaking we published in the **Federal Register** at 73 FR 12923 (March 11, 2008), we provided the public a 60-day period within which to comment on the proposed changes. That comment period ended on May 12, 2008. We received one comment, from an individual who opposed the proposed changes.

*Comment:* The commenter noted that because the representative payment program removes the beneficiary's right to manage his own benefit payments, we must act with extreme care when determining the need for a payee and in selecting the person or organization that would best serve as a payee. The commenter believed that in order to protect beneficiary rights, we should require all payee applicants to undergo a face-to-face interview every time they apply to be a payee. Accordingly, the commenter asked that we withdraw our proposal to eliminate such a