increased amounts to States, upon receipt of an actual appropriation that exceeded the requested appropriation?

10. Have there been instances when VETS appears to have overlooked compelling reasons to exercise its authority to immediately allocate decreased amounts to States, upon receipt of an actual appropriation that fell short of the requested appropriation?

11. For those commenters who believe that compelling reasons have been overlooked, what criteria could be applied to determine that a compelling reason exists in any given instance?

*B. Other Funding Criteria*

Funding for TAP workshops is allocated on a per-workshop basis. Funding to the States is provided under the respective approved State Plans.

12. Should there be a different basis for the funding of TAP activities?

13. Should there be a different vehicle for providing funding for TAP activities?

14. For those commenters who believe that a different basis or vehicle should be implemented for funding TAP activities, what alternate basis or vehicle is suggested?

Funds for exigent circumstances, such as unusually high levels of unemployment or surges in the demand for transitioning services, including the need for TAP workshops, are allocated based on need.

15. Have there been instances when VETS appears to have overlooked exigent circumstances that warranted adjustments to the actual awards?

16. Are there specific examples of exigent circumstances that should be identified in Veterans' Program Letters or in other policy documents?

*C. Hold-Harmless Criteria and Minimum Funding Level*

A hold-harmless rate of 90 percent of the prior year's funding is the level currently established to limit the funding reduction that a State can experience in a single year. A minimum funding level of .28 percent (.0028) of the previous year's total funding for all States is the level currently established to provide small States with sufficient funds to support a basic level of services to veterans. Both of these rates reflect direct adoption of statutory provisions governing corresponding functions for Wagner-Peyser funding.

17. Is there a compelling reason to set the hold-harmless rate at a different level?

18. Is there a compelling reason to set the minimum funding level at a different level?

19. For those commenters who believe that there is a compelling reason to revise the hold-harmless rate or the minimum funding level, what alternatives are suggested and what justifications are offered to support implementation of those alternatives?

20. Is there a compelling reason to change the hold-harmless rate to be a fixed percentage of the prior year's expenditures rather than a fixed percentage of the prior year's funding?

*D. Other Aspects of the Existing Regulations*

If any commmenters have concerns or suggestions that apply to aspects of the existing regulations that have not been identified in the preceding sections and questions, VETS will appreciate receiving comments that address any aspect of these regulations.

Signed in Washington, DC, this 4th day of June 2010.

**John M. McWilliam,**

*Deputy Assistant Secretary for Operations and Management, Veterans' Employment and Training Service.*

[FR Doc. 2010–13870 Filed 6–10–10; 8:45 am]

BILLING CODE 4510–79–P

## DEPARTMENT OF JUSTICE

### 28 CFR Parts 0 and 51

**[CRT Docket No. 109; AG Order No. 3161–2010]**

### Revision of the Procedures for the Administration of Section 5 of the Voting Rights Act

**AGENCY:** Civil Rights Division, Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Attorney General is considering amendments to the Department of Justice's "Procedures for the Administration of Section 5 of the Voting Rights Act of 1965." The proposed amendments are designed to clarify the scope of section 5 review based on recent amendments to section 5, make technical clarifications and updates, and provide better guidance to covered jurisdictions and minority citizens concerning current Department practices. Interested persons are invited to participate in the consideration of these amendments.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before August 10, 2010. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** You may submit written comments, identified by the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking, by any of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Fax:* 202–307–3961.

*Mail:* Chief, Voting Section, Civil Rights Division, United States Department of Justice, Room 7254–NWB, 950 Pennsylvania Avenue, NW., Washington, DC 20530.

*Hand Delivery/Courier:* Chief, Voting Section, Civil Rights Division, United States Department of Justice, Room 7254–NWB, 1800 G Street, NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** T. Christian Herren, Jr., Acting Chief, Voting Section, Civil Rights Division, United States Department of Justice, Room 7254–NWB, 950 Pennsylvania Avenue, NW., Washington, DC 20530, or by telephone at (800) 253–3931.

**SUPPLEMENTARY INFORMATION:**

*Posting of Public Comments:* Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You also must locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *http://www.regulations.gov.*

Personal identifying information and confidential business information identified and located as set forth above

will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

The reason that the Department of Justice is requesting electronic comments before Midnight Eastern Time on the day the comment period closes is because the inter-agency Regulations.gov/Federal Docket Management System (FDMS) which receives electronic comments terminates the public's ability to submit comments at Midnight on the day the comment period closes. Commenters in time zones other than Eastern may want to take this fact into account so that their electronic comments can be received. The constraints imposed by the Regulations.gov/FDMS system do not apply to U.S. postal comments which will be considered as timely filed if they are postmarked before Midnight on the day the comment period closes.

**Discussion**

The proposed amendments seek to clarify the scope of section 5 review based on recent amendments to section 5, make certain technical clarifications and updates, and provide better guidance to covered jurisdictions and citizens. In many instances, the proposed amendments describe longstanding practices of the Attorney General in the review of section 5 submissions. These proposed amendments should aid in ensuring that all covered changes affecting voting are promptly submitted for review and minimize the potential for litigation.

The proposed amendments clarify that the Attorney General's delegation of authority to the Assistant Attorney General for Civil rights over submissions under section 5 of the Voting Rights Act also includes authority over submissions under section 3(c) of the Voting Rights Act (§ 0.50(h)). The proposed amendments also clarify the stated authority for the Part 51 procedures to reflect the 2006 statutory amendments to the Voting Rights Act; revise language to conform to the substantive section 5 standard in the 2006 amendments (§ 51.1); clarify the definition of the Voting rights Act to reflect the enactment of the 2006 amendments; clarify the definition of the benchmark standard, practice, or procedure (§ 51.2); make technical corrections to the delegation of authority from the Attorney General to the Assistant Attorney General, and from the Chief of the Voting Section to supervisory attorneys within the Voting Section (§ 51.3); make technical corrections to reflect the new expiration date for section 5 coverage contained in the 2006 amendments; clarify that jurisdictions may seek earlier termination of coverage through a bailout action (§ 51.5); and incorporate the Supreme Court's holding in *Northwest Austin Mun. Utility Dist. No. One* v. *Holder,* 557 U.S. ___, 129 S.Ct. 2504 (2009), that any jurisdiction required to comply with section 5 may seek to terminate that obligation pursuant to the procedures that implement section 4(a) of the Act (§§ 51.5 and 51.6).

The proposed amendments clarify that the review period commences only when a submission is received by the Department officials responsible for conducting section 5 reviews and clarifies the date of the response (§ 51.9); revise language to conform to the substantive section 5 standard in the 2006 amendments (§ 51.10, § 51.11); clarify that, in determining whether a change is covered, any inquiry into whether the change has the potential for discrimination is focused on the generic category of changes to which the specific change belongs (§ 51.12); clarify that a voting change is covered regardless of the manner or mode by which a covered jurisdiction acts to adopt it (§ 51.12); and clarify that dissolution or merger of voting districts, *de facto* elimination of an elected office, and relocations of authority to adopt or administer voting practices or procedures are all subject to section 5 review (§ 51.13).

The proposed amendments also clarify that section 5 review ordinarily should precede court review, that a court-ordered change that initially is not covered by section 5 may become covered through actions taken by the affected jurisdiction, and that the interim use of an unprecleared change should be ordered by a court only in emergency circumstances (§ 51.18); make a conforming change updating the address for the Voting Section (§ 51.19); make technical changes in the format in which information may be submitted to the Attorney General to reflect changes in information technology (§ 51.20); and clarify those circumstances in which the Attorney General will not review a submission (§§ 51.21, 51.22).

In addition, the proposed amendments clarify the authority authorized to make section 5 submissions (§ 51.23); make technical amendments to the addresses to which submissions can be delivered to reflect changes in the location of the Voting Section and its mail-handling procedures, to note the availability of electronic submissions and telefacsimile submissions, and to note to the availability of e-mail as a means of submitting additional information on pending submissions (§ 51.24); clarify the addresses and methods by which jurisdictions may deliver notices of withdrawal of submissions (§ 51.25); clarify the language used in describing the required contents of submissions (§ 51.27); and make technical changes to the format in which information may be submitted to the Attorney General (§ 51.28).

The proposed amendments also clarify the addresses and methods by which persons may provide written comments on submissions and clarify the circumstances in which the Department may withhold the identity of those providing comments on submissions (§ 51.29); clarify the circumstances under which the Attorney General may conclude that a decision on the merits is not appropriate and the circumstances under which consideration of the change may be reopened (§ 51.35); clarify the procedures for the Attorney General to make written and oral requests for additional information regarding a submission (§ 51.37); make technical revisions to the section that provides for recommencing the 60-day period where a jurisdiction voluntarily provides material supplemental information, or where a related submission is received (§ 51.39); and clarify the language regarding the failure of the Attorney General to respond to a submission (§ 51.42).

The proposed amendments also clarify the procedures when the Attorney General decides to reexamine a decision not to object (§ 51.43); revise language to conform to the substantive section 5 standard in the 2006 amendments (§ 51.44); clarify that the Attorney General can reconsider an objection in cases of misinterpretation of fact or mistake of law, consistent with existing § 51.64(b) (§ 51.46); clarify the manner in which the 60-day requirement applies to reconsideration requests and revise language to conform to the substantive section 5 standard in the 2006 amendments (§ 51.48); and clarify the procedures regarding access to section 5 records (§ 51.50).

The proposed amendments clarify the substantive standard to reflect the 2006 amendments to the Act and the manner in which the Attorney General will evaluate issues of discriminatory purpose under section 5 (§ 51.52, § 51.54, § 51.55, § 51.57, § 51.59); clarify the application of section 5 to de-annexations (§ 51.61); and clarify the Appendix to include reference to a list

of bailouts by political subdivisions subject to section 5.

**Administrative Procedure Act**

This proposal amends interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice and therefore the notice requirement of 5 U.S.C. 553(b) is not mandatory. Although notice and comment is not required, we are nonetheless choosing to offer this proposed rule for notice and comment.

**Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because it applies only to governmental entities and jurisdictions that are already required by section 5 of the Voting Rights Act of 1965 to submit voting changes to the Department of Justice, and this rule does not change this requirement. It provides guidance to such entities to assist them in making the required submissions under section 5. Further, a Regulatory Flexibility Analysis was not required to be prepared for this rule because the Department of Justice was not required to publish a general notice of proposed rulemaking for this matter.

**Executive Order 12866**

This rule has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

**Executive Order 13132—Federalism**

This rule does not have federalism implications warranting the preparation of a Federalism Assessment under section 6 of Executive Order 13132 because the rule does not alter or modify the existing statutory requirements of section 5 of the Voting Rights Act imposed on the States, including units of local government or political subdivisions of the States.

**Executive Order 12988—Civil Justice Reform**

This document meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

**Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**List of Subjects in 28 CFR Parts 0 and 51**

Administrative practice and procedure, Archives and records, Authority delegations (government agencies), Civil rights, Elections, Political committees and parties, Voting rights.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301, 28 U.S.C. 509, 510, and 42 U.S.C. 973b, 1973c, the following amendments are proposed to Chapter I of Title 28 of the Code of Federal Regulations:

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Subpart J—Civil Rights Division

1. The authority citation for Part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510.

2. In § 0.50, revise paragraph (h) to read as follows:

**§ 0.50 General functions.**

* * * * *

(h) Administration of sections 3(c) and 5 of the Voting Rights Act of 1965, as amended (42 U.S.C. 1973a(c), 1973c).

* * * * *

3. The authority citation for Part 51 is revised to read as follows:

## PART 51—PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, and 42 U.S.C. 1973b, 1973c.

4. In § 51.1, revise paragraph (a)(1) to read as follows:

**§ 51.1 Purpose.**

(a) * * *:

(1) A declaratory judgment is obtained from the U.S. District Court for the District of Columbia that such qualification, prerequisite, standard, practice, or procedure neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, or

* * * * *

5. In § 51.2, revise the definitions for "Act" and "Change affecting voting or change" to read as follows:

**§ 51.2 Definitions.**

* * * * *

*Act* means the Voting Rights Act of 1965, 79 Stat. 437, as amended by the Civil Rights Act of 1968, 82 Stat. 73, the Voting Rights Act Amendments of 1970, 84 Stat. 314, the District of Columbia Delegate Act, 84 Stat. 853, the Voting Rights Act Amendments of 1975, 89 Stat. 400, the Voting Rights Act Amendments of 1982, 96 Stat. 131, the Voting Rights Language Assistance Act of 1992, 106 Stat. 921, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, 120 Stat. 577, and the Act to Revise the Short Title of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act, 122 Stat. 2428, 42 U.S.C. 1973 et seq. Section numbers, such as "section 14(c)(3)," refer to sections of the Act.

* * * * *

*Change affecting voting* or *change* means any voting qualification, prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on the date used to determine coverage under section 4(b) or from the existing standard, practice, or procedure if it was subsequently altered and precleared under section 5. In assessing whether a change has a discriminatory purpose or effect, the comparison shall be with the standard, practice, or procedure in effect on the date used to determine coverage under section 4(b) or the most recent precleared standard, practice, or procedure. Some examples of changes affecting voting are given in § 51.13.

* * * * *

6. Revise § 51.3 to read as follows:

**§ 51.3 Delegation of authority.**

The responsibility and authority for determinations under section 5 and section 3(c) have been delegated by the Attorney General to the Assistant Attorney General, Civil Rights Division. With the exception of objections and decisions following the reconsideration of objections, the Chief of the Voting Section is authorized to perform the functions of the Assistant Attorney General. With the concurrence of the Assistant Attorney General, the Chief of the Voting Section may designate

supervisory attorneys in the Voting Section to perform the functions of the Chief.

7. Revise § 51.5 to read as follows:

**§ 51.5 Termination of coverage.**

(a) *Expiration.* The requirements of section 5 will expire at the end of the twenty-five-year period following the effective date of the amendments made by the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, Cesar E. Chavez, Barbara C. Jordan, William C. Velasquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006, which amendments became effective on July 27, 2006. See section 4(a)(8) of the VRACA.

(b) *Bailout.* Any political subunit in a covered jurisdiction or a political subdivision of a covered State, a covered jurisdiction or a political subdivision of a covered State, or a covered State may terminate the application of section 5 ("bailout") by obtaining the declaratory judgment described in section 4(a) of the Act.

8. Revise § 51.6 to read as follows:

**§ 51.6 Political subunits.**

All political subunits within a covered jurisdiction (*e.g.,* counties, cities, school districts) that have not terminated coverage by obtaining the declaratory judgment described in section 4(a) of the Act are subject to the requirements of section 5.

9. Revise § 51.9 to read as follows:

**§ 51.9 Computation of time.**

(a) The Attorney General shall have 60 days in which to interpose an objection to a submitted change affecting voting for which a response on the merits is appropriate (see § 51.35, § 51.37).

(b) The 60-day period shall commence upon receipt of a submission by the Voting Section of the Department of Justice's Civil Rights Division or upon receipt of a submission by the Office of the Assistant Attorney General, Civil Rights Division, if the submission is properly marked as specified in § 51.24(f). The 60-day period shall recommence upon the receipt in like manner by the Voting Section of a resubmission (*see* § 51.35), additional information (*see* § 51.37), or material, supplemental information or a related submission (*see* § 51.39).

(c) The 60-day period shall mean 60 calendar days, with the day of receipt of the submission not counted, and with the 60th day ending at 11:59 p.m. Eastern Time of that day. If the final day of the period should fall on a Saturday, Sunday, or any day designated as a holiday by the President or Congress of the United States, or any other day that is not a day of regular business for the Department of Justice, the next full business day shall be counted as the final day of the 60-day period. The date of the Attorney General's response shall be the date on which it is transmitted to the submitting authority by any reasonable means, including placing it in a postbox of the U.S. Postal Service or a private mail carrier, sending it by telefacsimile, e-mail, or other electronic means, or delivering it in person to a representative of the submitting authority.

10. In § 51.10, revise paragraph (a) to read as follows:

**§ 51.10 Requirement of action for declaratory judgment or submission to the Attorney General.**

* * * * *

(a) Obtain a judicial determination from the U.S. District Court for the District of Columbia that the voting change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

* * * * *

11. Revise § 51.11 to read as follows:

**§ 51.11 Right to bring suit.**

Submission to the Attorney General does not affect the right of the submitting authority to bring an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change affecting voting neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

12. Revise § 51.12 to read as follows:

**§ 51.12 Scope of requirement.**

Except as provided in § 51.18 (court-ordered changes), the section 5 requirement applies to any change affecting voting, even though it appears to be minor or indirect, returns to a prior practice or procedure, seemingly expands voting rights, or is designed to remove the elements that caused the Attorney General to object to a prior submitted change. The scope of section 5 coverage is based on whether the generic category of changes affecting voting to which the change belongs (for example, the generic categories of changes listed in § 51.13) has the potential for discrimination. *NAACP* v. *Hampton County Election Commission,* 470 U.S. 166 (1985). The method by which a jurisdiction enacts or administers a change does not affect the requirement to comply with section 5, which applies to changes enacted or administered through the executive, legislative, or judicial branches.

13. In § 51.13, revise paragraphs (e), (i), and (k) and add paragraph (l) to read as follows:

**§ 51.13 Examples of changes.**

* * * * *

(e) Any change in the constituency of an official or the boundaries of a voting unit (*e.g.,* through redistricting, annexation, deannexation, incorporation, dissolution, merger, reapportionment, changing to at-large elections from district elections, or changing to district elections from at-large elections).

* * * * *

(i) Any change in the term of an elective office or an elected official, or any change in the offices that are elective (*e.g.,* by shortening the term of an office; changing from election to appointment; transferring authority from an elected to an appointed official that, in law or in fact, eliminates the elected official's office; or staggering the terms of offices).

* * * * *

(k) Any change affecting the right or ability of persons to participate in political campaigns.

(l) Any change that transfers or alters the authority of any official or governmental entity regarding who may enact or seek to implement a voting qualification, prerequisite to voting, or standard, practice, or procedure with respect to voting.

14. Revised § 51.18 to read as follows:

**§ 51.18 Federal court-ordered changes.**

(a) *In general.* Changes affecting voting for which approval by a Federal court is required, or that are ordered by a Federal court, are exempt from section 5 review only where the Federal court prepared the change and the change has not been subsequently adopted or modified by the relevant governmental body. *McDaniel* v. *Sanchez,* 452 U.S. 130 (1981). Court-ordered changes covered by section 5 should be submitted for review prior to review by the Federal court, except as provided in paragraph (d) of this section. (*See* also § 51.22.) *Connor* v. *Waller,* 421 U.S. 656 (1975).

(b) *Subsequent changes.* Where a Federal court-ordered change is not itself subject to the preclearance requirement, subsequent changes necessitated by the court order but decided upon by the jurisdiction remain subject to preclearance. For example, voting precinct and polling changes made necessary by a court-ordered

redistricting plan are subject to section 5 review.

(c) *Alteration in section 5 status.* Where a Federal court-ordered change at its inception is not subject to review under section 5, a subsequent action by the submitting authority demonstrating that the change reflects its policy choices (*e.g.,* adoption or ratification of the change, or implementation in a manner not explicitly authorized by the court) will render the change subject to review under section 5 with regard to any future implementation.

(d) *In emergencies.* Changes affecting voting that are ordered by a Federal court, and that reflect the policy choices of a submitting authority, may be implemented on an emergency interim basis without compliance with section 5 only where a Federal court orders such implementation and only to the extent ordered by the Federal court. (*See* also § 51.34.) A Federal court's authorization of the emergency interim use without preclearance of a voting change does not exempt any use of the practice not explicitly authorized by the court from section 5 review.

15. Revise § 51.19 to read as follows:

**§ 51.19 Request for notification concerning voting litigation.**

A jurisdiction subject to the preclearance requirements of section 5 that becomes involved in any litigation concerning voting is requested to notify the Chief, Voting Section, Civil Rights Division, at the addresses, telefacsimile number, or e-mail address specified in § 51.24. Such notification will not be considered a submission under section 5.

16. In § 51.20, revise paragraphs (b) through (e) and add a new paragraph (f) to read as follows:

**§ 51.20 Form of submissions.**

* * * * *

(b) The Attorney General will accept certain machine readable data in the following electronic media: 3.5 inch 1.4 megabyte disk, compact disc read-only memory (CD–ROM) formatted to the ISO–9660/Joliet standard, or digital versatile disc read-only memory (DVD–ROM). Unless requested by the Attorney General, data provided on electronic media need not be provided in hard copy.

(c) All electronic media shall be clearly labeled with the following information:

(1) Submitting authority.

(2) Name, address, title, and telephone number of contact person.

(3) Date of submission cover letter.

(4) Statement identifying the voting change(s) involved in the submission.

(d) Each magnetic medium (floppy disk or tape) provided must be accompanied by a printed description of its contents, including an identification by name or location of each data file contained on the medium, a detailed record layout for each such file, a record count for each such file, and a full description of the magnetic medium format.

(e) Text documents should be provided in a standard American Standard Code for Information Interchange (ASCII) character code; documents with graphics and complex formatting should be provided in standard Portable Document Format (PDF). The label shall be affixed to each electronic medium, and the information included on the label shall also be contained in a documentation file on the electronic medium.

(f) All data files shall be provided in a delimited text file and must include a header row as the first row with a name for each field in the data set. A separate data dictionary file documenting the fields in the data set, the field separators or delimiters, and a description of each field, including whether the field is text, date, or numeric, enumerating all possible values is required; separators and delimiters should not also be used as data in the data set. Proprietary or commercial software system data files (*e.g.* SAS, SPSS, dBase, Lotus 1–2–3) and data files containing compressed data or binary data fields will not be accepted.

17. Revise § 51.21 to read as follows:

**§ 51.21 Time of submissions.**

Changes affecting voting should be submitted as soon as possible after they become final, except as provided in § 51.22.

18. Revise § 51.22 to read as follows:

**§ 51.22 Submitted changes that will not be reviewed.**

(a) The Attorney General will not consider on the merits:

(1) Any proposal for a change submitted prior to final enactment or administrative decision except as provided in paragraph (b) of this section.

(2) Any submitted change directly related to another change that has not received section 5 preclearance if the Attorney General determines that the two changes cannot be substantively considered independently of one another.

(3) Any submitted change whose enforcement has ceased and been superseded by a standard, practice, or procedure that has received section 5 preclearance or that is otherwise legally enforceable under section 5.

(b) For any change requiring approval by referendum, by a State or Federal court, or by a Federal agency, the Attorney General may make a determination concerning the change prior to such approval if the change is not subject to alteration in the final approving action and if all other action necessary for approval has been taken. (*See* also § 51.18.)

19. Revise § 51.23 to read as follows:

**§ 51.23 Party and jurisdiction responsible for making submissions.**

(a) Changes affecting voting shall be submitted by the chief legal officer or other appropriate official of the submitting authority or by any other authorized person on behalf of the submitting authority. A State, whether partially or fully covered, has authority to submit any voting change on behalf of its covered jurisdictions and political subunits. Where a State is covered as a whole, State legislation or other changes undertaken or required by the State shall be submitted by the State (except that legislation of local applicability may be submitted by political subunits). Where a State is partially covered, changes of statewide application may be submitted by the State. Submissions from the State, rather than from the individual covered jurisdictions, would serve the State's interest in at least two important respects: First, the State is better able to explain to the Attorney General the purpose and effect of voting changes it enacts than are the individual covered jurisdictions; second, a single submission of the voting change on behalf of all of the covered jurisdictions would reduce the possibility that some State acts will be legally enforceable in some parts of the State but not in others.

(b) A change effected by a political party (*see* § 51.7) may be submitted by an appropriate official of the political party.

(c) A change affecting voting that results from a State court order should be submitted by the jurisdiction or entity that is to implement or administer the change (in the manner specified by paragraphs (a) and (b) of this section).

20. Revise § 51.24 to read as follows:

**§ 51.24 Delivery of submissions.**

(a) *Delivery by U.S. Postal Service.* Submissions sent to the Attorney General by the U.S. Postal Service, including certified mail or express mail, shall be addressed to the Chief, Voting Section, Civil Rights Division, United States Department of Justice, Room 7254–NWB, 950 Pennsylvania Avenue, NW., Washington, DC 20530.

(b) *Delivery by other carriers.* Submissions sent to the Attorney

General by carriers other than the U.S. Postal Service, including by hand delivery, should be addressed or may be delivered to the Chief, Voting Section, Civil Rights Division, United States Department of Justice, Room 7254–NWB, 1800 G Street, NW., Washington, DC 20006.

(c) *Electronic submissions.* Submissions may be delivered to the Attorney General through an electronic form available on the Web site of the Voting Section of the Civil Rights Division at *http://www.justice.gov/crt/voting/.* Detailed instructions appear on the Web site. Jurisdictions should answer the questions appearing on the electronic form, and should attach documents as specified in the instructions accompanying the application.

(d) *Telefacsimile submissions.* In urgent circumstances, submissions may be delivered to the Attorney General by telefacsimile to (202) 616–9514. Submissions should not be sent to any other telefacsimile number at the Department of Justice. Submissions that are voluminous should not be sent by telefacsimile.

(e) *E-mail.* Submissions may not be delivered to the Attorney General by e-mail in the first instance. However, after a submission is received by the Attorney General, a jurisdiction may supply additional information on that submission by e-mail to *vot1973c@usdoj.gov.* The subject line of the e-mail shall be identified with the Attorney General's file number for the submission (YYYY–NNNN), marked as "Additional Information," and include the name of the jurisdiction.

(f) *Special marking.* The first page of the submission, and the envelope (if any), shall be clearly marked: "Submission under Section 5 of the Voting Rights Act."

(g) The most current information on addresses for, and methods of making, section 5 submissions is available on the Voting Section Web site at *http://www.justice.gov/crt/voting/.*

21. In § 51.25, revise paragraph (a) to read as follows:

**§ 51.25 Withdrawal of submissions.**

(a) A jurisdiction may withdraw a submission at any time prior to a final decision by the Attorney General. Notice of the withdrawal of a submission must be made in writing addressed to the Chief, Voting Section, Civil Rights Division, to be delivered at the addresses, telefacsimile number, or e-mail address specified in § 51.24. The submission shall be deemed withdrawn upon the Attorney General's receipt of the notice.

* * * * *

22. In § 51.27, revise paragraphs (a) through (d) to read as follows:

**§ 51.27 Required contents.**

* * * * *

(a) A copy of any ordinance, enactment, order, or regulation embodying the change affecting voting for which section 5 preclearance is being requested.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting standard, practice, or procedure that is proposed to be repealed, amended, or otherwise changed.

(c) A statement that identifies with specificity each change affecting voting for which section 5 preclearance is being requested and that explains the difference between the submitted change and the prior law or practice. If the submitted change is a special referendum election and the subject of the referendum is a proposed change affecting voting, the submission should specify whether preclearance is being requested solely for the special election or for both the special election and the proposed change to be voted on in the referendum (*see* §§ 51.16, 51.22).

(d) The name, title, mailing address, and telephone number of the person making the submission. Where available, a telefacsimile number and an e-mail address for the person making the submission also should be provided.

* * * * *

23. In § 51.28, revise paragraph (a)(5), and revise paragraph (c) to read as follows:

**§ 51.28 Supplemental Contents.**

* * * * *

(a) * * *

(a)(5) Demographic data on electronic media that are provided in conjunction with a redistricting plan shall be contained in an ASCII, comma delimited block equivalency import file with two fields as detailed in the following table. A separate import file shall accompany each redistricting plan:

| Field No. | Description | Total length | Comments | |
|---|---|---|---|---|
| 1 | PL94–171 Reference | Length | | STATE215.<br>Each padded with leading zeroes resulting in a 15-digit character.<br>COUNTY3T.<br>RACT6BLOC.<br>K4. |
| 2 | District number | 3 | 3 | No leading zeros. |

(i) *Field 1:* The PL 94–171 reference number is the state, county, tract, and block reference numbers concatenated together and padded with leading zeroes so as to create a 15-digit character field; and

(ii) *Field 2:* The district number is a 3 digit character field with no padded leading zeroes.

Example:

482979501002099,1; 482979501002100,3; 482979501004301,10; 482975010004305,23; 482975010004302,101

* * * * *

(c) *Annexations.* For annexations, in addition to that information specified elsewhere, the following information:

(1) The present and expected future use of the annexed land (*e.g.,* garden apartments, industrial park).

(2) An estimate of the expected population, by race and language group, when anticipated development, if any, is completed.

(3) A statement that all prior annexations (and deannexations) subject to the preclearance requirement have been submitted for review, or a statement that identifies all annexations (and deannexations) subject to the preclearance requirement that have not been submitted for review. *See* § 51.61(b).

(4) To the extent that the jurisdiction elects some or all members of its governing body from single-member districts, it should inform the Attorney General how the newly annexed territory will be incorporated into the existing election districts.

* * * * *

24. In § 51.29, revise paragraphs (b) and (d) to read as follows:

**§ 51.29 Communications concerning voting changes.**

* * * * *

(b) Comments should be sent to the Chief, Voting Section, Civil Rights Division, at the addresses, telefacsimile number, or email address specified in § 51.24. The first page, and the envelope (if any) should be marked: "Comment under section 5 of the Voting Rights Act." Comments should include, where available, the name of the jurisdiction and the Attorney General's file number (YYYY–NNNN) in the subject line.

* * * * *

(d) To the extent permitted by the Freedom of Information Act, 5 U.S.C. 552, the Attorney General shall not disclose to any person outside the Department of Justice the identity of any individual or entity providing information on a submission or the administration of section 5 where the individual or entity has requested confidentiality; an assurance of confidentiality may reasonably be implied from the circumstances of the communication; disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy under 5 U.S.C. 552; or disclosure is prohibited by any applicable provisions of federal law.

* * * * *

25. Revise § 51.35 to read as follows:

**§ 51.35 Disposition of inappropriate submissions and resubmissions.**

(a) When the Attorney General determines that a response on the merits of a submitted change is inappropriate, the Attorney General shall notify the submitting official in writing within the 60-day period that would have commenced for a determination on the merits and shall include an explanation of the reason why a response is not appropriate.

(b) Matters that are not appropriate for a merits response include:

(1) Changes that do not affect voting (*see* § 51.13);

(2) Standards, practices, or procedures that have not been changed (*see* §§ 51.4, 51.14);

(3) Changes that previously have received preclearance;

(4) Changes that affect voting but are not subject to the requirement of section 5 (*see* § 51.18);

(5) Changes that have been superseded or for which a determination is premature (*see* §§ 51.22, 51.61(b));

(6) Submissions by jurisdictions not subject to the preclearance requirement (*see* §§ 51.4, 51.5);

(7) Submissions by an inappropriate or unauthorized party or jurisdiction (*see* § 51.23); and

(8) Deficient submissions (*see* § 51.26(d)).

(c) Following such a notification by the Attorney General, a change shall be deemed resubmitted for section 5 review upon the Attorney General's receipt of a submission or other written information that renders the change appropriate for review on the merits (such as a notification from the submitting authority that a change previously determined to be premature has been formally adopted). Notice of the resubmission of a change affecting voting will be given to interested parties registered under § 51.32.

26. Revise § 51.37 to read as follows:

**§ 51.37 Obtaining information from the submitting authority.**

(a) *Written requests for information.* (1) If the Attorney General determines that a submission does not satisfy the requirements of § 51.27, the Attorney General may request in writing from the submitting authority any omitted information necessary for evaluation of the submission. *Branch* v. *Smith,* 538 U.S. 254 (2003); *Georgia* v. *United States,* 411 U.S. 526 (1973). This written request shall be made as promptly as possible within the original 60-day period or the new 60-day period described in § 51.39(a). The written request shall advise the jurisdiction that the submitted change remains unenforceable unless and until preclearance is obtained.

(2) A copy of the request shall be sent to any party who has commented on the submission or has requested notice of the Attorney General's action thereon.

(3) The Attorney General shall notify the submitting authority that a new 60-day period in which the Attorney General may interpose an objection shall commence upon the Attorney General's receipt of a response from the submitting authority that provides the information requested or states that the information is unavailable. The Attorney General can request further information in writing within the new 60-day period, but such a further request shall not suspend the running of the 60-day period, nor shall the Attorney General's receipt of such further information begin a new 60-day period.

(4) Where the response from the submitting authority neither provides the information requested nor states that such information is unavailable, the response shall not commence a new 60-day period. It is the practice of the Attorney General to notify the submitting authority that its response is incomplete and to provide such notification as soon as possible within the 60-day period that would have commenced had the response been complete. Where the response includes a portion of the available information that was requested, the Attorney General will reevaluate the submission to ascertain whether a determination on the merits may be made based upon the information provided. If a merits determination is appropriate, it is the practice of the Attorney General to make that determination within the new 60-day period that would have commenced had the response been complete. *See* § 51.40.

(5) If, after a request for further information is made pursuant to this section, the information requested by the Attorney General becomes available to the Attorney General from a source other than the submitting authority, the Attorney General shall promptly notify the submitting authority in writing, and the new 60-day period will commence the day after the information is received by the Attorney General.

(6) Notice of the written request for further information and the receipt of a response by the Attorney General will be given to interested parties registered under § 51.32.

(b) *Oral requests for information.* (1) If a submission does not satisfy the requirements of § 51.27, the Attorney General may request orally any omitted information necessary for the evaluation of the submission. An oral request may be made at any time within the 60-day period, and the submitting authority should provide the requested information as promptly as possible. The oral request for information shall not suspend the running of the 60-day period, and the Attorney General will proceed to make a determination within the initial 60-day period. The Attorney General reserves the right as set forth in § 51.39, however, to commence a new 60-day period in which to make the requisite determination if the written information provided in response to such request materially supplements the submission.

(2) An oral request for information shall not limit the authority of the Attorney General to make a written request for information.

(3) The Attorney General will notify the submitting authority in writing when the 60-day period for a submission is recalculated from the Attorney General's receipt of written information provided in response to an oral request as described in § 51.37(b)(1), above.

(4) Notice of the Attorney General's receipt of written information pursuant to an oral request will be given to interested parties registered under § 51.32.

27. Revise § 51.39 to read as follows:

**§ 51.39 Supplemental information and related submissions.**

(a)(1) *Supplemental information.* When a submitting authority, at its own instance, provides information during the 60-day period that the Attorney General determines materially supplements a pending submission, the 60-day period for the pending submission will be recalculated from the Attorney General's receipt of the supplemental information.

(2) *Related submissions.* When the Attorney General receives related submissions during the 60-day period for a submission that cannot be independently considered, the 60-day period for the first submission shall be recalculated from the Attorney General's receipt of the last related submission.

(b) The Attorney General will notify the submitting authority in writing when the 60-day period for a submission is recalculated due to the Attorney General's receipt of supplemental information or a related submission.

(c) Notice of the Attorney General's receipt of supplemental information or a related submission will be given to interested parties registered under § 51.32.

28. Revise § 51.42 to read as follows:

**§ 51.42 Failure of the Attorney General to respond.**

It is the practice and intention of the Attorney General to respond in writing to each submission within the 60-day period. However, the failure of the Attorney General to make a written response within the 60-day period constitutes preclearance of the submitted change, provided that a 60-day review period had commenced after receipt by the Attorney General of a complete submission that is appropriate for a response on the merits. (*See* § 51.22, § 51.27, § 51.35.)

29. Revise § 51.43 to read as follows:

**§ 51.43 Reexamination of decision not to object.**

(a) After notification to the submitting authority of a decision not to interpose an objection to a submitted change affecting voting has been given, the Attorney General may reexamine the submission if, prior to the expiration of the 60-day period, information comes to the attention of the Attorney General that would otherwise require objection in accordance with section 5.

(b) In such circumstances, the Attorney General may by letter withdraw his decision not to interpose an objection and may by letter interpose an objection provisionally, in accordance with § 51.44, and advise the submitting authority that examination of the change in light of the newly raised issues will continue and that a final decision will be rendered as soon as possible.

30. In § 51.44, revise paragraph (c) to read as follows:

**§ 51.44 Notification of decision to object.**

* * * * *

(c) The submitting authority shall be advised further that notwithstanding the objection it may institute an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change objected to by the Attorney General neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

* * * * *

31. In § 51.46, revise paragraph (a) to read as follows:

**§ 51.46 Reconsideration of objection at the instance of the Attorney General.**

(a) Where there appears to have been a substantial change in operative fact or relevant law, or where it appears there may have been a misinterpretation of fact or mistake in the law, an objection may be reconsidered, if it is deemed appropriate, at the instance of the Attorney General.

* * * * *

32. In § 51.48, revise paragraphs (a) through (d) to read as follows:

**§ 51.48 Decision after reconsideration.**

(a) It is the practice of the Attorney General to notify the submitting authority of the decision to continue or withdraw an objection within a 60-day period following receipt of a reconsideration request or following notice given under § 51.46(b), except that this 60-day period shall be recommenced upon receipt of any documents or written information from the submitting authority that materially supplements the reconsideration review, irrespective of whether the submitting authority provides the documents or information at its own instance or pursuant to a request (written or oral) by the Attorney General. The 60-day reconsideration period may be extended to allow a 15-day decision period following a conference held pursuant to § 51.47. The 60-day reconsideration period shall be computed in the manner specified in § 51.9. Where the reconsideration is at the instance of the Attorney General, the first day of the period shall be the day after the notice required by § 51.46(b) is transmitted to the submitting authority. The reasons for the reconsideration decision shall be stated.

(b) The objection shall be withdrawn if the Attorney General is satisfied that the change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

(c) If the objection is not withdrawn, the submitting authority shall be advised that notwithstanding the objection it may institute an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change objected to by the Attorney General neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

(d) An objection remains in effect until either it is specifically withdrawn by the Attorney General or a declaratory judgment with respect to the change in question is entered by the U.S. District Court for the District of Columbia.

* * * * *

33. Revise § 51.50 to read as follows:

**§ 51.50 Records concerning submissions.**

(a) *Section 5 files.* The Attorney General shall maintain a section 5 file for each submission, containing the submission, related written materials, correspondence, memoranda, investigative reports, data provided on electronic media, notations concerning conferences with the submitting authority or any interested individual or group, and copies of letters from the Attorney General concerning the submission.

(b) *Objection letters.* The Attorney General shall maintain section 5 notification letters regarding decisions to interpose, continue, or withdraw an objection.

(c) *Computer file.* Records of all submissions and their dispositions by the Attorney General shall be electronically stored.

(d) *Copies.* The contents of the section 5 submission files in paper, microfiche, electronic, or other form shall be available for obtaining copies by the public, pursuant to written request directed to the Chief, Voting Section, Civil Rights Division, United States Department of Justice, Washington, DC. Such written request may be delivered to the addresses or telefacsimile number specified in § 51.24 or by electronic mail to *Voting.Section@usdoj.gov.* It is the

Attorney General's intent and practice to expedite, to the extent possible, requests pertaining to pending submissions. Those who desire copies of information that has been provided on electronic media will be provided a copy of that information in the same form as it was received. Materials that are exempt from inspection under the Freedom of Information Act, 5 U.S.C. 552(b), may be withheld at the discretion of the Attorney General. The identity of any individual or entity that provided information to the Attorney General regarding the administration of section 5 shall be available only as provided by § 51.29(d). Applicable fees, if any, for the copying of the contents of these files are contained in the Department of Justice regulations implementing the Freedom of Information Act, 28 CFR 16.10.

34. Revise § 51.52 to read as follows:

**§ 51.52 Basic standard.**

(a) *Surrogate for the court.* Section 5 provides for submission of a voting change to the Attorney General as an alternative to the seeking of a declaratory judgment from the U.S. District Court for the District of Columbia. Therefore, the Attorney General shall make the same determination that would be made by the court in an action for a declaratory judgment under section 5: Whether the submitted change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. The burden of proof is on a submitting authority when it submits a change to the Attorney General for preclearance, as it would be if the proposed change were the subject of a declaratory judgment action in the U.S. District Court for the District of Columbia. *South Carolina* v. *Katzenbach,* 383 U.S. 301, 328, 335 (1966).

(b) *No objection.* If the Attorney General determines that the submitted change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, no objection shall be interposed to the change.

(c) *Objection.* An objection shall be interposed to a submitted change if the Attorney General is unable to determine that the change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. This includes those situations where the evidence as to the purpose or effect of the change is conflicting and the Attorney General is unable to determine that the change is free of the prohibited discriminatory purpose and effect.

35. Revise § 51.54 to read as follows:

**§ 51.54 Discriminatory purpose and effect.**

(a) *Discriminatory purpose.* A change affecting voting is considered to have a discriminatory purpose under section 5 if it is enacted or sought to be administered with any purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority group. The term "purpose" in section 5 includes any discriminatory purpose. 42 U.S.C. 1973c. The Attorney General's evaluation of discriminatory purpose under section 5 is guided by the analysis in *Village of Arlington Heights* v. *Metropolitan Housing Development Corp.,* 429 U.S. 252 (1977).

(b) *Discriminatory effect.* A change affecting voting is considered to have a discriminatory effect under section 5 if it will lead to a retrogression in the position of members of a racial or language minority group (*i.e.,* will make members of such a group worse off than they had been before the change) with respect to their effective exercise of the electoral franchise. *Beer* v. *United States,* 425 U.S. 130, 140–42 (1976).

(c) *Benchmark.* (1) In determining whether a submitted change is retrogressive the Attorney General will normally compare the submitted change to the voting practice or procedure in force or effect at the time of the submission. If the existing practice or procedure upon submission was not in effect on the jurisdiction's applicable date for coverage (specified in the Appendix) and is not otherwise legally enforceable under section 5, it cannot serve as a benchmark, and, except as provided in subparagraph (c)(4) below, the comparison shall be with the last legally enforceable practice or procedure used by the jurisdiction.

(2) The Attorney General will make the comparison based on the conditions existing at the time of the submission.

(3) The implementation and use of an unprecleared voting change subject to section 5 review does not operate to make that unprecleared change a benchmark for any subsequent change submitted by the jurisdiction.

(4) Where at the time of submission of a change for section 5 review there exists no other lawful practice or procedure for use as a benchmark (*e.g.,* where a newly incorporated college district selects a method of election) the Attorney General's determination will necessarily center on whether the submitted change was designed or adopted for the purpose of discriminating against members of racial or language minority groups.

(d) *Protection of the ability to elect.* Any change affecting voting that has the purpose of or will have the effect of diminishing the ability of any citizens of the United States on account of race, color, or membership in a language minority group to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of section 5. 42 U.S.C. 1973c.

36. In § 51.55, revise paragraph (a) to read as follows:

**§ 51.55 Consistency with constitutional and statutory requirements.**

(a) *Consideration in general.* In making a determination under section 5, the Attorney General will consider whether the change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group in light of, and with particular attention being given to, the requirements of the 14th, 15th, and 24th Amendments to the Constitution, 42 U.S.C. 1971(a) and (b), sections 2, 4(a), 4(f)(2), 4(f)(4), 201, 203(c), and 208 of the Act, and other constitutional and statutory provisions designed to safeguard the right to vote from denial or abridgment on account of race, color, or membership in a language minority group.

* * * * *

37. Revise § 51.57 to read as follows:

**§ 51.57 Relevant factors.**

Among the factors the Attorney General will consider in making determinations with respect to the submitted changes affecting voting are the following:

(a) The extent to which a reasonable and legitimate justification for the change exists;

(b) The extent to which the jurisdiction followed objective guidelines and fair and conventional procedures in adopting the change;

(c) The extent to which the jurisdiction afforded members of racial and language minority groups an opportunity to participate in the decision to make the change;

(d) The extent to which the jurisdiction took the concerns of members of racial and language minority groups into account in making the change; and

(e) The factors set forth in *Arlington Heights* v. *Metropolitan Housing Development Corp.,* 429 U.S. 252 (1977), including whether the impact of the official action bears more heavily on one race than another, the historical background of the decision, the

legislative or administrative history, the specific sequence of events leading up to the submitted change, whether there are departures from the normal procedural sequence and whether there are substantive departures from the normal factors considered.

38. In § 51.58, revise paragraph (b) to read as follows:

**§ 51.58 Representation.**

* * * * *

(b) Background factors. In making determinations with respect to these changes involving voting practices and procedures, the Attorney General will consider as important background information the following factors:

(1) The extent to which minorities have been denied an equal opportunity to participate meaningfully in the political process in the jurisdiction.

(2) The extent to which voting in the jurisdiction is racially polarized and political activities are racially segregated.

(3) The extent to which the voter registration and election participation of minority voters have been adversely affected by present or past discrimination.

39. Revise § 51.59 to read as follows:

**§ 51.59 Redistricting plans.**

(a) *Relevant factors.* In determining whether a submitted redistricting plan has a prohibited purpose or effect the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(1) The extent to which malapportioned districts deny or abridge the right to vote of minority citizens;

(2) The extent to which minority voting strength is reduced by the proposed redistricting;

(3) The extent to which minority concentrations are fragmented among different districts;

(4) The extent to which minorities are over concentrated in one or more districts;

(5) The extent to which available alternative plans satisfying the jurisdiction's legitimate governmental interests were considered;

(6) The extent to which the plan departs from objective redistricting criteria set by the submitting jurisdiction, ignores other relevant factors such as compactness and contiguity, or displays a configuration that inexplicably disregards available natural or artificial boundaries; and

(7) The extent to which the plan is inconsistent with the jurisdiction's stated redistricting standards.

(b) *Discriminatory purpose.* A determination that a jurisdiction has failed to establish that the adoption was not motivated by a discriminatory purpose may not be based solely on a jurisdiction's failure to adopt the maximum possible number of majority-minority districts.

40. In § 51.61, revise paragraphs (a) and (b) to read as follows:

**§ 51.61 Annexations and deannexations.**

(a) *Coverage.* Annexations and deannexations, even of uninhabited land, are subject to section 5 preclearance to the extent that they alter or are calculated to alter the composition of a jurisdiction's electorate. *See, e.g., City of Pleasant Grove* v. *United States,* 479 U.S. 462 (1987). In analyzing annexations and deannexations under section 5, the Attorney General considers the purpose and effect of the annexations and deannexations only as they pertain to voting.

(b) *Section 5 review.* It is the practice of the Attorney General to review all of a jurisdiction's unprecleared annexations and deannexations together. *See City of Pleasant Grove* v. *United States,* C.A. No. 80–2589 (D.D.C. Oct. 7, 1981).

* * * * *

41. Revise the Appendix to Part 51 to read as follows:

## Appendix to Part 51—Jurisdictions Covered Under Section 4(b) of the Voting Rights Act, as Amended

The requirements of section 5 of the Voting Rights Act, as amended, apply in the following jurisdictions. The applicable date is the date that was used to determine coverage and the date after which changes affecting voting are subject to the preclearance requirement. Some jurisdictions, for example, Yuba County, California, are included more than once because they have been determined on more than one occasion to be covered under section 4(b).

| Jurisdiction | Applicable date | Federal Register citation | |
|---|---|---|---|
| | | Volume and page | Date |
| Alabama | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Alaska | Nov. 1, 1972 | 40 FR 49422 | Oct. 22, 1975. |
| Arizona | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| California: | | | |
| Kings County | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| Merced County | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| Monterey County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Yuba County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Yuba County | Nov. 1, 1972 | 41 FR 784 | Jan. 5, 1976. |
| Florida: | | | |
| Collier County | Nov. 1, 1972 | 41 FR 34329 | Aug. 13, 1976. |
| Hardee County | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| Hendry County | Nov. 1, 1972 | 41 FR 34329 | Aug. 13, 1976. |
| Hillsborough County | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| Monroe County | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| Georgia | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Louisiana | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Michigan: | | | |
| Allegan County: Clyde Township | Nov. 1, 1972 | 41 FR 34329 | Aug. 13, 1976. |
| Saginaw County: Buena Vista Township. | Nov. 1, 1972 | 41 FR 34329 | Aug. 13, 1976. |
| Mississippi | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| New Hampshire: | | | |
| Cheshire County: Rindge Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Coos County: | | | |
| Millsfield Township | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |

| Jurisdiction | Applicable date | Federal Register citation | |
|---|---|---|---|
| | | Volume and page | Date |
| Pinkhams Grant | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Stewartstown Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Stratford Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Grafton County: | | | |
| Benton Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Hillsborough County: | | | |
| Antrim Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Merrimack County: | | | |
| Boscawen Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Rockingham County: | | | |
| Newington Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| Sullivan County: | | | |
| Unity Town | Nov. 1, 1968 | 39 FR 16912 | May 10, 1974. |
| New York: | | | |
| Bronx County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Bronx County | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| Kings County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Kings County | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| New York County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| North Carolina: | | | |
| Anson County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Beaufort County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Bertie County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Bladen County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Camden County | Nov. 1, 1964 | 31 FR 3317 | Mar. 2, 1966. |
| Caswell County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Chowan County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Cleveland County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Craven County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Cumberland County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Edgecombe County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Franklin County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Gaston County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Gates County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Granville County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Greene County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Guilford County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Halifax County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Harnett County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Hertford County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Hoke County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Jackson County | Nov. 1, 1972 | 40 FR 49422 | Oct. 22, 1975. |
| Lee County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Lenoir County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Martin County | Nov. 1, 1964 | 31 FR 19 | Jan. 4, 1966. |
| Nash County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Northampton County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Onslow County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Pasquotank County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Perquimans County | Nov. 1, 1964 | 31 FR 3317 | Mar. 2, 1966. |
| Person County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Pitt County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Robeson County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Rockingham County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Scotland County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Union County | Nov. 1, 1964 | 31 FR 5081 | Mar. 29, 1966. |
| Vance County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Washington County | Nov. 1, 1964 | 31 FR 19 | Jan. 4, 1966. |
| Wayne County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| Wilson County | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| South Carolina | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |
| South Dakota: | | | |
| Shannon County | Nov. 1, 1972 | 41 FR 784 | Jan. 5, 1976. |
| Todd County | Nov. 1, 1972 | 41 FR 784 | Jan. 5, 1976. |
| Texas | Nov. 1, 1972 | 40 FR 43746 | Sept. 23, 1975. |
| Virginia | Nov. 1, 1964 | 30 FR 9897 | Aug. 7, 1965. |

The following political subdivisions in States subject to statewide coverage are also covered individually:

| Jurisdiction | Applicable date | FEDERAL REGISTER citation | |
|---|---|---|---|
| | | Volume and page | Date |
| Arizona: | | | |
| Apache County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Apache County | Nov. 1, 1972 | 40 FR 49422 | Oct. 22, 1975. |
| Cochise County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Coconino County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Coconino County | Nov. 1, 1972 | 40 FR 49422 | Oct. 22, 1975. |
| Mohave County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Navajo County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Navajo County | Nov. 1, 1972 | 40 FR 49422 | Oct. 22, 1975. |
| Pima County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Pinal County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Pinal County | Nov. 1, 1972 | 40 FR 49422 | Oct. 22, 1975 |
| Santa Cruz County | Nov. 1, 1968 | 36 FR 5809 | Mar. 27, 1971. |
| Yuma County | Nov. 1, 1964. | 31 FR 982 | Jan. 25, 1966. |

The Voting Section maintains a current list of those jurisdictions that have maintained successful declaratory judgments from the United States District Court for the District of Columbia pursuant to section 4 of the Act on its Web site at *http://www.justice.gov/crt/voting.*

Dated: May 27, 2010.

**Eric H. Holder, Jr.,**

*Attorney General.*

[FR Doc. 2010–13393 Filed 6–10–10; 8:45 am]

**BILLING CODE 4410–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900–AN49**

### Payment or Reimbursement for Emergency Treatment Furnished by Non-VA Providers in Non-VA Facilities to Certain Veterans With Service-Connected or Nonservice-Connected Disabilities

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is proposing to amend its regulations concerning emergency hospital care and medical services provided to eligible veterans for service-connected and nonservice-connected conditions at non-VA facilities as a result of the amendments made by section 402 of the Veterans' Mental Health and Other Care Improvements Act of 2008. These amendments would require VA payment for emergency treatment of eligible veterans at non-VA facilities and expand the circumstances under which payment for such treatment is authorized. In addition, these amendments would make nonsubstantive technical changes such as correcting grammatical errors and updating obsolete citations.

**DATES:** Comments must be received by VA on or before August 10, 2010.

**ADDRESSES:** Written comments may be submitted through *http://www.regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AN49–Payment or Reimbursement for Emergency Treatment Furnished by Non-VA Providers in Non-VA facilities to Certain Veterans with Service-connected or Nonservice-connected Disabilities." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Joseph Duran, Policy Specialist, VHA CBO Fee Program Office, VHA Chief Business Office, Department of Veterans Affairs, P.O. Box 469066, Denver, CO 80246. Telephone (303) 398–5191. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Sections 1725 and 1728 of title 38, United States Code, authorize the Secretary of Veterans Affairs to reimburse eligible veterans for costs related to non-VA emergency treatment furnished at non-VA facilities, or to pay providers directly for such costs. Specifically, section 1725 authorizes reimbursement for emergency treatment for eligible veterans with nonservice-connected conditions. In contrast, section 1728 authorizes reimbursement for emergency treatment for eligible veterans with service-connected conditions. These statutory provisions are implemented at 38 CFR 17.1000 through 17.1008 for nonservice-connected conditions, and at 38 CFR 17.120 and 17.121 for service-connected conditions. Sometimes a veteran will require continued, non-emergent treatment after the veteran's medical condition is stabilized. However, until recently VA was not authorized to reimburse or pay for treatment provided after "the veteran can be transferred safely to a [VA] facility or other Federal facility." 38 U.S.C. 1725(f)(1)(C) (2007). Thus, if no such facility could immediately accept the transfer, VA was unable to provide payment to the veteran or medical provider for services rendered beyond the point the veteran was determined to be stable.

On October 10, 2008, the Veterans' Mental Health and Other Care Improvements Act of 2008, Public Law 110–387, was enacted. Section 402 of Public Law 110–387 amended the definition of "emergency treatment" in section1725(f)(1), extending VA's payment authority until "such time as the veteran can be transferred safely to a [VA] facility or other Federal facility and such facility is capable of accepting such transfer," or until such transfer was accepted, so long as the non-VA facility "made and documented reasonable attempts to transfer the veteran to a [VA] facility or other Federal facility." Section 402(a)(1) amended section 1725(a)(1) by striking the term "may reimburse" and inserting "shall reimburse" in its place. This change would require VA to reimburse the covered costs for emergency care received at non-VA facilities for eligible veterans, rather than at the discretion of the Secretary.

Section 402(b) of Public Law 110–387 amended 38 U.S.C. 1728(a). First,