

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103 and 235

RIN 1651-AA73

[USCBP-2008-0097; CBP Dec. 11-15]

Establishment of Global Entry Program

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: Final rule.

SUMMARY: This final rule adopts, with some changes, a notice of proposed rulemaking published in the **Federal Register** on November 19, 2009, which proposed establishing an international trusted traveler program called Global Entry. This voluntary program allows U.S. Customs and Border Protection (CBP) to expedite clearance of pre-approved, low-risk air travelers arriving in the United States. This final rule establishes Global Entry as an ongoing voluntary regulatory program.

DATES: Effective Date: March 7, 2012.

FOR FURTHER INFORMATION CONTACT: Larry Panetta, CBP, Office of Field Operations, (202) 344-1253, or Daniel Tanciar, CBP, Office of Field Operations, (202) 344-2818.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background, Purpose and Summary of Final Rule
 - A. Expansion of the Global Entry Pilot Eligibility to Mexican Nationals
 - B. Use of Global Entry Kiosks by Participants of NEXUS and SENTRI
- II. Analysis of Comments
 - A. Program Performance and Entry Process
 - B. Marketing of Global Entry
 - C. Expansion of Global Entry
 - D. Costs
 - E. Program Integrity
 - F. Private Sector Involvement
 - G. Global Entry Equipment
 - H. Privacy
 - III. Conclusion

- A. Summary of Requirements Under the Final Rule
 - 1. Participating Airports
 - 2. Global Entry Participation for Citizens of the Netherlands
 - 3. U.S. Citizen Participation in Privium
 - 4. Global Entry Participation for Mexican Nationals
 - 5. U.S. Citizen Eligibility in Mexico Trusted Traveler Program
 - 6. Global Entry Privileges for NEXUS and SENTRI Trusted Traveler Programs
 - 7. Expansion of Global Entry to Qualified Individuals From Other Countries
- B. Changes From the NPRM
- IV. Statutory and Regulatory Requirements
 - A. Section 508 of the Rehabilitation Act of 1973
 - B. Executive Order 12866 and Executive Order 13563
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act of 1995
 - E. Executive Order 13132
 - F. Paperwork Reduction Act
 - G. Privacy
 - H. Signing Authority

I. Background, Purpose, and Summary of Final Rule

Pursuant to section 7208(k) of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), 118 Stat. 3638, as amended by section 565 of the Consolidated Appropriations Act, 2008, 121 Stat. 1844, codified at 8 U.S.C. 1365b, the Department of Homeland Security (DHS) published a notice of proposed rulemaking (NPRM) in the **Federal Register** on November 19, 2009, proposing to establish an international trusted traveler program called Global Entry. See 74 FR 59932. As described in the NPRM, the Global Entry program is modeled after the Global Entry pilot program, which has operated since June 6, 2008. For more information about the pilot and CBP's other trusted traveler programs, please refer to the Global Entry pilot notice published on April 11, 2008 (73 FR 19861) and the Global Entry NPRM published on November 19, 2009 (74 FR 59932). As explained in the NPRM, CBP published several **Federal Register** notices that established the pilot, expanded the Global Entry pilot to include additional airports, and expanded eligibility for participation to include certain citizens of the Netherlands who otherwise satisfy the requirements for participation in the pilot. See 73 FR 19861, 73 FR 30416, 73 FR 47204, 74 FR 18586, and 74 FR 39965. Additional details regarding the growth of the pilot and the proposed

Federal Register

Vol. 77, No. 24

Monday, February 6, 2012

rule also may be found on the Web sites www.globalentry.gov and www.cbp.gov.

This final rule adopts, with some changes, the NPRM published in the **Federal Register** on November 19, 2009, which proposed establishing Global Entry as an ongoing voluntary regulatory program. This final rule addresses all of the public comments received and provides Global Entry participants with all the relevant information. There were several minor changes made to the NPRM (see Section III B). The only significant change is that minors under the age limit of 14 are now permitted to apply to the Global Entry program. This change will allow more families to enjoy the benefits of the program and is in direct response to feedback from the public.

A. Expansion of the Global Entry Pilot Eligibility to Mexican Nationals

After publication of the Global Entry NPRM, CBP published an additional **Federal Register** notice on December 29, 2010, to expand eligibility for participation in the Global Entry pilot to include qualified Mexican nationals who have been vetted by both CBP and the Government of Mexico and satisfy the program's eligibility requirements. See 75 FR 82200. This expansion implements the Joint Declaration between DHS and the Secretariat of Governance of the United Mexican States, through the National Migration Institute. Since the publication of this **Federal Register** notice, CBP has been accepting applications from Mexican nationals who are interested in participating in the Global Entry pilot program. As of March 25, 2011, CBP has enrolled 396 Mexican nationals into the Global Entry pilot program. As explained in Section III A4, this rule announces that Mexican nationals who meet eligibility requirements can enroll in the Global Entry program. It further specifies that the rule serves notice that upon its implementation, Mexican nationals who are existing participants in the Global Entry pilot will be automatically enrolled in the ongoing Global Entry program.

B. Use of Global Entry Kiosks by Participants of NEXUS and SENTRI

In another **Federal Register** notice published on December 29, 2010 (75 FR 82204), CBP expanded the NEXUS and Secure Electronic Network for Travelers Rapid Inspection (SENTRI) trusted

traveler programs to allow participants of those programs use of the Global Entry kiosks. This rule does not change that. After implementation of this rule,

participants in NEXUS and SENTRI will still be allowed to use the Global Entry kiosks.

Below is a table outlining when various provisions of the rule were introduced into the program:

	Date	Action	Federal Register cite
Initial Pilot Program	April 11, 2008	Establish the International Registered Traveler pilot at three airports.	73 FR 19861.
	May 27, 2008	Change the name to Global Entry Pilot	73 FR 30416.
	August 13, 2008	Expand pilot to four additional airports	73 FR 47204.
	April 23, 2009	Expand pilot to certain citizens of the Netherlands	74 FR 18586.
	August 10, 2009	Expand pilot to thirteen additional airports	74 FR 39965.
	December 29, 2010	Expand pilot to included qualified Mexican nationals	75 FR 82200.
NPRM	November 19, 2009	Proposal to establish Global Entry as an ongoing program	74 FR 59932.
Final Rule	Establishment of Global Entry.	

II. Analysis of Comments

CBP solicited public comments to the Global Entry NPRM and the individual **Federal Register** notices pertaining to the pilot, including the most recent notices involving the expansion of eligibility to Mexican nationals and allowing SENTRI and NEXUS members to use the Global Entry kiosks. This final rule addresses all comments received in response to the NPRM and the individual **Federal Register** notices.

CBP received four comments in response to the **Federal Register** notice announcing the pilot, one comment in response to the **Federal Register** notice expanding eligibility to Mexican nationals, and ten comments in response to the NPRM. In total, CBP received 15 comments on the NPRM and three notices.

Of the fifteen total comments, ten are favorable, two are neither favorable nor unfavorable, and three were unfavorable. The favorable comments include both positive statements regarding the program and suggestions of various avenues in which CBP might expand Global Entry. For example, two of the favorable comments recommend that Global Entry include a role for the private sector. The two neutral comments include suggestions for expansion of the program but include neither positive nor negative statements regarding the program itself. Only three comments can be categorized as generally unfavorable, in that they focus primarily on possible problems that might arise.

The following section groups the comments, along with CBP's responses, by category.

A. Program Performance and Entry Process

Comment: Several commenters made general comments about how the Global Entry pilot expedites or will expedite the entry process for participating

travelers. One commenter stated that Global Entry is one of the most successful service initiatives taken by CBP in recent years and has the potential to significantly improve the entry process for returning citizens and legal residents, improve the productivity of CBP's gateway teams, and ease restrictions on the flow of international travel (through reciprocal arrangements with other countries) upon which our economy depends. Another commenter stated that Global Entry has the potential to facilitate and expedite the arrival of international travelers while enhancing security by allowing CBP to focus its inspection resources on passengers who have not been previously vetted. Another commenter, a frequent user of Global Entry, has found the pilot to be easy to use, reliable, and accessible, and a huge advantage in clearing customs upon re-entry into the United States, especially during times of peak volume.

Only one commenter criticized any aspect of the day-to-day operation of the program. In an otherwise favorable comment, the commenter asserted that its organization has received some feedback from Global Entry pilot enrollees regarding sporadic problems experienced involving confirmation of the individual's identity at Global Entry kiosks and that some CBP officers did not possess the requisite knowledge to assist with the problems.

Response: CBP agrees with and appreciates the favorable comments regarding the current benefits of the Global Entry pilot and the future benefits of the Global Entry program, which include the expedited processing of low-risk international travelers.

The Global Entry pilot is operating successfully. As of June 6, 2011, over 198,000 applications were filed and over 148,000 participants were enrolled. The automated kiosks are working smoothly with no current major

technical issues or problems. The kiosks have been used over 1,014,000 times. The increased volume of traffic to the kiosks by proven low-risk travelers allows CBP officers more time and resources to address higher risk security concerns. CBP is approving applications for participation more quickly than was initially expected. The average approval time for each application has been less than one week—better than the initial estimates of ten to fourteen days.

DHS has conducted an analysis of wait times for Global Entry pilot participants based on data for 1,575 flights with at least one Global Entry passenger onboard from November 19, 2008 to January 9, 2009. That analysis indicates that participation in Global Entry may reduce a passenger's wait time by up to seventy percent—or an estimated seven minutes on average. It further demonstrates that participation in Global Entry reduces the variability of wait times. Less than one percent of Global Entry passengers wait longer than twenty minutes while approximately ten percent of all U.S. citizens and U.S. Lawful Permanent Residents (LPR) wait longer than twenty minutes. The analysis shows that Global Entry participation varies by airports, airlines, and the region from which the flight originates.

Regarding the comment concerning sporadic operational problems at kiosks, CBP is continuously sending guidance to its field personnel regarding operational issues. CBP incorporates the comments, complaints, and inquiries regarding the program that it receives from the public into this guidance to improve operations. When a pilot participant is unable to successfully use the kiosk, CBP's backend Information Technology (IT) system automatically generates and sends an email to that participant. The email invites the participant to provide feedback and the details of his or her experience. CBP

reviews this input and, whenever possible, responds to the participant with information about why the difficulty has occurred. CBP then uses this information to make operational improvements.

Regarding the part of one comment about some CBP officers not having the requisite knowledge to provide assistance to Global Entry participants, CBP is committed to the ongoing training and education of its personnel. As the pilot has expanded, CBP officers have become increasingly familiar with the procedures for processing Global Entry participants, which has, based on informal feedback received by CBP, led to improved participant satisfaction.

B. Marketing of Global Entry

Comment: CBP received two comments suggesting that CBP should expand marketing and outreach for the program and include airports, airlines, and other entities in its outreach plans.

Response: CBP agrees that the marketing of Global Entry should be expanded, and CBP has begun that process. CBP has been engaged in public outreach to promote the Global Entry program and has started an extensive marketing campaign to increase Global Entry enrollment. CBP has enlisted the services of a marketing firm to assist in developing a marketing strategy. The firm has created a new Global Entry logo and tag line ("Trusted Traveler Network"). The marketing firm has also redesigned Global Entry brochures and is working with CBP to improve the layout of the program's Web site. CBP will increase public outreach efforts by placing advertisements in prominent and travel-related publications. The advertisements will outline the program's purpose, requirements, and benefits.

During the operation of the pilot, CBP has worked with airlines, airport operators, and other private sector companies and organizations to perform public outreach and will continue to do so. Promotion of Global Entry involves the use of various methods, such as advertisements, informational videos, and brochures, to increase awareness of the program and to encourage people to apply to join the program. One major airline published a Global Entry advertisement in its in-flight magazine. A major airport authority printed its own signs for Global Entry and strategically placed them throughout the airport. In addition, CBP has worked with the private sector by coordinating on-site enrollment events for various companies and trade shows.

C. Expansion of Global Entry

Comment: Many of the commenters would like CBP to expand Global Entry. Several commenters praise CBP's efforts thus far to expand Global Entry participation through arrangements with foreign countries. Two commenters would like CBP to expand the program to more airports. One commenter stated that CBP should expand the program to include "private aircraft used for recreation purposes" similar to the current I-68 program for recreational boaters. Another commenter would like CBP to expand the program to include domestic flights. One commenter sets forth many ideas as to how the Global Entry program might be expanded and integrated with other programs, including expansion of eligibility to Mexican nationals. That commenter also welcomed CBP's ongoing efforts to expand Global Entry participation to qualified individuals from foreign countries. One commenter would like CBP to expand the program to include travelers from the United Kingdom. Another commenter would like CBP to expand Global Entry to include children under 14 so that families can take advantage of the program. Finally, the one commenter that responded to the notice announcing the expansion to Mexican nationals states that the expansion would be "too risky" and that "the addition would increase the risk greater than the benefit" but does not explain what risks are being referenced or offer any basis for the statements.

Response: CBP agrees with the majority of the commenters that the Global Entry pilot should be expanded.

While the Global Entry program will initially be limited to the twenty airports that comprised the Global Entry pilot, CBP intends to expand the Global Entry program to additional airports. When CBP is ready to expand to additional airports and has selected the airport or airports for expansion, this information will be announced to the public by **Federal Register** notice and on the Web site, www.globalentry.gov. In addition, once the final rule is published, CBP intends to expand the Global Entry program by adding more kiosks at airports where the Global Entry pilot is currently operational (subject to the availability of funds). This will accommodate new Global Entry participants as enrollment increases.

CBP is also open to the suggestion of making Global Entry available to passengers and crew on private (recreational) aircraft who are Global Entry participants. In fact, CBP has

already installed a kiosk at one private aircraft terminal as part of the Global Entry pilot. A kiosk is currently operational at the General Aviation Facility (GAF) at the Ft. Lauderdale Hollywood International Airport. Pilot participants who are passengers or crew on private aircraft at Ft. Lauderdale Hollywood International Airport, and arrive at the GAF private aircraft terminal, can use the Global Entry kiosk operating at that terminal. CBP decided to make Global Entry available to private aircraft at the GAF at the Ft. Lauderdale Hollywood International Airport due to the large number of private aircraft, mostly recreational, that utilize that airport and terminal. The availability of the Global Entry program will continue at the Ft. Lauderdale Hollywood International Airport after the Global Entry pilot becomes an ongoing program under this final rule. As Global Entry progresses, CBP will determine whether it is feasible to expand the program to additional private aircraft locations. It should be noted that private aircraft must comply with all applicable reporting and inspection processes.

Regarding the comments asking CBP to expand Global Entry to persons from other countries, this final rule contains a provision to permit certain nonimmigrant aliens to participate in the program. Under the final rule, the government of a foreign country must enter into and operationalize a joint arrangement with CBP concerning the expedited entry of air travelers in order for travelers from that country to apply for and, if found eligible, participate in Global Entry. The final rule provides that CBP will announce such arrangements by publication in the **Federal Register**. Additionally, under these arrangements, active members of Global Entry may be eligible to apply for membership in the other foreign government's trusted traveler program. Where consistent with U.S. security requirements, CBP has worked, and will continue to work, with interested countries that operate comparable international trusted traveler programs, or have plans to operate such programs, to enter into arrangements for the purposes of expanding eligibility for Global Entry and making U.S. citizens eligible to join those countries' trusted traveler programs.

For example, under the Global Entry pilot, CBP has entered into an arrangement with the Netherlands to allow citizens of the Netherlands who participate in Privium, an expedited travel program operated by the Government of the Netherlands, to participate in the Global Entry pilot.

Several commenters specifically applauded the arrangement with the Netherlands. This arrangement will continue under the Global Entry program. As with all other participants in the Global Entry pilot, currently participating citizens from the Netherlands will be automatically enrolled in Global Entry when Global Entry becomes an ongoing program.

CBP has also allowed Canadian and Mexican members of SENTRI and NEXUS to use Global Entry kiosks at pilot Ports of Entry. CBP will continue to allow SENTRI and NEXUS members to use this service when Global Entry becomes an ongoing program.

Recently, CBP has further expanded eligibility for joining the Global Entry pilot to include qualified Mexican nationals who otherwise satisfy the requirements for participation in the pilot. Mexican nationals may only utilize the Global Entry kiosks upon successful completion of a thorough risk assessment by CBP and the Mexican Government. Currently participating Mexican nationals will be automatically enrolled in Global Entry when Global Entry becomes an ongoing program.

CBP does not agree with the commenter who indicated that the expansion of Global Entry pilot to Mexican nationals is too risky. As noted above, Mexican nationals may only use the Global Entry kiosks upon successful completion of a thorough risk assessment by CBP and the Mexican Government. Moreover, no applicant is accepted for participation in Global Entry if CBP determines that the individual presents a potential risk for terrorism, criminality (such as smuggling) or if CBP cannot otherwise sufficiently determine that the applicant meets all the program eligibility criteria. CBP vets participants in Global Entry on a recurring basis and can suspend or terminate membership if derogatory information arises about an enrollee that makes him or her no longer eligible. In addition, if circumstances indicate that a country cannot meet its vetting or other obligations under its arrangement with CBP, CBP can modify, suspend, or discontinue the joint arrangement if necessary based on the arrangement's particular terms.

CBP will announce any further expansions of the Global Entry program (including adding airports, extending eligibility to additional populations, or expanding reciprocal eligibility for U.S. citizens to foreign governments' trusted traveler programs), as well as any retractions (*i.e.*, cancellations of such arrangements) by publication of a notice in the **Federal Register**.

CBP does not agree, at this time, with the commenter who suggested that Global Entry should be expanded to include domestic flights. Global Entry is designed to allow expedited screening and processing of pre-approved, low-risk international air travelers into the United States. CBP, in coordination with the Transportation Security Administration (TSA) and other stakeholders, remains open to developing proposals to apply the trusted traveler concept to domestic commercial aviation security.

With regard to the age limit, CBP has reconsidered and agrees that it would be beneficial to expand Global Entry to allow children under the age of 14 to participate, as this would allow more families to enjoy the benefits of the program. Persons under the age of 18 who meet the general eligibility criteria and have the consent of a parent or legal guardian will be eligible to participate in Global Entry. As is the case for all applicants, CBP must be able to conduct the requisite vetting of the applicant, including collection of the required fingerprints needed to conduct the biometric based background checks and participate in an interview at an enrollment center.

D. Costs

Comment: One commenter would like CBP to minimize the costs to airports and airlines.

Response: The infrastructure and daily operation costs of the Global Entry program are the responsibility of CBP. These costs have been, and will continue to be, funded by user fees. There are no direct costs to the airlines or airports. In fact, airport authorities and airlines benefit from their customers enrolled in Global Entry receiving an enhanced travel experience. Airlines also benefit from the expedited processing of their crew members who enroll in the program.

E. Program Integrity

Comment: One commenter states that the Global Entry program may be vulnerable to forged documents, although no arguments are provided to support this comment.

Response: CBP disagrees with this comment. The Global Entry program includes many protections against forgery and fraud. Global Entry applications are submitted online and go directly to a central CBP vetting center. Then, if conditionally approved, the application moves forward to the enrollment center, where CBP addresses, among other things, any unresolved issues or potential derogatory information regarding the

applicant. During the enrollment center interview, all of the information provided by an applicant is verified. An applicant's travel documents are physically examined by CBP officers to validate authenticity and identity. CBP can also validate documents against the Department of State and U.S.

Citizenship and Immigration Services databases. The interconnectivity and automated nature of these processes result in operational efficiencies and a high-level of security surrounding personal information.

F. Private Sector Involvement

Comment: Two commenters suggested that CBP should ensure that there is adequate private sector involvement in the operation of Global Entry. They maintain that certain functions, such as enrollment, marketing, and customer service could be performed by the private sector.

Response: CBP considers many functions of Global Entry to be governmental due to privacy concerns and issues of national security. For example, as part of the enrollment process, CBP officers must review the citizenship or immigration status of Global Entry applicants to make sure that they are admissible under the complex admissibility requirements under the INA. Global Entry has successfully demonstrated the efficiencies of its current process in the pilot phase. The fact that applicants can deal directly with the government allows CBP to keep the Global Entry fee low.

As noted elsewhere in this document, CBP is currently working with, and will be increasing our collaboration with, several private entities in the marketing of Global Entry, including airlines, hotels, travel and tourism companies, national business travelers groups, major companies, airports, and marketing firms.

G. Global Entry Equipment

Comment: One commenter stated that "industry standards" should be utilized when operating a "self-service terminal environment" and attached to the comment a document said to describe these standards. The document attached to the comment pertained to Automated Teller Machines. This commenter states that CBP must be able to remotely support the terminals and to know when those terminals are available or are having component problems.

Response: CBP has operating procedures in place that are appropriate to the kiosks used in the Global Entry program. Under these procedures, when a kiosk (or terminal) encounters a

problem or is not operational, the IT system automatically notifies CBP personnel to troubleshoot the problem. These protocols allow CBP to make modifications to individual terminals without disrupting the entire network.

H. Privacy

One commenter addresses several privacy concerns that the commenter perceives to exist in the Global Entry Program and the Global Enrollment System (GES) that supports Global Entry and other CBP trusted traveler programs. We address these comments in turn:

Comment: The commenter states that the Global Entry Program contravenes the intent of the Privacy Act (5 U.S.C. 552a) through CBP's assertion of the exemptions found at sections (j)(2) and (k)(2) of the Privacy Act for information retained in the GES. (Section (j)(2) allows the head of any agency to exempt from certain sections of the Privacy Act any system of records that is maintained by an agency or component with a principal function of law enforcement; section (k)(2) allows an agency head, to a limited extent, to exempt from certain sections of the Privacy Act investigatory material compiled for law enforcement purposes.)

Response: CBP disagrees with this comment. Exempt information in GES is limited to information derived from law enforcement databases or investigative files. The exemption statement for the GES System of Records Notice clearly states that no exemption will be claimed for information obtained from an application or otherwise submitted by an applicant.

The exemptions found at (j)(2) and (k)(2) are asserted to protect information compiled from background checks performed to assist CBP in determining whether to approve a trusted traveler application. The purpose of a decision to approve an applicant for a trusted traveler program, including Global Entry, is to allow for expedited clearance (*i.e.*, to permit pre-approved, low risk travelers to obtain admission to the United States more quickly) in circumstances where the person seeking admission has volunteered and met the program's eligibility requirements. CBP, consistent with its border security and trade facilitation missions, performs a law enforcement background check prior to making a decision to approve or deny a trusted traveler application. These background checks include information obtained from law enforcement databases and investigative files and may contain information relating to criminal or civil violations. Consistent with the Privacy Act, CBP

asserts these exemptions on a case-by-case basis where access to a responsive record is sought.

Comment: The commenter states that the Global Entry applicant is afforded only limited Privacy Act protections as the exemptions for GES create the potential for CBP to "use the information with little accountability."

Response: CBP disagrees with this comment. Exempt information in GES is limited to information derived from law enforcement databases or investigative files. Each request for access to exempt information will be reviewed on a case-by-case basis. After conferring with the appropriate component or agency, CBP may waive applicable exemptions in circumstances where it would not interfere with or adversely affect the law enforcement purposes of the systems from which the information is either recompiled or contained. Information submitted by or on behalf of the applicant as part of her or his application may be sought pursuant to the Privacy Act or Freedom of Information Act.

Additionally, the applicant may seek redress through the several avenues provided in the Global Entry program including at the enrollment center where that individual's interview was conducted, the DHS Traveler Redress Inquiry Program (DHS TRIP), or the CBP Trusted Traveler Ombudsman to address concerns or agency actions to which they attribute CBP reliance upon information that they believe to be erroneous or to have an inappropriately derogatory affect upon CBP's decision concerning their participation in the program.

Comment: The commenter states that the Global Entry program creates a significant security risk as the applicant's personally identifiable information (PII), including biometric data and employment history, in GES may be disclosed to any government agency beyond the "routine use" provisions of the Privacy Act.

Response: CBP disagrees with this comment. CBP abides by the requirements of the Privacy Act in determining whether to share information derived from GES, pursuant to a routine use. CBP takes reasonable measures to ensure that information that is shared consistent with its authority is appropriately protected. Before any information is disclosed, CBP considers whether the disclosure and use of the data are consistent with the purpose for collection and are consistent with the terms of a statutory or published routine use.

Comment: The commenter states that CBP failed to publish a Privacy Impact Assessment (PIA) for Global Entry.

Response: CBP disagrees with this comment. Global Entry, as a trusted traveler program, is included and covered by the PIA for the GES published on April 20, 2006. While the GES PIA refers to Global Entry under its former name (USPASS/International Registered Traveler (IRT)), the particulars of the program, its collection of information, the system in which it maintains that information, and the uses to be made of the information, are described within that document.

Comment: The commenter states that the lessons learned from a previous Government agency-operated registered traveler program weigh against the establishment of the Global Entry program.

Response: CBP disagrees with this comment. The comment refers to a registered traveler concept that the Government originally tested but was later transferred to the private sector. In certain cases, the private entities that captured and maintained biographic and biometric data allegedly failed to secure PII in their own databases that were not connected to, and did not interact with, Government systems. In contrast, the Global Entry program has sufficient systems and safeguards in place to ensure the security and privacy of the individuals' records. CBP and its predecessor agencies, the Immigration and Naturalization Service and the United States Customs Service, have many years experience successfully operating and protecting PII for trusted traveler programs such as NEXUS, SENTRI, and FAST.

III. Conclusion

After consideration of the comments received, and based on the success of the Global Entry pilot, CBP has determined that Global Entry should be established as an ongoing program. The Global Entry program, like the Global Entry pilot, will facilitate the movement of pre-approved, low-risk air travelers arriving in the United States. The Global Entry program will provide an expedited inspection and examination process for pre-approved, low-risk air travelers by allowing them to proceed directly to automated Global Entry kiosks upon their arrival in the United States at Global Entry-equipped Ports of Entry. This ongoing Global Entry program, along with the other trusted traveler programs that CBP operates, is consistent with CBP's strategic goal of facilitating legitimate travel while securing the homeland.

Accordingly, this final rule adopts, with the changes described in Section III B, the ongoing Global Entry program as proposed in the NPRM. Current participants in the Global Entry pilot, including those citizens of the Netherlands and Mexican nationals who participate through joint arrangements with those countries, will be automatically enrolled in the Global Entry program for five years from the date of their initial enrollment in the pilot. Participation in Global Entry will remain voluntary and subject to the enrollee continuing to satisfy the program's entry requirements. The existing Global Entry pilot will continue to operate until the effective date of this final rule.

A. Summary of Requirements Under the Final Rule

1. Participating Airports

CBP anticipates that the Global Entry program eventually will be expanded to operate at most major international airport locations within the United States. The program, however, initially will be limited to the twenty airports that have participated in the Global Entry pilot. The airports chosen for Global Entry are those facilities which typically experience the largest numbers of travelers arriving from outside of the United States.

The Global Entry pilot currently operates at the following twenty airports: John F. Kennedy International Airport, Jamaica, New York (JFK); George Bush Intercontinental Airport, Houston, Texas (IAH); Washington Dulles International Airport, Sterling, Virginia (IAD); Los Angeles International Airport, Los Angeles, California (LAX); Hartsfield-Jackson Atlanta International Airport, Atlanta, Georgia (ATL); Chicago O'Hare International Airport, Chicago, Illinois (ORD); Miami International Airport, Miami, Florida (MIA); Newark Liberty International Airport, Newark, New Jersey (EWR); San Francisco International Airport, San Francisco, California (SFO); Orlando International Airport, Orlando, Florida (MCO); Detroit Metropolitan Wayne County Airport, Romulus, Michigan (DTW); Dallas Fort Worth International Airport, Dallas, Texas (DFW); Honolulu International Airport, Honolulu, Hawaii (HNL); Boston—Logan International Airport, Boston, Massachusetts (BOS); Las Vegas—McCarran International Airport, Las Vegas, Nevada (LAS); Sanford—Orlando International Airport, Sanford, Florida (SFB); Seattle—Tacoma International Airport—SEATAC, Seattle, Washington (SEA); Philadelphia

International Airport, Philadelphia, Pennsylvania (PHL); San Juan—Luis Munoz Marin International Airport, San Juan, Puerto Rico (SJU); and Ft. Lauderdale Hollywood International Airport, Fort Lauderdale, Florida (FLL). A Global Entry kiosk is also available at the private aircraft terminal, General Aviation Facility (GAF), at Fort Lauderdale Hollywood International Airport. This final rule serves notice that, upon the effective date of the Global Entry program, the program will continue to operate at these same 20 airports and at the private aircraft terminal, GAF, at Fort Lauderdale Hollywood International Airport.

CBP will announce expansions to new airports in a **Federal Register** notice and on the Web site www.globalentry.gov, just as CBP has announced them for the pilot. An updated list of all the airports at which Global Entry is operational will be available at www.globalentry.gov.

2. Global Entry Eligibility for Qualified Citizens of the Netherlands

The United States has entered into an arrangement with the Netherlands concerning Global Entry. Pursuant to this arrangement, qualified citizens of the Netherlands who participate in Privium, an expedited travel program in the Netherlands, may apply for participation in the Global Entry program. Applicants who are citizens of the Netherlands will be required to complete the Global Entry on-line application, pay the non-refundable \$100 applicant processing fee, and satisfy all the requirements of the Global Entry program. Based on the terms of the existing arrangement with the Government of the Netherlands, these citizens will be permitted to participate in Global Entry only upon successful completion of a thorough risk assessment by both CBP and the Government of the Netherlands.

CBP is currently accepting applications from eligible citizens of the Netherlands for the Global Entry pilot and will continue to accept such applications as Global Entry becomes an ongoing program. This final rule also serves notice that, upon its implementation, citizens of the Netherlands who are existing participants in the Global Entry pilot will be automatically enrolled in the Global Entry program. The time period of their enrollment will be five years beginning from the date of their enrollment in the pilot.

The Netherlands is also a participant in the Visa Waiver Program (VWP). The VWP enables citizens and nationals from participating countries to travel to

and enter the United States for business or pleasure purposes for up to 90 days without obtaining a visa. VWP travelers are required to obtain a travel authorization via the Electronic System for Travel Authorization (ESTA) prior to traveling to the United States under the VWP. ESTA is accessible online at <https://esta.cbp.dhs.gov>. The ESTA requirements will continue to be applicable to Global Entry applicants who are VWP travelers. Global Entry applicants from the Netherlands who wish to travel to the United States under the VWP must have an approved ESTA when applying for Global Entry. CBP will explore ways to integrate the ESTA process with the Global Entry application process.

3. U.S. Citizen Eligibility in Privium

Pursuant to the arrangement with the Government of the Netherlands, U.S. citizens who participate in Global Entry will have the option to also apply to join Privium. Privium is an automated border passage system in the Netherlands that provides expedited entry and exit at Amsterdam Airport Schiphol. It uses iris scans to provide quick and secure biometric confirmation of a traveler's identity. Enrollment includes an eligibility assessment by the Dutch border police. Upon a positive determination of eligibility, pictures of each iris are taken and stored on a personalized smart card. Upon entry and exit, Privium members place their Privium smart card into a reader and a passport validity check is performed with the Dutch authorities and valid membership is verified. The individual's iris information is then compared against the iris information stored on the card. This border passage process takes approximately twelve seconds.

Additional fees and information sharing beyond CBP's Global Entry requirements are needed for U.S. citizens who wish to participate in Privium through Global Entry. If approved, U.S. citizens would be able to take advantage of expedited travel into, and out of, the Netherlands at Amsterdam Airport Schiphol. More information about how to apply for Privium membership is available at www.globalentry.gov.

4. Global Entry Eligibility for Qualified Mexican Nationals

DHS, through CBP, has issued a Joint Declaration with the Secretariat of Governance of the United Mexican States, through the National Migration Institute, concerning Global Entry. Pursuant to this Joint Declaration, qualified Mexican nationals may apply

to join the Global Entry program. Mexican nationals will be required to complete the on-line application, pay the non-refundable \$100 per person applicant processing fee, and satisfy all the requirements of the Global Entry program. Based on the terms of the Joint Declaration, Mexican nationals will be permitted to use the Global Entry kiosks only upon successful completion of a thorough risk assessment by both CBP and the Mexican Government.

CBP is currently accepting applications from eligible Mexican nationals for the Global Entry pilot and will continue to accept such applications as Global Entry becomes an ongoing program. This final rule serves notice that upon its implementation, Mexican nationals who are existing participants in the Global Entry pilot will be automatically enrolled in the ongoing Global Entry program. The time period of their enrollment will be five years, beginning from the date of their enrollment in the pilot.

5. U.S. Citizen Eligibility in Mexico Trusted Traveler Program

DHS, through CBP, has issued a Joint Declaration with the Secretariat of Governance of the United Mexican States, through the National Migration Institute, concerning Global Entry. Pursuant to this Joint Declaration, U.S. citizens who participate in the Global Entry program will have the option to apply for participation in Mexico's trusted traveler program, once such a program is developed.

6. Global Entry Privileges for NEXUS and SENTRI Trusted Traveler Programs

Members in good standing of NEXUS and SENTRI are permitted to use Global Entry kiosks as part of their NEXUS or SENTRI membership. NEXUS is a program jointly administered by the United States and Canada that allows certain pre-approved, low-risk travelers expedited processing for travel between the United States and Canada. The SENTRI trusted traveler program allows certain pre-approved, low-risk travelers expedited entry at specified land border ports along the U.S.-Mexico border.

7. Expansion of Global Entry to Qualified Individuals From Other Countries

Expansion of the Global Entry Program achieved through arrangements with other countries will be announced by publication of a notice in the **Federal Register** and on the Web site www.globalentry.gov. If any arrangements with other countries under the pilot are announced in the **Federal Register** before this rule

becomes effective, those arrangements will continue after this rule becomes effective. CBP may modify, suspend, or discontinue arrangements made with other countries for participation in Global Entry without prior notice to the public, but will announce such actions, as soon as practicable, by publication of a notice in the **Federal Register** and on the Web site www.globalentry.gov.

B. Changes From the NPRM

Based on experiences with the Global Entry pilot and comments from the public, CBP has made the following minor changes from the proposed regulations in order to provide CBP with optimal flexibility in future operations of Global Entry and to allow for the integration of new technologies:

Proposed section 235.7a is designated in the final rule as section 235.12. Proposed section 235.7a (b) ("Definitions") is removed. We have determined that the definitions are unnecessary as the terms that were defined (nonimmigrant alien, U.S. citizen, U.S. lawful permanent resident, and U.S. national) are understood to have the same meaning that they have throughout Title 8 of the Code of Federal Regulations (8 CFR) and as defined and/or described by statute in 8 U.S.C. 1101. Should any of these definitions be changed by statute or regulation, conforming changes to the Global Entry regulations would not be required. The letter designations of the remaining sections are changed accordingly.

At new section 235.12(b)(1)(ii), regarding eligible individuals from countries that have entered into arrangements with CBP, we have deleted the word "reciprocal." Although individuals belonging to the Global Entry program and a similar program operated by a country with which CBP has entered such an arrangement will receive some "reciprocal" benefits from both countries, the memberships will not be completely reciprocal since each country must separately approve applicants. Therefore, an applicant could be accepted into one country's program but not that of the other country participating in the arrangement. The specific arrangements and the terms and conditions of arrangements will vary and will be announced in the **Federal Register**.

At new section 235.12(b)(1)(iii), regarding eligibility criteria, all references to the age limit of 14 are removed. This change will allow more families to enjoy the benefits of the program. Persons under the age of 18 who meet the general eligibility criteria and have the consent of a parent or legal

guardian will be eligible to participate in Global Entry.

At new sections 235.12(b)(1) and 235.12(f), regarding program eligibility criteria and the required travel documents for Global Entry participants, we have added the words "or other appropriate travel document as determined by CBP." These two sections designate the types of "machine-readable" documents that Global Entry participants will need for participation in Global Entry to enable the participant to use the kiosk. Due to rapidly changing technologies, it is possible that alternative documents would be appropriate for this purpose. This change will allow for such future development.

At new section 235.12(d) regarding program application, we are revising the language to allow for possible new technologies (changes in software). Specifically, we are removing references to the Global On-line Enrollment System (GOES) as the described method of applying for Global Entry. Although CBP currently uses GOES to process Global Entry applications, the removal of the specific reference to GOES would allow for future process or system changes.

At the new section 235.12(d)(3), we added a sentence to clarify that every applicant accepted into Global Entry is accepted for a period of 5 years provided participation is not suspended or terminated by CBP prior to the end of the 5-year period. In order to provide greater flexibility for the public in the renewal process, we have increased the time period in which the public may apply to renew participation from up to 90 days before expiration to up to one year before expiration. In addition, for consistency with other sections, we have changed "membership period" to "participation period".

At new section 235.12(e), regarding interview and enrollment, we have removed the language indicating that the applicant will schedule his or her interview through their GOES account and will be notified of his or her acceptance or denial also through the GOES account. This will provide CBP with flexibility in developing alternative or different procedures to accomplish these tasks in the future. Presently, applicants will schedule their interviews and receive notification of acceptance or denial through their GOES account. These procedures will continue until such time that CBP develops alternate methods to accomplish these tasks.

IV. Statutory and Regulatory Requirements

A. Section 508 of the Rehabilitation Act of 1973

Section 508 of the Rehabilitation Act of 1973 requires federal departments and agencies to ensure that the information and communication technology (ICT) that they procure, develop, maintain, or use is accessible to participants with disabilities. Participants in Global Entry will use an automated kiosk to expedite their admission to the United States. The Global Entry kiosks have been designed to meet all applicable Section 508, Subpart B Technical Standards: section 1194.25 standards for Self-Contained Closed Products. These specific Section 508 standards apply to self-contained, closed products, such as automated kiosks, and require that the access features of the kiosk be built into the system so users do not have to attach an assistive device. Additional specifications address mechanisms for private listening such as a headset or a standard headphone jack, touchscreens, auditory output, adjustable volume controls and requirements that the location of the kiosk controls is in accessible reach ranges. The Global Entry automated kiosks are Section 508-compliant.¹ Global Entry participants must provide fingerprint biometrics at the time of the personal interview and again at the kiosk at the airport. CBP has also made the kiosks and the Global Entry program accessible to participants with disabilities related to the collection of biometrics. If an applicant is missing a digit(s), the CBP officer will make the proper annotation in the system to allow such an individual to use the Global Entry kiosk.

B. Executive Order 12866 and Executive Order 13563

This rule is not an “economically significant” rulemaking action under Executive Order 12866, as supplemented by Executive Order 13563, because it will not result in the expenditure of more than \$100 million in any one year. This rule, however, is a significant regulatory action under Executive Order 12866; therefore, this rule has been reviewed by the Office of Management and Budget.

Global Entry is a voluntary program that speeds the CBP processing time for participating air travelers by more than 70%. Travelers who are otherwise

admissible to the United States will be able to enter or exit the country regardless of whether they participate in Global Entry. This evaluation explores the potential costs and benefits of this voluntary trusted traveler program.

CBP estimates that over a 5-year period Global Entry will process approximately 500,000 enrollees, equating to an annual average of 100,000 individuals. Note that this estimate is twice the number of individuals estimated in the NPRM. Since publication of the NPRM, CBP has embarked on a wide outreach campaign to inform the public about the program. The Global Entry program has thus been well advertised and well received by the traveling public, and enrollment numbers have increased far beyond original expectations. To account for this success, CBP now estimates an annual average of 100,000 individuals. CBP will charge a fee of \$100 per applicant and estimates that each application will require 40 minutes (0.67 hours) of the potential enrollee's time to search existing data resources, gather the data needed, and complete and review the application form. Additionally, an enrollee will experience an “opportunity cost of time” to travel to an enrollment center upon acceptance of the initial application. We assume that 1 hour will be required for this time spent at the enrollment center and travel to and from the Center, though we note that during the pilot, many applicants have coordinated their trip to an enrollment center with their travel at the airport. We have used 1 hour of travel time so as not to underestimate potential opportunity costs for enrolling in the program. We use a value of \$44.30 for the opportunity cost for this time, which is taken from the Department of Transportation's *Revised Departmental Guidance on Valuation of Travel Time in Economic Analysis* (September 28, 2011. See Table 4. Available at http://www.faa.gov/regulations_policies/policy_guidance/benefit_cost, accessed November 1, 2011). This value is the weighted average for U.S. business and leisure travelers.

Using these values, we estimate that the cost per enrollee is \$173.98 (\$44.30 per hour × 1.67 hours + \$100 enrollment fee). If there are 100,000 enrollees annually, this cost will be \$17.4 million per year. Over 5 years, the total costs to enrollees will be approximately \$76 million at a 7 percent discount rate (\$82 million at a 3 percent discount rate).

As noted previously, Global Entry will allow for expedited processing for those travelers enrolled in the program. Based on an analysis from a year-long

study (June 2008 to June 2009), DHS estimates enrollees could save more than 70% in processing time with an average savings of 7.6 minutes per trip (standard deviation of 3.8 minutes). In addition, more than 50 percent of Global Entry passengers were admitted into the United States in one minute or less and 82 percent were admitted into the United States in less than five minutes; (see U.S. Department of Homeland Security Customs and Border Protection and U.S. Department of Homeland Security, Office of Policy. March 2010. “Global Entry Twelve Month Pilot Review: From June 6, 2008 to June 6, 2009.” Page 4. This document is available for review in the public docket for this rulemaking). Monetizing time savings is difficult; entry processing times vary widely among airports and times of day (note the large standard deviation above), and the number of trips that Global Entry will be used for any given individual is unknown. During some peak periods at some international airports, entry processing times can be an hour or more. Avoiding such lines by using Global Entry kiosks and avoiding all other entry processing would likely represent a clear savings in time for a typical participant.

Because participation in the Global Entry program is voluntary, the perceived benefits of reduced wait time would have to equal or exceed the cost of the program over 5 years. Potential enrollees will determine whether or not it is worthwhile to enroll in the program based on their individual preferences, which will be influenced by the number of trips they make and the typical wait times they experience when entering the United States. The most likely participants in the program are those that plan to make multiple trips over 5 years from participating airports, typically experience long waits at the airports they use, or are averse to the perceived annoyance or inconvenience of standing in line for entry processing. Using the estimates presented above, if the annualized cost of the program is \$42 (total cost of \$173.98 amortized over 5 years at a 7 percent discount rate) and if the time saved per trip were 7.6 minutes (monetized savings of \$5.61 per trip), then an average enrollee would need to make about eight trips annually through participating airports to consider enrollment in the Global Entry program worth the cost and estimated burden.

In addition to travelers who enroll in the program, those travelers not enrolled in Global Entry could experience a small time-savings as well. If Global Entry enrollees are not standing in the regular entry processing lines, non-

¹ Department of Homeland Security, Office of Accessible Systems and Technology conducted two reviews, in 2007 and 2008, demonstrating such compliance. The automated kiosks have not changed since that time.

enrollees could experience reduced wait times.

Faster processing of all travelers leads to fewer missed connections and more satisfied customers. Because of the benefits the program provides, many airports and airlines have expressed to CBP their strong support of Global Entry. Likewise, trade associations have expressed their support of the program, saying that it enhances security while easing the flow of international commerce. Because of the benefits, airlines, airports, and trade associations have voluntarily promoted Global Entry to their customers through email, pamphlets, and web advertisements.

Finally, the costs for CBP to administer this program are not included here because they will be recovered through the \$100 enrollment fee. CBP could experience benefits by speeding passenger processing and avoiding time needed to process proven low-risk travelers. The time saved would allow CBP to focus more attention on higher-risk travelers, which would improve security.

C. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 604), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

CBP has considered the impact of this rule on small entities. Global Entry is voluntary and the fee to enroll in Global Entry is one hundred dollars plus the opportunity cost of the individual applying. CBP believes such an expense would not rise to the level of being a “significant economic impact,” particularly as the expense need not be incurred unless the enrollee chooses to incur it. CBP did not receive any comments during the public comment period regarding impacts to small entities. Thus, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. 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 million 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.

E. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Paperwork Reduction Act

Information is being collected from voluntary applicants in order to assess whether the individuals meet the eligibility requirements and are otherwise deemed to be low-risk travelers and therefore may appropriately participate in the voluntary Global Entry program. This information will be collected through GOES. This collection of information is required and authorized by 8 U.S.C. 1365b and 8 CFR part 235 for use in international trusted traveler programs. Additionally, the information being collected is necessary to satisfy the requirements regarding examination of aliens applying for admission to the United States pursuant to 8 U.S.C. 1225(a)(3), 8 U.S.C. 1225(b) and 8 U.S.C. 1182(a)(7), and U.S. Citizens entering the United States pursuant to 8 U.S.C. 1185(b).

An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. CBP has submitted a revision to OMB clearance 1651-0121 to reflect the addition of the Global Entry Program in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

The burden estimates for collecting and entering information for the GOES on-line application for Global Entry, interview time, and travel time are presented below:

Estimated Number of Respondents: 100,000.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 100,000.

Estimated Time per Response: 1 hour and 40 minutes (1.67 hours).

Estimate Total Annual Burden Hours: 167,000.

The estimated total fee cost to respondents resulting from the \$100 enrollment fee for Global Entry is \$10 million.

G. Privacy

The on-line application for Global Entry, currently known as GOES, collects information similar to that collected on applications for CBP's other trusted traveler programs (*i.e.*, NEXUS, SENTRI and FAST). The information collected through the on-line application is deposited into the Global Enrollment System (GES), as the system of record for CBP trusted traveler programs. The personal information provided by the applicants, including the fingerprint biometrics taken at the time of the personal interview, may be shared with other government and law enforcement agencies in accordance with applicable laws and regulations. The personal information that is collected through GOES is maintained in a Privacy Act system of records (GES) for which the required notice was last published in the **Federal Register** (71 FR 20708) on April 21, 2006.

Additionally, CBP published a PIA for GES on April 20, 2006 that covers this program on the DHS Privacy Office Web site, www.dhs.gov/privacy. In addition, a PIA update addressing the on-line functionality of the enrollment process (GOES) was posted to the DHS Privacy Office Web site on November 1, 2006. Applicant biometrics (fingerprints, photographs) are stored in the DHS Automated Biometric Identification System (IDENT). The IDENT Privacy Act System of Records notice was last published on June 5, 2007.

H. Signing Authority

The signing authority for this document falls under 8 U.S.C. 1365b(k) pertaining to the authority of the Secretary of Homeland Security to develop and implement a trusted traveler program to expedite the travel of previously screened and known travelers across the borders of the United States.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Amendments to Regulations

For the reasons set forth in this document, 8 CFR parts 103 and 235 are amended as follows:

PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS

- 1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b; 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p.166; 8 CFR part 2.

- 2. In § 103.7, paragraph (b)(1)(ii)(M) is added to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(M) Global Entry. For filing an application for Global Entry—\$100.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

- 3. The authority citation for part 235 is revised to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2004 Comp., p.278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731–32; Title VII of Pub. L. 110–229; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458).

- 4. A new § 235.12 is added to read as follows:

§ 235.12 Global Entry program.

(a) *Program description.* The Global Entry program is a voluntary international trusted traveler program consisting of an integrated passenger processing system that expedites the movement of low-risk air travelers into the United States by providing an alternate inspection process for pre-approved, pre-screened travelers. In order to participate, a person must meet the eligibility requirements specified in this section, apply in advance, undergo pre-screening by CBP, and be accepted into the program. The Global Entry program allows participants expedited entry into the United States at selected airports identified by CBP at www.globalentry.gov. Participants will be processed through the use of CBP-approved technology that will include the use of biometrics to validate identity and to perform enforcement queries.

(b) *Program eligibility criteria.*

(1) *Eligible individuals.* The following individuals, who hold a valid, machine-

readable passport, a valid, machine-readable U.S. Lawful Permanent Resident Card (Form I-551), or other appropriate travel document as determined by CBP, may apply to participate in Global Entry:

(i) U.S. citizens, U.S. nationals, and U.S. lawful permanent residents absent any of the disqualifying factors described in paragraph (b)(2) of this section.

(ii) Certain nonimmigrant aliens from countries that have entered into arrangements with CBP concerning international trusted traveler programs absent any of the disqualifying factors described in paragraph (b)(2) of this section, and subject to the conditions set forth in the particular arrangement.

Individuals from a country that has entered into such an arrangement with CBP may be eligible to apply for participation in Global Entry only after CBP announces the arrangement by publication of a notice in the **Federal Register**. The notice will include the country, the scope of eligibility of nonimmigrant aliens from that country (*e.g.*, whether only citizens of the foreign country or citizens and non-citizens are eligible) and other conditions that may apply based on the terms of the arrangement. CBP may change or terminate these arrangements without prior notice to the public, but will announce such actions as soon as practicable on www.globalentry.gov and by publication of a notice in the **Federal Register**.

(iii) Persons under the age of 18 who meet the eligibility criteria of paragraph (b)(1)(i) or (ii) of this section must have the consent of a parent or legal guardian to participate in Global Entry and provide proof of such consent in accordance with CBP instructions.

(2) *Disqualifying factors.* An individual is ineligible to participate in Global Entry if CBP, at its sole discretion, determines that the individual presents a potential risk for terrorism, criminality (such as smuggling), or is otherwise not a low-risk traveler. This risk determination will be based in part upon an applicant's ability to demonstrate past compliance with laws, regulations, and policies. Reasons why an applicant may not qualify for participation include:

(i) The applicant provides false or incomplete information on the application;

(ii) The applicant has been arrested for, or convicted of, any criminal offense or has pending criminal charges or outstanding warrants in any country;

(iii) The applicant has been found in violation of any customs, immigration,

or agriculture regulations, procedures, or laws in any country;

(iv) The applicant is the subject of an investigation by any federal, state, or local law enforcement agency in any country;

(v) The applicant is inadmissible to the United States under applicable immigration laws or has, at any time, been granted a waiver of inadmissibility or parole;

(vi) The applicant is known or suspected of being or having been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism; or

(vii) The applicant cannot satisfy CBP of his or her low-risk status or meet other program requirements.

(c) *Participating airports.* The Global Entry program allows participants expedited entry into the United States at the locations identified at www.globalentry.gov. Expansions of the Global Entry program to new airports will be announced by publication in the **Federal Register** and at www.globalentry.gov.

(d) *Program application.*

(1) Each applicant must complete and submit the program application electronically through an approved application process as determined by CBP. The application and application instructions for the Global Entry program are available at www.globalentry.gov.

(2) Each applicant must pay a non-refundable fee in the amount set forth at 8 CFR 103.7(b)(1)(ii)(M) for “Global Entry” at the time of application. The fee is to be paid to CBP at the time of application through the Federal Government’s on-line payment system, Pay.gov or other CBP-approved process.

(3) Every applicant accepted into Global Entry is accepted for a period of 5 years provided participation is not suspended or terminated by CBP prior to the end of the 5-year period. Each applicant may apply to renew participation up to one year prior to the close of the participation period.

(4) Each applicant may check the status of his or her application through his or her account with the application system in use for Global Entry.

(e) *Interview and enrollment.*

(1) After submitting the application, the applicant will be notified by CBP to schedule an in-person interview at a Global Entry enrollment center.

(2) Each applicant must bring to the interview with CBP the original of the identification document specified in his or her application. During the interview, CBP will collect biometric information from the applicant (*e.g.*, a set of ten fingerprints and/or digital photograph)

to conduct background checks or as otherwise required for participation in the program.

(3) CBP may provide for alternative enrollment procedures, as necessary, to facilitate enrollment and ensure an applicant's eligibility for the program.

(f) *Valid machine-readable passport or valid lawful permanent resident card.* Each participant must possess a valid, machine-readable passport, a valid, machine-readable U.S. Lawful Permanent Resident Card (Form I-551), or other appropriate travel document as determined by CBP.

(g) *Arrival procedures.* In order to utilize the Global Entry program upon arrival in the United States, each participant must:

(1) Use the Global Entry kiosk and follow the on-screen instructions;

(2) Declare all articles being brought into the United States pursuant to 19 CFR 148.11. A Global Entry participant will be redirected to the nearest open passport control primary inspection station if the participant declares any of the following:

(i) Commercial merchandise or commercial samples, or items that exceed the applicable personal exemption amount;

(ii) More than \$10,000 in currency or other monetary instruments (checks, money orders, etc.), or foreign equivalent in any form; or

(iii) Restricted/prohibited goods, such as agricultural products, firearms, mace, pepper spray, endangered animals, birds, controlled substances, fireworks, Cuban goods, and plants.

(h) *Application for entry, examination and inspection.* Each successful use of Global Entry constitutes a separate and completed inspection and application for entry by the participant on the date that Global Entry is used. Pursuant to the enforcement provisions of 19 CFR Part 162, Global Entry participants may be subject to further CBP examination and inspection at any time during the arrival process.

(i) *Pilot participant enrollment.* Upon implementation of the Global Entry Program, participants in the Global Entry pilot will be automatically enrolled in the Global Entry Program for 5 years from the date of enrollment in the pilot.

(j) *Denial, removal and suspension.*

(1) If an applicant is denied participation in Global Entry, CBP will notify the applicant of the denial, and the reasons for the denial. CBP will also provide instructions regarding how to proceed if the applicant wishes to seek additional information as to the reason for the denial.

(2) A Global Entry participant may be suspended or removed from the program for any of the following reasons:

(i) CBP, at its sole discretion, determines that the participant has engaged in any disqualifying activities under the Global Entry program as outlined in § 235.12(b)(2);

(ii) CBP, at its sole discretion, determines that the participant provided false information in the application and/or during the application process;

(iii) CBP, at its sole discretion, determines that the participant failed to follow the terms, conditions and requirements of the program;

(iv) CBP, at its sole discretion, determines that the participant has been arrested or convicted of a crime or otherwise no longer meets the program eligibility criteria; or

(v) CBP, at its sole discretion, determines that such action is otherwise necessary.

(3) CBP will notify the participant of his or her suspension or removal in writing. Such suspension or removal is effective immediately.

(4) An applicant or participant denied, suspended, or removed does not receive a refund, in whole or in part, of his or her application processing fee.

(k) *Redress.* An individual whose application is denied or whose participation is suspended or terminated has three possible methods for redress. These processes do not create or confer any legal right, privilege or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(l) *Enrollment center.* The applicant/participant may contest his or her denial, suspension or removal by writing to the enrollment center where that individual's interview was conducted. The enrollment center addresses are available at www.globalentry.gov. The letter must be received by CBP within 30 calendar days of the date provided as the date of suspension or removal. The individual should write on the envelope "Redress Request RE: Global Entry." The letter should address any facts or conduct listed in the notification from CBP as contributing to the denial, suspension or removal and why the applicant/participant believes the reason for the action is invalid. If the applicant/participant believes that the denial, suspension or revocation was based upon inaccurate information, the individual should also include any reasonably available supporting documentation with the letter. After review, CBP will inform the individual

of its redress decision. If the individual's request for redress is successful, the individual's eligibility to participate in Global Entry will resume immediately.

(2) *DHS Traveler Redress Inquiry Program (DHS TRIP).* The applicant/participant may choose to initiate the redress process through DHS TRIP. An applicant/participant seeking redress may obtain the necessary forms and information to initiate the process on the DHS TRIP Web site at www.dhs.gov/trip, or by contacting DHS TRIP by mail at the address on this Web site.

(3) *Ombudsman.* Applicants (including applicants who were not scheduled for an interview at an enrollment center) and participants may contest a denial, suspension or removal by writing to the CBP Trusted Traveler Ombudsman at the address listed on the Web site www.globalentry.gov.

Dated: January 31, 2012.

Janet Napolitano,
Secretary.

[FR Doc. 2012-2470 Filed 2-3-12; 8:45 am]
BILLING CODE 9111-14-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA-2011-1406; Airspace
Docket No. 11-AWA-5

Amendment of Class C Airspace; Springfield, MO; Lincoln, NE; Grand Rapids, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action modifies the Springfield, MO; Lincoln, NE; and Grand Rapids, MI, Class C airspace areas by amending the legal descriptions to contain the current airport names and updated airport reference point (ARP) information. This action does not change the boundaries of the controlled airspace areas.

DATES: Effective Date: 0901 UTC, April 5, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence