

§ 370.43 What codes are used to report Tier I and Tier II inventory information?

(a) *Weight range codes.* Except as provided in paragraph (b) of this section, you must use the following codes to report the maximum amount and average daily amount when reporting Tier I or Tier II inventory information:

| Range codes | Weight range in pounds | |
|-------------|------------------------|-----------|
| | From | To |
| 01 | 0 | 99 |
| 02 | 100 | 499 |
| 03 | 500 | 999 |
| 04 | 1,000 | 4,999 |
| 05 | 5,000 | 9,999 |
| 06 | 10,000 | 24,999 |
| 07 | 25,000 | 49,999 |
| 08 | 50,000 | 74,999 |
| 09 | 75,000 | 99,999 |
| 10 | 100,000 | 499,999 |
| 11 | 500,000 | 999,999 |
| 12 | 1,000,000 | 9,999,999 |
| 13 | 10,000,000 | (*) |

* Greater than 10 million

Note to paragraph (a): To convert gas or liquid volume to weight in pounds, multiply by an appropriate density factor.

(b) Your SERC or LEPC may provide other range codes for reporting maximum amount and average daily amount, or may require reporting of specific amounts. You may use your SERC's or LEPC's range codes (or specific amounts) provided the ranges are not broader than the ranges in paragraph (a) of this section.

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DEPARTMENT OF JUSTICE

41 CFR Part 128-1

[Docket No. FBI 151]

RIN 1110-AA32

Federal Bureau of Investigation Anti-Piracy Warning Seal Program

AGENCY: Federal Bureau of Investigation (FBI), Justice.

ACTION: Final rule.

SUMMARY: In this document, the Federal Bureau of Investigation (FBI) finalizes its proposed regulation regarding the FBI Anti-Piracy Warning Seal (APW Seal). The final rule provides a general authorization allowing all copyright holders to use the APW Seal, subject to specific conditions of use.

DATES: This rule is effective on August 13, 2012.

FOR FURTHER INFORMATION CONTACT: John C. Allender, FBI Office of the General

Counsel, telephone number 202-324-8088.

SUPPLEMENTARY INFORMATION: In this document, the FBI finalizes a regulation proposed on September 7, 2011 (76 FR 55332), regarding the FBI APW Seal Program. In this regulation, the FBI extends access to the APW Seal to all United States copyright holders, subject to specific conditions of use.

A. Discussion

The FBI APW Seal is a modified image of the FBI's Official Seal with the words "FBI Anti-Piracy Warning" superimposed on it. The APW Seal was designed to graphically enhance the impact of language warning users of copyrighted media about the potential consequences of intellectual property crime, and the FBI's role in investigating such crime. It serves as a vivid and widely recognizable reminder of the FBI's authority and mission with respect to the protection of intellectual property rights.

Beginning in December 2003, the FBI implemented a pilot program in which the FBI entered into separate Memoranda of Understanding with each of five entertainment and software industry associations. Members of these associations were able to request approval to use the APW Seal from the association, and the association administered the process and record-keeping. Largely as a result of this program, the APW Seal and its anti-piracy message have reached a large segment of the public. Unfortunately, the pilot program also had the effect of excluding non-members of these five associations from being able to use the APW Seal on their works.

In order to enhance the availability, use, and effectiveness of the APW Seal on lawful, copyright-protected works, this rule establishes a regulation governing the use of the APW Seal. The image of the APW Seal will be made available on the FBI's Web site, and it may be downloaded for use on eligible works as specified in the text of the regulation below. There will be no fee associated with using the APW Seal. This regulation will be a significant improvement over the current program, which has tended to limit the use of the APW Seal and requires each user to enter into a written agreement governing the use. Once this regulation is effective, the FBI will work with the participating associations to terminate the pilot program.

B. Overview of Public Comments Received

All public comments were considered in preparing this final rule. Of the forty-

five comments received, most expressed general agreement with the proposed rule. Twenty-four comments specifically noted the benefits of expanding the use of the APW Seal beyond the five associations participating in the pilot program. Many of these spoke favorably about eliminating the financial and administrative obstacles to use of the APW Seal under the pilot program. Four comments noted the benefits of speed and ease of access offered by the proposed on-line process for obtaining the APW Seal.

The comments received from self-identified copyright holders expressed strong support for the proposed rule. For example, two comments from organizations in the spectator sports and independent film industries highlighted the direct negative impact that copyright piracy has on each industry. These comments noted that the "perishable nature" of live sporting events and the need to justify income projections in order to secure financing for independent films leaves these industries vulnerable to the financial consequences of piracy. These comments support the FBI's belief that increased availability of the APW Seal will assist copyright holders in educating users and protecting their works from piracy.

Six comments expressed opposition to the proposed rule, noting various concerns either with the effectiveness of the APW Seal program in deterring piracy generally, or with the new direction outlined in the proposed rule. These included assertions that the APW Seal and accompanying warning do not effectively deter piracy of intellectual property and are a waste of FBI resources; that the lack of positive control over who downloads the APW Seal could lead to increased misuse of the APW Seal and undermine the effectiveness of the anti-piracy message and the FBI's reputation; and that the APW Seal program and other United States Government efforts to combat copyright piracy are merely the product of pressure from the entertainment industry.

The FBI responds to these comments with three points. First, the FBI believes that the APW Seal and accompanying warnings convey important messages to the public and are a significant component of its efforts to deter and to investigate federal crimes involving the piracy of intellectual property. Allowing use by copyright holders who are not members of industry associations will enhance those efforts. Second, although broader access may make unauthorized use more likely, this concern is overshadowed by the value of

increasing public awareness of these prohibitions and the FBI's role in investigating related criminal activity. Finally, although the FBI works closely with industry groups to combat piracy, it was the volume of requests to use the APW Seal from outside the entertainment industry associations participating in the pilot program, and the costs of negotiating agreements with individual copyright holders, that in large part spurred the revisions to the program reflected by this regulation.

One comment asserted that the Anti-Counterfeiting Trade Agreement (ACTA) is unconstitutional, while expressing support for the proposed rule. The assertion regarding ACTA is not relevant to the present rulemaking, which is being promulgated pursuant to the Department's statutory and regulatory authority concerning use of the official insignia of the FBI and the United States Department of Justice.

C. Comments on Specific Sections of the Proposed Rule

Several comments sought clarification or suggested changes to the proposed rule. One comment suggested that the language in paragraph (e)(1) that the "APW Seal may only be used on works subject to protection as intellectual property," is a vague standard and may lead to confusion as to whether a work must be registered with the United States Copyright Office prior to the owner using the APW Seal. Two additional comments evidenced confusion as to whether the APW Seal is available for use on unregistered works, while another comment recommended that the APW Seal be limited to "officially copyrighted" works. The FBI assumes this comment referred to "registered" works. One additional comment suggested that the references to particular United States Code sections, such as are at paragraph (e)(1), are confusing and make it difficult to determine exactly who may use the APW Seal.

The FBI intends that the APW Seal be available for use on works protected under federal criminal statutes prohibiting piracy of copyrighted material. Registration is not necessary for such protection, as provided in Title 17, United States Code, Section 408(a). The FBI revised paragraph (e)(1) to clarify that the APW Seal is available for use only on copyrighted works, as opposed to other types of intellectual property.

One comment suggested that the phrase "other applicable law" should be clarified in paragraph (d)(2). As indicated in paragraph (c), use of the APW Seal, except as authorized by this

regulation, would likely violate Title 18, United States Code, Section 701, which provides criminal sanctions for unauthorized uses of approved agency insignia. Additionally, Title 18, United States Code, Section 709 prohibits certain unauthorized uses of the name and initials of the FBI that suggest FBI endorsement, approval, or authorization. This prohibition could well be implicated in an unauthorized use of the APW Seal. Because the FBI cannot predict all of the other possible circumstances of misuse and the statutes that they might implicate, the FBI believes the current wording of paragraph (d)(2) is appropriate.

One comment expressed confusion as to the purpose of paragraph (e)(4), which encourages use of copy protection and anti-circumvention techniques. Paragraph (e)(3) requires users to obtain the Seal from the FBI's public Web site so that the FBI has an opportunity to provide additional notice of the conditions of use, and other pertinent information, before the image is downloaded. Use of copy protection and anti-circumvention techniques is encouraged to help prevent unauthorized copying and use of the APW Seal by individuals who may not be aware of the limitations in this regulation.

One comment indicated confusion as to the intent and effect of paragraph (f)(2)'s prohibition on use of the APW Seal on works that cannot lawfully be distributed by United States mail. The comment suggested that this paragraph would allow the APW Seal to be used on, for example, child pornography distributed through FedEx, UPS, or other non-United States Postal Service carriers. The language used in paragraph (f)(2) was intended to prohibit use of the APW Seal on types of works, such as child pornography, that cannot lawfully be distributed in or affecting interstate commerce under federal law. The prohibition does not depend on whether the work is actually distributed, or the actual means of distribution. To more closely track the language used in the federal statutes governing such works, such as Title 18, United States Code, Section 2252A, the FBI has revised paragraph (f)(2) to read: "whose production, sale, public presentation, or distribution by mail or in or affecting interstate commerce would violate the laws of the United States."

One comment suggested that paragraph (f)(4)(B) of the proposed rule is confusing, and offered alternative language. The comment stated that, as written, paragraph (f)(4)(B) "falsely suggests that a lawful user of the [APW] Seal is not entitled to protection of the

law." The FBI disagrees. This paragraph prohibits use of the APW Seal in a manner suggesting that the FBI has made a determination as to the work's eligibility for copyright protection. The APW Seal does not indicate that the FBI has made such a determination regarding the work and to indicate otherwise would be misleading. The language is sufficiently clear.

One comment recommended changing "may" to "shall" throughout the proposed rule for clarity. To reduce any ambiguity, the FBI has reviewed the regulatory language and changed "may" to "shall" and "may not" to "shall not" as appropriate. In addition, the FBI has rewritten paragraph (d)(1) as "* * * subject to the terms and conditions set forth in this section" (emphasis added) to clarify that use of the APW Seal is governed by the terms and conditions in the entire section, 41 CFR 128-1.5009, rather than only what is contained in paragraph (d). Additionally, the reference to the United States Code in paragraph (e)(1) was reformatted for consistency with paragraphs (c) and (d)(2).

Two other comments questioned how the APW Seal would help detect violations of law, as stated in paragraph (a) of the proposed rule. The FBI believes that by increasing public awareness about criminal copyright violations and the FBI's investigative role, the APW Seal may not only help deter potential violators, but may increase the likelihood that individuals with information related to such violations will report that information so it can be investigated.

One comment recommended that the FBI keep the original authorized warning language used in the pilot program, which specified the applicable fines and potential prison sentences, in lieu of the authorized warning language in the proposed rule at paragraph (e)(2)(i). Although the FBI has not changed the authorized warning language from the proposed rule to the final rule, alternative authorized warning language specifying potential fines and prison sentences will be made available on the FBI's Web site pursuant to paragraph (e)(2). This will allow the FBI to more easily update the authorized warning language if the specific penalties are changed in the applicable statutes.

One comment expressed concern that statements in the Regulatory Certifications section of the proposed rule pertaining to the Unfunded Mandates Reform Act of 1995 (UMRA), the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), and Executive Order 12866,

section 3(f) asserting that the rule will have less than \$100 million in economic impact were unsubstantiated by any data provided. In response, the FBI notes that, as was discussed in the notice of proposed rulemaking and above in this final rule, since December 2003 the FBI has conducted an APW Seal pilot program with five entertainment and software industry associations. Nothing that has come to the FBI's attention in the over eight years of the APW Seal pilot program suggests that this rule would have an economic impact of anywhere close to \$100 million. Further, as also noted above, there will be no fee associated with using the APW Seal.

The comment also expressed concern that by designating this rule as not being a "significant" regulatory action the Department made a determination on a budgetary or economic issue in a manner that precluded evaluation by the Office of Management and Budget (OMB) under that Executive Order. The FBI responds that, pursuant to Executive Order 12866 section 6(a)(3)(A) and before publication it provided OMB with summaries both of the proposed and of the final rule on this subject. The summaries were reviewed by OMB and OMB concurred with the Department's assertion that this rule is not a "significant" regulatory action. It is the Department's experience that if OMB has any uncertainty regarding the correctness of an agency's assertion that a rulemaking is "non-significant," OMB will either request an informal full text copy of the rule or will designate the rule as "significant," thus initiating a formal review pursuant to Executive Order 12866. The phrasing of the Executive Order 12866/Executive Order 13563 certification in this rulemaking that "accordingly this rule has not been reviewed by the Office of Management and Budget" indicates that OMB has not conducted a formal review.

D. Comments Related to the FBI's APW Seal Program Generally

Thirteen comments expressed a general concern that greater accessibility will lead to, or at least facilitate, an increase in misuse of the APW Seal. These comments suggest that the proposed system of making the APW Seal available on the FBI's Web site will be more difficult to police than the pilot program. Ten comments expressed varying degrees of concern as to the possibility that widespread use of the APW Seal may "dilute" the value of the image and the FBI's message. While the FBI recognizes these potential effects of the new rule, they are outweighed by

the expected benefits of increasing the presence of the anti-piracy message across the board to include copyrighted works that may have been ineligible under the pilot program. Additionally, the APW Seal will remain protected by criminal statutes, to include Title 18, United States Code, Sections 701 and 709.

Two comments noted that despite the text of the regulation, the public may perceive the APW Seal as the FBI's endorsement of a particular work or product, and believe that the work is entitled to protection. Paragraph (f)(4)(ii) specifically provides that the APW Seal shall not be used in any manner "indicating that the FBI has determined that a particular work or portion thereof is entitled to protection of the law." The FBI does not review specific works to determine whether they are entitled to copyright protection. To further clarify this point, the FBI plans to include information on its public Web site (<http://www.fbi.gov>) to assist in educating individual users of the APW Seal, and the public at large.

Six comments recommended that the FBI establish a system to verify that users have a legitimate copyright interest in the work on which they seek to place the APW Seal. The FBI does not have the resources to establish such a system and does not consider such a system necessary to achieve the purposes of this regulation. Accordingly, the FBI declines to incorporate this recommendation into the final rule.

Three comments suggested that FBI and Interpol anti-piracy warnings should be "skippable" prior to movies or other material. Nothing in this regulation requires users of the APW Seal to prevent viewers from skipping past these warnings, nor is the industry prohibited from continuing the practice.

Two comments suggested that the FBI charge fees of some or all users of the APW Seal. Charging fees would deter use of the APW Seal. Another comment recommended making use of the APW Seal mandatory on copyright-protected works to assist in identification of counterfeits. The FBI does not have authority to mandate use of the APW Seal.

Two comments also suggested that rather than allow individual copyright owners to use the APW Seal, the FBI should continue to work through industry associations. One of these two comments also suggested that the APW Seal should indicate that the user is part of an association that works closely with the FBI to stop piracy. The APW Seal is not intended to indicate that the FBI

works more closely with one group than another.

Two comments pointed out potential problems with applying the APW Seal to certain media, such as photographs or Web sites. One of these comments suggested that copyright owners who choose not to use the APW Seal will be disadvantaged compared to owners of works that more readily lend themselves to application of the APW Seal. Two comments suggested that widespread use of the APW Seal, as will be allowed under this regulation, may lead to a public belief that any work not bearing the APW Seal is not protected by copyright law. Use of the APW Seal in no way affects the protection that a work is entitled to under the law. The FBI believes that the value of the APW Seal outweighs the risk of possible confusion, but intends to clarify this matter on its public Web site.

Five comments also expressed a concern that the broader accessibility of the APW Seal may have a "chilling effect" on fair use, as some copyright holders may attempt to use the APW Seal to discourage uses of their copyrighted work that would otherwise be permissible under the fair use doctrine. The FBI fully recognizes that fair use, which is authorized under Title 17, United States Code, Section 107, does not constitute infringement, much less a federal crime. The warning language does not suggest otherwise. The FBI intends to address this matter on its public Web site.

Four comments noted generally that the APW Seal is a "passive warning" and not a sufficiently effective means to deter intellectual property piracy. Another comment suggested the FBI's warning should be modified to prevent "ad burnout" by using a graphic to show the negative impact of the piracy problem. The APW Seal program is part of a much larger government-wide effort to combat intellectual property piracy. Due to the nature of the program and the crime itself, it is difficult to measure the effectiveness of the APW Seal program at preventing piracy. Based on feedback from the pilot program and the volume of requests to use the APW Seal, however, the FBI believes that continuing the APW Seal program as expanded in this regulation is a worthwhile effort.

Four comments offered suggestions in regard to making, allowing, or preventing modifications to the appearance of the APW Seal related to size and color, banning other text on the same page or screen as the APW Seal, or a requirement for a border or other division to separate the image from any user-provided content. Two of these

comments suggested the FBI adopt a requirement for a border or minimum space around the APW Seal in order to more clearly separate it from other information on the same page or screen. The FBI agrees that this requirement would assist in limiting confusion as to the FBI's message. Accordingly, the FBI has modified paragraph (e)(2) to require a border any time the APW Seal is used on anything other than a blank screen or page, such as on media packaging. The FBI would not consider enlargement or reduction in size of the image downloaded to be a prohibited alteration of the image under this regulation. The FBI declines to adopt the recommendations on this topic related to other alterations as such flexibility could detract from the impact of the APW Seal in evoking the FBI's involvement in enforcement of anti-piracy laws.

Two comments recommended that the FBI implement some form of click-through informational pages or a pop-up notifying the user attempting to download the APW Seal of the conditions of use, and the possible penalties for unauthorized use. Another comment recommended that the APW Seal be more accessible on the FBI's Web site than the current APW Seal informational page, requiring fewer clicks to reach. The FBI will take these recommendations into account in designing the APW Seal program pages and download procedure.

One comment suggested that the FBI disallow use of the "authorized warning language" alone, which may be found at paragraph (e)(2)(i) of the rule, now that the APW Seal itself is available to all copyright holders. The FBI recognizes that some copyright-protected works may not lend themselves well to application of the APW Seal, and so will continue to allow use of the warning language alone for those users who find it more suitable to their needs.

One comment expressed an opinion that inclusion of the APW Seal on a copyrighted work should not establish per se the willful intent element of criminal copyright infringement (Reference Title 17, United States Code, Section 506(a)(1)). The evidentiary value of the use of the APW Seal or other warning in a particular case is not a matter to be determined via regulation by the FBI.

Several comments made recommendations regarding the role of the APW Seal in the FBI's overall law enforcement efforts relating to piracy of intellectual property. One comment suggested that the FBI should consider a comprehensive "brand marketing strategy" for the APW Seal, including

guidance on how to use the APW Seal and how to report suspected piracy. Additionally, this comment suggested that the FBI work closely with industry associations and focus on enforcement. This comment, as well as one additional comment, suggested the FBI develop a system for reporting misuse of the APW Seal. Finally, one comment recommended that the FBI clarify that purchasing a counterfeit product is illegal and explain the ramifications of supporting the counterfeiting industry.

As noted previously, the APW Seal program is one aspect of a larger anti-piracy effort. The FBI, both independently and through its partnership with other federal agencies and the National Intellectual Property Rights Coordination Center ("IPR Center"), is currently working to increase public awareness of the issues related to copyright piracy and other intellectual property theft. The FBI works closely with industry associations to maximize the impact of enforcement efforts, and will continue to do so as long as it is beneficial to the FBI's mission with regard to intellectual property crime. More information about these efforts, the negative impacts of piracy and of supporting the counterfeiting industry, and how to report suspected piracy or IP theft is available on the FBI and IPR Center Web sites (<http://www.iprcenter.gov>).

Regulatory Certifications

Regulatory Flexibility Act

The Assistant Attorney General for Administration, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Subject to the terms and conditions set forth, this rule allows copyright holders to use the APW Seal on copyrighted works to help detect and deter criminal violations of United States intellectual property laws by educating the public about the existence of these laws and the authority of the FBI to enforce them.

Executive Orders 12866 and 13563—Regulatory Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review" section 1(b), Principles of Regulation and in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review" section 1(b), General 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), Regulatory Planning and Review, and accordingly this rule has not been reviewed by OMB.

Further, both Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has assessed the costs and benefits of this regulation and believes that the regulatory approach selected maximizes net benefits.

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

This final 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 Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act of 1995

This final 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 were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This final rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the United States economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. Subject to the terms and conditions set forth, this rule merely allows copyright holders to use the APW Seal on copyrighted works to help detect and deter criminal violations of United States intellectual property laws by educating the public about the existence of these laws and the authority of the FBI to enforce them.

List of Subjects in 41 CFR Part 128–1

Government property, Seals and insignia, Copyright, Intellectual property.

Accordingly, for the reasons set forth in the preamble, part 128–1 of chapter 128 of Title 41 of the Code of Federal Regulations is amended as follows:

PART 128–1—[AMENDED]

- 1. The authority citation for part 128–1 is revised to read as follows:

Authority: 5 U.S.C. 301, 40 U.S.C. 121(c), 41 CFR 101–1.108, and 28 CFR 0.75(j), unless otherwise noted.

- 2. Add § 128–1.5009 to read as follows:

§ 128–1.5009 Authorization for Use of the Federal Bureau of Investigation Anti-Piracy Warning Seal.

(a) *Purpose.* The Federal Bureau of Investigation (FBI) Anti-Piracy Warning Seal (“APW Seal”) is an official insignia of the FBI and the United States Department of Justice. The purpose of the APW Seal is to help detect and deter criminal violations of United States intellectual property laws by educating the public about the existence of these laws and the authority of the FBI to enforce them.

(b) The APW Seal is a modified image of the Official FBI Seal with the words “FBI ANTI-PIRACY WARNING” displayed horizontally across its center in an enclosed border, whether rendered in color, black and white, outline, or otherwise.

(c) The APW Seal has been approved by the Attorney General as an official insignia of the FBI within the meaning of Title 18, United States Code, Section 701, which provides criminal sanctions for unauthorized uses of such insignia.

(d)(1) The regulations in this section authorize use of the APW Seal by copyright holders on copyrighted works including, but not limited to films, audio recordings, electronic media, software, books, photographs, etc., subject to the terms and conditions set forth in this section.

(2) Use of the APW Seal or of the authorized warning language in a manner not authorized under this section may be punishable under Title 18, United States Code, Sections 701, 709, or other applicable law.

(e) *Conditions regarding use of the APW Seal.* (1) The APW Seal shall only be used on copyrighted works subject to protection under United States Criminal Code provisions such as those in Title 18, United States Code, Sections 2319, 2319A, and 2319B.

(2) The APW Seal shall only be used immediately adjacent to the authorized warning language. “Authorized warning language” refers to the language set forth in paragraph (e)(2)(i) of this section, or alternative language specifically authorized in writing for this purpose by the Director of the FBI or his or her designee and posted on the FBI’s official public Internet Web site (<http://www.fbi.gov>). Except as authorized pursuant to paragraph (f)(1), the APW Seal and authorized warning language shall be enclosed by a plain box border at all times that other text or images appear on the same screen or page.

(i) “The unauthorized reproduction or distribution of a copyrighted work is illegal. Criminal copyright infringement, including infringement without monetary gain, is investigated by the FBI and is punishable by fines and federal imprisonment.”

(ii) [Reserved]

(3) The APW Seal image must be obtained from the FBI’s official public Internet Web site (<http://www.fbi.gov>). The APW Seal image shall not be animated or altered except that it may be rendered in outline, black and white, or grayscale.

(4) In programming or reproducing the APW Seal in or on a work, users are encouraged to employ industry-recognized copyright anti-circumvention or copy protection techniques to discourage copying of the FBI APW Seal, except that such techniques need not be used if no other content or advertising programmed into the same work on the same media utilizes such copyright anti-circumvention or copy protection techniques.

(f) *Prohibitions regarding use of the APW Seal.* (1) The APW Seal shall not be used in a manner indicating FBI approval, authorization, or endorsement of any communication other than the authorized warning language. No other text or image that appears on the same screen, page, package, etc., as the APW Seal or authorized warning language shall reference, contradict, or be displayed in a manner that appears to be

associated with, the APW Seal or authorized warning language, except as authorized in writing by the Director of the FBI or his or her designee and posted on the FBI’s official public Internet Web site (<http://www.fbi.gov>).

(2) The APW Seal shall not be used on any work whose production, sale, public presentation, or distribution by mail or in or affecting interstate commerce would violate the laws of the United States including, but not limited to, those protecting intellectual property and those prohibiting child pornography and obscenity.

(3) The APW Seal shall not be forwarded or copied except as necessary to display it on an eligible work.

(4) The APW Seal shall not be used in any manner:

(i) Indicating that the FBI has approved, authorized, or endorsed any work, product, production, or private entity, including the work on which it appears;

(ii) Indicating that the FBI has determined that a particular work or portion thereof is entitled to protection of the law; or,

(iii) Indicating that any item or communication, except as provided herein, originated from, on behalf of, or in coordination with the FBI, whether for enforcement purposes, education, or otherwise.

Dated: June 28, 2012.

Lee J. Loftus,

Assistant Attorney General for Administration.

[FR Doc. 2012–16506 Filed 7–12–12; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8237]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the