

## Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

## List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of Information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

**John Berry,**

*Director*

■ Accordingly, the U.S. Office of Personnel Management amends 5 CFR part 532 as follows:

## PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

**Authority:** 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. Appendix C to subpart B is amended by revising the wage area listings for the Boise, ID, and Utah wage areas to read as follows:

## Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

\* \* \* \* \*

### IDAHO

#### Boise

#### *Survey Area*

Idaho:

Ada  
Boise  
Canyon  
Elmore  
Gem

*Area of Application. Survey Area Plus:*

Idaho:

Adams  
Bannock  
Bear Lake  
Bingham  
Blaine  
Bonneville  
Butte  
Camas  
Caribou  
Cassia  
Clark  
Custer  
Fremont  
Gooding  
Jefferson  
Jerome  
Lemhi  
Lincoln  
Madison  
Minidoka  
Oneida  
Owyhee  
Payette

Power  
Teton  
Twin Falls  
Valley  
Washington

\* \* \* \* \*

### UTAH

#### *Survey Area*

Utah:

Box Elder  
Davis  
Salt Lake  
Tooele  
Utah  
Weber

*Area of Application. Survey Area Plus*

Utah:

Beaver  
Cache  
Carbon  
Daggett  
Duchesne  
Emery  
Garfield  
Grand  
Iron  
Juab  
Millard  
Morgan  
Piute  
Rich  
San Juan (Only includes the Canyonlands National Park portion.)  
Sanpete  
Sevier  
Summit  
Uintah  
Wasatch  
Washington  
Wayne  
Colorado:  
Mesa  
Moffat  
Idaho:  
Franklin

\* \* \* \* \*

[FR Doc. E9-20094 Filed 8-20-09; 8:45 am]

**BILLING CODE 6325-39-P**

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1415

#### RIN 0578-AA53

### Grassland Reserve Program; Amendment

**AGENCY:** Commodity Credit Corporation (CCC), United States Department of Agriculture.

**ACTION:** Interim final rule; amendment with reopening of comment period.

**SUMMARY:** The United States Department of Agriculture (USDA), through the Commodity Credit Corporation (CCC), published in the **Federal Register** of January 21, 2009, an interim final rule

with request for comment amending the program regulations for the Grassland Reserve Program (GRP) to incorporate programmatic changes authorized by the Food, Conservation, and Energy Act of 2008 (2008 Act) using Regulation Identification Number (RIN) 0578-AA38. This amendment to the January 21, 2009, interim final rule corrects the RIN to read 0578-AA53, clarifies the nature of the contingent right of enforcement, expands its discussion regarding GRP policy for wind and solar power facilities, and requests comment on how GRP can be used to contribute to the Nation's efforts on energy, climate change, and carbon sequestration. Additionally, USDA seeks public input on the January 21, 2009, interim final rule, as amended. Therefore, USDA reopens the public comment period upon publication of this amendment until September 21, 2009.

**DATES:** *Effective Date:* The rule is effective August 21, 2009. *Comment date:* Submit comments on or before September 21, 2009. In addition, the comment period for the GRP interim final rule published on January 21, 2009 (74 FR 2317), is reopened. Comments must be received on or before September 21, 2009.

**ADDRESSES:** You may send comments (identified by Docket Number NRCS-IFR-09005) using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending comments electronically.
- *Mail:* John Glover, Acting Director, Easements Programs Division, Department of Agriculture, Natural Resources Conservation Service, Grasslands Reserve Program Comments, PO Box 2890, Washington, DC 20013.
- *E-mail:* [grp2008@wdc.usda.gov](mailto:grp2008@wdc.usda.gov).
- *Fax:* (202) 720-9689.
- *Hand Delivery:* USDA South Building, 1400 Independence Avenue, SW., Room 6819, Washington, DC 20250, between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. Please ask the guard at the entrance to the South Building to call (202) 720-4527 in order to be escorted into the building.

- This interim final rule may be accessed via Internet. Users can access the Natural Resources Conservation Service (NRCS) homepage at: <http://www.nrcs.usda.gov/>; select the Farm Bill link from the menu; select the Interim Final Rules link from beneath the Final and Interim Final Rules Index title. Persons with disabilities who require alternative means for communication (Braille, large print,

audio tape, *etc.*) should contact the USDA Target Center at: (202) 720-2600 (voice and TDD).

**FOR FURTHER INFORMATION CONTACT:** John Glover, Acting Director, Easement Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 6819 South Building, Washington, DC 20250; Phone: (202) 720-1854; Fax: (202) 720-9689; or e-mail: [grp2008@wdc.usda.gov](mailto:grp2008@wdc.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Regulatory Certifications**

*Executive Order 12866*

The Office of Management and Budget (OMB) reviewed the January 21, 2009, interim final rule and determined that it was a significant regulatory action. Pursuant to Executive Order 12866, USDA conducted a cost-benefit analysis of the potential impacts associated with the interim final rule for the GRP published in the **Federal Register** on January 21, 2009. OMB also determined that this amendment is a significant regulatory action. USDA evaluated the cost-benefit analysis and determined the provisions of the amendment do not alter the analysis that was originally prepared for the January 21, 2009, interim final rule. The administrative record is available for public inspection at the Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 5831 South Building, Washington, DC. A copy of the analysis is available upon request from John Glover, Acting Director, Easement Programs Division, Department of Agriculture, Natural Resources Conservation Service, Room 6819 South Building, Washington, DC 20250-2890 or electronically at: <http://www.nrcs.usda.gov/programs/GRP/> under the Program Information title.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act is not applicable to this interim final rule because USDA is not required by 5 U.S.C. 553, or by any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

*Environmental Analysis*

A programmatic Environmental Assessment (EA) has been prepared in association with the interim final rulemaking published on January 21, 2009. The provisions of this amendment do not alter the assessment that was originally prepared. With the exception for the analysis on how to address windmill and other renewable sources of energy, such as solar panel arrays,

there is nothing in this amendment that impacts the program's purpose, the baseline considerations, grassland eligibility, or acreage enrollment goals. This amendment was developed to address the contingent right of enforcement and where the energy produced from windmills authorized to be placed on easement lands can be used. Therefore, the analysis has determined that there will not be a significant impact to the human environment and, as a result, an Environmental Impact Statement (EIS) is not required to be prepared (40 CFR part 1508.13). The EA and Finding of No Significant Impact (FONSI) are available for review and comment as specified in the interim final rule published in the **Federal Register** on January 21, 2009. However, the comment period for accepting comments to the EA and FONSI has been extended to September 21, 2009. A copy of the EA and FONSI may be obtained from the following Web site: [http://www.nrcs.usda.gov/programs/Env\\_Assess](http://www.nrcs.usda.gov/programs/Env_Assess). A hard copy may also be requested from the following address and contact: Matt Harrington, National Environmental Coordinator, Ecological Sciences Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Ave., SW., Washington, DC 20250. Comments from the public should be specific and reference that comments provided are on the EA and FONSI. Public comments may be submitted by any of the following means: (1) E-mail comments to: [NEPA2008@wdc.usda.gov](mailto:NEPA2008@wdc.usda.gov), (2) e-mail to e-gov Web site: [www.regulations.gov](http://www.regulations.gov), or (3) written comments to: Matt Harrington, National Environmental Coordinator, Ecological Sciences Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Ave., SW., Washington, DC 20250.

*Civil Rights Impact Analysis*

USDA has determined through a Civil Rights Impact Analysis that the January 21, 2009, interim final rule disclosed no disproportionately adverse impacts for minorities, women, or persons with disabilities. The provisions of this amendment do not alter the analysis that was originally prepared. Copies of the Civil Rights Impact Analysis are available from John Glover, Acting Director, Easement Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Washington, DC 20250, or electronically at: <http://www.nrcs.usda.gov/programs/GRP>.

*Paperwork Reduction Act*

Section 2904 of the 2008 Act requires that the implementation of this provision be carried out without regard to the Paperwork Reduction Act, chapter 35 of Title 44, U.S.C. Therefore, USDA is not reporting recordkeeping or estimated paperwork burden associated with this amendment.

*Government Paperwork Elimination Act*

USDA is committed to compliance with the Government Paperwork Elimination Act and the Freedom to E-File Act, which require government agencies in general, and CCC in particular, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

*Executive Order 12988*

This amendment to the January 21, 2009, interim final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this amendment are not retroactive and preempt State and local laws to the extent that such laws are inconsistent with this interim final rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 11, 614, and 780 must be exhausted.

*Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994*

Pursuant to section 304 of the Federal Crop Insurance Reform Act of 1994 (Pub. L. 103-354), USDA classified this rule as non-major. Therefore, a risk analysis was not conducted.

*Unfunded Mandates Reform Act of 1995*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), USDA assessed the effects of this amendment to the January 21, 2009, interim final rule on State, local, and Tribal Governments and the public. This rule does not compel the expenditure of \$100 million or more by any State, local, or Tribal Governments or anyone in the private sector; therefore, a statement under Section 202 of the Unfunded Mandates Reform Act is not required.

*Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)*

The January 21, 2009, interim final rule was not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This amendment to the January 21, 2009, interim final rule will not result in an annual effect on the

economy of \$100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete in domestic and export markets. The provisions of this amendment to the January 21, 2009, interim final rule do not alter the original determination under SBREFA. However, Section 2904(c) of the 2008 Act requires that the Secretary use the authority in section 808(2) of Title 5, U.S.C., which allows an agency to forego SBREFA's usual Congressional review delay of the effective date of a regulation if the agency finds that there is a good cause to do so. USDA hereby determines that it has good cause to do so to meet the Congressional intent to have the conservation programs authorized or amended by Title II of the 2008 Act in effect as soon as possible. Accordingly, this rule is effective upon filing for public inspection by the Office of the Federal Register.

#### *Executive Order 13132*

E.O. 13132 requires USDA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." E.O. 13132 defines the term "policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government." Under E.O. 13132, USDA may not issue a regulation that has federalism implication, that imposes substantial direct compliance costs, and that is not required by statute unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or USDA consults with State and local officials early in the process of developing the proposed regulation. USDA shows sensitivity to federalism concerns by requiring the State Conservationists to meet with, and provide opportunities for involvement of State and local governments through the State Technical Committee. The interim final rule published on January 21, 2009, will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. The provisions of this amendment do not alter this

determination. Thus, the Executive Order does not apply to this rule.

#### *Executive Order 13175*

This amendment to the interim final rule of January 21, 2009, has been reviewed in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. USDA has assessed the impact of this interim final rule on Indian Tribal Governments and has concluded that this rule will not negatively affect communities of Indian Tribal Governments. The rule will neither impose substantial direct compliance costs on Indian Tribal Governments, nor preempt tribal law.

### **Discussion of Program**

#### *Background*

This amendment is effective on the date published in the **Federal Register**. The GRP is a voluntary program to help farmers and ranchers protect grazing uses and related conservation values on their lands. GRP offers enrollment through conservation easements and through rental contracts.

The 2008 Act made several program changes to GRP. Among the changes, the 2008 Act added the ability of USDA to enter into a cooperative agreement with an eligible entity to own, write, and enforce easements. Thus, under a cooperative agreement, USDA provides matching funds to other entities to purchase conservation easements, rather than purchase such easements directly. The 2008 Act also requires USDA to "ensure that the terms of an easement include a contingent right of enforcement for the Department" where title to the conservation easement is either held by an entity other than the Federal Government or title is transferred from the Federal Government to a non-Federal entity.

The January 21, 2009, GRP interim final rule incorporated the changes to the program made by the 2008 Act. Additionally, USDA identified the contingent right of enforcement a Federal acquisition of a real property right. This identification as a Federal acquisition requires USDA to follow Federal land acquisition procedures for all easements acquired under GRP.

In the preamble of the January 21, 2009, interim final rule, USDA explained that it had consulted with the Office of the General Counsel and had determined that because the contingent right of enforcement appears within the terms of a conservation easement deed, it constituted an acquisition of a Federal real property right. Despite the sound reasoning provided in the preamble,

USDA believes that it should reconsider its original interpretation. The conclusion that the inclusion of the term in a conservation easement deed constitutes as a Federal acquisition of real property is not consistent with Congressional intent gleaned from the legislative history of how such term is used in other parts of the 2008 Act, specifically the Farm and Ranch Lands Protection Program (FRPP), and how it is incorporated into GRP implementation. Therefore, USDA has examined whether an alternative understanding of the nature of the contingent right of enforcement can be ascertained. A similar revision is being made to the FRPP interim final regulation.

Under GRP, USDA may enroll easements through three methods of enrollment. In particular, USDA has authority to: (1) Purchase conservation easements directly; (2) transfer title to those federally-acquired easements to a third party; or (3) enter into cooperative agreements with eligible entities for those entities to purchase, own, enforce, and monitor easements "in lieu of the Secretary." Under the first two methods of enrollment, the conservation easement is purchased directly by the United States, and original title to the conservation easement is held by the United States. Therefore, these GRP easements are Federal acquisitions of real property rights.

In contrast, under the third method of enrollment where an eligible entity purchases a conservation easement with Federal financial assistance, the United States Government is not expending funds to acquire title to the conservation easement, but instead receives a right of enforcement as a condition of assistance.

For the third method of enrollment, the GRP statute prescribes the use of a cooperative agreement to provide a mechanism for GRP funds to assist eligible partners in the purchase of easements. Significantly, the GRP statute specifies that the ownership of the easement is in lieu of ownership by the Secretary. More particularly, Section 1238Q of the GRP statute provides that: "(e) Protection of Federal Investment—When delegating a duty under this section, the Secretary shall ensure that the terms of an easement include a contingent right of enforcement for the Department." This text requires the Secretary to ensure that the easement "includes" a contingent right of enforcement, rather than requiring the Secretary to "acquire" such right. When viewed in the context of the overall framework of the program to provide alternative ownership arrangements of

GRP easements, USDA interprets that the contingent right of enforcement in an easement purchased, owned, and written by a non-Federal entity is not a Federal acquisition of a real property right triggering Federal procedures such as 40 U.S.C. 3111 and the implementing Department of Justice Title standards. Rather, the incorporation of the contingent right of enforcement in the terms of the deed is a condition of Federal financial assistance.

This revised interpretation of the contingent right of enforcement is more consistent with the revised structure of the GRP easement, which now provides for the third party acquisition option using Federal financial assistance. At the same time, this interpretation still meets the GRP statutory requirement that the NRCS Chief, on behalf of the United States, has the ability to protect the Federal investment for the duration of the GRP funded easement by interpreting the right of enforcement as a real property right which runs with the land. This right is obtained as a condition placed upon another entity to obtain funding under GRP for its acquisition of a conservation easement. Therefore, the inclusion of the right of enforcement in the deed is not an acquisition, and the Federal real property acquisition requirements do not apply.

#### *Wind and Solar Power Generation Facilities*

In the January 21, 2009, interim final rule, a new paragraph (h)(5) was added to § 1415.4 to allow for the inclusion of wind power facilities for on-farm use as a potential permitted use for the GRP participant's farming or ranching operation pursuant to the Secretary's discretionary authority established in the 2008 Act. In particular, Section 2403 of the 2008 Act removed the prohibition against soil disturbing activities.

Although USDA expressed support for wind power generation for on-farm use on GRP lands, USDA explained that the opportunity to place generating stations on easement or contract acres is not a guaranteed right. Authorization may only be provided after USDA conducts a site-specific evaluation to determine that there are no negative impacts on threatened, endangered or at-risk species, migratory wildlife, or related natural resources, cultural resources, or the human environment.

While the January 21, 2009, interim final rule continued the prohibition against wind power facilities for off-farm power generation on GRP enrolled lands, the interim final rule did not address directly other types of renewable power generation facilities,

such as solar panel arrays. USDA treated facilities differently depending on the intended use of the power generated from the wind power facilities, i.e. on-farm use versus off-farm use. USDA recognizes that even facilities authorized solely for on-farm use may generate some excess electricity that is utilized off-farm.

USDA believes that off-farm wind power generation should not be identified specifically as prohibited on lands enrolled in GRP. The statute only identifies crop production (other than hay) as specifically prohibited to occur on enrolled lands. All other activities are evaluated by whether it is "inconsistent with maintaining grazing uses and related conservation values protected under an easement or rental contract." Therefore, USDA is amending the January 21, 2009, GRP interim final rule to remove the blanket prohibition upon wind power facilities for off-farm power generation.

USDA is not replacing the blanket prohibition with a blanket authorization of wind power facilities. The scale and scope of wind power generation facilities vary greatly. The installation of large-scale wind power generation facilities constitutes a conversion activity to non-grazing uses, inconsistent with program purposes. However, a small-scale, appropriately sited facility may provide both the electricity needed to power electric livestock fencing on the easement while providing local off-farm electricity to a neighbor's fencing as well. This variance of scope and scale requires site-specific evaluation for whether a particular activity will be authorized.

USDA intended the original restriction to "on-farm" use to provide an inherent limitation upon the scale of facilities being considered for authorization. However, this limitation had the unintended consequence of requiring USDA to monitor electric usage of a landowner, rather than focus upon whether the landowner's activities are consistent with the grazing and conservation purposes of the enrolled acreage. USDA believes the focus of an activity should remain upon its impacts to the grazing and conservation values of the enrollment.

USDA will not authorize any wind power generating facilities (on-farm or off-farm) on GRP lands unless USDA determines, based on a site-specific National Environmental Policy Act environmental analysis (EA or EIS), that there will be no adverse effect on threatened, endangered or other at-risk species, migratory wildlife, or related natural resources, cultural resources, or the human environment or when the

impacts of such facilities can be mitigated to a level of non-significance. Furthermore, USDA will only authorize power generation facilities after evaluating whether a reasonable alternative exists, whether there is a compelling public need, whether the purposes for which the easement was acquired can be maintained, and the degree to which the footprint of the facility and related infrastructure impacts the nature of the grazing lands and other conservation values obtained through the contract or easement. USDA will not authorize the installation of wind power generation facilities in situations where reasonable alternatives exist.

USDA will follow the guidelines being developed by the United States Fish and Wildlife Service (FWS) on avoiding and minimizing wildlife impacts from wind turbines. Until the guidelines are published, USDA will assess potential wildlife impacts in coordination with the FWS and the appropriate State fish and wildlife agency before authorizing any wind power generation facilities (on-farm or off-farm) on GRP lands.

USDA also revises paragraph (h)(5) to authorize the installation of other types of renewable energy sources for power generation, provided they are consistent with the grazing uses and other conservation values of the program as determined by USDA on a site-specific basis. Just as for wind power generation facilities, USDA will not authorize the installation of renewable energy power generation facilities, such as solar power panel arrays, unless USDA determines through a site-specific EA or EIS there will be no adverse effect on threatened, endangered or other at-risk species, migratory wildlife, or related natural resources, cultural resources, or the human environment or when the impacts of such activities can be mitigated to a level of non-significance. USDA will authorize power generation facilities only when the footprint of the facility and related infrastructure would have a minimal impact on the nature of the grazing lands and other conservation values obtained through the contract or easement.

Again, the opportunity to place any power-generating facilities and related infrastructure on easement or contract acres is not a guaranteed right. NRCS continues to seek public comment on how it should handle requests for renewable power generation facilities on GRP lands.

#### *Request for Public Input*

USDA supports the Nation's ability to increase renewable energy production,

conserve energy, mitigate the effects and adapt to climate change, and reduce carbon and greenhouse gas emissions through various assistance programs. USDA is using this rulemaking opportunity to obtain input from the public on how GRP can achieve its program purposes and contribute to the Nation's efforts with renewable energy production, energy conservation, mitigating the effects of climate change, facilitating climate change adaptation, or reducing carbon emissions.

#### List of Subjects in 7 CFR Part 1415

Administrative practice and procedure, Agriculture, Soil conservation, Grasslands, Grassland protection, Grazing land protection.

■ For the reasons stated in the preamble, the CCC amends part 1415 of Title 7 of the CFR as set forth below:

#### PART 1415—GRASSLANDS RESERVE PROGRAM

■ 1. The authority citation for part 1415 continues to read as follows:

**Authority:** 16 U.S.C. 3838n–3838q.

■ 2. Section 1415.3 is amended by revising the definition for the term “Right of enforcement” to read as follows:

##### § 1415.3 Definitions.

\* \* \* \* \*

“Right of enforcement” means a property interest in the easement the Chief may exercise on behalf of the United States under specific circumstances in order to enforce the terms of the conservation easement. The right of enforcement provides that the Chief has the right to inspect and enforce the easement if the eligible entity fails to uphold the easement or attempts to transfer the easement without first securing the consent of the Secretary.

\* \* \* \* \*

■ 3. Section 1415.4 is amended by revising paragraph (h)(5) and removing paragraph (i)(3) to read as follows:

##### § 1415.4 Program requirements.

\* \* \* \* \*

(h) \* \* \*

(5) Facilities for power generation through renewable sources of energy production provided the scope and scale of the footprint of the facility and associated infrastructure is consistent with program purposes as determined by USDA through analysis of the potential site-specific environmental effects; and

\* \* \* \* \*

■ 4. Section 1415.17 is amended by revising paragraph (e)(1) to read as follows:

##### § 1415.17 Cooperative agreements.

\* \* \* \* \*

(e) \* \* \*

(1) In order to protect the public investment, the conveyance document must contain a “right of enforcement.” NRCS shall specify the terms for the “right of enforcement” clause to read as set forth in the GRP cooperative agreement. This right is a vested property right and cannot be condemned or terminated by State or local government.

\* \* \* \* \*

Signed this 14th day of August, 2009, in Washington, DC.

**Dave White,**

*Vice President, Commodity Credit Corporation and Chief, Natural Resources Conservation Service.*

Signed this 13th day of August, 2009, in Washington, DC.

**Carolyn B. Cooksie,**

*Acting Administrator, Farm Service Agency.*  
[FR Doc. E9–20074 Filed 8–20–09; 8:45 am]

**BILLING CODE 3410–16–P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Parts 91, 121, and 125

[Docket No.: FAA–1999–6482; Amendment No. 91–304A, 121–342A and 125–56A]

RIN 2120AG87

##### Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for All Part 125 Airplanes

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

**ACTION:** Final rule; Notice of Office of Management and Budget approval for information collection.

**SUMMARY:** This notice announces the Office of Management and Budget's (OMB's) approval of the information collection requirement contained in the FAA's final rule, “Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for All Part 125 Airplanes.” That final rule was published on December 2, 2008.

**DATES:** The FAA received OMB approval for the information collection requirements in the final rule published December 2, 2008, 73 FR 73171, on April 3, 2009. The final rule became effective on February 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** For technical issues: Brian A. Verna, Avionics Systems Branch, Aircraft Certification Service, AIR–130, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 385–4643; facsimile (202) 385–4651; e-mail [brian.verna@faa.gov](mailto:brian.verna@faa.gov). For legal issues: Karen L. Petronis, Senior Attorney, Regulations Division, AGC–200, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3073; facsimile (202) 267–7971; e-mail: [karen.petronis@faa.gov](mailto:karen.petronis@faa.gov).

##### SUPPLEMENTARY INFORMATION:

On December 2, 2008, the FAA published the final rule entitled “Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for All Part 125 Airplanes” (73 FR 73171). This rule amended the regulations governing flight data recorders to increase the number of digital flight data recorder parameters for all Boeing 737 series airplanes manufactured after August 18, 2000. This change was based on safety recommendations from the National Transportation Safety Board following its investigations of two accidents and several incidents involving 737s. The final rule also adopted a prohibition on deviations from flight recorder requirements for all airplanes operated under part 125.

The final rule contained information collection requirements that the Office of Management and Budget (OMB) had not yet approved as of the date of publication. In the “Paperwork Reduction Act” section of the final rule, the FAA noted that the agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement, unless it displays a currently valid OMB control number.

In accordance with the Paperwork Reduction Act, OMB approved that request on April 3, 2009, and assigned the information collection OMB Control Number 2120–0616. The FAA request was approved by OMB without change and expires on April 30, 2012. This notice is being published to inform affected parties of the approval and to announce that the information collection requirements in the final rule entitled “Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for All Part 125 Airplanes” will become effective when this notice is published in the **Federal Register**.