

# VOTING RIGHTS ACT OF 1965

(as amended through 1992)

AN ACT To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".*

## TITLE I—VOTING RIGHTS

SEC. 2. (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), as provided in subsection (b).

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(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

SEC. 3. (a) Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the Director of the Office of Personnel Management in accordance with section 6 to serve for such period of time for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amend-

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ment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2): *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

SEC. 4. (a)(1) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) or in any political subdivision of such State (as such subdivision existed on the date such determinations were made with respect to such State), though such determinations were not made with respect to such subdivision as a separate unit, or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision of such State (as such subdivision existed on the date such determinations were made with respect to such State), though such determinations were not made with respect to such subdivision as a separate unit, or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. A declaratory judgment under this section shall issue only if such court determines that during the ten years preceding the filing of the action, and during the pendency of such action—

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(A) no such test or device has been used within such State or political subdivision for the purpose or with the effect of denying or abridging the right to vote on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2);

(B) no final judgment of any court of the United States, other than the denial of declaratory judgment under this section, has determined that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision and no consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice

challenged on such grounds; and no declaratory judgment under this section shall be entered during the pendency of an action commenced before the filing of an action under this section and alleging such denials or abridgements of the right to vote;

(C) no Federal examiners under this Act have been assigned to such State or political subdivision;

(D) such State or political subdivision and all governmental units within its territory have complied with section 5 of this Act, including compliance with the requirement that no change covered by section 5 has been enforced without preclearance under section 5, and have repealed all changes covered by section 5 to which the Attorney General has successfully objected or as to which the United States District Court for the District of Columbia has denied a declaratory judgment;

(E) the Attorney General has not interposed any objection (that has not been overturned by a final judgment of a court) and no declaratory judgment has been denied under section 5, with respect to any submission by or on behalf of the plaintiff or any governmental unit within its territory under section 5, and no such submissions or declaratory judgment actions are pending; and

(F) such State or political subdivision and all governmental units within its territory—

(i) have eliminated voting procedures and methods of election which inhibit or dilute equal access to the electoral process;

(ii) have engaged in other constructive efforts to eliminate intimidation and harassment of persons exercising rights protected under this Act; and

(iii) have engaged in other constructive efforts, such as expanded opportunity for convenient registration and voting for every person of voting age and the appointment of minority persons as election officials throughout the jurisdiction and at all stages of the election and registration process.

(2) To assist the court in determining whether to issue a declaratory judgment under this subsection, the plaintiff shall present evidence of minority participation, including evidence of the levels of minority group registration and voting, changes in such levels over time, and disparities between minority-group and non-minority-group participation.

(3) No declaratory judgment shall issue under this subsection with respect to such State or political subdivision if such plaintiff and governmental units within its territory have, during the period beginning ten years before the date the judgment is issued, engaged in violations of any provision of the Constitution or laws of the United States or any State or political subdivision with respect to discrimi-

nation in voting on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2) unless the plaintiff establishes that any such violations were trivial, were promptly corrected, and were not repeated.

(4) The State or political subdivision bringing such action shall publicize the intended commencement and any proposed settlement of such action in the media serving such State or political subdivision and in appropriate United States post offices. Any aggrieved party may as of right intervene at any stage in such action.

(5) An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for ten years after judgment and shall reopen the action upon motion of the Attorney General or any aggrieved person alleging that conduct has occurred which, had that conduct occurred during the ten-year periods referred to in this subsection, would have precluded the issuance of a declaratory judgment under this subsection. The court, upon such reopening, shall vacate the declaratory judgment issued under this section if, after the issuance of such declaratory judgment, a final judgment against the State or subdivision with respect to which such declaratory judgment was issued, or against any governmental unit within that State or subdivision, determines that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision, or if, after the issuance of such declaratory judgment, a consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds.

(6) If, after two years from the date of the filing of a declaratory judgment under this subsection, no date has been set for a hearing in such action, and that delay has not been the result of an avoidable delay on the part of counsel for any party, the chief judge of the United States District Court for the District of Columbia may request the Judicial Council for the Circuit of the District of Columbia to provide the necessary judicial resources to expedite any action filed under this section. If such resources are unavailable within the circuit, the chief judge shall file a certificate of necessity in accordance with section 292(d) of title 28 of the United States Code.

(7) The Congress shall reconsider the provisions of this section at the end of the fifteen-year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

(8) The provisions of this section shall expire at the end of the twenty-five year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

(9) Nothing in this section shall prohibit the Attorney General from consenting to an entry of judgment if based upon a showing of objective and compelling evidence by the plaintiff, and upon investigation, he is satisfied that the State or political subdivision has complied with the requirements of section 4(a)(1). Any aggrieved party may as of right intervene at any stage in such action.

(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968. On and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous two sentences, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the presidential election of November 1972.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e)(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

(f)(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens

are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

(2) No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

(3) In addition to the meaning given the term under section 4(c), the term "test or device" shall also mean any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority. With respect to section 4(b), the term "test or device", as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of section 4(a) provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan Natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

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SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the first sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentence of section 4(b) are in effect shall



enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the third sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to re-examine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.

Sec. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) unless a declaratory judgment has been rendered under section 4(a), the

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Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Director of the Office of Personnel Management shall appoint as many examiners for such subdivision as the Director may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Director of the Office of Personnel Management to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Director of the Office of Personnel Management, and service under this Act shall not be considered employment for the purposes of any statute administered by the Director of the Office of Personnel Management, except the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 7324), prohibiting partisan political activity: *Provided*, That the Director of the Office of Personnel Management is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

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SEC. 7. (a) The examiners for each political subdivision shall, at such places as the Director of the Office of Personnel Management shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Director of the Office of Personnel Management may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Any person whom the examiner finds, in accordance with instructions received under section 9(b), to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligi-

ble voters. A challenge to such listing may be made in accordance with section 9(a) and shall not be the basis for a prosecution under section 12 of this Act. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 9, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

SEC. 8. Whenever an examiner is serving under this Act in any political subdivision, the Director of the Office of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court. 42 U.S.C.  
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SEC. 9. (a) Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Director of the Office of Personnel Management and under such rules as the Director of the Office of Personnel Management shall by regulation prescribe. 42 U.S.C.  
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Such challenge shall be entertained only if filed at such office within the State as the Director of the Office of Personnel Management shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing office may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, procedures, and form for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Director of the Office of Personnel Management and the Director of the Office of Personnel Management shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Upon the request of the applicant or the challenger or on the Director's own motion the Director of the Office of Personnel Management shall have the power to require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Director of the Office of Personnel Management or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such

order of the court may be punished by said court as a contempt thereof.

**SEC. 10.** (a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting. 42 U.S.C.  
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(b) In the exercise of the powers of Congress under section 5 of the fourteenth amendment, section 2 of the fifteenth amendment and section 2 of the twenty-fourth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) and the purpose of this section.

(c) The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

**SEC. 11.** (a) No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this Act or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote. 42 U.S.C.  
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(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9, 10, or 12(e).

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for

the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(e)(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 202 of this Act, to the extent two ballots are not cast for an election to the same candidacy or office.

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SEC. 12. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11(a), shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official

record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11(a) shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2, 3, 4, 5, 7, 10, 11, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this Act to vote and (2) to count such votes.

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this Act or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 whenever the Attorney General notifies the Director of the Office of Personnel Management, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdi-

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1973k

vision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

42 U.S.C.  
19731

SEC. 14. (a) All cases of criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 9 shall have jurisdiction to issue any declaratory judgment pursuant to section 4 or section 5 or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c)(1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(3) The term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.



(d) In any action for a declaratory judgment brought pursuant to section 4 or section 5 or this Act, subpoenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided*, That no writ of subpoena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

(e) In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

SEC. 15. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), and as further amended by section 101 of the Civil Rights Act of 1964 (78 Stat. 241), is further amended as follows:

(a) Delete the word "Federal" wherever it appears in subsections (a) and (c);

(b) Repeal subsection (f) and designate the present subsections (g) and (h) as (f) and (g), respectively.

SEC. 16. The Attorney General and the Secretary of Defense, jointly, shall make a full and complete study to determine whether, under the laws or practices of any State or States, there are preconditions to voting, which might tend to result in discrimination against citizens serving in the Armed Forces of the United States seeking to vote. Such officials shall, jointly, make a report to the Congress not later than June 30, 1966, containing the results of such study, together with a list of any States in which such preconditions exist, and shall include in such report such recommendations for legislation as they deem advisable to prevent discrimination in voting against citizens serving in the Armed Forces of the United States.

SEC. 17. Nothing in this Act shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision. 42 U.S.C. 1973a

SEC. 18. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act. 42 U.S.C. 1973o

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. 42 U.S.C. 1973p

## TITLE II—SUPPLEMENTAL PROVISIONS

### APPLICATION OF PROHIBITION TO OTHER STATES

42 U.S.C.  
1973aa

**SEC. 201.** (a) No citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.

(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

### RESIDENCE REQUIREMENTS FOR VOTING

42 U.S.C.  
1973aa-1

**SEC. 202.** (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice Presi-

dent, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice president, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he has satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence,

the requirements for absentee voting in that State or political subdivision.

(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

(h) The term "State" as used in this section includes each of the several States and the District of Columbia.

(i) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

#### BILINGUAL ELECTION REQUIREMENTS.

42 U.S.C.  
1973aa-1a

SEC. 203. (a) The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) BILINGUAL VOTING MATERIALS REQUIREMENTS—

(1) GENERALLY.—Before August 6, 2007, no covered State or political subdivision shall provide voting materials only in the English language.

(2) COVERED STATES AND POLITICAL SUBDIVISIONS.—

(A) GENERALLY.—A State or political subdivision is a covered State or political subdivision for the purposes of this subsection if the Director of the Census determines, based on census data, that—

(i) (I) more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient;

(II) more than 10,000 of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient; or

(III) in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient; and

(ii) the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

(B) EXCEPTION.—The prohibitions of this subsection do not apply in any political subdivision that has less than 5 percent voting age limited-English proficient citizens of each language minority which comprises over 5 percent of the statewide limited-English proficient population of voting age citizens, unless the political subdivision is a covered political subdivision independently from its State.

(3) DEFINITIONS.—As used in this section—

(A) the term “voting materials” means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots;

(B) the term “limited-English proficient” means unable to speak or understand English adequately enough to participate in the electoral process;

(C) the term “Indian reservation” means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census;

(D) the term “citizens” means citizens of the United States; and

(E) the term “illiteracy” means the failure to complete the 5th primary grade.

(4) SPECIAL RULE.—The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

(c) Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan Natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

(e) For purposes of this section, the term “language minorities” or “language minority group” means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

## JUDICIAL RELIEF

**42 U.S.C.  
1973aa-2**      **SEC. 204.** Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, or 203, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

## PENALTY

**42 U.S.C.  
1973aa-3**      **SEC. 205.** Whoever shall deprive or attempt to deprive any person of any right secured by section 201, 202, or 203 of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

## SEPARABILITY

**42 U.S.C.  
1973aa-4**      **SEC. 206.** If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

**42 U.S.C.  
1973aa-5**      **SEC. 207.** (a) Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibitions of section 4(a) of the Voting Rights Act of 1965 are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall only include a count of citizens of voting age, race or color, and national origin, and a determination of the extent to which such persons are registered to vote and have voted in the elections surveyed.

(b) In any survey under subsection (a) of this section no person shall be compelled to disclose his race, color, national origin, political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully ad-

vised of his right to fail or refuse to furnish such information.

(c) The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

(d) The provisions of section 9 and chapter 7 of title 13 of the United States Code shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section.

#### VOTING ASSISTANCE

SEC. 208. Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. 42 U.S.C. 1973aa-6

### TITLE III—EIGHTEEN-YEAR-OLD VOTING AGE

#### ENFORCEMENT OF TWENTY-SIXTH AMENDMENT

SEC. 301. (a)(1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States. 42 U.S.C. 1973bb

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this title, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

#### DEFINITION

SEC. 302. As used in this title, the term "State" includes the District of Columbia. 42 U.S.C. 1973bb-1

*[Note: As enacted, the Voting Rights Act, in Sections 3, 6, 7, 8, 9, and 13, contains references to the United States Civil Service Commission. Because the functions of the Civil Service Commission have been transferred to the Director of the Office of Personnel Management, references in the Act to the Commission have been changed to references to the Director.]*

**PART 51—PROCEDURES FOR THE  
ADMINISTRATION OF SECTION 5  
OF THE VOTING RIGHTS ACT OF  
1965, AS AMENDED**

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## §51.1

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APPENDIX TO PART 51—JURISDICTIONS COVERED UNDER SECTION 4(b) OF THE VOTING RIGHTS ACT, AS AMENDED

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

SOURCE: 52 FR 490, Jan. 6, 1987, unless otherwise noted.

### Subpart A—General Provisions

#### §51.1 Purpose.

(a) Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, prohibits the enforcement in any jurisdiction covered by section 4(b) of the Act, 42 U.S.C. 1973b(b), of any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on the date used to determine coverage, until either:

(1) A declaratory judgment is obtained from the U.S. District Court for the District of Columbia that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, or

(2) It has been submitted to the Attorney General and the Attorney General has interposed no objection within a 60-day period following submission.

(b) In order to make clear the responsibilities of the Attorney General under section 5 and the interpretation of the Attorney General of the responsibility imposed on others under this section, the procedures in this part have been established to govern the administration of section 5.

#### §51.2 Definitions.

As used in this part—

## Department of Justice

§51.4

*Act* means the Voting Rights Act of 1965, 79 Stat. 437, as amended by the Civil Rights Act of 1968, 82 Stat. 73, the Voting Rights Act Amendments of 1970, 84 Stat. 314, the District of Columbia Delegate Act, 84 Stat. 853, the Voting Rights Act Amendments of 1975, 89 Stat. 400, and the Voting Rights Act Amendments of 1982, 96 Stat. 131, 42 U.S.C. 1973 *et seq.* Section numbers, such as "section 14(c)(3)," refer to sections of the Act.

*Attorney General* means the Attorney General of the United States or the delegate of the Attorney General.

*Change affecting voting* means any voting qualification, prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on the date used to determine coverage under section 4(b) and includes, *inter alia*, the examples given in §51.13.

*Covered jurisdiction* is used to refer to a State, where the determination referred to in §51.4 has been made on a statewide basis, and to a political subdivision, where the determination has not been made on a statewide basis.

*Language minorities or language minority group* is used, as defined in the Act, to refer to persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage. (Sections 14(c)(3) and 203(e)). See 28 CFR part 55, Interpretative Guidelines: Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups.

*Political subdivision* is used, as defined in the Act, to refer to "any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting." (Section 14(c)(2)).

*Preclearance* is used to refer to the obtaining of the declaratory judgment described in section 5, to the failure of the Attorney General to interpose an objection pursuant to section 5, or to the withdrawal of an objection by the Attorney General pursuant to §51.48(b).

*Submission* is used to refer to the written presentation to the Attorney

General by an appropriate official of any change affecting voting.

*Submitting authority* means the jurisdiction on whose behalf a submission is made.

*Vote* and *voting* are used, as defined in the Act, to include "all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election." (Section 14(c)(1)).

### §51.3 Delegation of authority.

The responsibility and authority for determinations under section 5 have been delegated by the Attorney General to the Assistant Attorney General, Civil Rights Division. With the exception of objections and decisions following the reconsideration of objections, the Chief of the Voting Section is authorized to act on behalf of the Assistant Attorney General.

### §51.4 Date used to determine coverage; list of covered jurisdictions.

(a) The requirement of section 5 takes effect upon publication in the FEDERAL REGISTER of the requisite determinations of the Director of the Census and the Attorney General under section 4(b). These determinations are not reviewable in any court. (Section 4(b)).

(b) Section 5 requires the preclearance of changes affecting voting made since the date used for the determination of coverage. For each covered jurisdiction that date is one of the following: November 1, 1964; November 1, 1968; or November 1, 1972.

(c) The appendix to this part contains a list of covered jurisdictions, together with the applicable date used to determine coverage and the FEDERAL REGISTER citation for the determination of coverage.

**§51.5 Termination of coverage (bail-out).**

A covered jurisdiction or a political subdivision of a covered State may terminate the application of section 5 (or bail out) by obtaining the declaratory judgment described in section 4(a) of the Act.

**§51.6 Political subunits.**

All political subunits within a covered jurisdiction (e.g., counties, cities, school districts) are subject to the requirement of section 5.

**§51.7 Political parties.**

Certain activities of political parties are subject to the preclearance requirement of section 5. A change affecting voting effected by a political party is subject to the preclearance requirement:

(a) If the change relates to a public electoral function of the party and

(b) If the party is acting under authority explicitly or implicitly granted by a covered jurisdiction or political subunit subject to the preclearance requirement of section 5.

For example, changes with respect to the recruitment of party members, the conduct of political campaigns, and the drafting of party platforms are not subject to the preclearance requirement. Changes with respect to the conduct of primary elections at which party nominees, delegates to party conventions, or party officials are chosen are subject to the preclearance requirement of section 5. Where appropriate the term "jurisdiction" (but not "covered jurisdiction") includes political parties.

**§51.8 Section 3 coverage.**

Under section 3(c) of the Act, a court in voting rights litigation can order as relief that a jurisdiction not subject to the preclearance requirement of section 5 preclear its voting changes by submitting them either to the court or to the Attorney General. Where a jurisdiction is required under section 3(c) to preclear its voting changes, and it elects to submit the proposed changes to the Attorney General for preclearance, the procedures in this part will apply.

**§51.9 Computation of time.**

(a) The Attorney General shall have 60 days in which to interpose an objection to a submitted change affecting voting.

(b) Except as specified in §§51.37, 51.39, and 51.42 the 60-day period shall commence upon receipt by the Department of Justice of a submission.

(c) The 60-day period shall mean 60 calendar days, with the day of receipt of the submission not counted. If the final day of the period should fall on a Saturday, Sunday, any day designated as a holiday by the President or Congress of the United States, or any other day that is not a day of regular business for the Department of Justice, the Attorney General shall have until the close of the next full business day in which to interpose an objection. The date of the Attorney General's response shall be the date on which it is mailed to the submitting authority.

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

Section 5 requires that, prior to enforcement of any change affecting voting, the jurisdiction that has enacted or seeks to administer the change must either:

(a) Obtain a judicial determination from the U.S. District Court for the District of Columbia that denial or abridgment of the right to vote on account of race, color, or membership in a language minority group is not the purpose and will not be the effect of the change or

(b) Make to the Attorney General a proper submission of the change to which no objection is interposed.

It is unlawful to enforce a change affecting voting without obtaining preclearance under section 5. The obligation to obtain such preclearance is not relieved by unlawful enforcement.

[52 FR 490, Jan. 6, 1987; 52 FR 2648, Jan. 23, 1987]

**§51.11 Right to bring suit.**

Submission to the Attorney General does not affect the right of the submitting authority to bring an action in the U.S. District Court for the District of Columbia for a declaratory judgment

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that the change affecting voting does not have the prohibited discriminatory purpose or effect.

### §51.12 Scope of requirement.

Any change affecting voting, even though it appears to be minor or indirect, returns to a prior practice or procedure, ostensibly expands voting rights, or is designed to remove the elements that caused objection by the Attorney General to a prior submitted change, must meet the section 5 preclearance requirement.

### §51.13 Examples of changes.

Changes affecting voting include, but are not limited to, the following examples:

(a) Any change in qualifications or eligibility for voting.

(b) Any change concerning registration, balloting, and the counting of votes and any change concerning publicity for or assistance in registration or voting.

(c) Any change with respect to the use of a language other than English in any aspect of the electoral process.

(d) Any change in the boundaries of voting precincts or in the location of polling places.

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

(f) Any change in the method of determining the outcome of an election (e.g., by requiring a majority vote for election or the use of a designated post or place system).

(g) Any change affecting the eligibility of persons to become or remain candidates, to obtain a position on the ballot in primary or general elections, or to become or remain holders of elective offices.

(h) Any change in the eligibility and qualification procedures for independent candidates.

(i) Any change in the term of an elective office or an elected official or in the offices that are elective (e.g., by shortening the term of an office,

changing from election to appointment or staggering the terms of offices).

(j) Any change affecting the necessity of or methods for offering issues and propositions for approval by referendum.

(k) Any change affecting the right or ability of persons to participate in political campaigns which is effected by a jurisdiction subject to the requirement of section 5.

### §51.14 Recurrent practices.

Where a jurisdiction implements a practice or procedure periodically or upon certain established contingencies, a change occurs:

(a) The first time such a practice or procedure is implemented by the jurisdiction,

(b) When the manner in which such a practice or procedure is implemented by the jurisdiction is changed, or

(c) When the rules for determining when such a practice or procedure will be implemented are changed.

The failure of the Attorney General to object to a recurrent practice or procedure constitutes preclearance of the future use of the practice or procedure if its recurrent nature is clearly stated or described in the submission or is expressly recognized in the final response of the Attorney General on the merits of the submission.

### §51.15 Enabling legislation and contingent or nonuniform requirements.

(a) With respect to legislation (1) that enables or permits the State or its political subunits to institute a voting change or (2) that requires or enables the State or its political subunits to institute a voting change upon some future event or if they satisfy certain criteria, the failure of the Attorney General to interpose an objection does not exempt from the preclearance requirement the implementation of the particular voting change that is enabled, permitted, or required, unless that implementation is explicitly included and described in the submission of such parent legislation.

(b) For example, such legislation includes—

(1) Legislation authorizing counties, cities, school districts, or agencies or

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officials of the State to institute any of the changes described in §51.13.

(2) Legislation requiring a political subunit that chooses a certain form of government to follow specified election procedures.

(3) Legislation requiring or authorizing political subunits of a certain size or a certain location to institute specified changes.

(4) Legislation requiring a political subunit to follow certain practices or procedures unless the subunit's charter or ordinances specify to the contrary.

### §51.16 Distinction between changes in procedure and changes in substance.

The failure of the Attorney General to interpose an objection to a procedure for instituting a change affecting voting does not exempt the substantive change from the preclearance requirement. For example, if the procedure for the approval of an annexation is changed from city council approval to approval in a referendum, the preclearance of the new procedure does not exempt an annexation accomplished under the new procedure from the preclearance requirement.

### §51.17 Special elections.

(a) The conduct of a special election (e.g., an election to fill a vacancy; an initiative, referendum, or recall election; or a bond issue election) is subject to the preclearance requirement to the extent that the jurisdiction makes changes in the practices or procedures to be followed.

(b) Any discretionary setting of the date for a special election or scheduling of events leading up to or following a special election is subject to the preclearance requirement.

(c) A jurisdiction conducting a referendum election to ratify a change in a practice or procedure that affects voting may submit the change to be voted on at the same time that it submits any changes involved in the conduct of the referendum election. A jurisdiction wishing to receive preclearance for the change to be ratified should state clearly that such preclearance is being requested. See §51.22 of this part.

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### §51.18 Court-ordered changes.

(a) *In general.* Changes affecting voting that are ordered by a Federal court are subject to the preclearance requirement of section 5 to the extent that they reflect the policy choices of the submitting authority.

(b) *Subsequent changes.* Where a court-ordered change is not itself subject to the preclearance requirement, subsequent changes necessitated by the court order but decided upon by the jurisdiction remain subject to preclearance. For example, voting precinct and polling place changes made necessary by a court-ordered redistricting plan are subject to section 5 review.

(c) *In emergencies.* A Federal court's authorization of the emergency interim use without preclearance of a voting change does not exempt from section 5 review any use of the practice not explicitly authorized by the court.

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

A jurisdiction subject to the preclearance requirement of section 5 that becomes involved in any litigation concerning voting is requested promptly to notify the Chief, Voting Section, Civil Rights Division, Department of Justice, P.O. Box 66128, Washington, DC 20035-6128. Such notification will not be considered a submission under section 5.

[52 FR 490, Jan. 6, 1987, as amended by Order 1214-87, 52 FR 33409, Sept. 3, 1987]

## Subpart B—Procedures for Submission to the Attorney General

### §51.20 Form of submissions.

(a) Submissions may be made in letter or any other written form.

(b) The Attorney General will accept certain machine readable data in the following forms of magnetic media: 3½" 1.4 megabyte MS-DOS formatted diskettes; 5¼" 1.2 megabyte MS-DOS formatted floppy disks; nine-track tape (1600/6250 BPI). Unless requested by the Attorney General, data provided on magnetic media need not be provided in hard copy.

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(c) All magnetic media shall be clearly labelled with the following information:

- (1) Submitting authority.
- (2) Name, address, title, and telephone number of contact person.
- (3) Date of submission cover letter.
- (4) Statement identifying the voting change(s) involved in the submission.

The label shall be affixed to each magnetic medium, and the information included on the label shall also be contained in a documentation file on the magnetic medium. If the information identified above is provided as a disk operating system (DOS) file, it shall be formatted in a standard American Standard Code for Information Interchange (ASCII) character code, with a line feed or carriage return control character starting in position 80. If the information identified above is provided other than as DOS files, it shall be formatted as ASCII text (or Extended Binary Coded Decimal Interchange Code (EBCDIC) if IBM standard labels are used), 80 byte fixed record length, blocked in a multiple of 80 with a blocksize no larger than 32 kilobytes, and with no carriage return or line feed.

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

(e) All data files shall be provided in a fixed record-length format using alphanumeric ASCII values. The first 50 records of each such file shall be printed on hard copy and shall be attached to the printed description of the file. Proprietary and/or commercial software system data files (e.g. SAS, SPSS, dBase, Lotus 1-2-3) and data files containing compressed data or binary data fields will not be accepted. Nine-track tapes shall be clearly marked with printed labels to indicate their density, and manner of labelling (ANSI, IBM, or unlabelled). The printed label shall also include the record count, the record length, the blocksize, the dataset name (DSN) if it is a labelled

tape, and the file number of each file on the tape.

[52 FR 490, Jan. 6, 1987, as amended by Order No. 1536-91, 56 FR 51836, Oct. 16, 1991]

§ 51.21 Time of submissions.

Changes affecting voting should be submitted as soon as possible after they become final.

§ 51.22 Premature submissions.

The Attorney General will not consider on the merits:

(a) Any proposal for a change affecting voting submitted prior to final enactment or administrative decision or

(b) Any proposed change which has a direct bearing on another change affecting voting which has not received section 5 preclearance.

However, with respect to a change for which approval by referendum, a State or Federal court or a Federal agency is required, the Attorney General may make a determination concerning the change prior to such approval if the change is not subject to alteration in the final approving action and if all other action necessary for approval has been taken.

§ 51.23 Party and jurisdiction responsible for making submissions.

(a) Changes affecting voting shall be submitted by the chief legal officer or other appropriate official of the submitting authority or by any other authorized person on behalf of the submitting authority. When one or more counties or other political subunits within a State will be affected, the State may make a submission on their behalf. Where a State is covered as a whole, State legislation (except legislation of local applicability) or other changes undertaken or required by the State shall be submitted by the State.

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

§ 51.24 Address for submissions.

(a) *Delivery by U.S. Postal Service.* Submissions sent to the Attorney General via the U.S. Postal Service shall be addressed to the Chief, Voting Section, Civil Rights Division, Department

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of Justice, P.O. Box 66128, Washington, DC 20035-6128.

(b) *Delivery by other means.* Submissions sent to the Attorney General by carriers *other than* the U.S. Postal Service should be addressed or may be delivered to the Chief, Voting Section, Civil Rights Division, Department of Justice, 320 First Street, NW., room 818A, Washington, DC 20001.

(c) *Special marking.* The envelope and first page of the submission shall be clearly marked: Submission under section 5 of the Voting Rights Act.

[Order 1214-87, 52 FR 33409, Sept. 3, 1987, as amended by Order No. 1793-93, 58 FR 51225, Oct. 1, 1993]

## §51.25 Withdrawal of submissions.

(a) A jurisdiction may withdraw a submission at any time prior to a final decision by the Attorney General. Notice of the withdrawal of a submission must be made in writing, addressed to the Chief, Voting Section, as specified in §51.24 of this part. The submission shall be deemed withdrawn upon receipt of the notice.

(b) Notice of withdrawals will be given to interested parties registered under §51.32.

[52 FR 490, Jan. 6, 1987, as amended by Order 1214-87, 52 FR 33409, Sept. 3, 1987]

## Subpart C—Contents of Submissions

### §51.26 General.

(a) The source of any information contained in a submission should be identified.

(b) Where an estimate is provided in lieu of more reliable statistics, the submission should identify the name, position, and qualifications of the person responsible for the estimate and should briefly describe the basis for the estimate.

(c) Submissions should be no longer than is necessary for the presentation of the appropriate information and materials.

(d) The Attorney General will not accept for review any submission that fails to describe the subject change in sufficient particularity to satisfy the minimum requirements of §51.27(c).

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(e) A submitting authority that desires the Attorney General to consider any information supplied as part of an earlier submission may incorporate such information by reference by stating the date and subject matter of the earlier submission and identifying the relevant information.

(f) Where information requested by this subpart is relevant but not known or available, or is not applicable, the submission should so state.

(g) The following Office of Management and Budget control number under the Paperwork Reduction Act applies to the collection of information requirements contained in these Procedures: OMB No. 1190-0001 (expires February 28, 1994). See 5 CFR 1320.13.

[52 FR 490, Jan. 6, 1987, as amended by Order No. 1284-88, 53 FR 25327, July 6, 1988; Order No. 1498-91, 56 FR 26032, June 6, 1991]

### §51.27 Required contents.

Each submission should contain the following information or documents to enable the Attorney General to make the required determination pursuant to section 5 with respect to the submitted change affecting voting:

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting.

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

(c) If the change affecting voting either is not readily apparent on the face of the documents provided under paragraphs (a) and (b) of this section or is not embodied in a document, a clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

(d) The name, title, address, and telephone number of the person making the submission.

(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

(g) Identification of the person or body responsible for making the change and the mode of decision (e.g., act of State legislature, ordinance of city council, administrative decision by registrar).

(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

(i) The date of adoption of the change affecting voting.

(j) The date on which the change is to take effect.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

(m) A statement of the reasons for the change.

(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

(o) A statement identifying any past or pending litigation concerning the change or related voting practices.

(p) A statement that the prior practice has been precleared (with the date) or is not subject to the preclearance requirement and a statement that the procedure for the adoption of the change has been precleared (with the date) or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

(q) For redistrictings and annexations: the items listed under §51.28 (a)(1) and (b)(1); for annexations only: the items listed under §51.28(c)(3).

(r) Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in §51.28 and is most likely to be needed with respect to redistrictings, annexations, and other complex changes. In the interest of time such information should be furnished with the initial submission re-

lating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in §51.37.

§51.28 Supplemental contents.

Review by the Attorney General will be facilitated if the following information, where pertinent, is provided in addition to that required by §51.27.

(a) *Demographic information.* (1) Total and voting age population of the affected area before and after the change, by race and language group. If such information is contained in publications of the U.S. Bureau of the Census, reference to the appropriate volume and table is sufficient.

(2) The number of registered voters for the affected area by voting precinct before and after the change, by race and language group.

(3) Any estimates of population, by race and language group, made in connection with the adoption of the change.

(4) Demographic data provided on magnetic media shall be based upon the Bureau of the Census Public Law 94-171 file unique block identity code of state, county, tract, and block.

(5) Demographic data on magnetic media that are provided in conjunction with a redistricting shall be contained in a table of equivalencies giving the census block to district assignments in the following format:

(i) Each census block record (including those with zero population) will be followed by one or more additional fields indicating the district assignment for the census block in one or more plans.

(ii) All district assignments in the plan fields shall be right justified and blank filled if the assignment is less than four characters.

(iii) The file structure shall be as follows:

Field	PL 94-171 reference name	Length	Data type
State .....	STATEFP .....	2	Numeric.
County .....	CNTY .....	3	Numeric.
Tract .....	TRACT/BNA ..	6	Alpha/Numeric.
Block .....	BLCK .....	4	Alpha/Numeric.



Field	PL 94-171 reference name	Length	Data type
Plan 1 District ....	User supplied	4	Alpha/Numeric.
Plan 2 District ....	User supplied	4	Alpha/Numeric.
Plan 3 District, etc.	.....	.....	.....
Plan n District ....	User supplied	4	Alpha/Numeric.

(iv) State and county shall be identified using the Federal Information Processing Standards (FIPS-55) code.

(v) Census tracts shall be left justified, and census blocks shall be left justified and blank filled if less than four characters.

(vi) Unused plan fields shall be blank filled.

(vii) In addition to the information identified in §51.20 (c) through (e), the documentation file accompanying the block level equivalency file shall contain the following information:

(A) The file structure.

(B) The total number of plans.

(C) For each plan field, an identification of the plan (e.g., state senate, congressional, county board, city council, school board) and its status or nature (e.g., plan currently in effect, adopted plan, alternative plan and sponsors).

(D) The number of districts in each plan field.

(E) Whether the plan field contains a complete or partial plan.

(F) Any additional information the jurisdiction deems relevant such as bill number, date of adoption, etc., and a listing of any modifications the submitting authority has made that alter the structure of the TIGER/line geographic file.

(b) *Maps.* Where any change is made that revises the constituency that elects any office or affects the boundaries of any geographic unit or units defined or employed for voting purposes (e.g., redistricting, annexation, change from district to at-large elections) or that changes voting precinct boundaries, polling place locations, or voter registration sites, maps in duplicate of the area to be affected, containing the following information:

(1) The prior and new boundaries of the voting unit or units.

(2) The prior and new boundaries of voting precincts.

(3) The location of racial and language minority groups.

(4) Any natural boundaries or geographical features that influenced the selection of boundaries of the prior or new units.

(5) The location of prior and new polling places.

(6) The location of prior and new voter registration sites.

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

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

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

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

(d) *Election returns.* Where a change may affect the electoral influence of a racial or language minority group, returns of primary and general elections conducted by or in the jurisdiction, containing the following information:

(1) The name of each candidate.

(2) The race or language group of each candidate, if known.

(3) The position sought by each candidate.

(4) The number of votes received by each candidate, by voting precinct.

(5) The outcome of each contest.

(6) The number of registered voters, by race and language group, for each voting precinct for which election returns are furnished. Information with respect to elections held during the last ten years will normally be sufficient.

(7) Election related data containing any of the information described above that are provided on magnetic media shall conform to the requirements of §51.20 (b) through (e). Election related data that cannot be accurately presented in terms of census blocks may be identified by county and by precinct.

(e) *Language usage.* Where a change is made affecting the use of the language of a language minority group in the electoral process, information that will enable the Attorney General to determine whether the change is consistent with the minority language requirements of the Act. The Attorney General's interpretation of the minority language requirements of the Act is contained in Interpretative Guidelines: Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 28 CFR part 55.

(f) *Publicity and participation.* For submissions involving controversial or potentially controversial changes, evidence of public notice, of the opportunity for the public to be heard, and of the opportunity for interested parties to participate in the decision to adopt the proposed change and an account of the extent to which such participation, especially by minority group members, in fact took place. Examples of materials demonstrating public notice or participation include:

(1) Copies of newspaper articles discussing the proposed change.

(2) Copies of public notices that describe the proposed change and invite public comment or participation in hearings and statements regarding where such public notices appeared (e.g., newspaper, radio, or television, posted in public buildings, sent to identified individuals or groups).

(3) Minutes or accounts of public hearings concerning the proposed change.

(4) Statements, speeches, and other public communications concerning the proposed change.

(5) Copies of comments from the general public.

(6) Excerpts from legislative journals containing discussion of a submitted enactment, or other materials revealing its legislative purpose.

(g) *Availability of the submission.* (1) Copies of public notices that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection (e.g., at the county courthouse) and invite comments for the consideration of the Attorney General and statements regarding where such public notices appeared.

(2) Information demonstrating that the submitting authority, where a submission contains magnetic media, made the magnetic media available to be copied or, if so requested, made a hard copy of the data contained on the magnetic media available to be copied.

(h) *Minority group contacts.* For submissions from jurisdictions having a significant minority population, the names, addresses, telephone numbers, and organizational affiliation (if any) of racial or language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.

[52 FR 490, Jan. 6, 1987, as amended by Order No. 1536-91, 56 FR 51836, Oct. 16, 1991]

#### Subpart D—Communications From Individuals and Groups

##### §51.29 Communications concerning voting changes.

Any individual or group may send to the Attorney General information concerning a change affecting voting in a jurisdiction to which section 5 applies.

(a) Communications may be in the form of a letter stating the name, address, and telephone number of the individual or group, describing the alleged change affecting voting and setting forth evidence regarding whether the change has or does not have a discriminatory purpose or effect, or simply bringing to the attention of the Attorney General the fact that a voting change has occurred.

(b) The communications should be mailed to the Chief, Voting Section, Civil Rights Division, Department of Justice, P.O. Box 66128, Washington, DC 20035-6128. The envelope and first page should be marked: Comment under section 5 of the Voting Rights Act.

(c) Comments by individuals or groups concerning any change affecting voting may be sent at any time; however, individuals and groups are encouraged to comment as soon as they learn of the change.

(d) Department of Justice officials and employees shall comply with the request of any individual that his or her identity not be disclosed to any person outside the Department, to the

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extent permitted by the Freedom of Information Act, 5 U.S.C. 552. In addition, whenever it appears to the Attorney General that disclosure of the identity of an individual who provided information regarding a change affecting voting "would constitute a clearly unwarranted invasion of personal privacy" under 5 U.S.C. 552(b)(6), the identity of the individual shall not be disclosed to any person outside the Department.

(e) When an individual or group desires the Attorney General to consider information that was supplied in connection with an earlier submission, it is not necessary to resubmit the information but merely to identify the earlier submission and the relevant information.

[52 FR 490, Jan. 6, 1987, as amended by Order 1214-87, 52 FR 33409, Sept. 3, 1987]

**§51.30 Action on communications from individuals or groups.**

(a) If there has already been a submission received of the change affecting voting brought to the attention of the Attorney General by an individual or group, any evidence from the individual or group shall be considered along with the materials submitted and materials resulting from any investigation.

(b) If such a submission has not been received, the Attorney General shall advise the appropriate jurisdiction of the requirement of section 5 with respect to the change in question.

**§51.31 Communications concerning voting suits.**

Individuals and groups are urged to notify the Chief, Voting Section, Civil Rights Division, of litigation concerning voting in jurisdictions subject to the requirement of section 5.

**§51.32 Establishment and maintenance of registry of interested individuals and groups.**

The Attorney General shall establish and maintain a Registry of Interested Individuals and Groups, which shall contain the name and address of any individual or group that wishes to receive notice of section 5 submissions. Information relating to this registry and to the requirements of the Privacy

Act of 1974, 5 U.S.C. 552a *et seq.*, is contained in JUSTICE/CRT-004. 48 FR 5334 (Feb. 4, 1983).

**Subpart E—Processing of Submissions**

**§51.33 Notice to registrants concerning submissions.**

Weekly notice of submissions that have been received will be given to the individuals and groups who have registered for this purpose under §51.32. Such notice will also be given when section 5 declaratory judgment actions are filed or decided.

**§51.34 Expedited consideration.**

(a) When a submitting authority is required under State law or local ordinance or otherwise finds it necessary to implement a change within the 60-day period following submission, it may request that the submission be given expedited consideration. The submission should explain why such consideration is needed and provide the date by which a determination is required.

(b) Jurisdictions should endeavor to plan for changes in advance so that expedited consideration will not be required and should not routinely request such consideration. When a submitting authority demonstrates good cause for expedited consideration the Attorney General will attempt to make a decision by the date requested. However, the Attorney General cannot guarantee that such consideration can be given.

(c) Notice of the request for expedited consideration will be given to interested parties registered under §51.32.

**§51.35 Disposition of inappropriate submissions.**

The Attorney General will make no response on the merits with respect to an inappropriate submission but will notify the submitting authority of the inappropriateness of the submission. Such notification will be made as promptly as possible and no later than the 60th day following receipt and will

include an explanation of the inappropriateness of the submission. Inappropriate submissions include the submission of changes that do not affect voting (see, e.g., §51.13), the submission of standards, practices, or procedures that have not been changed (see, e.g., §§51.4, 51.14), the submission of changes that affect voting but are not subject to the requirement of section 5 (see, e.g., §51.18), premature submissions (see §§51.22, 51.61(b)), submissions by jurisdictions not subject to the preclearance requirement (see §§51.4, 51.5), and deficient submissions (see §51.26(d)).

**§51.36 Release of information concerning submissions.**

The Attorney General shall have the discretion to call to the attention of the submitting authority or any interested individual or group information or comments related to a submission.

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

(a) If a submission does not satisfy the requirements of §51.27, the Attorney General may request from the submitting authority any omitted information considered necessary for the evaluation of the submission. The request shall be made by letter and shall be made within the 60-day period and as promptly as possible after receipt of the original submission. See also §51.26(d).

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

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

(d) The receipt of a response from the submitting authority that neither provides the information requested nor states that such information is unavailable shall not commence a new 60-day period. It is the practice of the Attorney General to notify the submitting authority that its response is inadequate and to provide such notification as soon as possible after the receipt of the inadequate response.

(e) If, after a request for further information is made pursuant to this section, the information requested becomes available to the Attorney General from a source other than the submitting authority, the Attorney General shall promptly notify the submitting authority by letter, and the 60-day period will commence upon the date of such notification.

(f) Notice of the request for and receipt of further information will be given to interested parties registered under §51.32.

**§51.38 Obtaining information from others.**

(a) The Attorney General may at any time request relevant information from governmental jurisdictions and from interested groups and individuals and may conduct any investigation or other inquiry that is deemed appropriate in making a determination.

(b) If a submission does not contain evidence of adequate notice to the public, and the Attorney General believes that such notice is essential to a determination, steps will be taken by the Attorney General to provide public notice sufficient to invite interested or affected persons to provide evidence as to the presence or absence of a discriminatory purpose or effect. The submitting authority shall be advised when any such steps are taken.

**§51.39 Supplementary submissions.**

(a) When a submitting authority provides documents and written information materially supplementing a submission (or a request for reconsideration of an objection) for evaluation as if part of its original submission, or, before the expiration of the 60-day period, makes a second submission such that the two submissions cannot be independently considered, the 60-day

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period for the original submission will be calculated from the receipt of the supplementary information or from the second submission.

(b) The Attorney General will notify the submitting authority when the 60-day period for a submission is recalculated from the receipt of supplementary information or from the receipt of a second related submission.

(c) Notice of the receipt of supplementary information will be given to interested parties registered under §51.32.

**§51.40 Failure to complete submissions.**

If after 60 days the submitting authority has not provided further information in response to a request made pursuant to §51.37(a), the Attorney General, absent extenuating circumstances and consistent with the burden of proof under section 5 described in §51.52 (a) and (c), may object to the change, giving notice as specified in §51.44.

**§51.41 Notification of decision not to object.**

(a) The Attorney General shall within the 60-day period allowed notify the submitting authority of a decision to interpose no objection to a submitted change affecting voting.

(b) The notification shall state that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change.

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

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

It is the practice and intention of the Attorney General to respond to each submission within the 60-day period. However, the failure of the Attorney General to make a written response within the 60-day period constitutes preclearance of the submitted change, provided the submission is addressed as specified in §51.24 and is appropriate for a response on the merits as described in §51.35.

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

After notification to the submitting authority of a decision to interpose no objection to a submitted change affecting voting has been given, the Attorney General may reexamine the submission if, prior to the expiration of the 60-day period, information indicating the possibility of the prohibited discriminatory purpose or effect is received. In this event, the Attorney General may interpose an objection provisionally and advise the submitting authority that examination of the change in light of the newly raised issues will continue and that a final decision will be rendered as soon as possible.

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

(a) The Attorney General shall within the 60-day period allowed notify the submitting authority of a decision to interpose an objection. The reasons for the decision shall be stated.

(b) The submitting authority shall be advised that the Attorney General will reconsider an objection upon a request by the submitting authority.

(c) The submitting authority shall be advised further that notwithstanding the objection it may institute an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change objected to by the Attorney General does not have the prohibited discriminatory purpose or effect.

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

(e) Notice of the decision to interpose an objection will be given to interested parties registered under §51.32.

**§51.45 Request for reconsideration.**

(a) The submitting authority may at any time request the Attorney General to reconsider an objection.

(b) Requests may be in letter or any other written form and should contain relevant information or legal argument.

(c) Notice of the request will be given to any party who commented on the

submission or requested notice of the Attorney General's action thereon and to interested parties registered under §51.32. In appropriate cases the Attorney General may request the submitting authority to give local public notice of the request.

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

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

(b) Notice of such a decision to reconsider shall be given to the submitting authority, to any party who commented on the submission or requested notice of the Attorney General's action thereon, and to interested parties registered under §51.32, and the Attorney General shall decide whether to withdraw or to continue the objection only after such persons have had a reasonable opportunity to comment.

**§ 51.47 Conference.**

(a) A submitting authority that has requested reconsideration of an objection pursuant to §51.45 may request a conference to produce information or legal argument in support of reconsideration.

(b) Such a conference shall be held at a location determined by the Attorney General and shall be conducted in an informal manner.

(c) When a submitting authority requests such a conference, individuals or groups that commented on the change prior to the Attorney General's objection or that seek to participate in response to any notice of a request for reconsideration shall be notified and given the opportunity to confer.

(d) The Attorney General shall have the discretion to hold separate meetings to confer with the submitting authority and other interested groups or individuals.

(e) Such conferences will be open to the public or to the press only at the discretion of the Attorney General and with the agreement of the participating parties.

**§ 51.48 Decision after reconsideration.**

(a) The Attorney General shall within the 60-day period following the receipt of a reconsideration request or following notice given under §51.46(b) notify the submitting authority of the decision to continue or withdraw the objection, provided that the Attorney General shall have at least 15 days following any conference that is held in which to decide. (See also §51.39(a).) The reasons for the decision shall be stated.

(b) The objection shall be withdrawn if the Attorney General is satisfied that the change does not have the purpose and will not have the effect of discriminating on account of race, color, or membership in a language minority group.

(c) If the objection is not withdrawn, the submitting authority shall be advised that notwithstanding the objection it may institute an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change objected to by the Attorney General does not have the prohibited purpose or effect.

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

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

(f) Notice of the decision after reconsideration will be given to interested parties registered under §51.32.

**§ 51.49 Absence of judicial review.**

The decision of the Attorney General not to object to a submitted change or to withdraw an objection is not reviewable. The preclearance by the Attorney General of a voting change does not constitute the certification that the voting change satisfies any other requirement of the law beyond that of section 5, and, as stated in section 5, "(n)either an affirmative indication by the Attorney General that no objection

### § 51.50

will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure."

#### § 51.50 Records concerning submissions.

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

(b) Objection files: Brief summaries regarding each submission and the general findings of the Department of Justice investigation and decision concerning it will be prepared when a decision to interpose, continue, or withdraw an objection is made. Files of these summaries, arranged by jurisdiction and by the date upon which such decision is made, will be maintained.

(c) Computer file: Records of all submissions and of their dispositions by the Attorney General shall be electronically stored and periodically retrieved in the form of computer printouts.

(d) The contents of the files in paper or microfiche form described in paragraphs (a) through (c) of this section shall be available for inspection and copying by the public during normal business hours at the Voting Section, Civil Rights Division, Department of Justice, Washington, DC. Those who desire to inspect information that has been provided on magnetic media will be provided a copy of that information in the same form as it was received. Materials that are exempt from inspection under the Freedom of Information Act, 5 U.S.C. 552(b), may be withheld at the discretion of the Attorney General. Communications from individuals who have requested confidentiality or with respect to whom the Attorney General has determined that confidentiality is appropriate under § 51.29(d) shall be available only as provided by § 51.29(d).

Applicable fees, if any, for the copying of the contents of these files are contained in the Department of Justice regulations implementing the Freedom of Information Act, 28 CFR 16.10.

[52 FR 490, Jan. 6, 1987; 52 FR 2648, Jan. 23, 1987, as amended by Order No. 1536-91, 56 FR 51837, Oct. 16, 1991]

### Subpart F—Determinations by the Attorney General

#### § 51.51 Purpose of the subpart.

The purpose of this subpart is to inform submitting authorities and other interested parties of the factors that the Attorney General considers relevant and of the standards by which the Attorney General will be guided in making substantive determinations under section 5 and in defending section 5 declaratory judgment actions.

#### § 51.52 Basic standard.

(a) *Surrogate for the court.* Section 5 provides for submission of a voting change to the Attorney General as an alternative to the seeking of a declaratory judgment from the U.S. District Court for the District of Columbia. Therefore, the Attorney General shall make the same determination that would be made by the court in an action for a declaratory judgment under section 5: Whether the submitted change has the purpose or will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. The burden of proof is on a submitting authority when it submits a change to the Attorney General for preclearance, as it would be if the proposed change were the subject of a declaratory judgment action in the U.S. District Court for the District of Columbia. See *South Carolina v. Katzenbach*, 383 U.S. 301, 328, 335 (1966).

(b) *No objection.* If the Attorney General determines that the submitted change does not have the prohibited purpose or effect, no objection shall be interposed to the change.

(c) *Objection.* An objection shall be interposed to a submitted change if the Attorney General is unable to determine that the change is free of discriminatory purpose and effect. This

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includes those situations where the evidence as to the purpose or effect of the change is conflicting and the Attorney General is unable to determine that the change is free of discriminatory purpose and effect.

### § 51.53 Information considered.

The Attorney General shall base a determination on a review of material presented by the submitting authority, relevant information provided by individuals or groups, and the results of any investigation conducted by the Department of Justice.

### § 51.54 Discriminatory effect.

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

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

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

(3) The implementation and use of an unprecleared voting change subject to section 5 review under § 51.18(a) does not operate to make that unprecleared change a benchmark for any subsequent change submitted by the jurisdiction. See § 51.18(c).

(4) Where at the time of submission of a change for section 5 review there exists no other lawful practice or procedure for use as a benchmark (e.g.,

where a newly incorporated college district selects a method of election) the Attorney General's preclearance determination will necessarily center on whether the submitted change was designed or adopted for the purpose of discriminating against members of racial or language minority groups.

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

(a) *Consideration in general.* In making a determination the Attorney General will consider whether the change is free of discriminatory purpose and retrogressive effect in light of, and with particular attention being given to, the requirements of the 14th, 15th, and 24th amendments to the Constitution, 42 U.S.C. 1971(a) and (b), sections 2, 4(a), 4(f)(2), 4(f)(4), 201, 203(c), and 208 of the Act, and other constitutional and statutory provisions designed to safeguard the right to vote from denial or abridgment on account of race, color, or membership in a language minority group.

(b) *Section 2.* Preclearance under section 5 of a voting change will not preclude any legal action under section 2 by the Attorney General if implementation of the change demonstrates that such action is appropriate.

[52 FR 490, Jan. 6, 1987, as amended at 63 FR 24109, May 1, 1998]

### § 51.56 Guidance from the courts.

In making determinations the Attorney General will be guided by the relevant decisions of the Supreme Court of the United States and of other Federal courts.

### § 51.57 Relevant factors.

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

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

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

(c) The extent to which the jurisdiction afforded members of racial and



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language minority groups an opportunity to participate in the decision to make the change.

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

**§51.58 Representation.**

(a) *Introduction.* This section and the sections that follow set forth factors—in addition to those set forth above—that the Attorney General considers in reviewing redistrictings (see §51.59), changes in electoral systems (see §51.60), and annexations (see §51.61).

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

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

(2) The extent to which minorities have been denied an equal opportunity to influence elections and the decision-making of elected officials in the jurisdiction.

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

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

**§51.59 Redistrictings.**

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

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

(b) The extent to which minority voting strength is reduced by the proposed redistricting.

(c) The extent to which minority concentrations are fragmented among different districts.

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(d) The extent to which minorities are overconcentrated in one or more districts.

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

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

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

**§51.60 Changes in electoral systems.**

In making determinations with respect to changes in electoral systems (e.g., changes to or from the use of at-large elections, changes in the size of elected bodies) the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(a) The extent to which minority voting strength is reduced by the proposed change.

(b) The extent to which minority concentrations are submerged into larger electoral units.

(c) The extent to which available alternative systems satisfying the jurisdiction's legitimate governmental interests were considered.

**§51.61 Annexations.**

(a) *Coverage.* Annexations, even of uninhabited land, are subject to section 5 preclearance to the extent that they alter or are calculated to alter the composition of a jurisdiction's electorate. In analyzing annexations under section 5, the Attorney General only considers the purpose and effect of the annexation as it pertains to voting.

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

(c) *Relevant factors.* In making determinations with respect to annexations, the Attorney General, in addition to

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the factors described above, will consider the following factors (among others):

(1) The extent to which a jurisdiction's annexations reflect the purpose or have the effect of excluding minorities while including other similarly situated persons.

(2) The extent to which the annexations reduce a jurisdiction's minority population percentage, either at the time of the submission or, in view of the intended use, for the reasonably foreseeable future.

(3) Whether the electoral system to be used in the jurisdiction falls fairly to reflect minority voting strength as it exists in the post-annexation jurisdiction. See *City of Richmond v. United States*, 422 U.S. 358, 367-72 (1975).

[52 FR 490, Jan. 6, 1987; 52 FR 2648, Jan. 23, 1987]

### Subpart G—Sanctions

#### § 51.62 Enforcement by the Attorney General.

(a) The Attorney General is authorized to bring civil actions for appropriate relief against violations of the Act's provisions, including section 5. See section 12(d).

(b) Certain violations of section 5 may be subject to criminal sanctions. See section 12(a) and (c).

#### § 51.63 Enforcement by private parties.

Private parties have standing to enforce section 5.

#### § 51.64 Bar to termination of coverage (ballot).

(a) Section 4(a) of the Act sets out the requirements for the termination of coverage (ballot) under section 5. See § 51.5. Among the requirements for ballot is compliance with section 5, as described in section 4(a), during the ten years preceding the filing of the ballot action and during its pendency.

(b) In defending bailout actions, the Attorney General will not consider as a bar to bailout under section 4(a)(1)(E) a section 5 objection to a submitted voting standard, practice, or procedure if the objection was subsequently withdrawn on the basis of a determination

by the Attorney General that it had originally been interposed as a result of the Attorney General's misinterpretation of fact or mistake in the law, or if the unmodified voting standard, practice, or procedure that was the subject of the objection received section 5 preclearance by means of a declaratory judgment from the U.S. District Court for the District of Columbia.

(c) Notice will be given to interested parties registered under § 51.32 when bailout actions are filed or decided.

### Subpart H—Petition To Change Procedures

#### § 51.65 Who may petition.

Any jurisdiction or interested individual or group may petition to have these procedural guidelines amended.

#### § 51.66 Form of petition.

A petition under this subpart may be made by informal letter and shall state the name, address, and telephone number of the petitioner, the change requested, and the reasons for the change.

#### § 51.67 Disposition of petition.

The Attorney General shall promptly consider and dispose of a petition under this subpart and give notice of the disposition, accompanied by a simple statement of the reasons, to the petitioner.

#### APPENDIX TO PART 51—JURISDICTIONS COVERED UNDER SECTION 4(b) OF THE VOTING RIGHTS ACT, AS AMENDED

The preclearance requirement of section 5 of the Voting Rights Act, as amended, applies in the following jurisdictions. The applicable date is the date that was used to determine coverage and the date after which changes affecting voting are subject to the preclearance requirement.

Some jurisdictions, for example, Yuba County, California, are included more than once because they have been determined on more than one occasion to be covered under section 4(b).

Jurisdiction	Applicable Date	FEDERAL REGISTER citation	
		Volume and page	Date
Alabama .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Alaska .....	Nov. 1, 1972 .....	40 FR 49422 .....	Oct. 22, 1975.
Arizona .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
California:			
Kings County .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
Merced County .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
Monterey County .....	Nov. 1, 1968 .....	36 FR 5809 .....	Mar. 27, 1971.
Yuba County .....	Nov. 1, 1968 .....	36 FR 5809 .....	Mar. 27, 1971.
Yuba County .....	Nov. 1, 1972 .....	41 FR 784 .....	Jan. 5, 1976.
Florida:			
Collier County .....	Nov. 1, 1972 .....	41 FR 34329 .....	Aug. 13, 1976.
Hardee County .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
Hendry County .....	Nov. 1, 1972 .....	41 FR 34329 .....	Aug. 13, 1976.
Hillsborough County .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
Monroe County .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
Georgia .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Louisiana .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Michigan:			
Allegan County:			
Clyde Township .....	Nov. 1, 1972 .....	41 FR 34329 .....	Aug. 13, 1976.
Saginaw County:			
Buena Vista Township .....	Nov. 1, 1972 .....	41 FR 34329 .....	Aug. 13, 1976.
Mississippi .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
New Hampshire:			
Cheshire County:			
Rindge Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Coos County:			
Millsfield Township .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Pinkhams Grant .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Stewartstown Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Stratford Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Grafton County:			
Benton Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Hillsborough County:			
Antrim Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Merrimack County:			
Boscawen Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Rockingham County:			
Newington Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
Sullivan County:			
Unity Town .....	Nov. 1, 1968 .....	39 FR 16912 .....	May 10, 1974.
New York:			
Bronx County .....	Nov. 1, 1968 .....	36 FR 5809 .....	Mar. 27, 1971.
Bronx County .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
Kings County .....	Nov. 1, 1968 .....	36 FR 5809 .....	Mar. 27, 1971.
Kings County .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
New York County .....	Nov. 1, 1968 .....	36 FR 5809 .....	Mar. 27, 1971.
North Carolina:			
Anson County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Beaufort County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Bertie County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Bladen County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Camden County .....	Nov. 1, 1964 .....	31 FR 3317 .....	Mar. 2, 1966.
Caswell County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Chowan County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Cleveland County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Craven County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Cumberland County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Edgecombe County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Franklin County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Gaston County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Gates County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Granville County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Greene County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Guilford County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Halifax County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Harnett County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Hertford County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Hoke County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Jackson County .....	Nov. 1, 1972 .....	40 FR 49422 .....	Oct. 22, 1975.
Lee County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Lenoir County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.

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Jurisdiction	Applicable Date	FEDERAL REGISTER citation	
		Volume and page	Date
Martin County .....	Nov. 1, 1964 .....	31 FR 19 .....	Jan. 4, 1966.
Nash County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Northampton County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Onslow County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Pasquotank County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Perquimans County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Person County .....	Nov. 1, 1964 .....	31 FR 3317 .....	Mar. 2, 1966.
Pitt County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Robeson County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Rockingham County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Scotland County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Union County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Vance County .....	Nov. 1, 1964 .....	31 FR 5081 .....	Mar. 29, 1966.
Washington County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
Wayne County .....	Nov. 1, 1964 .....	31 FR 19 .....	Jan. 4, 1966.
Wilson County .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
South Carolina .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.
South Dakota:			
Shannon County .....	Nov. 1, 1972 .....	41 FR 784 .....	Jan. 5, 1976.
Todd County .....	Nov. 1, 1972 .....	41 FR 784 .....	Jan. 5, 1976.
Texas .....	Nov. 1, 1972 .....	40 FR 43746 .....	Sept. 23, 1975.
Virginia .....	Nov. 1, 1964 .....	30 FR 9897 .....	Aug. 7, 1965.

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

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

Public Law 109-246  
109th Congress

An Act

To amend the Voting Rights Act of 1965.

July 27, 2006

[H.R. 9]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006”.

**SEC. 2. CONGRESSIONAL PURPOSE AND FINDINGS.**

(a) **PURPOSE.**—The purpose of this Act is to ensure that the right of all citizens to vote, including the right to register to vote and cast meaningful votes, is preserved and protected as guaranteed by the Constitution.

(b) **FINDINGS.**—The Congress finds the following:

(1) Significant progress has been made in eliminating first generation barriers experienced by minority voters, including increased numbers of registered minority voters, minority voter turnout, and minority representation in Congress, State legislatures, and local elected offices. This progress is the direct result of the Voting Rights Act of 1965.

(2) However, vestiges of discrimination in voting continue to exist as demonstrated by second generation barriers constructed to prevent minority voters from fully participating in the electoral process.

(3) The continued evidence of racially polarized voting in each of the jurisdictions covered by the expiring provisions of the Voting Rights Act of 1965 demonstrates that racial and language minorities remain politically vulnerable, warranting the continued protection of the Voting Rights Act of 1965.

(4) Evidence of continued discrimination includes—

(A) the hundreds of objections interposed, requests for more information submitted followed by voting changes withdrawn from consideration by jurisdictions covered by the Voting Rights Act of 1965, and section 5 enforcement actions undertaken by the Department of Justice in covered jurisdictions since 1982 that prevented election practices, such as annexation, at-large voting, and the use of multi-member districts, from being enacted to dilute minority voting strength;

(B) the number of requests for declaratory judgments denied by the United States District Court for the District of Columbia;

Fannie Lou  
Hamer, Rosa  
Parks, and  
Coretta Scott  
King Voting  
Rights Act  
Reauthorization  
and Amendments  
Act of 2006.  
42 USC 1971  
note.  
42 USC 1973  
note.

(C) the continued filing of section 2 cases that originated in covered jurisdictions; and

(D) the litigation pursued by the Department of Justice since 1982 to enforce sections 4(e), 4(f)(4), and 203 of such Act to ensure that all language minority citizens have full access to the political process.

(5) The evidence clearly shows the continued need for Federal oversight in jurisdictions covered by the Voting Rights Act of 1965 since 1982, as demonstrated in the counties certified by the Attorney General for Federal examiner and observer coverage and the tens of thousands of Federal observers that have been dispatched to observe elections in covered jurisdictions.

(6) The effectiveness of the Voting Rights Act of 1965 has been significantly weakened by the United States Supreme Court decisions in *Reno v. Bossier Parish II* and *Georgia v. Ashcroft*, which have misconstrued Congress' original intent in enacting the Voting Rights Act of 1965 and narrowed the protections afforded by section 5 of such Act.

(7) Despite the progress made by minorities under the Voting Rights Act of 1965, the evidence before Congress reveals that 40 years has not been a sufficient amount of time to eliminate the vestiges of discrimination following nearly 100 years of disregard for the dictates of the 15th amendment and to ensure that the right of all citizens to vote is protected as guaranteed by the Constitution.

(8) Present day discrimination experienced by racial and language minority voters is contained in evidence, including the objections interposed by the Department of Justice in covered jurisdictions; the section 2 litigation filed to prevent dilutive techniques from adversely affecting minority voters; the enforcement actions filed to protect language minorities; and the tens of thousands of Federal observers dispatched to monitor polls in jurisdictions covered by the Voting Rights Act of 1965.

(9) The record compiled by Congress demonstrates that, without the continuation of the Voting Rights Act of 1965 protections, racial and language minority citizens will be deprived of the opportunity to exercise their right to vote, or will have their votes diluted, undermining the significant gains made by minorities in the last 40 years.

### SEC. 3. CHANGES RELATING TO USE OF EXAMINERS AND OBSERVERS.

(a) USE OF OBSERVERS.—Section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f) is amended to read as follows:

“SEC. 8. (a) Whenever—

“(1) a court has authorized the appointment of observers under section 3(a) for a political subdivision; or

“(2) the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b), unless a declaratory judgment has been rendered under section 4(a), that—

“(A) the Attorney General has received written meritorious complaints from residents, elected officials, or civic participation organizations that efforts to deny or abridge the right to vote under the color of law on account of

race or color, or in contravention of the guarantees set forth in section 4(f)(2) are likely to occur; or

“(B) in the Attorney General’s judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to the Attorney General to be reasonably attributable to violations of the 14th or 15th amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the 14th or 15th amendment), the assignment of observers is otherwise necessary to enforce the guarantees of the 14th or 15th amendment;

the Director of the Office of Personnel Management shall assign as many observers for such subdivision as the Director may deem appropriate.

“(b) Except as provided in subsection (c), such observers shall be assigned, compensated, and separated without regard to the provisions of any statute administered by the Director of the Office of Personnel Management, and their service under this Act shall not be considered employment for the purposes of any statute administered by the Director of the Office of Personnel Management, except the provisions of section 7324 of title 5, United States Code, prohibiting partisan political activity.

“(c) The Director of the Office of Personnel Management is authorized to, after consulting the head of the appropriate department or agency, designate suitable persons in the official service of the United States, with their consent, to serve in these positions.

“(d) Observers shall be authorized to—

“(1) enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote; and

“(2) enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.

“(e) Observers shall investigate and report to the Attorney General, and if the appointment of observers has been authorized pursuant to section 3(a), to the court.”

Investigation.  
Reports.

(b) MODIFICATION OF SECTION 13.—Section 13 of the Voting Rights Act of 1965 (42 U.S.C. 1973k) is amended to read as follows:

“SEC. 13. (a) The assignment of observers shall terminate in any political subdivision of any State—

“(1) with respect to observers appointed pursuant to section 8 or with respect to examiners certified under this Act before the date of the enactment of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, whenever the Attorney General notifies the Director of the Office of Personnel Management, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision described in subsection (b), that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) in such subdivision; and

“(2) with respect to observers appointed pursuant to section 3(a), upon order of the authorizing court.

“(b) A political subdivision referred to in subsection (a)(1) is one with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote.

“(c) A political subdivision may petition the Attorney General for a termination under subsection (a)(1).”.

(c) REPEAL OF SECTIONS RELATING TO EXAMINERS.—Sections 6, 7, and 9 of the Voting Rights Act of 1965 (42 U.S.C. 1973d, 1973e and 1973g) are repealed.

(d) SUBSTITUTION OF REFERENCES TO “OBSERVERS” FOR REFERENCES TO “EXAMINERS”.—

(1) Section 3(a) of the Voting Rights Act of 1965 (42 U.S.C. 1973a(a)) is amended by striking “examiners” each place it appears and inserting “observers”.

(2) Section 4(a)(1)(C) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a)(1)(C)) is amended by inserting “or observers” after “examiners”.

(3) Section 12(b) of the Voting Rights Act of 1965 (42 U.S.C. 1973j(b)) is amended by striking “an examiner has been appointed” and inserting “an observer has been assigned”.

(4) Section 12(e) of the Voting Rights Act of 1965 (42 U.S.C. 1973j(e)) is amended—

(A) by striking “examiners” and inserting “observers”; and

(B) by striking “examiner” each place it appears and inserting “observer”.

(e) CONFORMING CHANGES RELATING TO SECTION REFERENCES.—

(1) Section 4(b) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(b)) is amended by striking “section 6” and inserting “section 8”.

(2) Subsections (a) and (c) of section 12 of the Voting Rights Act of 1965 (42 U.S.C. 1973j(a) and 1973j(c)) are each amended by striking “7,”.

(3) Section 14(b) of the Voting Rights Act of 1965 (42 U.S.C. 1973l(b)) is amended by striking “or a court of appeals in any proceeding under section 9”.

#### SEC. 4. RECONSIDERATION OF SECTION 4 BY CONGRESS.

Paragraphs (7) and (8) of section 4(a) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a)) are each amended by striking “Voting Rights Act Amendments of 1982” and inserting “Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006”.

#### SEC. 5. CRITERIA FOR DECLARATORY JUDGMENT.

Section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) is amended—

(1) by inserting “(a)” before “Whenever”;

(2) by striking “does not have the purpose and will not have the effect” and inserting “neither has the purpose nor will have the effect”; and

(3) by adding at the end the following:

“(b) Any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting that has the purpose of or will have the effect of diminishing the ability



of any citizens of the United States on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of subsection (a) of this section.

“(c) The term ‘purpose’ in subsections (a) and (b) of this section shall include any discriminatory purpose.

“(d) The purpose of subsection (b) of this section is to protect the ability of such citizens to elect their preferred candidates of choice.”

**SEC. 6. EXPERT FEES AND OTHER REASONABLE COSTS OF LITIGATION.**

Section 14(e) of the Voting Rights Act of 1965 (42 U.S.C. 1973l(e)) is amended by inserting “, reasonable expert fees, and other reasonable litigation expenses” after “reasonable attorney’s fee”.

**SEC. 7. EXTENSION OF BILINGUAL ELECTION REQUIREMENTS.**

Section 203(b)(1) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a(b)(1)) is amended by striking “2007” and inserting “2032”.

**SEC. 8. USE OF AMERICAN COMMUNITY SURVEY CENSUS DATA.**

Section 203(b)(2)(A) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a(b)(2)(A)) is amended by striking “census data” and inserting “the 2010 American Community Survey census data and subsequent American Community Survey data in 5-year increments, or comparable census data”.

**SEC. 9. STUDY AND REPORT.**

The Comptroller General shall study the implementation, effectiveness, and efficiency of the current section 203 of the Voting Rights Act of 1965 and alternatives to the current implementation consistent with that section. The Comptroller General shall report the results of that study to Congress not later than 1 year after the date of the enactment of this Act.

Approved July 27, 2006.

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**LEGISLATIVE HISTORY—H.R. 9 (S. 2703):**

HOUSE REPORTS: No. 109-478 (Comm. on the Judiciary).

SENATE REPORTS: No. 109-295 accompanying S. 2703 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 152 (2006):

July 13, considered and passed House.

July 20, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

July 27, Presidential remarks.

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Department of Justice

Billing Code: 4410-13

Civil Rights Division

Agency Information Collection Activities:

Proposed collection; comments requested:

**ACTION:** 30-Day Notice of Information Collection Under Review:

Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

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The Department of Justice (DOJ), CRT has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the Federal Register Volume 71, Number 207, page 62610 on October 26, 2006, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until [The Federal Register will insert the date 30 days for the date this notice is published in the Federal Register]. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged.

Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

- (1) Type of Information Collection: Extension of a currently approved collection
- (2) Title of the Form/Collection: Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.
- (3) Agency form number: None.
- (4) Affected Public: Primary: State, Local or Tribal Government.  
  
Brief Abstract: Jurisdictions specifically covered under the Voting Rights Act are required to obtain preclearance from the Attorney General before instituting changes affecting voting. They must convince the Attorney General that proposed voting changes are not racially discriminatory. The procedures facilitate the provision of information that will enable the Attorney General to make the required determination.
- (5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 4,727 respondents will complete each form within approximately 10.02 hours.

- (6) An estimate of the total public burden (in hours) associated with the collection:  
There are an estimated 47,365 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer,  
United States Department of Justice, Justice Management Division, Policy and Planning Staff,  
Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20530.

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Lynn Bryant

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Date

Department Clearance Officer

Department of Justice